COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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

MONEYVAL (2012)7

MONTENEGRO

Progress report[1] and written analysis by the Secretariat of Core Recommendations

5 March 2012

[1] Second 3rd Round Written Progress Report Submitted to MONEYVAL

Montenegro is a member of MONEYVAL. This progress report was adopted at MONEYVAL's 38th plenary meeting (Strasbourg, 5-9 March 2012). For further information on the examination and adoption of this report, please refer to the Meeting Report of the 38th plenary meeting at http://www.coe.int/moneyval

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This is the second 3rd Round written progress report submitted to MONEYVAL by the country. This document includes a written analysis by the MONEYVAL Secretariat of the information provided by Montenegro on the Core Recommendations (1, 5, 10, 13, SR.II and SR.IV), in accordance with the decision taken at MONEYVAL's 32nd plenary in respect of progress reports.

Montenegro

Second 3rd Round Written Progress Report
Submitted to MONEYVAL

1. Written analysis of progress made in respect of the FATF Core Recommendations

1.1.Introduction

1. The purpose of this paper is to introduce Montenegro's second progress report back to the Plenary concerning the progress that it has made to remedy the deficiencies identified in the 3rd round mutual evaluation report (MER) on the Core Recommendations.

2. The on-site visit to Montenegro took place from 15 to 20 September 2008. MONEYVAL adopted the mutual evaluation report (MER) of Montenegro under the third round of evaluation at its 29th plenary meeting (16-20 March 2009). As a result of the evaluation process, Montenegro was rated Non-compliant (NC) on 8 recommendations and Partially Compliant (PC) on 14 recommendations, including Core and Key Recommendations.

3. According to MONEYVAL procedures, Montenegro submitted its first year progress report to the Plenary in March 2010. The 1st progress report was analysed and adopted by the 32nd Plenary and as a result Montenegro was requested to report back in March 2012.

4. This paper is based on the Rules of Procedure as revised in March 2010, which require a Secretariat written analysis of progress against the Core Recommendations[1]. The full progress report is subject to peer review by the Plenary, assisted by the Rapporteur Country and the Secretariat (Rules 38-40). The procedure requires the Plenary to be satisfied with the information provided and the progress undertaken in order to proceed with the adoption of the progress report, as submitted by the country, and the Secretariat written analysis, with both documents being subject to subsequent publication.

5. Montenegro has provided the Secretariat and Plenary with a full report on its progress, including supporting material, according to the established progress report template. The Secretariat has drafted the present report to describe and analyse the progress made for each of the Core Recommendations.

6. Montenegro received the following ratings on the Core Recommendations:

R.1 – Money laundering offence (PC)
SR.II – Criminalisation of terrorist financing (PC)
R.5 – Customer due diligence (PC)
R.10 – Record Keeping (LC)
R.13 – Suspicious transaction reporting (PC)
SR.IV – Suspicious transaction reporting related to terrorism (LC)

7. This paper provides a review and analysis of the measures taken by Montenegro to address the deficiencies in relation to the Core Recommendations (Section II) together with a summary of the

[1] The Core Recommendations as defined in the FATF procedures are R.1, R.5, R.10, R.13, SR.II and SR.IV.

main conclusions of this review (Section II). This paper should be read in conjunction with the progress report and annexes submitted by Montenegro.

8. It is important to be noted that the present analysis focuses only on the Core Recommendations and thus only a part of the Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) system is assessed. Furthermore, when assessing progress made, effectiveness was taken into account, to the extent possible in a paper based desk review, on the basis of the information and statistics provided by the country, and, as such, the assessment made does not confirm full effectiveness.

1.2. Detailed review of measures taken by Montenegro in relation to the Core Recommendations

A. Main changes since the adoption of the MER

9. Since the adoption of the 3rd round MER and the First Progress Report, Montenegro has taken a number of measures with a view to addressing the deficiencies identified in respect of the Core Recommendations, including:

- amendments to the Criminal Code in 2011 in order to bring its ML and FT articles into line with the Palermo and Vienna Conventions and the UN Convention for the Suppression of the Financing of Terrorism;
- amendments aimed at ensuring Montenegro completely criminalised money laundering in respect of all the FATF's designated categories of offences;
- adoption of Guidelines on CDD procedures;
- establishment of record keeping requirements.

10. In particular the Criminal code has been further improved in 2010 and 2011 by changes and amendments that referred to criminal offences of Money laundering and Financing of terrorism. Criminal offences related to terrorism are now much broader, defining 4 additional forms of offence.

11. The new Criminal Procedure Code has also been reviewed and the main changes are: concept of prosecutor-led investigation, reversed burden of proof of legality of property (on the offender), agreement on the admission of guilt and others. The implementation of the new CPC is a part of the overall judiciary reform which started a few years ago in Montenegro (as set out in the Strategy for the reform of The Judiciary 2007-2012 and The Action plan for the implementation of the Strategy 2007-2012).

12. It also should be noted that the Insurance Supervision Agency has adopted the Guidelines for analysis of AML / FT risk in life insurance companies. After the adoption of the Guidelines, they were sent to all obligors, and a seminar was held, introducing the new obligations brought by this act, for the representatives of all life insurance companies.

13. Furthermore, a Bill on Changes and Amendments to the Law on the Prevention of Money laundering and Terrorist Financing has been approved by the government and adopted by the Parliament, which is designed to bring the law into line with both FATF and EU standards.

14. Montenegro has also taken additional measures to address deficiencies identified in respect of the Key and other Recommendations, as indicated in the progress report. However these fall outside of the scope of the present report and are thus not reflected in the text of the analysis beneath.

B. Review of measures taken in relation to the Core Recommendations

15. In the 3rd round MER Montenegro was rated PC for R.1, in view of the fact that a number of important deficiencies existed at that time. In particular not all of the designated predicate offences (insider trading and market manipulation) were covered and the ML Article was not fully in line with Vienna and Palermo Conventions, as the criminal offence of money laundering was limited by "*banking, financial or other business operations*" and not all physical elements were covered.

16. Deficiency No.1 – *The money laundering offence as defined by the Criminal Code is basically sound, but it lacks further refinement; the current formulation of criminalized behaviour (conversion/transfer and concealment/disguise) is narrower than the requirements in the Vienna and Palermo Conventions and should be clarified in the Criminal Code.*

17. In the 3rd round mutual evaluation report of Montenegro assessors noted that the criminal offence of money laundering is limited by "*banking, financial and other business operations*" and not all physical elements of ML were covered by the Montenegrin legislation.

18. In order to address these deficiencies identified in the 3rd round MER Montenegro has introduced amendments to the Criminal Code and the AML/CFT Law. In particular, the ML article was revised as follows:

Article 268

(1) Anyone who performs conversion or transfer of money or other property knowing that they have been obtained by criminal activity, with the intention to conceal or falsely represent the origin of money or other property, or whoever acquires, keeps or uses money or other property knowing at the moment of receipt that they derive from a criminal offence, or whoever conceals or falsely represents facts on the nature, origin, place of depositing, movements, disposal of or ownership over money or other property knowing that they were obtained through a criminal offence, shall be punished by an imprisonment sentence for a term of six months to five years.
(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on the perpetrator of the offence referred to in paragraph 1 of this Article if s/he is at the same time the perpetrator or an accomplice in a criminal offence used to acquire the money or the assets referred to in paragraph 1 of this Article.
(3) If the amount of money or value of property referred to in paras. 1 and 2 of this Article exceed the amount of forty thousand euro, the offender shall be punished by an imprisonment sentence of one to ten years.
(4) Where an offence referred to in paras. 1 and 2 of this Article was committed by several persons who were associated to commit such offences, they shall be punished by an imprisonment sentence of three to twelve years.
(5) Whoever commits an offence referred in paras. 1 and 2 of this Article and could have and was obliged to be aware that the money or the property constitute revenue acquired through criminal activity, shall be punished by an imprisonment sentence not exceeding three years.
(6) Money and property referred to in paras. 1, 2 and 3 of this Article shall be seized."

19. The revised article of the Criminal Code removed the scope of limitation of the ML offence and broadly covered all physical and material elements of the offence required by Vienna and Palermo Conventions. The wording used in Article 268 (1) falsely *represent*" is a translation of "disguise". The Montenegrin authorities have assured the Secretariat that the article has been directly transposed from the convention and that the word used in the Montenegrin language is the most appropriate word for "disguise".

20. At the same time according to the amendments of the AML/CFT Law the definition of ML was introduced, which is now stipulated as follows:

"For the purposes of this Law, the following conduct shall be regarded as money laundering:
(a) the conversion or transfer of money or other property, knowing that they are derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or assisting any person involved in the commission of such activity to evade the legal consequences of his action;
(b) the concealment or disguise of the true nature, source, location, movement, disposition or ownership of money or other property, knowing that they are derived from criminal activity or from an act of participation in such activity;
(c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity;
(d) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the points 1, 2 and 3".

21. The definition of money laundering, used in this Law, covers all physical and material elements required by the Vienna and Palermo Conventions, but the scope of use of this definition is limited: "*For the purposes of this Law…"* and thus it appears clear that this definition is not applicable to the Criminal Code. It is unfortunate that the definition of money laundering in the Criminal Code and the AML/CFT Law still diverge in material areas and consideration should be given to fully harmonising the Criminal Code with the definition in the AML/CFT Law.

22. Since these amendments to the Criminal Code and the AML/CFT Law were adopted in 2011 there have been no cases of successful convictions for ML It is, therefore, not possible to assess the practical application of the ML offence in criminal cases.

23. Deficiency No.2 – *Montenegro should amend the Criminal Code to clearly include insider trading and market manipulation offences as predicate offences for money laundering.*

24. Montenegro follows an "all crimes" approach to money laundering and the 3rd round report found 19 of the 20 designated categories of offences required by the FATF to be covered for money laundering purposes. Only offences dealing with insider trading and market manipulation were not covered.

25. In the progress report, the authorities stated that according to changes and amendments to the Criminal Code in 2010 ("Official Gazette of Montenegro, No.25/2010), Montenegro has introduced new relevant Articles (272, 422) and in 2011 („Official Gazette of MNE", no.32/2011) introduced art 422a in order to criminalise insider trading and market manipulation.

Article 272 (Abuse of Position in Business Operations)

(1) The responsible person in a business organization, other ***entity*** *engaged in an* ***economic activity*** *or other legal person who abuses his/her position or trust with regard to management of another's*

property, exceeds the limits of his/her authorizations or fails to perform his/her duties and thus obtains for him/herself or for another unlawful material benefit or causes property damage, shall be punished by an imprisonment sentence for a term of three months to five years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on the one who, intending to obtain for him/herself or another material benefit, appropriates money, securities or other movables entrusted to him/her at work in a business organization, other ***entity*** *engaged in an* ***economic activity*** *or other legal entity.*

(3) Where an offence referred to in paras. 1 and 2 of this Article has caused the acquisition of material benefit that exceeds the amount of forty thousand euro, the offender shall be punished by an imprisonment sentence for a term of two to ten years."

Article 422 (Illegal Influence)

(1) A person who directly or through third persons requests or receives a gift or any other benefit, or who accepts a promise of gift or any benefit for himself/herself or another person for agreeing to use his/her official or social position or his/her actual or assumed influence for mediation in acting or in failure to act shall be punished by an imprisonment sentence of three months to three years.
(2) A person who uses his/her official or social position or his/her actual or assumed influence for agreeing to mediate or promising to mediate in performing an official act that should not be performed, or failing to perform an official act that should otherwise be performed shall be punished by an imprisonment sentence of six months to five years.
(3) If a gift or any other benefit is received for mediation referred to in paragraph 2 of this Article, the perpetrator shall be punished by an imprisonment sentence of one to eight years.
(4) Received gift or other benefit shall be seized."

Article 422a (Instigation to Illegal Influence)

(1) A person who directly or through third persons offers or promises a gift or any other benefit to a person in official capacity or another person for agreeing to use his/her official or social position or his/her actual or assumed influence for mediation in acting or in failure to act shall be punished by an imprisonment sentence not exceeding two years.
(2) A person who directly or through third persons offers or promises a gift or any other benefit to a person in official capacity or another person for agreeing to mediate or promising to mediate in performing an official act that should not be performed, or failing to perform an official act that should otherwise be performed shall be punished by an imprisonment sentence of three months to three years.
(3) Perpetrator of the offence referred to in paragraphs 1 and 2 of this Article who reported the criminal offence before s/he found out tat it was detected may be remitted of penalty.
(4) Received gift or other benefit shall be seized."

26. The above-mentioned amendments to the Criminal Code were supposed to create or cover an offence of insider trading and market manipulation, however the wording of these articles are not in line with international understanding of such offences. Particularly, three basic elements of insider trading are not covered: insider, dissemination of information and the use of disseminated insider information by a 3rd party. Furthermore, the market manipulation article does not correspond with the internationally recognised understanding of this concept. According to the wording of the above-mentioned articles, it seems that these are more related to corruption issues.

27. There are, however, other articles (280-281) in the Criminal Code, which do appear to be more relevant, which were not set out in the progress report.

Article 280 (Disclosing a Business Secret)

(1) Anyone who without authorization communicates to another, hands over or in any other manner makes available data representing a business secret or who obtains such data with the intention to hand them over to an unauthorized person, shall be punished by an imprisonment sentence of three months to five years.
(2) If the offence referred to in paragraph 1 of this Article was committed out of greed or with reference to strictly confidential data or in order to make the data public or use them abroad, the offender shall be punished by an imprisonment sentence from two to ten years.
(3) Anyone who commits an offence referred to in paragraph 1 of this Article out of negligence, shall be punished by an imprisonment sentence not exceeding three years.
(4) Business secrets are deemed to be data and documents which were proclaimed as such by means of a law, other regulation or decision of a competent authority passed under law, and whose disclosure would or could cause detrimental consequences for a business organisation or other business entity.

Article 281 (Disclosing and Using Stock-exchange Secrets)

(1) Anyone who reveals stock-exchange or stock-exchange broker operations related data deemed to be a stock-exchange secret to an unauthorized person or who comes by such data and upon using them makes material benefit, shall be punished by an imprisonment sentence of three months to five years.
(2) Where through an offence referred to in paragraph 1 of this Article material benefit was obtained exceeding the amount of three thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years.
(3) Where through an offence referred to in paragraph 1 of this Article material benefit was acquired exceeding the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

28. The above-mentioned articles of the Criminal Code together create an offence of insider trading carrying up to 5 years imprisonment in its basic form, and with higher penalties up to 10 years where there are aggravating factors. The wording of these articles of the CC is broadly in line with international understanding of such an offence. However, it seems that while the use and transfer of such information to a 3rd party is covered, the provisions of Articles 280 and 281 do not cover the criminal liability of a third party for the use of disseminated information.

29. It appears that criminalisation of insider trading is not fully addressed. This deficiency still remains and the Montenegrin authorities should consider introducing new Articles in the Criminal Code in line with international understanding of such offences. As previously stated the offence of market manipulation is still not covered.

30. Deficiency No.3 – *There is relatively strict regulation of extraterritoriality in the case of offences committed by persons who are not citizens of Montenegro against a foreign state. This also raises the question of inclusion of "all serious offences" in the predicate offences. This is subject to incriminations in those countries and if offences are not punishable with at least 5 years imprisonment, the offence would not be considered a predicate offence in Montenegro. Abolition of this limitation (5 years imprisonment) would prevent such situations.*

31. In their response in respect of this deficiency, Montenegro stated that, in accordance with Art. 135 of the Criminal Code, the Criminal legislation of Montenegro shall be applicable to perpetrators of specific criminal offences referred to in Articles 357 to 359 (criminal offences against the Constitutional order and security of Montenegro), Articles 371 to 374 (violation of territorial sovereignty) and Articles 447 to 449 (terrorism). However, it appears that there are no relevant offences related to ML referenced in Article 135.

32. The more relevant article in this respect is article 137 on applicability of Criminal Legislation of Montenegro to foreigners who commit a criminal offence abroad.

Article 137 (Applicability of Criminal Legislation of Montenegro to Foreigners who Commit a Criminal Offence Abroad)

(1) Criminal legislation of Montenegro shall also be applicable to a foreigner who commits a criminal offence outside the territory of Montenegro against Montenegro or its national for criminal offences other than those referred to in Article 135 of this Code or performs criminal offence referred to in Articles 276a, 276b, 422, 422a, 423 and 424 hereof, in commitment of which a national of Montenegro is involved in any manner, should s/he be caught in the territory of Montenegro or get extradited to it.
(2) Criminal legislation of Montenegro shall also be applicable to a foreigner who commits abroad, against a foreign country or a foreigner, a criminal offence punishable under the law of the country it was committed in by an imprisonment sentence of five years or more, should s/he be caught in the territory of Montenegro but not surrendered to a foreign country. Unless otherwise provided by this Code, a court of law may not in such a case impose a sentence more severe than the one provided for under the law of the country in which the criminal offence was committed.

33. According to para 2 of this Article the criminal code of Montenegro is applicable to a foreigner who commits abroad a criminal offence against a foreign country or a foreigner. However this only applies to the offences punishable by minimum of 5 years of imprisonment by the law of a foreign country.

34. It appears that Montenegro has not taken sufficient steps to remedy this deficiency and it still remains. In this respect Montenegro should consider taking steps to address this recommendation in a timely fashion.

Effectiveness

35. According to the information and statistics provided by Montenegro, in 2009 and 2010 there have been no cases related ML or TF. In 2011 three cases were initiated that are still in the process of being prosecuted. However it is not clear if these cases are related to self-laundering or to third party/autonomous laundering or what the predicate offences are in this respect, the information provided is too limited. The statistics show that the amount of proceeds seized is quite high (€47 million), in this regard it seems that these cases could be related to major proceeds-generating predicate offences.

36. There were no convictions for money laundering for the reporting period (2009-2011). During the previous reporting period Montenegro had convictions of ML cases, however since 2009 the number of ML or TF cases has reduced and it is not clear what has caused this trend.

37. As a general conclusion in respect of R.1, since the adoption of the 1st progress report, Montenegro revised the ML article in order to broadly cover all physical and material elements of ML according to Vienna and Palermo Conventions, which is very welcome. However there remain deficiencies that need to be addressed, particularly the criminalisation of market manipulation and the extraterritoriality of predicate offences issue. It also remains a concern that there have been no convictions for money laundering in the period covered by the report.

Special Recommendation II - Criminalisation of terrorist financing (rated PC in the MER)

38. At the time of adoption of the 3rd evaluation report, the financing of terrorism offence in Montenegro had a number of substantial deficiencies in respect of Special Recommendation II. In particular, the definition of "funds" was not introduced in law, terrorist organisation and individual terrorist were not covered and the financing of terrorists should be linked to a specific criminal act.

39. Deficiency 1 identified in the MER – *Montenegro should lay down in the Criminal Code a definition of "funds", which includes "assets of every kind, whether tangible or intangible, movable or immovable, however, acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit".*

40. In order to address this deficiency, Montenegro has adopted amendments to the AML/CFT Law to introduce the new definition of term "property" under Article 5 of the current Law.

*"**property**" means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments in any form including electronic or digital, evidencing title to or an interest in such assets;*

41. However the definition of "property" is not fully in line with Article 1 of the International Convention for the Suppression of the Financing of Terrorism, since it does not include bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit.

42. Montenegro has adopted amendments to the Criminal Code, particularly amending the TF Article. The current wording of this article includes other terms, "funds", "securities", "other resources" and "property" and no definitions of these new concepts were additionally provided. Furthermore, it is not clear if the concept covers all types of negotiable instruments and bank accounts. Because of that, future clarification is required to cover all these concepts.

43. Taking into account the new definitions in the TF Article, as well as the limited definition of "property", this deficiency has not been adequately addressed by Montenegro. Montenegro should consider taking the necessary steps to introduce appropriate definitions of terms used in the TF Article in a timely fashion.

44. Deficiency 2 identified in the MER – *The reference to specific criminal offences (terrorism, international terrorism and hostage taking) in Article 449 should be brought into line with the scope of the Terrorist Financing Convention and the Interpretive Note to SR II, as the scope which constitutes the criminal offence becomes narrower. Under Articles 365 and 447, only the acts, intended to cause harm (to the constitutional order of Montenegro, or the foreign state/international organisation) are criminalized, while the convention requires the incrimination of any acts of violence which purpose is to intimidate a population or compel a government or international institution (to do/to abstain from doing).*

45. In order to bring the TF Article of the Criminal Code into line with the scope of the Terrorist Financing Convention and the Interpretive Note to SR.II, Montenegro has amended the criminal Code in 2010 and introduced two revised articles ("terrorism" and "terrorism financing") as follows:

Article 449 (Terrorism Financing)

(1) Whoever provides in any manner or raises funds, securities, other resources or property intended for financing entirely or partially, of criminal offences referred to in Art. 447, 447a, 447b, 447c, 447d and 448 of this Code, or for the funding of organizations which have the commission of those offences as their aim or members of such organizations, shall be punished by an imprisonment sentence for a term of one to ten years.
(2) The resources referred to in paragraph 1 of this Article shall be confiscated.

Article 447 (Terrorism)

(1) Anyone who, with the intention to seriously intimidate the citizens or to coerce Montenegro, a foreign state or international organization to do or not to do something, or to seriously endanger or violate the basic constitutional, political, economic or social structures of Montenegro, foreign state or international organization, commits one of the following offences:

1) attack the life, body or freedom of another,
2) abduction or hostage taking,
3) destruction of state or public facilities, traffic systems, infrastructure, including information systems, fixed platforms in the epicontinental shelf, public good or private property that may endanger the lives of people or cause considerable damage to the economy,
4) abduction of aircraft, vessel, means of public transport or transport of goods that may endanger the lives of people,
5) development, possession, procurement, transport, provision or use of weapons, explosives, nuclear or radioactive material or devices, nuclear, biological or chemical weapons,
6) research and development of nuclear, biological and chemical weapons,
7) emission of dangerous substances or causing fires, explosions or floods or taking other generally dangerous actions that might harm the lives of people,
8) obstruction or discontinuation of water supply, electric energy or another energy generating product supply that might endanger the lives of people shall be punished by an imprisonment sentence for a minimum term of five years.

(2) Anyone who threatens to commit the criminal offence referred to in paragraph 1 of this Article shall be punished by an imprisonment sentence for a term of six months to five years.

(3) Where an offence referred to in paragraph 1 of this Article has caused death of one or a number of persons or large-scale destruction, the offender shall be punished by imprisonment for a minimum term of ten years.

(4) Where during the commission of the offence referred to in paragraph 1 of this Article the offender deprived one or several persons of life with guilty mind, s/he shall be punished by an imprisonment sentence for a minimum term of twelve years or by an imprisonment sentence of forty years.

46. From the revised articles it can be seen that the previous limitation has been removed (previously terrorist acts were linked by harm to the Constitutional order or the foreign state/international organisation). This article also follows the Convention requirement of incrimination of any acts of violence, which purpose is to intimidate a population or compel government or international institution.

47. Deficiency 3 identified in the MER – *Montenegro should amend the Criminal Code to incorporate the incrimination of funding of terrorist organisations and individual terrorists.*

48. According to the recommendation of the 3rd round MER of Montenegro, it was recommended to consider amending the Criminal Code in order to cover the funding of terrorist organisations and individual terrorists. As was noted above under paragraph 42 Montenegro amended the Criminal Code to introduce a revised TF article, which was supposed to cover terrorist organisations and individual terrorists. The wording of the new article appears to cover terrorist organisations, however it still does not cover an individual terrorist.

49. The wording that is used "members of organisations" is limiting and does not include individual terrorists, since the concept of "individual terrorist" means that he/she may not necessarily be linked or related to any terrorist organisation.

50. Deficiency 4 identified in the MER – *The solution of relating the existence of the terrorist financing offence to specific criminal offences, found under other Articles of the CC is also appropriate (IN 6). Under current legislation, terrorist financing is only considered to be a criminal offence if funds are intended for one of three specific criminal offences (Terrorism, Article 365, International Terrorism, Article 447 and Hostage Taking, Article 448). A more flexible definition which would incriminate financing. Furthermore, there needs to be an offence introduced to cover cases when funds are not linked with a specific terrorist.*

51. In the 3rd round MER of Montenegro the assessment team noted that the previous definition of terrorist financing required the funds to be linked to a specific terrorist activity and in this respect it was recommended that Montenegro introduce an offence to cover cases when funds are not linked with a specific terrorist activity.

52. In order to address this deficiency, as mentioned above, Montenegro amended the TF offence. The wording (see paragraph 42) of the new article is clear on the issue - that terrorist financing shall not require that the funds were actually used to carry out a terrorist act or be linked to a specific terrorist act.

53. Deficiency 5 identified in the MER – *Montenegro should bring Article 449 of the Criminal Code into line with international standards.*

54. In order to bring Article 449 of the Criminal Code into line with international standards Montenegro has taken several steps to address this deficiency. However, according to the information above in respect of SR. II in could be seen that important deficiencies still remain. In particular the definition of "property" is not in line with international standards, and funding of an individual terrorist is not covered. Montenegro should consider amending its legislation to cover all international requirements in respect of terrorist financing.

Effectiveness

55. According to the statistics provided by Montenegro, there have been no cases of terrorist financing offences.

56. As a general conclusion it should be noted that Montenegro has taken steps to remedy some of the deficiencies identified in the 3rd MER in respect of SR.II, however several important deficiencies have still not been addressed. Montenegro should consider amending its legislation in a timely fashion to bring its TF offences into line with international standards.

Recommendation 5 - Customer due diligence (rated PC in the MER)

57. Montenegro has introduced a number of amendments to the preventive measures which were set out in the Law on The Prevention of Money Laundering and Terrorist Financing (LPMLTF) through the Bill on Changes and Amendments to the Law on The Prevention of Money Laundering and Terrorist Financing which has been approved by the government and adopted by the Parliament.

58. Deficiency 1 identified in the MER – *The wording of the second point under Article 9 is too precise and could be interpreted to read that only transactions of exactly €15,000 require CDD. Montenegro should consider that "or more" should be added in Article 9, Paragraph 1 number 2 in the Law on Prevention of money laundering and terrorist financing (hereafter – LPMLTF).*

59. Following the recommendation of the assessment team in respect of this deficiency, Montenegro amended Article 9 of the LPMLTF Law to rectify this deficiency and introduced the revised article that removed the existed uncertainty. In particular, "or more" has been added after "€15,000".

60. Deficiency 2 identified in the MER – *Montenegro should amend the LPMLTF to require CDD to be conducted on wire transactions of €1,000 or more.*

61. According to the information provided in the progress report, in order to oblige reporting entities to conduct CDD on wire transactions that exceed €1,000 or more, Montenegro has amended the LPMLTF. In particular, the new article 12a on "wire transfers" was introduced. Pursuant to the wording of this new article, the reporting entities engaged in payment operations services and money transfer services are required to conduct CDD measures irrespective of the amount of transfer. It appears that Montenegro has addressed this issue.

62. Deficiency 3 identified in the MER – *Montenegro should amend the LPMLTF to require reporting entities to verify that persons purporting to act on behalf of a customer have the authority to act on behalf of the customer. Article 15 of the LPMLTF should be amended to require the obtaining of copies of the document regulating the power to bind the legal person or arrangement.*

63. At the time of the adoption of the 3rd MER the evaluators noted that there was no requirement to verify that the person acting on behalf of a customer had the authority to act on behalf of the customer. It would appear that Montenegro has still not taken any steps to address this deficiency which therefore still remains.

64. Deficiency 4 identified in the MER – *The problem of reliance on certificates from the commercial register for CDD purposes should be addressed by establishing procedures to address the limitations of the commercial register.*

65. In order to address this deficiency, the Central Bank of Montenegro enacted Guidelines on Bank Risk Analysis[2], which requires banks to establish and verify the identity of a client who is a legal person by inspecting the original or a certified copy of a personal document from the Central Register of the Commercial Court. It appears that banks are obliged to pay special attention to documents certified by the commercial register.

66. Deficiency 5 identified in the MER – *Article 29.4 of the LPMLTF appears to go further than intended by Criteria 5.9 in that it permits simplified customer verification in respect of customers to "whom an insignificant risk of money laundering or terrorist financing is related" which could include a broader range of customers than those envisaged in Criteria 5.9. Montenegro should amend Article 29.4 to bring it into line with the essential criteria.*

67. Montenegro has adopted amendments to the LPMLTF which followed the recommendation of the assessors and removed Article 29 §4, which appears to remedy this deficiency.

68. Deficiency 6 identified in the MER – *Montenegro should incorporate into the LPMLTF the FATF definition ("Beneficial owner refers to the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.") and a requirement to identify and verify the "ultimate" beneficial.*

69. The definition of "beneficial owner" is set out in the revised article 19 of the AML/CFT Law on the basis of the glossary of the FATF Methodology as follows: "beneficial owner – natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. Beneficial owner shall also include the natural person(s) who ultimately who exercise control over a legal person or arrangements". It appears that the definition of "beneficial owner" is fully in line with FATF Methodology.

70. Deficiency 7 identified in the MER – *Article 25 of the LPMLTF is very specific and does not cover a number of the specified categories as set out in Criteria 5.8, namely all non-resident customers, private banking, legal persons or arrangements such as trusts that are personal assets holding vehicles and companies that have nominee shareholders or shares in bearer form. The evaluators consider that the LPMLTF should be amended to fully reflect all of the categories in Criteria 5.8.*

71. According to the progress report Montenegro, has adopted amendments to the LPMLTF, in particular Article 19 which amends Article 25 of the LPMLTF. However, it appears that measures taken in respect of amending Article 25 have not fully addressed the identified deficiency; there is no requirement to conduct enhanced due diligence on a number of the categories of customer as set out in criteria 5.8 (e.g. all non-resident customers, etc.).

72. Deficiency 8 identified in the MER – *Montenegro should complete and publish Risk guidelines in accordance with Criteria 5.12.*

73. According to the information provided by Montenegro, there have been no changes since the Bill on Changes and Amendments has not been adopted by the Parliament and due to that no changes in bylaws can be performed. After the adoption of the Bill all guidelines, rulebooks and

1. [2] The guidelines are classed as bylaws and as such are enforceable in law.

bylaws (currently in force) will be amended and changed, and the new ones will be adopted in accordance with the LPMLTF. In this respect this deficiency still remains.

74. Deficiency 9 identified in the MER – *A specific clause should be inserted into the LPMLTF requiring reporting entities to consider making a suspicious transaction report in circumstances where they have been unable to conduct satisfactory CDD. Likewise there should also be a clause requiring reporting entities to terminate a business relationship in circumstances where they have been unable to conduct satisfactory CDD. This is particularly relevant in circumstances where CDD has not been possible for existing customers where there are one or more linked transactions amounting to €15,000, etc.*

75. Pursuant to the amendments to article 11 of the LPMLTF, if the evidence on the client's identity, cannot be obtained the business relationship shall not be established, and if the business relationship has already been established it can be terminated. It appears that Montenegro has taken several steps to address this deficiency, however the wording that is used in this article only recommends, but does not oblige reporting entities to terminate or not establish a business relationship. Montenegro should consider amending the Law by changing "can" to "should" or "must".

76. It is also noted that, according to essential criteria 5.15 (b), if a financial institution is unable to conduct CDD it should consider making a STR; there is no such requirement in this article. Montenegro should address these deficiencies in a timely fashion.

77. Deficiency 10 identified in the MER – *There needs to be a specific requirement for reporting entities to assess and consider the risks of technological developments as part of their risk analysis. This should also be introduced in the guidelines to be produced by the supervisory bodies.*

78. Montenegro followed the recommendation in the 3rd round MER and adopted amendments to the LPMLTF, particularly introducing a new Article 28a which defines the obligation, primary for the banks, and then for other reporting entities, to adopt internal procedures for prevention of new technologies being use for the purpose of money laundering and terrorist financing.

79. It appears that legal provisions are in place, although it is not possible to assess the effectiveness of implementation of these provisions on a desk review.

80. Deficiency 11 identified in the MER – *It is the view of the evaluators that the requirements of Criteria 5.17 are essentially met although the wording of the first point above is too precise and could be interpreted to read that only transactions of exactly €15,000 require CDD. Furthermore, the requirement is for CDD to be conducted when "a transaction of significance takes place." and in the context of Criteria 5.17 it is considered that this is more appropriate wording. Overall the evaluators consider that a separate clause should be inserted into the LPMLTF to specifically deal with the issue of CDD on existing customers.*

81. As was previously noted under para 55 Montenegro has amended Article 9 of the LPMLTF Law to address this inconsistency.

Effectiveness

82. Overall it is clear that Montenegro has taken several legislative and regulatory measures to address the identified deficiencies on R.5 and to bring more consistency to CDD procedures. The effectiveness of implemented measures in respect of CDD cannot be determined in a desk review. Based on the provided statistics it is unclear how many of the sanctions applied related to violation

of CDD requirements. Notwithstanding, Montenegro should continue revising its AML/CFT legislation and increase effectiveness of implementation. This will need to be confirmed in the follow up assessment.

Recommendation 10 - Record Keeping (rated LC in the MER)

83. Deficiency 1 identified in the MER – *There is no requirement that transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity in accordance with the requirements of essential criteria 10.1.1. Montenegro should amend the LPMLTF to take this requirement into account.*

84. The only shortcoming identified by the assessment team in the 3rd round MER in respect of R.10 is a lack of requirement that transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. However, it does not appear that Montenegro has taken any steps to remedy this deficiency. In this respect it still remains and Montenegro should consider making the necessary legislative amendments.

Effectiveness

85. Montenegro has not taken necessary steps to remedy the identified deficiency in R.10. Montenegro should consider amending the AML/CFT Law to remedy the above-mentioned shortcoming. In respect of effectiveness, it could not be assessed in a desk review. It was unclear whether these had been sanctions for breaches of record keeping requirements.

Recommendation 13 – Suspicious transaction reporting (rated PC in the MER)

86. As set out under Recommendation 5 above, Montenegro has introduced a number of amendments to the preventive measures which were set out in the Law on The Prevention of Money Laundering and Terrorist Financing (LPMLTF) through the Bill on Changes and Amendments to the Law on The Prevention of Money Laundering and Terrorist Financing which has been approved by the government and adopted by the Parliament.

87. Deficiency 1 identified in the MER – *The reporting obligation should be extended to include money laundering reporting obligations if the transaction has already been performed.*

88. The Montenegrin authorities have taken necessary legislative steps to comply with Recommendation 13 in the AML/CFT Law. Article 27 of the Bill on Changes amends Article 33 of the LPMLTF. In particular, a new article has been added to after §2 of Article 33 which states:

A reporting entity shall provide to the competent administration body data from Article 71 of this Law after the executed transaction when there is suspicion of money laundering or terrorist financing related to the transaction (regardless of the amount or type) or client.

Where a transaction is considered to represent money laundering or terrorist financing and when it is not possible to suspend such transaction, or when there is probability that the efforts of monitoring a client engaged into activities suspected to be related to money laundering or terrorist financing could be frustrated, reporting entities shall notify the competent administration body immediately afterwards..

89. It is noted that the amendments oblige reporting entities to report to the FIU even if a transaction has been extended. This amendment would appear to have rectified the identified deficiency.

90. Deficiency 2 identified in the MER – *The Book of Rules should be endorsed in law with sanctions for breaches in order to become "other enforceable means".*

91. As was stated in the 1st progress report of Montenegro, the LPMLTF prescribes that the implementing regulations (rulebooks, decrees) shall be adopted six months after the date the Law entered into force.

92. It is however unclear from the progress report as to whether the Book of Rules has been specifically endorsed or what, if any, sanctions are applicable. It is also unclear as to whether the Book of Rules can be effective before the changes to the LPMLTF have been enacted.

Effectiveness

93. Pursuant to the statistics provided by Montenegro the quantity of STRs has decreased since the adoption of the 1st progress report. In 2010 financial institutions submitted 68 STRs, in 2011 –50 STRs. In general the level of STRs submitted to the FIU during the reporting period appears to be relatively low compared to a number of neighbouring countries. Furthermore, it is unclear what the objective indicators are according to which the STRs are submitted.

94. Based on the statistics the Montenegrin FIU in 2010 has disseminated 127 reports related to ML to law enforcement, in 2011 – 125 reports, including 31 requests initiated by the FIU and 94 responses to requests received from law enforcement. However, it appears the there have been no investigations or convictions for last two years, based on the information disseminated by the FIU.

95. In any event it should be noted that Montenegro has the necessary legal provisions in place. A detailed assessment of the effectiveness of the STR regime will be carried out in the follow up round.

96. In regard to the above-mentioned Montenegro should take necessary steps to increase the number of STRs, in particular additional guidelines or trainings are needed for the FIs to raise the awareness of these sectors to the importance of their obligation to report to the FIU.

Special Recommendation IV– Suspicious transaction reporting related to terrorism (rated LC in the MER)

97. Deficiency 1 identified in the MER – *The reporting obligation should be extended to include money laundering reporting obligations if the transaction has already been performed.*

98. As noted above under para 83, Montenegro has now obliged reporting entities to send a STR to the competent authority after the executed transaction regardless of the amount or type transaction.

Effectiveness

99. During the period covered by the 2nd progress report there have been 1 STR and 1 request from law enforcement related to the terrorist financing sent to the FIU. It is worth mentioning that the STR had been provided by a commercial bank and initially was referred to a suspicious transaction related to ML of non-resident natural person. But following the analysis it was found out that the

non-resident natural person is on the OFAC list of terrorists. In this respect a notification had been sent to the competent state authority to take necessary measures.

100. With regard to the request, the initiator of it had been the Department for Suppression of Organised Crime, Corruption, Terrorism and War Crimes. The verification had been conducted by the FIU in relation to non-resident natural persons involved in conspiracy to commit acts of terrorism in order to check whether these persons possess any funds in Montenegro. The result of this verification had been sent as a reply to the Special prosecutor.

Main conclusions

101. Since the adoption of the 1st progress report in respect of R.1, Montenegro has revised the ML offence in order to cover all physical and material elements of ML according to Vienna and Palermo Conventions, which is very welcome. However there are still deficiencies that exist that need to be addressed, particularly market manipulation and extraterritoriality of predicate offences issue. Furthermore, during the reporting period (2009-2011) there were no convictions for ML. This lack of prosecution and conviction together with the lack of confiscations and low level of STRs received does raise a question concerning the effectiveness of the overall criminalisation regime.

102. Montenegro has taken steps to remedy some of the deficiencies identified in the 3rd MER in respect of SR.II, however several important deficiencies have still not been addressed, in particular the definition of "property" is no in line with international standards, individual terrorist is not covered. As for statistics there have been no cases of terrorist financing offences.

103. With regard to Recommendation 5, there have been several positive developments in the regulatory measures to address the shortcomings identified in the report. Montenegro has introduced amendments to the LPMLTF to remove existed uncertainty and the definition of "beneficial owner" is in line with the FATF Methodology; although it is noted that the relevant legislation has still to be enacted. However, a number of deficiencies still remain. The effectiveness of all legal provisions will also be fully analysed in the forthcoming follow up onsite visit.

104. With regard to filing of STRs, Montenegro has the necessary legal provisions in place, although the number of STRs is low. Montenegro should take necessary steps to increase the number of STRs, in particular additional guidelines or trainings are needed for the FIs to raise the awareness of these sectors to the importance of their obligation to report to the FIU.

105. In conclusion, subject to what has been said above, Montenegro has responded to some of the recommendations in the last report with respect to the Core Recommendations. Steady progress is being made overall in the implementation of the AML/CFT regime.

106. In conclusion, as a result of the discussions held in the context of the examination of this second progress report, the Plenary was partially satisfied with the information provided and the progress being undertaken and thus adopted the progress report with necessary amendments and the analysis of the progress on the core Recommendations. Pursuant to Rule 42 of the Rules of procedure, Montenegro was invited to provide an update in December 2012. The progress report will be subject of an update in two years from the adoption of this report unless the 4th onsite visit has taken place before then. The progress report is subject to automatic publication in accordance with the Rules of Procedure.

MONEYVAL Secretariat

2. Information submitted by Montenegro for the 2nd progress report

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

Position at date of first progress report (16 March 2010)

After the most important step that Montenegro has made in approaching the EU, on 15th December 2008, when it presented its official application for joining the EU, the European Council on 23rd March 2009 invited the European Commission to submit its opinion on the application. The next step was presenting Montenegro with the European Commission's Questionnaire on 22 July 2009, which formally represents the beginning of the procedure of deciding on accepting the candidacy of Montenegro for the EU membership. Montenegro officially sent the responses to the Questionnaire on 9 December 2009, and the set of responses to the additional questions were sent to the EC at the end of January 2010.

By the Council of European Union decision the nationals of Montenegro can as of 19th December 2009 travel without visas to the EU countries and to the three countries that are not EU members, but have accessed the Schengen area (Switzerland, Norway and Island). The requirement needed for entering the mentioned countries is to own biometric passports that have been issued in Montenegro since 5th May 2008. The decision on visa liberalization refers to entrance and stay up to 90 days within six months, with the purpose of tourist visit, business stay, visit to cousins and friends, business meetings and similar.

The NATO Ministers of Foreign Affairs, in the meeting held on 4th December 2009 in Brussels, took a decision on Montenegro's joining the Membership Action Plan (MAP) – a NATO program of assistance and practical support tailored to the individual needs of countries wishing to join the Alliance.

The activities for implementing the strategic commitments of Montenegro for the EU membership, within the accession process, are targeted at further meeting of obligations undertaken by signing the Stabilization and Association Agreement and the Interim Agreement on trade and trade-related matters between the European Community and Montenegro, as well as by the tasks set in the National Program for Integration with the European Union for the period 2008 – 2012, and the obligations that will follow depending on the forthcoming accession phases.

Considering the strategic documents, in the period following the last evaluation, in March 2009, the Government of Montenegro made a decision to develop, for the forthcoming three-year period, a **Strategy for Fight against Corruption and Organised Crime** and the **Action plan** for the implementation of the Strategy, and the drafting of these documents is underway. The working group formed by the Minister of Interior Affairs and Public Administration is composed of the representatives of the following institutions: Ministry of Interior Affairs and Public Administration, Ministry of Justice, Ministry of Finance, Prosecutor's Office, judiciary, Police Directorate, Directorate for Anti-Corruption Initiative, Administration for the Prevention of Money Laundering and Terrorist Financing, State Audit Institution, Customs Administration, Department of Public Revenues and two NGOs. This group has begun the activities related to the drafting of the mentioned documents. Namely, on 28th July 2005, the Government of Montenegro adopted the **Program of Fight against Corruption and Organised Crime**, as the first national strategic document that has defined the goals that are to be reached in the area of fight against organised crime and corruption.

With a view to implementing the measures defined in this Program, the Government of Montenegro has adopted on 24th August 2006 the **Action Plan for the implementation of the Program of Fight against Corruption and Organised Crime**. The National Commission for monitoring the implementation of the Action Plan for the implementation of the Program of Fight against Corruption and Organised Crime was established on 15th December 2007. On 29th May 2008 the **Innovated Action Plan for the implementation of the Program of Fight against Corruption and Organised Crime for the period 2008 - 2009** was adopted. The realisation of measures and activities defined in the Innovated Action Plan

for the implementation of the Program of Fight against Corruption and Organised Crime was planned to be completed till 31st December 2009. Thus the Government of Montenegro passed a decision to develop a **Strategy for Fight against Corruption and Organised Crime and the Action plan for the implementation of the Strategy for the forthcoming three-year period, from 2010 to 2012**.

The activities related to drafting the national **Strategy for Fight against Terrorism, Money Laundering and Terrorist financing** and the **Action Plan for the implementation of the Strategy for the period 2009 – 2012**. An interagency Working Group for drafting the Bill for these documents was formed. The members of the Working Group are the representatives of the following institutions: Ministry of Interior Affairs and Public Administration, Prosecutor's Office, Central Bank of Montenegro, Insurance Supervision Agency, the Ministry of Finance, the Ministry of Justice, the Customs Administration, Police Directorate, Directorate for Anti-Corruption Initiative, Administration for Games on Chance, Securities Commission, Administration for the Prevention of Money Laundering and Terrorist Financing, National Security Agency, State Audit Institution and the representatives of the non-governmental sector.

The Working group, composed of the representatives of: Administration for the Prevention of Money Laundering and Terrorist Financing, Police Directorate, Department of Public Revenues, Customs Administration, with the help of the OSCE Mission to Montenegro Customs and Fiscal Assistance Office – CAFAO, United Nations Office on Drugs and Crime – UNODC, Swedish National Police Board, International Criminal Investigative Training Assistance Program – ICITAP, US Embassy and British Embassy, harmonised the model of joint office for coordination and intelligence data exchange- with working title " National coordination office for the state administration". The establishing of this office will enable data exchange between the Administration for the Prevention of Money Laundering and Terrorist Financing, the Police Directorate, the Department of Public Revenues and the Customs Administration.

On 28th January 2009, the Central Bank of Montenegro and the European Central Bank concluded the agreement of co-operation and exchange of information, through which CBM joined the efforts undertaken by the ECB in the field of prevention and detection of false euro banknotes.

On 7th May 2009, the Central Bank of Montenegro and the National Bank of Serbia signed the Protocol on business co-operation in the field of professional improvement of employees.

On 16th October 2009, the Central Bank of Montenegro and the Croatian National Bank signed Memorandum of Understanding establishing the co-operation in supervising banks operating in the territory of the Republic of Montenegro and the Republic of Croatia.

In the period from the last evaluation in March 2009 Montenegro has largely progressed in harmonisation of criminal legislation with the European standards – through adoption of the new Criminal Procedure Code, and drafting of the Law on Amendments of the Criminal Code.

In July 2009 the new Criminal Procedure Code was adopted („Official Gazette of Montenegro" 57/2009). In the newly adopted Code, special attention was dedicated to confiscation of revenues, property and material gain acquired through criminal act. The Code, in Article 90, stipulates the procedure for temporary confiscation of property and financial investigation for expanded confiscation of property. Through adoption of this Code the procedure of permanent confiscation of property whose legal origin was not proven is introduced (Art. 486-489). The procedure stipulates that after the irrevocability of the judgment by which the accused is pronounced guilty for a criminal act for which the Criminal Code stipulates the possibility of expanded confiscation of property from the convicted, his legal successor or the person to whom the convicted transferred the property, who can not prove the legality of its origin, the state prosecutor, within the period of one year the latest, submits a request for permanent confiscation of the property of the convicted, his legal successor or the person to whom the convicted transferred the property for which he can not prove the legality of its origin. The request is submitted to the convict without delay, to his legal successor or the person to whom the convicted transferred the property, with the warning that he is obliged to prove the legality of the origin of the property, and that the property will be confiscated if the legality of its origin is not proved. If the convicted, his legal successor or the person to whom the convicted transferred the property, by valid documents, or in the absence of valid documents, in another way does not prove the legality of the origin of the property, the court reaches a decision on

permanent confiscation of the property. If the convicted, his legal successor or the person to whom the convicted transferred the property, by valid documents, or in the absence of valid documents, in another way proves the legality of the origin of the property or a part of the property, the court reaches a decision on complete or partial dismissal of the request for permanent confiscation of the property.

Provisions of the Criminal Procedure Code relating to temporary confiscation of property and financial investigation for expanded confiscation of property (art. 90) and the procedure of permanent confiscation of property whose legal origin was not proved (art. 486-489) start to be applied from the day of beginning of the application of the provisions of the Law on Amendments of the Criminal Code. The procedure of adopting of this law is in progress. The new solutions will, through adopting of the instrument of expanded confiscation of property gain and reverse burden of proof and in material-legal sense, enable their application stipulated by the procedural law.

According to the Article 158 of the new Criminal Procedure Code, it is prescribed the list of the criminal offences for which is possible to order measure of secret surveillance. Montenegro has accepted recommendation of MONEYVAL- to have the possibility to order those measures for types of the criminal offence – money laundering, which recommendation was given in the Third round of mutual evaluation on Montenegro. In the previous CPC measures of secret surveillance could be ordered only for the criminal offences punishable by minimum of 10 years of imprisonment as well as for the criminal offences committed in the organised way, so measures of secret surveillance, according to this previous Code, could be ordered only if the money laundering was committed in the organised way. In order to avoid this kind of limitation, new Criminal Procedure Code prescribes in article 158:

Measures of secret surveillance may be ordered for the following criminal offence:

1. For which a prison sentence of ten years or more serve penalty may be imposed
2. Having elements of organised crime
3. Having elements of corruption, as follows: money laundering, causing false bankruptcy, abuse of assessment, passive bribery, active bribery, disclosure of an official secret, trading in influence, abuse of authority in economy, abuse of an official position and fraud in the conduct of official duty with prescribed imprisonment sentence of eight year or more
4. Abduction, extortion, blackmail, mediation in prostitution, displaying pornographic material, usury, tax and contributions evasion, smuggling, unlawful processing, disposal and sorting of dangerous substances, attack on a person acting in an official capacity during performance on an official duty, obstruction of evidences, criminal association, unlawful keeping of weapons and explosions, illegal crossing of the state border and smuggling in human being
5. Against the security of computer data

A great step forward was taken also in view of amendments of incriminations of criminal offences of money laundering and terrorist financing, in accordance with the recommendations of FATF, relevant conventions of the Council of Europe, the United Nations and *acquis communautaire*. These amendments introduce criminal offences of abuse of authority in business activities and unlawful influence – which could be predicate for money laundering offence – as recommended after the evaluation of MONEYVAL. A significant novelty is also incorporation of the new criminal offence of forming a criminal organisation (Article 401a) within the criminal acts against public peace and order. It relates to incrimination that will enable a more efficient and stricter criminal-legal intervention regarding the organised crime offences. The term and conditions of criminal organisation are given in accordance with the UN Convention on trans-national organised crime. With this Law, in the chapter of criminal offences against humanity and other goods protected by international law several amendments were conducted, and the most significant are the ones starting from the new concept of terrorist offences.

The basic terrorism offence (regardless whether the act is directed against Montenegro, a foreign state or an international organisation) is stipulated in Article 447 with many forms of committing an offence. This criminal offence, as well as new terrorist offences such as public calling to commit acts of terrorism (Article 447a CC), incitement and training to commit acts of terrorism (Article 447b CC), use of lethal device (Article 447c CC), destruction and damage of nuclear object (Article 447d CC), endangering of persons under international protection (Article 448), as well as terrorist financing (Article 449) were

included and brought in line with a number of conventions aiming at prevention of terrorist acts, and specially with the Convention of the Council of Europe on the Prevention of Terrorism from 2005 that was ratified by Montenegro in 2008.

In the framework of those changes, the definition of the criminal offence – money laundering is now completely in accordance with Vienna and Palermo Conventions.

In the field of international judiciary co-operation, it is important to point out that after the accession of Montenegro to the Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and on the Financing of Terrorism (CETS 198), in December 2009 Montenegro accessed to another important convention in the field of international legal assistance – European Convention on Mutual Assistance in Criminal Matters with additional protocols, European Convention on Extradition with additional protocols and European Convention on Transfer of Convicted Persons with additional protocols, by confirming this convention Montenegro completed the set of international instruments applied in the area of international legal assistance in criminal matters.

In accordance with the National Program for Integration of Montenegro into the EU, adoption of the law that will define appliance and implementation of the restrictive measures, competences of certain state authorities and manner of record keeping on natural and legal person against whom international restrictive measures are introduced, or the law by which the legal framework for introducing unilateral restrictive measures will be created, is planned for the end of 2011.

Supreme State Prosecutor's Office, according to the Law on Amendments and Changes of the Law on State Prosecutors, extended the competences of the Department for suppression of organised crime corruption, terrorism and war crime. The Department is now competent for the criminal offences of corruption, terrorism, and war crime

On September 15th 2008, the number of deputies of prosecutors in the Department has been extended. Now in the Department for suppression of organised crime corruption, terrorism and war crime there are Special Prosecutor and five Deputies, and the Department has the adequate premises and techniques.

During 2009, on the basis of the Law on the Prevention of Money Laundering and Terrorist Financing (Official Gazette of Montenegro No. 14/07 from 21.12.2007) in addition to:

i.),,The Rulebook on the Manner of Work of the Compliance Officer, the Manner of Conducting the Internal Control, Data Keeping and Protection, Manner of Record Keeping and Employees' Professional Training'' (Official Gazette of Montenegro No. 80 of 26. 12. 2008) and

ii.) The Rulebook on the Manner of Reporting Cash Transactions in the Amount of 15,000 Euros and more and Suspicious Transactions to the Administration for the Prevention of Money Laundering and Terrorist Financing (Official Gazette of Montenegro No. 79 of 23.12.2008),

the following were passed as well:

- **„The Rulebook on Developing Risk Analysis Guidelines with a view to Preventing Money Laundering and Terrorist Financing„ (Official Gazette of Montenegro No. 20/09 of 17.03.2009)**
- **„The Rulebook on Indicators for recognising Suspicious Clients and Transactions„ (Official Gazette of Montenegro No. 69/09 of 16.10.2009)** determines the List of Indicators. The List of Indicators for recognising suspicious customers and transactions is included in the Rulebook, as follows:
  - List of Indicators for banks,
  - List of Indicators for capital market,
  - List of Indicators for the Customs Administration,
  - List of Indicators for the Department of Public Revenues,
  - List of Indicators for leasing companies,
  - List of Indicators for auditors,
  - List of Indicators for accountants,
  - List of Indicators for lawyers and
  - General indicators.

On the basis of the Rulebook on Developing Risk Analysis Guidelines with a view to Preventing Money

Laundering and Terrorist Financing (Official Gazette of Montenegro No. 79 20/09 of 17.03.2009), the APMLTF has determined the Guidelines on developing risk analysis with a view to preventing money laundering and terrorist financing for the reporting entities the APMLTF supervises (the reporting entities from the Article 4 Paragraph 2 items 14 and 15 of the LPMLTF).

Guidelines were also determined by the following supervising authorities: the Securities Commission and the Administration for Games on Chance. The guidelines of the Central Bank of MNE are in the draft form.

Regarding the bilateral co-operation with the counterparts from other countries, during 2009 the APMLTF signed several Memoranda of Understanding – financial intelligence data exchange with: FIC EULEX – Kosovo, the State Committee for Financial Monitoring (FIU) of Ukraine, as well as with the Anti-money Laundering and Suspicious Cases Unit – United Arab Emirates FIU and the Financial Intelligence Agency - FIA Bermuda.

Securities Commission has concluded several bilateral agreements with international supervisors of securities market in relation with co-operation and exchanging data. On 17th February 2009 Securities commission signed IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Co-operation and the Exchange of Information

Supreme State Prosecutor's Office and Police Directorate concluded the Memorandum of Understanding and exchange of information related to prevention, detection and prosecution of offenders prosecuted ex officio.

On 19th February 2010 APMLTF, Supreme State Prosecutor's Office, Police Directorate Department of Public Revenues and Customs Administration signed the MoU in prevention and prosecution of offenders related to organised crime and corruption

The MoU defines obligations, general rules and terms of forming and working of the joint team that will act in special cases of organised crime and corruption. The team, whose work will be coordinated by the Supreme State Prosecutor, is composed of representatives of APMLTF, Supreme State Prosecutor's Office, Police Directorate Department of Public Revenues and Customs Administration, who will be appointed for the period of three years.

On the national level, the APMLTF signed the Memorandum of Understanding with the State Audit Institution of Montenegro in March 2009.

On the basis of analysing the assessment of needs for concluding new bilateral Memoranda, the APMLTF has, for the forthcoming period, planned signing memoranda with those supervising authorities from Article 86 of the LPMLTF with which it has not signed memoranda yet, as well as innovating the previously signed memoranda.

With a view to implementing the MONEYVAL experts' recommendations related to changes in the national legislation in the AML/CFT area, the Ministry of Finance has, upon the initiative of the APMLTF, started the activities for preparing the changes of the LPMLTF. The working group, formed by the Ministry of Finance (which proposes the law), consists of the representatives of the following institutions: Ministry of Finance, Administration for the Prevention of Money Laundering and Terrorist Financing, legislative authorities, Ministry of Justice, Ministry of Interior Affairs and Public Administration and the Administration for Games on Chance. The working group will, when drafting the changes to the Law, be introduced to all the MONEYVAL experts' recommendations referring to the solutions in the LPMLTF, in order to meet all the criteria from the FATF Recommendations. The Government of Montenegro adopts the Proposal for changing. Afterwards, the Proposal is subject to parliamentary procedure, relevant parliamentary boards' consideration, parliamentary discussion and adoption.

According to its competencies to participate in professional training and improvement of the compliance officers at reporting entities, APMLTF organised a two-day Workshop for reporting entities' compliance officers on the subject „Preventing money laundering and terrorist financing in the financial and non-financial sector". The participants were representatives of various categories of reporting entities: commercial banks, brokers, car dealers, leasing companies, casinos, real estate agencies...

With a view to effectively implementing the LPMLTF and bylaws, in the forthcoming period, the

APMLTF will:

- *Strengthen institutional co-operation with other institutions involved in AML/CFT system;* (APMLTF has been planning to sign Memoranda of Understanding with other supervising authorities from Article 86 of the LPMLTF, as well as to innovate some previously signed Memoranda of Understanding with Customs Administration, Department of Public Revenues, Ministry of Interior Affairs, Central Bank of Montenegro, Securities Commission and Basic Court in Podgorica).
- *Improve international co-operation with the competent institutions of other countries (*signing Memoranda of Understanding with several more countries, as well as innovating some of the already signed Memoranda are being planned).
- *Improve the existing IT system;* (In order to fully implement the new data delivery forms which make an integral part of the Rulebook on the Manner of Reporting Cash Transactions in the Amount of 15,000 Euros and more and Suspicious Transactions, APMLTF will initiate a complete innovation of the existing IT system. Supplying the special analytical software I2 and the training for designers and users of this software are underway).
- *Proceed with continuous training of professionals;* (APMLTF will proceed with organising trainings for reporting entities compliance officers and the employees that directly contact with customers. The training will be focused on more effective implementation of the Law and bylaws, with special reference to PEPs, proper identification, recognition and reporting of suspicious transactions to the APMLTF on the basis of STR indicators, ML typologies...).

As a regulatory authority of the insurance market, the Insurance Supervision Agency is involved in the implementation of measures from the innovated action plan for the implementation of programs against the corruption and organised crime, among which is one of the tasks that the Agency undertook by this plan. The task is establishing guidelines on risk analysis to prevent money laundering and terrorism financing, and defining other procedures aimed at identifying suspicious transactions, and that will be addressed to obligators under Article 4, paragraph 8 of the Law on Prevention of money laundering and terrorism financing, i.e. insurance companies and branches of foreign insurance companies that conduct life insurance business. The above mentioned guidelines will be harmonised with the Regulation on the development of guidelines for risk analysis to prevent money laundering and financing terrorism, adopted by the Ministry of Finance during the 2009 year.

Activities on the development of these Guidelines, Agency began at the beginning of the 2010 and it is expected that the activities of their development and publishing will be completed in the first half of this year. Also, those activities began within the IPA 2008 twinning project "Strengthening the regulatory and supervisory capacity of financial regulators", whose goal is aid to the financial regulators in Montenegro in building institutional capacity through the technical assistance and professional training of employees, establishing a modern operational procedures, strengthening co-operation between financial regulators and ensuring greater stability of the entire financial system. The start of the activities is expected at the end of January 2010 under the fourth component within the mentioned project, which is related to the Insurance Supervision Agency. One of the activities will refer to the preparation / review of appropriate guidelines for addressed reporting entities that are defined by the existing Law on AML/CFT, and that project activity will be the best control done so far regarding this issue. The ultimate goal of this part of the project will be transposing the European legislation from this area into National legislation as well as adaptation of the function of supervision of the Agency in accordance with the best international practice from this area.

In the previous period, co-operation with the authorities involved in the system AML/CFT was successful and comprehensive. However, in accordance with the conclusions of the Government of Montenegro, the Insurance Supervision Agency is planning to formalize mentioned co-operation's during 2010 through the special agreements on co-operation signed from the both sides.

Since its recent establishment, the priority of the Agency in 2009 was the establishment of co-operation and signing formal agreements with the insurance market regulators and institutions from the Region, as

well as those on the global level. In 2009, the Agency has become a full member of the International Association of the Insurance Supervisors - IAIS, which will significantly facilitate the establishment of closer level of co-operation and exchange of information of the Agency with the insurance regulators in the world, efficient monitoring and improving the overall financial stability in Montenegro. With the same goal, but in the regional framework, during 2009 the Agency has achieved intensive co-operation and contacts with all the insurance regulators in the Region. Formal Memorandums of Understanding were signed with the Austrian Financial Market Authority - FMA, Insurance Supervision Agency of Slovenia and the Croatian Agency for Supervision of Financial Services - HANFA.
In order to strengthen its institutional capacity, the Agency has recently started with the activities in this field. Within the IPA 2007 twinning project "Fight against organised crime and corruption", employees of the Agency have participated in training in the period from 30.08 to 04.09.2009, which was provided by the representatives of the administration of the United Kingdom and Northern Ireland, and dedicated to representatives of the supervisory authority under the Law of AML/CFT.
Throughout the already mentioned fourth component of the IPA 2008 twinning project, during 2010 and the beginning of the 2011, it will be implemented a range of activities with the goal to improve existing legislation in the field of AML/CFT, building professional capacity of the Agency regarding AML/CFT, raising the legal awareness of Law reporting entities and public opinion, as well as improving co-operation between supervisory authorities in the field. Quoted will include the analysis of the current regulatory framework, preparing the draft guidelines which will be used in this area by the Agency, developing programs and techniques of inspections for the Agency, as well as providing training to the addressed reporting entities defined by the Law of AML/CFT. It also includes preparation of informational materials, raising awareness about the importance of AML/CFT among the competent bodies which are connected by the Law of AML/CFT, prosecution and judiciary, and, at the end, eventually establishing formal co-operation between supervisory authorities, or more precisely, signing the Memorandums of Understanding.

New developments since the adoption of the 1st progress report

THE PROJECT AS SET OUT ABOVE HAS BEEN SUCCESSFULLY COMPLETED

Bill on Amendments and changes of the Law on the Prevention of Money Laundering and Terrorist Financing

During 2011, the new revised Bill on Amendments and changes of the Law on the Prevention of Money Laundering and Terrorist Financing has been submitted to the Government for adoption. Afterwards that it was submitted to the Parliament for consideration and adoption. **In February 2012 director of APMLTF presented the Bill on Changes and Amendments to the LPMLTF to Members of Parliament of Montenegro and we expect that the voting procedure and adoption of the law should be completed at the beginning of March 2012.**

The mentioned Bill was changed in accordance with recommendation of given by MONEYVAL after 3rd Round Mutual evaluation of Montenegro, the legal experts of the European Commission and CoE, suggestions of the APMLTF, the Insurance Supervision Agency, Ministry of Finance and it is harmonized, to the highest possible extent, with the following EU Directives: **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; **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 procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis;

DIRECTIVE 2002/92/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 9 December 2002 on insurance mediation and **Directive 2000/46/EC** of the European Parliament and of the Council of 18 September 2000 on the taking up, pursuit of and prudential supervision of the business of electronic money institutions

Bill on Amendments and Changes of the Rulebook on Indicators for recognizing suspicious customers and transactions in the area of real-estate trade and construction businesses has been submitted to the Ministry of Finance for consideration and adoption.

The most important provisions in the Bill on Changes and Amendments to the Law on Prevention of Money Laundering and Terrorism Financing are as follows:

The amendments to the existing Law regarding the reporting entity's obligation on reporting suspicious transactions, indicating that the obligor shall have to submit to the relevant institution data on client or transaction after the transaction, when there is reason to suspect that the transaction (no matter to the amount or type) or client is involved in money laundering and terrorism financing. Also the list or reporting entities is extended in relation to legal and natural persons conducting business activities of investing, trading and mediation in real-estate trade and sports organizations. **Sports organizations** are for the first time introduced as reporting entities that are obliged to carry out measures for detecting and preventing money laundering and terrorist financing. Sports clubs, associations and other sports organizations shall be directly supervised by APMLTF in accordance with Article 86 of the LPMLTF in which supervision is defined. This solution is considered as good one since the majority payments in sports clubs are carried out in cash and there is a possibility for numerous misuse in relation to money laundering and terrorist financing. (Article 3 of the Bill on Changes and Amendments to the LPMLTF).

Also, financial institutions are obliged to take measures and actions to eliminate money laundering risks that may arise from new developing technologies that might allow anonymity (internet banking, cash dispenser use, phone banking etc.). Due to that financial institutions shall adopt internal procedures for prevention of the new technologies use for the purpose of money laundering and terrorist financing. (The mentioned is defined by new Article 28a (Article 23 of the Bill on Changes and Amendments to the LPMLTF) – harmonization with FATF Recommendation 8.

Through changes of Article 12 it is defined that if the evidence on the client's identity cannot be obtained the business relationship shall not be established and transactions shall not be executed. The New Article 12a regulates wire transfers in the manner that a reporting entity engaged in payment operations services or money transfer services shall obtain accurate and complete information on the originator and enter them into the form or message related to wire transfers of funds sent or received in any currency that is the subject of the wire transfer. (Articles 10 and 11 of the Bill on Changes and Amendments to the LPMLTF) - harmonization with special Recommendation VII 7 FATF.

Additionally, the obligation that the competent state authority shall publish on its website the list of countries that apply international standards(FATF Recommendations) in the area of preventing money laundering and terrorist financing that are at the same level as the EU standards or higher is introduced through the Bill on Changes and Amendments to the LPMLTF . The distinction between countries that apply AML/CFT standards and the countries that do not apply these standards has been made. (Article 37 of the Bill on Changes and Amendments to the LPMLTF).

The organizers of special games of chances are obliged (shall) in carrying out the transaction in the amount of at least € 2.000 verify the identity of a client and obtain the data from the Article 71 item 6 of this Law and this was not the defined in provision of the current Law on PMLTF. (Article 7 of the Bill on Changes and Amendments to the LPMLTF).

The APMLTF suggested that in Article 48 (of the Current LPMLTF) a new paragraph 7 shall be added and it defines that Upon the competent administration body's request for delivering data, information and documents from paragraphs 1 to 5, a reporting entity shall, in cases when the request

is designated as urgent, deliver the requested data without delay, not later than 24 hours after receiving the request. (Article 34 of the Bill on Changes and Amendments to the LPMLTF).

Article 28 of the Bill on Changes and Amendments to the LPMLTF a new Article 33a is introduced and it defines, for the first time, the necessity of paying significant attention on all unusually large transactions which have no apparent economic or visible lawful purpose. This means that besides suspicious transactions all unusual transactions shall be analyzed- harmonization with FATF Recommendation 11.

Article 54 of the current Law that defines data collection upon the initiative of the competent state authority is completely changed. Namely, the current Article 54 of the Law is not clear enough and leaves possibility of being interpreted incorrectly. Due to that the Article 54 is fully changed and now it precisely defines cases when the competent state authority (APMLTF) shall initiate the procedure for obtaining and analyzing data, information and documentation for the purpose of detecting and preventing money laundering and terrorist financing, upon the request of other competent state authorities and also the type of that which this initiative shall include. (Article 36 of the Bill on Changes and Amendments to the LPMLTF).

The recommendations of the European Commission regarding the definition of the beneficial owner, a politically exposed person and its close associate are accepted and introduced in the Bill on Changes and Amendments to the LPMLTF. The definition of beneficial owner given in the current Law is not fully harmonized with the definition from Directive 2005/60/EC - Article 3 item 6 of the Directive. The change refers to the words „more than 25%"that are now changed and in the new item 8 stated as „of at least". Thus, a beneficial owner of a business organization includes those natural persons that own 25% of shares as well, and not only the natural persons that own more than 25% shares as provided for by the current Law. (Article 14 of the Bill on Changes and Amendments to the LPMLTF) Provision regarding PEPs are changed so that the PEPs is considered, not only a person that is acting or has been acting in the last year on a distinguished public position in a state, but also a person that is acting or has been acting in the last year on a distinguished public position in Montenegro or in another country or on the international level. In addition to that the list of politically exposed persons shall be published on the website of the competent administration body (APMLTF). (Article 21 of the Bill on Changes and Amendments to the LPMLTF).

In Article 42 of the Bill on Changes and Amendments to the LPMLTF (Article 86 of the current Law), the Bar Association of Montenegro and Notary Chamber are designated as new supervisors for implementation of the Law by lawyers and notaries. Also, In Article 43 of the Bill on Changes and Amendments to the LPMLTF (Article 89 of the current Law) amendments defines that If the supervisory authorities from the Article 86 of this Law, during the inspection, assess that in relation to any transaction or person there is suspicion of money laundering or terrorist financing, or establish facts that can be related to money laundering or terrorist financing, shall immediately and without delay inform the competent administration body.

Article 33 of the Bill on Changes and Amendments to the LPMLTF defines that in Article 43 of the current Law after paragraph 4 a new paragraph shall be added and it defines that a notary shall, once a week, provide certified copies of the sales contracts referring to real estate trade, with the value exceeding €15 000, to the competent administration body (APMLTF).

The penalty area of the Law is amended with more rigid fines and the amount of fines is given in Euros. The range of the amount of fines is from € 2, 500 to €20, 000. Article 50 of the Bill on Changes and Amendments to the LPMLTF defines that After Article 96(of the current Law) a new Article is added and it stipulates that in the event of particularly serious violation or repeated violations from the Articles 92 - 96 of this Law a prohibition on performing business activities may be imposed to the legal person up to two years and a prohibition on performing business activities may be imposed to the responsible person and natural person up to two years. (Articles 45-50 of the

Bill on Changes and Amendments to the LPMLTF refers to changes and amendments to the Articles 92-96 of the current Law)

Administration for the Prevention of Money Laundering and Terrorist Financing

In the first half of 2010 analysts from the **Administration for the Prevention of Money Laundering and Terrorist Financing -** Analytics Department completed the training for the new analytical software "**I2", "ANALYST NOTEBOOK"**

On 2nd June 2010 Montenegro was granted observer status wit EAG group – he Eurasian group on combating money laundering and financing of terrorism.

During 2010 APMLTF signed MoUs with the financial intelligence units of Moldova, San Marino and Israel. Additionally, APLTF innovated MoU with the financial intelligence unit of Russian Federation regarding prevention of terrorist financing.

On 19th February 2010, in the aim of establishing new manners and methods of cooperation in the area of suppression of organised crime and the most serious types of criminal offence of corruption the Supreme State Prosecution, Police Directorate, Directorate for Public Revenues, APMLTF and Customs Administration signed Memorandum on establishing the Special Investigative Team. The team is headed by the Special Prosecutor for organized crime and corruption.

On 10th December 2010, during the opening the Project Ileums I, the representatives of the Ministry of Interior, Ministry of Justice, APMLTF, Police Directorate, Customs Administration and Directorate for Public Revenues signed Memorandum on improving the cooperation in the area of suppression of crime. The main goal of signing this Memorandum is improvement of cooperation in the area of suppression of crime for the purpose of exchanging operative data that refer to the suppression of crime in accordance with Montenegrin legislation.

During 2009 and 2010 the requests for initiating first degree misdemeanor procedure were submitted to the person authorized for conducting first degree misdemeanor procedures (Department for conducting a first degree misdemeanor procedure was within the APMLTF). In November 2010 the Authorized person moved to another state authority. In February 2011 the new Rulebook on internal organization and systematization of APMLTF dissolved the Department for conducting a first degree misdemeanor procedure. According to the new Law on misdemeanors that entered into force on 1st September 2011, the requests for initiating first degree misdemeanor procedure are submitted to the District misdemeanor authorities.

On 20th January the new APMLTF Systematization Act is adopted. In accordance with the new Systematization there are systematized working positions for 38employees. Currently there are 29 employees and one trainee. The main novelty introduced with this act is the new Department for prevention reporting in area of PMLTF. This Department will continue to carry out activities relate to European and Euro Atlantic integrations as well as updating National Action plans referring to implementation of the national strategies.

During 2010 APMLTF representatives participated at the following trainings:

- Workshop on "Cooperation between Financial Intelligence Units and Law Enforcement Agencies in fighting against money laundering and recovering illicit assets", held in Syracuse, Italy, October 4 – 8, 2010, organized by IMF Legal Department in collaboration with The Basel Institute of Governance and the Istituto Superiore Internazionale di Scienze Criminali
- IPA 2008- DET ILECUs 2
- POLICE COOPERATION:FIGHT AGAINST ORGANIZED CRIMINAL, PARTICULARY ILLICT DRUG TRAFICKING AND PREVENTION OF TERRORISM

- Police officers professional ethics and corruption prevention, held in Becici, Montenegro from 1st to -5th November 2010.
- Human resources management in performing police duties, held in Danilovgrad, Montenegro, from 15th to 17th November 2010.
- Designing economical end financial strategy , held in Becici, 09-10.Decembar 2010,
- The Egmont Group/World Bank tactical Analysis Course, held in Paris, France, December 6 – 9, 2010.
- Training programme for the holders of judicial function on fight against corruption – Personal and institutional integrity, held in Kolašin, November 10, held in Budva, November 12, organized by the Centre for training the holders of judicial function, UNDP and OSCE offices to Montenegro , State Department, US Department of Justice.
- Values –gender relations and corruption, held in Budva, Montenegro, December 2 - 3, organized by Centre for training the holders of judicial function and UNDP.
- IPA 2008, Twinning Programme MN 08 IB FI 01, Strengthening the regulatory and supervisory capacity of the financial regulators referring to the prevention of money laundering and terrorism financing, performed through the Central banks of Netherlands and the Bulgarian National Bank and Montenegrin beneficiary institutions Central bank, Securities Commission, Insurance Supervision Agency and APMLTF .

*** In 2010 FIU Montenegro created new web site and replacement of web server. IT Department is improving its capacities continuously.**

In the period December 2010 – April 2011, APMLTF, Central Bank of Montenegro, Securities Commission, Insurance Supervision Agency continued to strengthen its roles in the area of prevention of money laundering and terrorism financing through the realization of activities in the Twinning project MN 08 IB FI 01 –"Strengthening the regulatory and supervisory capacity of the financial regulators in Montenegro" financed by the European Commission and performed in cooperation with the De Nederlandsche Bank and the Bulgarian National Bank. The following project activities were as follows :

- 18th - 19th January 2011within Activity 4.3.3. was organized Workshop on preparing AML/CFT information material for public, financial and non-financial institutions. The slogan and the text for the brochure and the flyer which will be distributed to financial institutions and citizens, aimed at raising public awareness on the prevention of money laundering and terrorism financing.
- 25th - 26th January 2011 within Activity 4.4.1 was organized AML/CFT supervision workshop for financial institutions,
- 27th - 28th January 2011 within Activity 4.4.1. was organized AML/CFT supervision workshop for non-financial institutions,
- 1st -2nd March 2011.godine, training for law enforcement authorities related to AML/CFT
- **On 7th to 8th March Second Conference of the Parties to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198) held in Strasbourg.**
- On 21st and 23rd March 2011 Tax and Crime Conference: A whole of government approach in fighting financial crime was held in Oslo
- On 17th and 18th March 2011 a Workshop on Criminal Money Flows on the Internet was

organized in Belgrade

- On 28th to 29th March 2011 Human Resources Management Authority in cooperation with Judical Training Center of Montenegro and UNDP office in Podgorica organised training on Personal and institutional integrity and Corruption-Related Crimes" in Bečići.
- In the period April – September 2011, the Central Bank of Montenegro continued to strengthen its role in the area of prevention of money laundering and terrorism financing through the realization of new activities in the Twinning project MN 08 IB FI 01 – "Strengthening the regulatory and supervisory capacity of the financial regulators in Montenegro" financed by the European Commission and performed in cooperation with the De Nederlandsche Bank and the Bulgarian National Bank.
- In the period from 19th to 21st April 2011, within ILECUS project, a workshop on "Prevention of money laundering" was held in Becici, MNE.
- In the period from 26th to 29th April 2011, Human Resources Management Authority in cooperation with the Regional School of Public Administration(RESPA) organised workshop on "***Prevention of Corruption in State Administration" in Danilovgrad, MNE***
- On 21st April 2011.godine Human Resources Management Authority in cooperation with Directorate for Anti –corruption Initiative organised training on "Preparation and conducting Integrity Plans, in Podgorica,MNE
- On 18th April 2011 Within the Twinning project MN 08 IB FI 01 –"Strengthening the regulatory and supervisory capacity of the financial regulators in Montenegro" workshop for representatives of the competent state authorities included in the PML/CFT system in Montenegro, was held in Podgorica,MNE
- On 6th May 2011 Human Resources Management Authority in cooperation with the Government of Norway organised the conference on "Public Administration Reforms in the process of accessing EU", in Podgorica,MNE
- On 9th and 10th May the Meeting of the South East European Co-operation Process Directors of National Institutions and Agencies for Combating Corruption and Organized Crime took place in Becici, MNE
- In the period from 9th to 13th May 2011 within the Twinning project IPA 2009 "Strengthening capacities of the Police Directorate Montenegro" workshop on "Conducting financial investigations with the view of combating money laundering and terrorist financing" was held in Danilovgrad, MNE
- In the period from 24th to 26th May 2011 within ILECUS 2 project, a workshop on " Investigations of the criminal offences related to narcotics and organized crime" was held in Budva,MNE
- In the period from 6th to 10th June 2011 Rule of Law Assessment mission: Fight against Organised Crime and Corruption (Reference code: JHA IND/EXP 45684) was carried out in Podgorica,MNE
- In the period from 14th to 17th EAG was held in Moscow, Russia,
- On 14th June 2011 within ILECUS 2 project, a workshop on " Investigations of the corruptive criminal offences" was held in Kolasin, MNE
- In the period from 2nd to 7th July 2011 The Third The International Association of Anti-Corruption Authorities seminar was held in Shanghai, China,

- In the period from 11th to 15th July 2011 the 19th **Egmont Group Plenary Meeting was held in Armenia,**
- In the period from 5th to 9th September within the Twinning project IPA 2009 "Strengthening capacities of the Police Directorate Montenegro" workshop on "Money Laundering, Seizure And Confiscation of the Proceeds From Crime" was held in Danilovgrad, MNE

  In the period September – December 2011, the Central Bank of Montenegro continued to strengthen its role in the area of prevention of money laundering and terrorism financing through the realization of new activities in the Twinning project MN 08 IB FI 01 –"Strengthening the regulatory and supervisory capacity of the financial regulators in Montenegro" financed by the European Commission and performed in cooperation with the De Nederlandsche Bank and the Bulgarian National Bank. In this regard, APMLTF, Central Bank of Montenegro, Securities Commission, and Insurance Supervision Agency has, within the Component 4 Prevention of Money Laundering and Terrorism Financing, Subcomponent 4.3 Information material, prepared brochures which were distributed to financial institutions and citizens aimed at raising the public awareness on all activities performed in the area of prevention of money laundering and terrorism financing. These brochures were also published on the websites of the mentioned state authorities included it the Twinning program.

  Additionally, APMLTF, Central Bank of Montenegro, Securities Commission, and Insurance Supervision Agency has, within the Component 4 Prevention of Money Laundering and Terrorism Financing, Subcomponent 4.4 Cooperation between authorities included into the system for PML/TF, prepared the Draft of Memorandum MOU on cooperation and exchange of information regarding prevention of money laundering and terrorist financing.
- a working meeting of Heads of FIU Montenegro, Serbia and Albania on preparation of the Cross border cooperation project (that should be carried out and financed through IPA Programs) was held in MNE.
- within ILECUS 2 project, a workshop on "Financial investigations and seizure of assets " was held in MNE.
- In the period from 5th to 9th September within the Twinning project IPA 2009 "Strengthening capacities of the Police Directorate Montenegro" workshop on "Money Laundering, Seizure And Confiscation of the Proceeds From Crime" was held in Danilovgrad,MNE

Except of events that are organized in Montenegro, representatives of various institutions in Montenegro also attended a number of international conferences and meetings, such as:

- Investigating and prosecuting the financing of terrorism - expert meeting on preventing and countering terrorist financing organized by OSCE in Chisinau, Moldova on 27th September 2011
- The Fifth **Regional Heads** of **FIUs Conference** held in **Otočec**, **Slovenia**, from **12th -14th October 2011**
- Within IPA Project 2009 " Strengthening capacities of the Police Directorate" - study visit to the State **criminal police** agency **Baden-Wuerttemberg, Germany, from 10th -14th October 2011**
- 10th MONEYVAL Typologies meeting was held in Tel Aviv, Israel from 30th October – 2nd November 2011
- The 15th Plenary meeting of the Eurasian group on combating money laundering and financing of terrorism (EAG) was held in Xiamen, China on November 23-24, 2011

Criminal legislation of Montenegro

Criminal legislation of Montenegro was further improved since the last Progress report. Namely, the new Criminal Procedure Code started to be applied. CPC establishes the normative basis for a more efficient and less expensive criminal procedure. Also it is aiming at providing a complete protection of human rights and fundamental freedoms, guaranteed by the Constitution and international documents, i.e. to make a balance between two requirements in every procedure – the efficiency of a criminal procedure, on the one hand and a protection of human rights and fundamental freedoms, on the other hand. New Code introduced major changes in the criminal proceeding. The main novelties are: concept of prosecutor-led investigation, reversed burden of proof of legality of property (on the offender), Agreement on the admission of guilt and others. The implementation of the new CPC takes part of the overall judiciary reform which started few years ago in Montenegro (Strategy for the reform of The Judiciary 2007-2012 and The Action plan for the implementation of the Strategy 2007-2012).

Criminal code is also further improved by changes and amendments in 2010 and 2011. Changes and amendments encompassed the articles referring to criminal offences of Money laundering and Financing of terrorism. Also, criminal offences related to terrorism are much more widened, defining 4 additional forms of offence. Also, changes and amendments are referring to criminal offences Abuse of Position in Business Operations, Illegal influence and Instigation of illegal influence.

Besides, changes and amendments of the Law introduced changes in terms of articles referring to confiscation of proceeds of crime, in a way that in accordance with the art. 113 of The Criminal code, from the perpetrator of the criminal offence it is possible to confiscate material gain when there is a doubt that it was gained by criminal offence, unless the offender makes it probable that its origin is legal (expanded confiscation)). Expanded confiscation can be applied if the perpetrator is by final decision sentenced to: 1) some of the criminal offences perpetrated in the framework of the criminal organization (Art 401a); 2) some of the following criminal offences:

- against humanity and welfares protected by international law perpetrated for self-interest;

- money laundering;

- unauthorized production, keeping and releasing for circulation of narcotics;

- against payment operations and economic transactions and against official duty, perpetrated for self-interest for which prescribed punishment is 8-years of imprisonment ore more severe punishment.

Within the project, –IPA 2008 "Strengthening the regulatory and supervisory capacity of the financial regulators in Montenegro" the **Central Bank of Montenegro** has, within the activity in the C*omponent 1.C.4. Assistance in implementation of best practice in money transfers pursuant to Directive 2005/60/EC and Regulation 1781/2006/EC,* passed the Decision on Mandatory Elements of Payer Transfer Order (OGM, 15/11), which implemented the requirements of the Regulation 1781/2006/EC.

Securities and Exchange Commission

Securities and Exchange Commission concluded the Memorandum of Understanding on Mutual Cooperation and the Exchange of Information with Slovenian Securities Market agency on 12/04/2010

The Commission concluded the Memorandum of Understanding on exchange of information on international aid in the capital market regulation with Republic of Srpska Securities Commission on 15/03/2011.

The Commission concluded Memorandum of Understanding on mutual assistance and the exchange of information concerning matters of securities and pension companies' supervision with the Bulgarian Financial Control Agency on 12/05/2011.

Montenegro Securities and Exchange Commission concluded Declaration on cooperation on 30/11/2011 with regulators from the following regions: Slovenian Securities Market agency, Republic of Srpska

Securities Commission, Securities Commission of the Federation of Bosnia and Herzegovina, Securities Commission of Brčko District, Securities and Exchange Commission of the Republic of Macedonia, the Croatian Agency for Supervision of Financial Services and Republic of Serbia Securities Commission.

The Declaration of Cooperation has a common goal - establishing and maintaining fair, efficient and orderly capital markets and investors protection. Regulators intend to provide mutual assistance in order to ensure consistency of business operations conditions and improvement of market, especially in the field of faster international integration.

In order to achieve the above mentioned goals and principles the work groups will be established which will deal with relevant issues regarding capital market, such as the following: corporate governance development, regulations improvement, legal issues, education of regulators and capital market participants, information technology, etc. Their work shall be coordinated by Permanent National Regulators Conference within the region.

The Commission also concluded Memorandum of cooperation and exchange of information in the field of anti money laundering and terrorist financing with the Ministry of Finance, Administration for Prevention of Money Laundering and Terrorist Financing, the Central Bank of Montenegro and Insurance Supervision Agency in December 2011.

In cooperation with the Twinning project team, Montenegro Securities and Exchange Commission made Prevention of Money Laundering and Terrorist Financing Inspection Guide, which was adopted by the Commission in April 2011.

On 28 September 2011 the Commission adopted a Code of Ethics, as a general rule of conduct which contributes to elimination of the conditions for participation of the Commission's staff in money laundering and terrorist financing. The same was realized in Montenegrin and English languages and delivered to each employee, exposed in a visible place in the Commission's premises and put on the website of the Commission.

On 29 of December 2011, the Commission adopted the Master control plan for 2012 which directs the examiners to the principles, methods, methodology, terms and quality required in the performance of control by providing conditions for coverage, systematic and timely risk assessment, and primarily the application of uniform legislation, and therefore providing information on authorized participants' measures taken regarding anti-money laundering and terrorist financing.

Given the link between corruption and money laundering and terrorism financing, on December 23, 2011 in the premises of the Securities and Exchange Commission the representative of the Administration for Anti-Corruption Initiative held a lecture on the theme "What is corruption," where he got acquainted the employees of the Commission with the term, forms, substance and the negative effects of corruption. The issue of integrity was also discussed, that is, the integrity plan as a way of eliminating corruption, and the Commission, on 29 of December 2011, adopted the Integrity plan based on which procedures for all work will be done, within which the procedures related to anti-money laundering and terrorist financing will be included.

Securities and Exchange Commission opened a special page on its web site dedicated to the prevention of money laundering and terrorist financing.

On May 5, 2010 the Securities and Exchange Commission adopted the Decision by which it obliged authorized participants on the capital market to submit, in the forms of periodic report, under the item 5 and annual report on operations under the item 6, to the Securities and Exchange Commission the data on performance of obligation of reporting the Administration for Prevention of Money Laundering and Terrorist Financing stipulated in Article 33, paragraphs 1, 2 and 3 of the Law on Prevention of Money Laundering and Terrorist Financing and that for each of the authorized capital market participants four quarterly and one annual control has been conducted. The reports have not been accepted by the

Commission if unless they contained also the Report on the prevention of money laundering.

Rules for capital market participants contains provisions that prescribe that the internal controls is responsible, among other things, for implementation of the Law on Prevention of Money Laundering and Terrorist Financing and for taking measures against those who act contrary to this legal obligation and business principle. These provisions were entered into the Rules by authorized capital market participants; that the Executive Director of the company is responsible for consistent compliance with the provisions of these rules and other laws of the company in the internal control system, respect for the established standards in performing all operations of the company and full involvement of all employees of the company in their implementation: that employed within the company, among other things, are obliged to, when working with clients, adhere to internal procedures which are aimed at preventing money laundering and terrorist financing activities adopted by the competent authority of the company, and that, with no obligation to inform the client, report to internal control manager and Executive Director any suspicious transaction.

Provisions of Article 19 of the Law on Investment Funds ("Official Gazette of Montenegro", No. 54/11) prescribe that:

- "When the home Member State of the management company is not at the same time the home Member State of the mutual fund, the depositary must conclude an agreement in writing, on how to exchange information required in order to perform the depositary duties in accordance with the Law (paragraph 3);
- The agreement referred to in paragraph 3 of this Article shall specifically govern:

  1) Name and registered office of the management company along with names of open-end funds for which the agreement is concluded;

  2) the manner and procedure for exchanging information and data;

  3) the manner of storage of confidential data and measures to be taken to prevent money laundering;

  4) authorizations in relation to the appointment of third parties and transfer of authorities to third parties;

  5) the manner of changing and amending the agreement concluded;

  6) the manner of dispute resolution (paragraph4).

Within the Twinning Project representatives of Securities and Exchange Commission " Strengthening regulatory and supervisory capacities of the financial regulators in Montenegro " which was realized between Bulgarian National Bank, Dutch Central bank, Bulgarian Commission for financial control and Ministry of Finance, Central bank of Montenegro, Securities and Exchange Commission and Insurance Supervision Agency:

- participated in activities of Diagnostic analysis of current regulatory framework (January 2010);
- participated in activities of Drafting amendments to the current AML/CFT guidelines for the obliged entities (April 2010);
- participated in activities Developing inspections programs (June 2010);
- participated in activities of Training supervisory staff in inspection techniques, during their study visit to Bulgarian National Bank and Financial Supervision Commission under the name Prevention of money laundering and measures against terrorist financing for the purpose of getting acquainted with local AMLTF system, procedures and supervisory practice (September 2010) and participated on seminar held in Podgorica (October 2010);
- participated in the workshop named Developing a training program for obliged institutions within

which a Commission's representative had a presentation for capital market participants regarding Instruction on risk analysis of money laundering , „know your client" procedures and other procedures for recognizing suspicious transactions (January 2011);

- stayed in study visit in the Bank of Italy, in order to get acquainted with the practice of that institution regarding preparation of material intended for the public, aimed at promoting activities related to money laundering and terrorist financing (January 2011);
- participated in the workshop regarding preparation of Prevention of Money Laundering and Terrorist Financing Inspection Guide for the Commission's needs (21-22 February 2011) - (The Guide is, as it was mentioned above, completed in April 2011);
- participated in activities under the name Meeting on domestic cooperation between AML/SFT authorities (April 2011) whose aim was a conclusion of Memorandum among supervisors in Montenegro (Memorandum is, as it has been mentioned above, concluded in December 2011);
- participated in activities under the name Communication Seminar Increasing public awareness on AML/CTF where brochures on prevention of money laundering and terrorist financing "Money from crime? No, thank you" were presented and distributed (May 2011). Regarding this issue The Commission adopted the Decision on distribution of brochures with notification of the purpose of the campaign and instructed them to handle the same and to put the brochures in a visible place. In this connection the Commission has distributed brochures to 113 addresses. Brochures were delivered to the following capital market participants: Montenegro Stock Exchange Jsc. Podgorica (1650 brochures), Central Depository Agency Jsc. Podgorica (1650 brochures), Investment funds' management companies and Pension funds' management companies (6570 brochures), authorized capital market participants (broker-dealers) – (7040 brochures) and custodian banks (4200 brochures). Furthermore, for the purpose of education the Commission delivered remaining brochures to all elementary (435 brochures) and secondary schools (720 brochures) within the territory of Montenegro. Likewise, the Commission has made the brochures available on the visible place in the Commission's premises and put the same on its website in order to be obtained by all interested parties.

Securities and Exchange Commission conducted 88 inspections of capital market authorized participants and 30 inspections of custodian banks, in 2010.

Securities and Exchange Commission conducted 90 inspections of capital market authorized participants and 36 inspections of custodian banks in 2011.

In 2011 Securities and Exchange Commission forwarded five charges to Administration for Prevention of Money Laundering and Terrorist Financing.

Insurance Supervision Agency

During the previous period the most important activity related to AML / FT, carried out by **Insurance Supervision Agency,** was adoption of Guidelines for analysis of AML / FT risk in life insurance companies, which oblige only life insurance companies, according to article 8 para. 2 point 4) of the AML/CFT Law. After the adoption of the Guidelines, the document was sent to all obligors, and a seminar was held, introducing the new obligations brought by this act, for the representatives of all life insurance companies, where all relevant information on Guidelines and obligations arising there from were shared.

As regards general regulatory activities of the ISA, during the previous period proposals for amendments to the Law on Insurance and Law on Compulsory Insurance in Transport were finalized. These two proposals were sent to the Ministry of Finance at the end of III quarter 2011, which shall conduct further legal procedure.

In the part of supervisory activities during this period, Agency performed 8 inspections in 2010, and 23 inspections during 2011. Out of these, two of the inspections of insurance companies were aimed solely at checking achieved level of compliance with applicable regulation, and assessing procedures for minimizing risk of money laundering and terrorist financing.

Beside this, from 2010 till this year, international activities of Agency also comprised signing of two more Memoranda of Understanding – with Insurance Supervision Agency of Macedonia and Central Bank of Kosovo.

Customs Administration

During the reporting period Customs Administration has continuously undertaken measures and actions from its jurisdiction, aimed at prevention of money laundering and terrorism financing, in accordance with valid regulations. New development in the field of legislation, compared to previous period, is the adoption of the Decision on the amount of cash that can be brought in or out of Montenegro without declaring (Official Gazette of Montenegro 38/10), by which the Decision on the amount of cash that can brought in or out of the Republic of Montenegro without declaring (Official Gazette of Montenegro 58/05) ceased to be valid. Consequently, resident or non-resident can, physically entry or exit in/out of Montenegro without declaring means of payment in the value up to 10.000 Euro or in that value converted from the currency other than euro. The new development is also the adoption of Rulebook on detailed evidence on performed controls of physical entry and exit of means of payment across state border (Official Gazette of Montenegro 35/11). This Rulebook closely defines the records on conducted controls of physical entry or exit of means of payment at the locations of entry or exit in/out of Montenegro. The records on conducted controls of physical entry or exit of means of payment in the value exceeding 10.000 Euro or in that value converted from the currency other than euro, during the entry or exit in Montenegro, on the reporting form, which makes the integral part of this Rulebook.

In accordance with the referred Rulebook, the Customs Administration of Montenegro has posted the Notification on method of declaring physical entry and exit of means of payment at visible location at border crossings.

During 2010 and 2011 the Customs Administration Montenegro detected 11 cases of non-declaring currency at the border crossings. Against all offenders were filed misdemeanor charges. In all cases the persons who failed to declare currency to the customs authority are sentenced with adequate pecuniary fines, in accordance with the Article 15, Paragraphs 1 and 3 of the Law on Foreign Current and Capital Operations. Customs administration is keeping records of all reports made by all customs officers on the territory of Montenegro, which is later forwarded to the Administration for the prevention of anti-laundering. In 2010 Customs Administration submitted to the APML 386 reports on cross border transfer of currency, payment instruments etc. In 2011 Customs Administration submitted to the APML 358 reports on cross border transfer of currency, payment instruments etc. In 2010 Customs Administration submitted to the APML 15 suspicious transaction reports and **14** suspicious transaction reports in 2011.

The Customs Administration has also continued with comprehensive training of customs offices in the field of money laundering and terrorism financing.

Ministry of Foreign Affairs and European Integrations

Ministry of Foreign Affairs and European Integrations: Apart from already implemented national regulations, Law on the implementation of international restrictive measures will be adopted in 2012. The working group for the drafting of the above mentioned law has already prepared the text, which is at the moment sent to the relevant institution for consideration. This law will be the legal ground for the implementation and enactment of restrictive measures, jurisdictions of specific state institutions, as well as keeping records on natural and legal persons against which international restrictive measures have been introduced.

Training and awareness raising

On 2nd February 2010, within IPA Twining project, EU organized a seminar: "EU Coordination, tables for legal complying with a view to complying the European law with the national law of Montenegro. The seminar was held in the Ministry of Finance (three participants from the FIU).

10-11th June 2010, within TAIEX instruments, the EC Directorate General for Enlargement organized the seminar on combating terrorism, money laundering and terrorist financing. The seminar was held in Vienna (one participant from the FIU).

5-7th July 2010, The Human Resources Management Authority in cooperation with the Judicial Training Center, UNDP, OSCD and USA Embassy in Podgorica organized the seminar: "Improving trainings on investigating corruption and related issues – financial investigation.'' The seminar was held in Budva (one participant from the FIU).

20-22nd September 2010, UNDP, OSCE, USA Embassy in Podgorica, the Government of Montenegro, the Human Resources Management Authority and the Judicial Training Center organized the seminar "Investigations on corruption and related issues – financial investigation.'' (two participants from the FIU).

4- 8th October 2010, the IMF, together with the Basel Institute on Governance and International Institute of Higher Studies in Criminal Sciences, organized a five-day workshop: Cooperation between FIU and Law Enforcement Authorities in fighting money laundering and recovering illicit assets. The workshop was held in Syracuse (one participant from the FIU).

Police officers professional ethics and corruption prevention, held in Becici, Montenegro from 1st to -5th November 2010.

10th November 2010 Training programme for the holders of judicial function on fight against corruption – Personal and institutional integrity, held in Kolašin, , held in Budva, November 12, organized by the Centre for training the holders of judicial function, UNDP and OSCE offices to Montenegro , State Department, US Department of Justice.

Human resources management in performing police duties, held in Danilovgrad, Montenegro, from 15th to 17th November 2010.

2 – 3rd December Values –gender relations and corruption, held in Budva, Montenegro, , organized by Centre for training the holders of judicial function and UNDP

6-9th December 2010, the World Bank and Egmont Group organized the Egmont Group Training – Tactical Analysis and Training for trainers. The training was held in Paris (two participants from the FIU).

- 9.-10th December 2010, within the ILECUs II project a two-day workshop: Development of economic-financial strategy", was held in Bečići (one participant from the FIU).

In the period December 2010 – April 2011, APMLTF, Central Bank of Montenegro, Securities Commission, Insurance Supervision Agency continued to strengthen its roles in the area of prevention of money laundering and terrorism financing through the realization of activities in the Twinning project MN 08 IB FI 01 –"Strengthening the regulatory and supervisory capacity of the financial regulators in Montenegro" financed by the European Commission and performed in cooperation with the De Nederlandsche Bank and the Bulgarian National Bank. The following project activities were as follows :

11th -14th October 2010 Montenegro Twinning project – activity 4.2.3AML/CFT supervision workshop for MN supervisors

18th - 19th January 2011within Activity 4.3.3. Was organized Workshop on preparing AML/CFT information material for public, financial and non-financial institutions. The slogan and the text for the

brochure and the flyer which will be distributed to financial institutions and citizens, aimed at raising public awareness on the prevention of money laundering and terrorism financing.

25th - 26th January 2011 within Activity 4.4.1 was organized AML/CFT supervision workshop for financial institutions.

27th - 28th January 2011 within Activity 4.4.1. was organized AML/CFT supervision workshop for non-financial institutions

1st -2nd March 2011.godine, AMLCFT workshop for police and judicial institutions,

5-9th September 2011, the Police Academy in Montenegro, within the Twining project IPA 2009 „Strengthening the capacities of the Police Directorate", organized a seminar: „Money Laundering and recovering illicit assets''. The representatives from the APMLTF attended the seminar.

27-29th September 2011, in Moldova, the Government of Moldova, in cooperation with OSCE and UN Office, organized the Workshop on Prevention and Fight against Terrorist Financing (one representative of the FIU attended the workshop).

10 – 14th October 2011 within the Twining project IPA 2009 „Strengthening the capacities of the Police Directorate one representative of the FIU participated into study visit to the Criminal Police of the region Baden-Wurttemberg – in Germany.

1-3rd November 2011, MONEYVAL 10th Expert's Meeting on Money Laundering and Terrorist Financing Typologies was held in Tel Aviv, Israel. Two representatives of the FIU participated in the workshops.

22-24th November 2011, within the ILECUs II project, a workshop:" Financial investigations and recovering illicit assets" was organized in Bečići. Two participants of the FIU attended the workshop.

13-14th December 2011 UNODC and OSCE organized a workshop in Bucharest. The FIU representatives participated into this workshop for the purpose of training the employees and exchanging experience with other participants.

2.2. Core recommendations

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

Recommendation 1 (Money Laundering offence)	
Rating: PC	
Recommendation of the MONEYVAL Report	*The money laundering offence as defined by the Criminal Code is basically sound, but it lacks further refinement; the current formulation of criminalized behaviour (conversion/transfer and concealment/disguise) is narrower than the requirements in the Vienna and Palermo Conventions and should be clarified in the Criminal Code.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	At the moment of completing the Progress Report for Montenegro, the Law on Amendments of the Criminal Code of Montenegro is in the adoption procedure. Review of the criminal legislation is conducted within a comprehensive reform of the judicial system in Montenegro, in accordance with the Judicial Reform Strategy 2007-2012 and the Action Plan for Implementation of the Judicial Reform Strategy 2007-2012 which stipulates it as a measure of amendments to the Criminal Code in view of harmonisation with the international standards, primarily the European Union, the United Nations and the Council of Europe. Also, the National Program for Integration of Montenegro into the European Union stipulates as a short-term priority the harmonisation of the Criminal Code with international standards in the part of "Judiciary and Fundamental Rights". In reviewing of the Criminal Code, special accent was placed at harmonisation with the standards in the field of fight against organised crime, corruption and terrorism, and specially through complex changes of the definition of these criminal offences and adoption of the instrument of expanded confiscation of material gain acquired through criminal offence and the reverse burden of proof of legality of property acquisition, which is stipulated also with the newly adopted Criminal Procedure Code. With the new solutions in the Criminal Code, in accordance with the recommendations of the MONEYVAL Committee, the definition "Money laundering" offence from Article 268 was amended. With the aim of complete harmonisation with the solutions stipulated by the Vienna and Palermo Convention, the new definition in the Criminal Code abolishes the limitation of money laundering offence as business activity that included "banking, financial and other business operation". Also, in accordance with the recommendations, every form of replacement (conversion) and transfer, as well as acquiring, keeping and use of money or other property acquired through criminal offence was incorporated in the definition of the money laundering offence. Concealment and false presentation of facts on the nature, origin, place of depositing, movement, disposal or possession of money or other property acquired through criminal offence was also incriminated. In accordance with the Vienna and Palermo Convention, with the amendments of the Criminal Code, this offence was incriminated in the following way: ***„Money laundering*** ***Article 268*** *(1) Anyone who conducts conversion or transfer of money or other property knowing it was obtained through a criminal act, with the intent to conceal or falsely*

	present the origin of money or other property, or anyone who acquires, keeps or uses money or other property knowing at the moment of reception that it was obtained through a criminal act, or anyone who conceals or falsely presents facts on the nature, origin, place of depositing, movement, disposal or possession of money or other property knowing it was obtained through a criminal act, *shall be punished by an imprisonment sentence of six months to five years* *(2) If the offender committing an act as of Paragraph 1 of this Article is at the same time a perpetrator or an accomplice in a criminal act through which money or property gain as of Paragraph 1 of this Article is obtained, s/he shall be punished by a sentence from paragraph 1 of this article.* *(3) If the amount of money or the value of property referred to in Paragraphs 1 and 2 of this Article exceeds forty thousand Euros, the offender shall be punished by an imprisonment sentence for a term of one to ten years* *(4) If an act referred to in Paragraphs 1 and 2 of this Article is committed by more persons who joined together to commit such acts, they shall be punished by an imprisonment sentence of three to twelve years.* *(5) Anyone who commits the act referred to in Paragraphs 1 and 2 of this Article and he could have known or ought to have known that money or property represent income gained by criminal activity, shall be punished by imprisonment for a term of up to three years.* *(6) Money and property as of Paragraphs 1, 2 and 3 of this Article shall be confiscated."* This definition of the criminal offence–money laundering has completely eliminated limitations that this criminal offence can only be committed by bank, financial or other type of business operation, and any type of conversion or money transfer was not incriminated.
(Other) changes reported as of 16 March 2010	Through amendments of the Criminal Code, in accordance with the tendency of complete harmonisation with the international standards and in the corpus of criminal offences against humanity and other goods protected by international law, several amendments were conducted, and the most significant are the ones that come from the new concept of terrorist offences. The basic terrorist criminal offence (regardless of whether the offence was directed against Montenegro, a foreign country or an international organisation) is stipulated in Article 447 with numerous forms of acts of commission. This criminal offence, as well as the new terrorist criminal offences such as public calling to commit acts of terrorism (Article 447a CC), incitement and training to commit acts of terrorism (Article 447b CC), use of lethal device (Article 447c CC), destruction and damage of nuclear object (Article 447d CC), endangering of persons under international protection (Article 448), as well as financing of terrorism (Article 449) were included and brought in line with a number of conventions aiming at prevention of acts of terrorism, and specially with the Convention of the Council of Europe on the Prevention of Terrorism from 2005 that was ratified by Montenegro in 2008. These amendments also expanded Article 447 of the Criminal Code „international terrorism". In the old definition of this article the criminal offence of international terrorism would be performed by a person who with the intent to harm a foreign country or an international organisation, abducts a person or commits some other violence, causes explosion or fire or commits other generally dangerous acts or threatens to use nuclear, chemical, bacterial or other similar means. With the new definition in this article, with the aim of broader incrimination, from the title of this article the prefix "international" was removed and terrorism against the interest of the citizens, Montenegro, other states and international organisations

	(thus both domestic and international) was included. The criminal offence upon adoption of the Law on amendments of the Criminal Code will be as follows: "***Terrorism*** ***Article 447*** *(1) Anyone who with the intent to seriously intimidate the citizens or to compel Montenegro, a foreign country or an international organisation to do/to abstain from doing, or to seriously endanger or harm the basic constitutional, political, economic or social structures of Montenegro, a foreign country or an international organisation, commits one of these acts:* *1) attack to life, body or freedom of another,* *2) abduction or hostage taking,* *3) destruction of state and public objects, transport systems, infrastructure including information systems, immovable platforms in the epicontinental area, general goods or private properties that can endanger lives of people or cause significant damage for economy,* *4) abduction of aircraft, ship, means of public transport or transport of goods that can endanger the life of people,* *5) production, possession, obtaining, transport, supply or use of weapons, explosives, nuclear or radioactive material or devices, nuclear, biological or chemical weapons,* *6) research and development of nuclear, biological or chemical weapons,* *7) release of dangerous materials and causing fires, explosions or floods or committing other generally dangerous act that can endanger the life of people,* *8) obstruction or cessation of supplying water, electricity or other energy that can endanger the life of people,* *shall be punished by an imprisonment sentence of minimum five years.* *(2) Anyone who threatens to commit a criminal act referred to in Paragraph 1 of this Article,* *shall be punished by an imprisonment sentence of six months to five years.* *(3) If an offence referred to in Paragraph 1 of this Article resulted in death of one or more persons or caused great destructions, the offender shall be punished by an imprisonment sentence for a term of minimum ten years.* *(4) If in the commission of crime referred to in Paragraph 1 of this Article the offender has committed a premeditated murder of one or more persons, the offender shall be punished by an imprisonment for a minimum term of twelve years or by an imprisonment of forty years."* Also, after Article 447 with the new Law four new articles are added Article 447 a, 447 b, 447 c i 447 d as follows: "***Public calling to commit acts of terrorism*** ***Article 447a*** *Anyone who publically calls or in other way incites to commit a criminal act referred to in Article 447* *shall be punished by an imprisonment sentence for a term from one to ten years.* ***Incitement and training to commit acts of terrorism*** ***Article 447b*** *(1) Anyone who with the intent of committing an act referred to in article 447 of this code, incites another person to commit or participate in commission of that act or to join a group of people or a criminal association in order to participate in commission of that criminal act,* *shall be punished by an imprisonment sentence for a term of one to ten years.* *(2) Anyone who with the intent of committing an act referred to in article 447 of this*

	code, gives instructions on creation and use of explosive devices, fire or other arms or harmful or dangerous materials or trains another person to commit or participate in commission of that criminal act shall be punished by a sentence referred to in paragraph 1 of this article. ***Use of lethal device*** **Article 447c** *(1) Anyone who with the intent of murdering another person, inflicts a heavy bodily injury or destroys or significantly damages state or public facility, system of public transport or another facility that has greater significance for security or supplying of citizens or for economy or for functioning of public services, makes, transfers, keeps, gives to another person, puts up or activates a lethal device (explosive, chemical means, biological means or poisons or radioactive means) in a public place or in an facility or next to that facility,* *shall be punished by an imprisonment sentence of one to eight years.* *(2) If in the commission of crime referred to in Paragraph 1 of this Article, the offender has committed a premeditated severe bodily injury or destroyed or significantly damaged a facility,* *he/she shall be punished by an imprisonment sentence of five to fifteen years.* *(3) If in the commission of crime referred to in Paragraph 1 of this Article, the offender has committed a premeditated murder of one or more persons,* *he/she shall be punished by an imprisonment sentence of minimum ten years or an imprisonment sentence of fourteen years.* ***Destruction and damage of nuclear facility*** ***Article 447d*** *(1) Anyone who with the intent to murder another person, inflicts severe bodily injury, endangers environment or inflicts significant property damage, destroys or damages a nuclear facility in the manner that releases or there is a possibility to release radioactive material,* *shall be punished by an imprisonment sentence of two to ten years.* *(2) If in commission of an act referred to in paragraph 1 of this article, offender inflicts a premeditated severe bodily injury or destroys or significantly damages a nuclear facility,* *he/she shall be punished by an imprisonment sentence of five to fifteen years.* *(3) If in commission of an act referred to in paragraph 1 of this article, offender committed a premeditated murder of one or more persons,* *he/she shall be punished by an imprisonment sentence of minimum ten years or an imprisonment sentence of fourteen years."* And Article 448 „Hostage taking" is changed and is as follows: *" **Endangering persons under international protection*** ***Article 448*** *(1) Anyone who conducts abduction or some other act of violence upon a person under international legal protection,* *shall be punished by an imprisonment sentence of two to twelve years.* *(2) Anyone who violates official premises, a private apartment or a means of transport of a person under international legal protection, in the manner that endangers his/her security and personal freedom,* *shall be punished by an imprisonment sentence of one to eight years.* *(3) If an act referred to in Paragraphs 1 and 2 of this Article resulted in death of one or more persons, the offender shall be punished by an imprisonment sentence of five to fifteen years.*

	(4) If in commission of an act referred to in Paragraphs 1 and 2 of this article, the offender committed a premeditated murder of a person, *he/she shall be punished by an imprisonment sentence of minimum ten years or an imprisonment sentence of fourteen years* *(5) Anyone who endangers security of persons referred to in Paragraph 1 of this Article by a serious threat to attack him/her, his/her official premises, private apartment or a means of transport, shall be punished by an imprisonment sentence of six months to five years."* Amendments of Article 449 – "Financing of terrorism", will be described in the answer relating to implementation of the Special Recommendation II.
Measures taken to implement the recommendations since the adoption of the first progress report	Amended definition of criminal offence of money laundering is provided in Article 1 (it refers to amendments of Article 2 of the LPMLTF) of the Bill on Changes and Amendments to the LPMLTF. The definition is fully harmonized with definition provided in Article 1 of 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. Article 1 of the Bill on Changes and Amendments to the LPMLTF stipulates as follows: ''For the purposes of this Law, the following conduct shall be regarded as money laundering: (a) the conversion or transfer of money or other property, knowing that they are derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or assisting any person involved in the commission of such activity to evade the legal consequences of his action; (b) the concealment or disguise of the true nature, source, location, movement, disposition or ownership of money or other property, knowing that they are derived from criminal activity or from an act of participation in such activity; (c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity; (d) Participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the points 1, 2 and 3. Money laundering shall be regarded as such even in cases when the activities from paragraph 1 of this Article were carried out in the territory of another country.'' Since February 2010, when answers for Progress report 2010 were prepared, Criminal Code of Montenegro had been changed and amended two times. About the first changes and amendments there were explanations in replies to the previous Progress report, when planned changes and amendments were explained in detailed manner. These changes and amendments were adopted by The Parliament of Montenegro, Law on changes and amendments of The Criminal Code was published in „The Official Gazette of MNE", no. 25/2010. Changes and amendments encompassed the articles referring to criminal offences of Money laundering and Financing of terrorism. Besides, this Law introduced changes in terms of articles referring to confiscation of proceeds of crime, in a way that in accordance with the art. 113 of The Criminal code, from the perpetrator of the criminal offence it is possible to confiscate material gain when there is a doubt that it was gained by criminal offence, unless the offender makes it probable that its origin is legal (expanded confiscation)). Expanded confiscation can be applied if the perpetrator is by final decision sentenced to: 1) some of the criminal offences perpetrated in the framework of the criminal

	organization (Art 401a); 2) some of the following criminal offences: - against humanity and welfares protected by international law perpetrated for self-interest; - money laundering; - unauthorized production, keeping and releasing for circulation of narcotics**;** - against payment operations and economic transactions and against official duty, perpetrated for self-interest for which prescribed punishment is 8-years of imprisonment ore more severe punishment. Also, with aim of further refining and improving of legislation, Criminal code has been changed and amended also in 2011. (Law on changes and amendments of The Criminal Code was published in „The Official Gazette of MNE", no. 32/2011). Among the changes 32/2011 in the context of this Report it is important to mention that it defines two new criminal offences: Instigation to Illegal Influence (art. 422a) and Terrorist Conspiracy (art. 449a). By the new solutions in The Criminal Code, in accordance with the MONEYVAL recommendations, definition of criminal offence Money laundering from art. 268 had been changed. With aim to completely harmonize with the Vienna and Palermo convention, the new definition on the Criminal removed the limitation of the criminal offence of money laundering which in old version encompassed „bank, financial and other business operation". Also, in accordance with the recommendations, the new definition of criminal offence of Money laundering introduced every type of conversion or transfer, as well as acquiring, keeping and using of money or other property acquired through criminal offence. It incriminates also concealing and false representing of facts on the nature, origin, place of depositing, movements, disposal of or ownership over money or other property gained by criminal offence. In accordance with Vienna and Palermo conventions, adopted changes and amendments of The Criminal Code, definition of criminal offence Money laundering is improved. Below there is a text of the relevant article: ***„Money Laundering*** ***Article 268*** *(1) Anyone who performs conversion or transfer of money or other property knowing that they have been obtained by criminal activity, with the intention to conceal or falsely represent[3] the origin of money or other property, or whoever acquires, keeps or uses money or other property knowing at the moment of receipt that they derive from a criminal offence, or whoever conceals or falsely represents facts on the nature, origin, place of depositing, movements, disposal of or ownership over money or other property knowing that they were obtained through a criminal offence, shall be punished by an imprisonment sentence for a term of six months to five years.* *(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on the perpetrator of the offence referred to in paragraph 1 of this Article if s/he is at the same time the perpetrator or an accomplice in a criminal offence used*

[3] In Montenegrin language it is "False representation", not fraudulent representation. Term "false" is wider than fraud, because it encompasses disguise and all manners of behaviour with aim to represent in untrue/false way.

	to acquire the money or the assets referred to in paragraph 1 of this Article. *(3) If the amount of money or value of property referred to in paras. 1 and 2 of this Article exceed the amount of forty thousand euro, the offender shall be punished by an imprisonment sentence of one to ten years.* *(4) Where an offence referred to in paras. 1 and 2 of this Article was committed by several persons who were associated to commit such offences, they shall be punished by an imprisonment sentence of three to twelve years.* *(5) Whoever commits an offence referred in paras. 1 and 2 of this Article and could have and was obliged to be aware that the money or the property constitute revenue acquired through criminal activity, shall be punished by an imprisonment sentence not exceeding three years.* *(6) Money and property referred to in paras. 1, 2 and 3 of this Article shall be seized."* Act of perpetration of Money laundering offence can be perpetrated in 3 ways. Those three ways are fully in line and corresponding to actions encompassed by term Money laundering as stated in "Strasbourg" Convention (art.6) and in the AML/FT Law. First form of perpetration of action is conversion or transfer of possessions, second is acquiring, holding or using possessions, and the third is concealment or false representation of facts on possessions. It is necessary that such possessions are originating from criminal activities. It is irrelevant by which criminal offence – it can be any criminal offence by which perpetration possession was gained which is subject of money laundering criminal offence (predicate offence). Object of the action of perpetration is money or other possessions which originates from criminal activity. Such term in this criminal offence should be understood in widest possible sense. Although possession encompasses also money, here this term is individually mentioned because of significance that it has for this criminal offence. Beside money, "possession" also encompasses movable and immovable assets, property rights and other. Concept of "possession" in sense of this criminal offence, as it is done by the Strasbourg Convention, should be understood in widest possible sense, including money among other forms. It is also important to emphasize that money does not necessarily need to be materialised, it can be on bank accounts and other forms.
Recommendation of the MONEYVAL Report	*The Criminal Code should be amended to clearly include insider trading and market manipulation offences as predicate offences for money laundering.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	In accordance with the recommendations, the Criminal Code was amended by stipulating the insider trading and market manipulation as criminal offences, which in accordance with the „all crimes approach" can now be predicate offences for money laundering offence. The criminal act of "Negligent performance of business activities " from Article 272, in accordance with the recommendations, is amended and shall be as follows: "***Abuse of authority in business activities*** ***Article 272*** *(1) A responsible person in a company, some other economic entity or other legal person who by abuse of his/her authority or trust in view of disposing of another persons property, exceeding the limits of his/her authorisation or non-performance of his/her duty obtains for him/herself or for another person unlawful property gain or causes property damage,* *shall be punished by an imprisonment sentence of three months to five years.*

	(2) Anyone who obtains for him/herself or for another person unlawful property gain, appropriates money, securities or other movables entrusted to him/her for work in the company, other economic entity or another legal person shall be punished by a sentence referred to in Paragraph 1 of this Article. *(3) If through an act referred to in Paragraphs 1 and 2 of this Article material gain exceeding the amount of forty thousand Euros is obtained, the perpetrator shall be punished by an imprisonment of two to ten years."* Criminal offence of „Illegal mediation" from Article 422, in accordance with the recommendations, was amended and shall be as follows: ***"Unlawful influence*** ***Article 422*** *(1) Anyone who demands or accepts a reward or any other material benefit or accepts promise of reward or other benefit for himself or another person by taking advantage of his official or social position or influence for interceding that an official act be or not be performed, shall be punished by imprisonment for a term of three months to three years.* *(2) Anyone who, by taking advantage of his official or social position or influence, intercedes that an official act that should not be performed be performed or that an official act that should be performed not be performed, shall be punished by imprisonment for a term of six months to five years* *(3) If a reward or any other benefit has been received for intercession referred to in Paragraph 2 of this Article,* *the offender shall be punished by imprisonment for a term of one to eight years.* *(4) The reward and material gain shall be confiscated."* The amendments stipulate adding of a new article 422ª – where soliciting to unlawful influence, by giving, offering or promising reward is also stipulated as a criminal offence. This article is as follows: ***"Incitement to unlawful influence*** ***Article 422a*** *(1) Anyone who offers or promises to a person acting in an official capacity or another person a reward or any other benefit for interceding that an official act be or not be performed by taking advantage of his official or social position or influence,* *shall be punished by imprisonment for a term of up to two years.* *(2) Anyone who offers or promises to a person acting in an official capacity or another person a reward or any other benefit for interceding that an official act that should not be performed be performed or that an official act that should be performed not be performed by taking advantage of his official or social position or influence,* *shall be punished by imprisonment for a term of three months to three years.* *(3) Perpetrator of an act referred to in Paragraphs 1 and 2 of this Article who reported the act before he found out that it was revealed can be acquitted.* *(4) The reward and material gain shall be confiscated."* In both articles relating to the insider trade – unlawful influence from Art. 422 and incitement to unlawful influence from Art. 422ª, a measure of mandatory confiscation of the reward and material gain is stipulated. Through entering into force of this Law, these two offences stated in the recommendations of the committee will also be predicate for money laundering offence, in accordance with the Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and Financing of Terrorism.

Measures taken to implement the recommendations since the adoption of the first progress report	When it comes to predicate criminal offences to criminal offence Money laundering, in Montenegrin legal system „all crimes approach“ is applied. In accordance with the recommendations, since the last Progress report Criminal Code was amended by introducing of criminal offences insider trading and market manipulation, which in accordance with the „all crimes approach“ can now be predicate offences to criminal offence Money laundering. Additionally, through changes and amendments of The Criminal code in 2011. („Official Gazette of MNE“, no.32/2011) new criminal offence „Instigation to Illegal Influence was introduced (art 422a). Criminal offence „Negligent performance of business activities” from the art. 272, in accordance with the recommendations, was changed and amended and now is: ***“Abuse of Position in Business Operations*** ***Article 272*** *(1) The responsible person in a business organization, other **entity** engaged in an **economic activity** or other legal person who abuses his/her position or trust with regard to management of another’s property, exceeds the limits of his/her authorizations or fails to perform his/her duties and thus obtains for him/herself or for another unlawful material benefit or causes property damage, shall be punished by an imprisonment sentence for a term of three months to five years.* *(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on the one who, intending to obtain for him/herself or another material benefit, appropriates money, securities or other movables entrusted to him/her at work in a business organization, other **entity** engaged in an **economic activity** or other legal entity.* *(3) Where an offence referred to in paras. 1 and 2 of this Article has caused the acquisition of material benefit that exceeds the amount of forty thousand euro, the offender shall be punished by an imprisonment sentence for a term of two to ten years.”* Criminal offence „Illegal mediation“ from the art. 422, in accordance with recommendations, is now changed into: ***“Illegal Influence*** ***Article 422*** *(1) A person who directly or through third persons requests or receives a gift or any other benefit, or who accepts a promise of gift or any benefit for himself/herself or another person for agreeing to use his/her official or social position or his/her actual or assumed influence for mediation in acting or in failure to act shall be punished by an imprisonment sentence of three months to three years.* *(2) A person who uses his/her official or social position or his/her actual or assumed influence for agreeing to mediate or promising to mediate in performing an official act that should not be performed, or failing to perform an official act that should otherwise be performed shall be punished by an imprisonment sentence of six months to five years.* *(3) If a gift or any other benefit is received for mediation referred to in paragraph 2 of this Article, the perpetrator shall be punished by an imprisonment sentence of one to eight years.* *(4) Received gift or other benefit shall be seized.”* New criminal offence Instigation to Illegal Influence (art 442a) is: ***“Instigation to Illegal Influence*** ***Article 422a*** *(1) A person who directly or through third persons offers or promises a gift or any other benefit to a person in official capacity or another person for agreeing*

	to use his/her official or social position or his/her actual or assumed influence for mediation in acting or in failure to act shall be punished by an imprisonment sentence not exceeding two years. *(2) A person who directly or through third persons offers or promises a gift or any other benefit to a person in official capacity or another person for agreeing to mediate or promising to mediate in performing an official act that should not be performed, or failing to perform an official act that should otherwise be performed shall be punished by an imprisonment sentence of three months to three years.* *(3) Perpetrator of the offence referred to in paragraphs 1 and 2 of this Article who reported the criminal offence before s/he found out tat it was detected may be remitted of penalty.* *(4) Received gift or other benefit shall be seized."* Both articles are referring to insider trading – Illegal influence art.422 and Instigation to illegal influence art.422a have a measure of obligatory seizure of gifts and other benefit. In line with international understanding of offence of insider trading, on subject matter, it is important to emphasise that Criminal Code defines **Disclosing a Business secret** and **Disclosing and Using Stock-exchange Secrets** as criminal offences that also contain elements of these offence. ***"Disclosing a Business Secret*** ***Article 280*** *(1) Anyone who without authorization communicates to another, hands over or in any other manner makes available data representing a business secret or who obtains such data with the intention to hand them over to an unauthorized person, shall be punished by an imprisonment sentence of three months to five years.* *(2) If the offence referred to in paragraph 1 of this Article was committed out of greed or with reference to strictly confidential data or in order to make the data public or use them abroad, the offender shall be punished by an imprisonment sentence from two to ten years.* *(3) Anyone who commits an offence referred to in paragraph 1 of this Article out of negligence, shall be punished by an imprisonment sentence not exceeding three years.* *(4) Business secrets are deemed to be data and documents which were proclaimed as such by means of a law, other regulation or decision of a competent authority passed under law, and whose disclosure would or could cause detrimental consequences for a business organisation or other business entity.* ***Disclosing and Using Stock-exchange Secrets*** ***Article 281*** *(1) Anyone who reveals stock-exchange or stock-exchange broker operations related data deemed to be a stock-exchange secret to an unauthorized person or who comes by such data and upon using them makes*

	material benefit, shall be punished by an imprisonment sentence of three months to five years. *(2) Where through an offence referred to in paragraph 1 of this Article material benefit was obtained exceeding the amount of three thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years.* *(3) Where through an offence referred to in paragraph 1 of this Article material benefit was acquired exceeding the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years."* Also, in the scope of criminal offences against payment transactions and business operations, Criminal Code contains criminal offences **Violation of Equality in the Conduct of Business Activities** and **Abuse of Monopolistic Position** (art. 269and 270), as follows: ***"Violation of Equality in the Conduct of Business Activities*** ***Article 269*** *(1) Anyone who through abuse of his/her official position or authorizations limits free or independent connecting of business organisations or other business entities in conducting business activities, deprives it of the right or limits its right to conduct business activities in a particular territory, puts it into an unequal position in relation to other business entities with reference to conditions of doing business or limits free performance of business activities, shall be punished by an imprisonment sentence of three months to five years.* *(2) Anyone who abuses his/her social position or influence in view of committing a criminal offence referred to in paragraph 1 of this Article shall be punished by a sentence referred to in paragraph 1 of this Article.* ***Abuse of Monopolistic Position*** ***Article 270*** *A responsible person in a business organisation or other business entity who through abuse of monopolistic or dominant position in the market or by entering into monopolistic contracts causes market disruptions or brings that entity into a favoured position in relation to others, so as to make material benefit for that entity or for another entity or inflicts damage to other business entities, consumers or users of services, shall be punished by an imprisonment sentence of three months to five years."* Comparing to Progress report 2010., having in mind that the changes and amendments of the law entered into force, these two criminal offences stated in the recommendations of The Committee are predicate to the offence of Money laundering, in line with the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and on the Financing of Terrorism.

Recommendation of the MONEYVAL Report	*There is relatively strict regulation of extraterritoriality in the case of offences committed by persons who are not citizens of Montenegro against a foreign state. This also raises the question of inclusion of "all serious offences" in the predicate offences. This is subject to incriminations in those countries and if offences are not punishable with at least 5 years imprisonment, the offence would not be considered a predicate offence in Montenegro. Abolition of this limitation (5 years imprisonment) would prevent such situations.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	We are in the process of the reform of the criminal material law, and this recommendation of MONEYVAL was presented to the working group in order to have complete compliance of our law with the international standards. With the Law on amendments to the Criminal Code which is in adoption procedure, provisions relating to the validity of the criminal legislation of Montenegro were also amended. In Article 135 relating to validity of the criminal legislation of Montenegro for perpetrators of certain criminal offences committed abroad, the validity of criminal legislation of Montenegro was expanded (apart from the committed criminal offences from the corpus of offences against constitutional order and safety of Montenegro and money forgery offences from Art. 258) and the persons who conduct criminal offences 447,448, and 449 abroad, which are in accordance with the amendments stipulated as terrorism, endangering of persons under international protection and financing of terrorism.
Measures taken to implement the recommendations since the adoption of the first progress report	In accordance with the art. 135 of The Criminal Code, referring to applicability of Criminal legislation of Montenegro to perpetrators of specific criminal offences committed abroad, applicability of Montenegrin criminal legislation for perpetrators of certain criminal offences committed abroad has been expanded – beside criminal offences against Constitutional order and security of Montenegro and of the criminal offence of Counterfeiting money (art.258), legislation is applied also to persons that committed criminal offences 447-449 (Terrorism, Endangering persons under international protection and Terrorism financing) abroad. Also, Criminal Code defines applicability of national criminal legislation on foreigners who commit criminal offence abroad, as follows: ***"Applicability of Criminal Legislation of Montenegro to Foreigners who Commit a Criminal Offence Abroad*** ***Article 137*** *(1) Criminal legislation of Montenegro shall also be applicable to a foreigner who commits a criminal offence outside the territory of Montenegro against Montenegro or its national for criminal offences other than those referred to in Article 135 of this Code or performs criminal offence referred to in Articles 276a, 276b, 422, 422a, 423 and 424 hereof, in commitment of which a national of Montenegro is involved in any manner, should s/he be caught in the territory of Montenegro or get extradited to it.* *(2) Criminal legislation of Montenegro shall also be applicable to a foreigner who commits abroad, against a foreign country or a foreigner, a criminal offence punishable under the law of the country it was committed in by an imprisonment sentence of five years or more, should s/he be caught in the territory of Montenegro but not surrendered to a foreign country. Unless*

	otherwise provided by this Code, a court of law may not in such a case impose a sentence more severe than the one provided for under the law of the country in which the criminal offence was committed."
(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: PC	
Recommendation of the MONEYVAL Report	*It is the view of the evaluators that the wording of the second point under Article 9 is too precise and could be interpreted to read that only transactions of exactly €15,000 require CDD. The evaluators consider that "or more" should be added in Article 9, Paragraph 1 number 2 in the LPMLTF.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Upon the APMLTF initiative, the Ministry of Finance has started the activities on preparing the Bill on Changes and Amendments to the LPMLTF in accordance with this and other recommendations from the MONEYVAL's Recommended action plan, in order to make the changes and amendments of the LPMLTF fully complied with the international standards, so that the Law would completely satisfy all the needed criteria from FATF Recommendations. The Minister of Finance has formed a working group responsible for preparing the Bill on Changes and Amendments to the LPMLTF. Members of the working group are the representatives of the relevant state authorities: Ministry of Finance, APMLTF, legislative authorities, Ministry of Justice, Ministry of Interior Affairs and Administration for Games on Chance. The Securities and Exchange Commission, for the purpose of implementation of its obligations under LPMLTF considers that the wording of the second point of the article 9 implies that the 15.000€ requirement is the lowest amount required for notification, and that each transaction that overcomes the 15.000€ threshold should be reported. In that aim, the Securities and Exchange Commission in Article 4 of the *Instruction on risk analysis of money laundering, „know your client" procedures and other procedures for recognising suspicious transactions* prescribed: "Capital market participant is obliged to verify the identity of the client, gather data about customer and transaction (hereinafter: identification) according to the regulation on combating money laundering, especially in following cases: a) opening owners securities account securities or establishing of some other kind of business relations with the client; b) of one or more linked transactions amounting to € 15. 000 *or the higher amount*; c) with every transaction, irrespective of value of such transaction when there are reasonable grounds for suspicion of money laundering in regard to transaction or a client".
(Other) changes reported as of 16 March 2010	This Recommendation was implemented by the Instruction of the Securities and Exchange Commission even prior the last evaluation.

Measures taken to implement the recommendations since the adoption of the first progress report	The mentioned recommendations are adopted and due to that implemented in Article 7 of the Bill on Amendments (it refers to changes of Article 9 of the current Law). **In the Article 7** (Article 9 of the current Law on PMLTF) of the Bill on amendments and changes of the Law on PMLTF (adopted by the Government of Montenegro and The Board for Economy**,** Finance and Budget of the Parliament of Montenegro, finance and budget), prescribes the following: Article 9 shall be changed as follows: ''Cases in which CDD measures shall be conducted'' A reporting entity shall conduct the appropriate measures from Article 10 of this Law and particularly in the following cases: 1. when establishing a business relationship with a client; 2. of one or more linked transactions amounting to €15 000 or more; 3. when there is a suspicion about the accuracy or veracity of the obtained client identification data, and 4. when there are reasonable grounds for suspicion of money laundering or terrorist financing related to the transaction or client. If the transactions from paragraph 1 items 2 and 4 of this Article are based on an already established business relationship, a reporting entity shall: 1. verify the identity of the client that carries out the transaction and gather additional data in pursuant to this Law; 2. obtain evidence on the source of funds and check the consistence of the sources of funds with the business activity of the client, if the client is a legal person, or with the profession of the client if the client is a natural person. An organizer of special games of chances shall in carrying out the transaction in the amount of at least € 2.000 verify the identity of a client and obtain the data from the Article 71 item 6 of this Law. In the context of this Law, the following shall also be considered as establishing a business relationship: 1. client registration for participating in the system of organizing games of chances at the organizers that organize games of chances on the Internet or by other telecommunication means, and 2. client's access to the rules of managing a mutual fund at managing companies. " **In the Article 27** (changes of Article 33 of the current Law) the following is prescribed: In Article 33 paragraph 1 the words: ''in the amount of €15.000 or more" are replaced by the words: **''in the amount of at least €15,000''**.
Recommendation of the MONEYVAL Report	*The LPMLTF should be amended to require CDD to be conducted on wire transactions of €1,000 or more.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The members of the Working Group will be presented with all the MONEYVAL expert's recommendations for changing and amending the LPMLTF. Securities brokers do not conduct cash transactions, but only transactions where money is transferred from client's account within the bank to brokers account specified for keeping client's money. However, the securities brokers are required to perform CDD even though they are not receiving money for performing transactions in cash from the clients. The specific obligations of the securities brokers regarding CDD are imposed by the Securities and Exchange Commission Instruction.

(Other) changes reported as of 16 March 2010	This Recommendation was implemented by the Instruction of the Securities and Exchange Commission even prior the last evaluation
Measures taken to implement the recommendations since the adoption of the first progress report	Article 11 of the Bill on Amendments and Changes to the Law on PMLTF prescribes that a new Article **12a** shall be inserted after Article 12 of the current LPMLTF.A new article **12a** is added, as follows: Wire transfers "Wire transfers Article 12a A reporting entity engaged in payment operations services or money transfer services shall obtain accurate and complete information on the originator and enter them into the form or message related to wire transfers of funds sent or received in any currency that is the subject of the wire transfer. The data from paragraph 1 of this Article shall remain with the funds transfer through the payment chain. A provider of payment operations or money transfer services, that is an intermediary or beneficiary person of the funds, shall refuse to transfer the funds unless the originator data are complete or shall require the originator data to be completed within the shortest time possible. In the process of gathering the data from paragraph 1 of this Article, providers of payment operations or money transfer services shall identify the originator by checking a personal identification document issued by a competent authority. The content and type of the data from paragraph 1 of this Article, and other obligations of the providers of payment operations or money transfer services, as well as the exceptions from data gathering requirement when transferring funds that present insignificant risk of money laundering and terrorist financing, shall be more specifically regulated by a regulation of the Ministry." Pursuant to Article 16 of the Law on National Payment Operations, (OGM 61/08), The performing institution shall be obliged to archive and keep the electronic data on executed transfers for ten years from the date of the execution of the transfer.
Recommendation of the MONEYVAL Report	*The LPMLTF should be amended to require reporting entities to verify that persons purporting to act on behalf of a customer have the authority to act on behalf of the customer. Article 15 of the LPMLTF should be amended to require the obtaining of copies of the document regulating the power to bind the legal person or arrangement.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The response is the same as the one given to the previous question. The Securities and Exchange Commission adopted Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09) that precisely prescribe the obligation of the licensed market participants to verify identity of persons acting of behalf of clients and to obtain originals or certified copies of the documents authorising them to act on their behalf. The article 4 paragraph 3 of the Rules explicitly states: "Licensee may conclude the contract on providing securities services and/or accept an order for buying or selling of securities on the basis of power of attorney, if a power of attorney was issued and verified in accordance with the Law." Furthermore, the article 5, paragraphs 2,3, and 4 explicitly state: "Identity verification of a legal entity presupposes verification of the identity of a person authorised for its representation.

	If a client is represented by a proxy, his/her power of attorney must be certified by a competent authority. Original power of attorney or documentation proving status of a legal proxy or guardian shall remain in a file at licensee's office." Also, the abovementioned is included in the article 11 paragraph 2 of *Instruction on risk analysis of money laundering, „know your client" procedures and other procedures for recognising suspicious transactions* which is adopted by the Securities and Exchange Commission and prescribes: When establishing business relationship or executing transaction by proxy or authorised person (agent) on client's behalf, capital market participants are obliged to identify authorised person, (agent, attorney) and a client on whose behalf the account has been opened or transaction executed, solely on the basis of personal and another public certificate such as: – Certificate properly issued by state body within their own competence, or institution or other legal entity within legally entrusted public authority and – Written authorisation- power of attorney, certified by notary, consulate, court or state administration body.
(Other) changes reported as of 16 March 2010	Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09).
Measures taken to implement the recommendations since the adoption of the first progress report	The mentioned recommendations are adopted and Bill on Amendments and Changes of the Law on PMLTF is amended with the obligation for all reporting entities to keep, in its documentation, the original or verified copy of the document based on which they will identify and verify client's identity. The **Article 13** (Article 15 of the current Law) prescribes the following: **„A reporting entity shall keep the original or verified copy of the document in his/her documentation".**
Recommendation of the MONEYVAL Report	*The problem of reliance on certificates from the commercial register for CDD purposes should be addressed by establishing procedures to address the limitations of the commercial register.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The Securities and Exchange Commission does not authorise licensed market participants to rely on the electronic version of Commercial Register for CDD purposes due to fact that such verification is not updated on real time basis. The Securities and Exchange Commission prescribes in the article 6 paragraph 4 of the Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09) that legal entity should be identified on the basis of original statement from the registry of Commercial court. The Securities and Exchange Commission Rules prescribe obligation of the licensed market participant to make a suspicious transaction report in circumstances where they have been unable to conduct satisfactory CDD. Also, the Rules authorise securities participants to withdraw from the contract and to reject acceptance of the client's order if they have any suspicion about money laundering (Article 19par.6 item 4). Furthermore, the Instruction in the article 6 par. 5 and 6 prescribe: " If an reporting entity, when establishing and verifying the identity of a customer, doubts the accuracy of obtained data or veracity of documents and other business files from which the data have been obtained, he shall request a written statement from the agent or authorised person before establishing business relationship or executing a transaction.

	Capital market participant may refuse to establish business relationship with the client or executing of such transaction, if regardless of taking measures from this article, there are still serious doubts about identity of the beneficial customer." Separate clause is inserted into the Instruction of Securities and Exchange Commission requiring capital market participant to specifically deal with the issue of CDD on existing customers. The Article 7 of the abovementioned Instruction explicitly states obligation of the licensed market participants to take following procedures: a) before establishing business relationship or executing transaction determine and verify the identity of a client and identity of beneficial owner on the basis of documents, data and information enabling determination of the identity in doubtless and assertive way; b) taking measures enabling checking and determining ownership structure of the client and real control over the client in order to determine identity of the beneficial owner client; c) obtain and keep data and documents in order to establish identity and risk factor of a customer; d) constantly monitor business relationship with the client, including transaction during that relationship (are they adjusted to the kind of business and risks regarding client and information about that customer) keeping records on monitoring business relationship; e) If possible, before establishing business relationship with the client, establish reasons for terminating contracts with other participant on the capital market; f) During executions transactions of customer who is identified with technology help that not include direct contact, enforce procedures that enable previous authenticity checks verity of instruction transaction and authenticity of their applicators.
(Other) changes reported as of 16 March 2010	Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09).
Measures taken to implement the recommendations since the adoption of the first progress report	**The Central Bank of Montenegro** enacted the Guidelines on Bank Risk Analysis Aimed at Preventing Money Laundering and Terrorism Financing which, among other issues, defines that, with the meaning of Article 15 of the Law, the bank shall establish and verify the identity of a client who is a legal person by inspecting the original or a certified copy of a personal document (that cannot be older than three months) from the Central Register of the Commercial Court (hereinafter: CRCC) or other suitable public register, which on behalf of the legal person is submitted by the legal representative. Section 3.1.2 of the abovementioned Guidelines describes in details the establishing and verifying the identity of a client – legal person and the establishing the beneficiary owner of the legal person. If the data required by the Law (Article 71 paragraphs 2, 7, 9, 10, 11, 12, 13 and 14) cannot be determined by inspecting the original or certified copies of personal documents, the missing data shall be gathered directly from the representative or the authorised person. If the bank, during establishing and verifying the identity of a legal person, is suspicious about the validity of given data or validity of documents and other business documentation used for obtaining data, the bank is obliged to receive a written statement from the representative or authorised person before establishing the business relationship or the transaction. If the client is a foreign legal person performing activities in Montenegro through a

	business office, the bank shall determine and verify the identity of a foreign legal person and its business office. The information that the bank collects about a client who is a legal person, are given in Article 71 of the Law on the Prevention of Money Laundering and Terrorist Financing. In 2010 and 2011, the CBCG performed on-site examinations of banks, thus inspecting the implementation of the Guidelines on Bank Risk Analysis Aimed at Preventing Money Laundering and Terrorism Financing. During these inspections, special attention was paid to classification of clients according to risk level, as well as the compliance to legal obligation of determining the beneficiary owner of legal persons. In one case, it was determined that the bank did not identify the beneficiary owner of legal person, but this irregularity was removed during the inspection in the bank.
Recommendation of the MONEYVAL Report	*Article 29.4 of the LPMLTF appears to go further than intended by Criteria 5.9 in that it permits simplified customer verification in respect of customers to "whom an insignificant risk of money laundering or terrorist financing is related" which could include a broader range of customers than those envisaged in Criteria 5.9. Article 29.4 should be amended to bring it into line with the essential criteria.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The Securities and Exchange Commission adopted abovementioned Instruction prior to enactment of the Rulebook on making Guidelines for risk analysis with the aim of combating money laundering and terrorist financing ("Official Gazette of Montenegro", No. 20/09). The Instruction of the Securities and Exchange Commission thus does not provide for any exceptions of the general rule that customers and clients are subject to complete CDD procedures nor provide for reduced or simplified CDD measures to be applied. Also, this Rulebook does not provide for any exceptions and Securities and Exchange Commission is not required to provide for it by Instruction that is adopts. The Bill on Changes and Amendments to the LPMLTF will include this recommendation as well.
Measures taken to implement the recommendations since the adoption of the first progress report	The proposed changes of Article 29 of LPMLTF are adopted and included in the Bill on Amendments and Changes to the Law on PMLTF. Namely, provisions of **Article 24 of** the Bill on Changes and Amendments to the LPMLTF (Article 29 of the current Law) paragraph 4 where is permitted *simplified customer verification in respect of customers to "whom an insignificant risk of money laundering or terrorist financing is related"shall be deleted.* In Article 29 paragraph 1 item 1 the word „organization" is replaced by the word: „institution", and after the word ''lists'' the words ''countries applying the international AML/CFT standards that are at the same level as the EU standards or higher'' are added. In Item 3 of this Article after the words: „ organized market"the words: „or stock exchange market'' are added, and the words "EU standards" are replaced by the words "international standards that are at the same level of European Union standards or higher. "
Recommendation of the MONEYVAL Report	*The FATF definition ("Beneficial owner refers to the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.") should be incorporated into the LPMLTF and a requirement to identify and verify the "ultimate" beneficial owner should be included.*

Measures reported as of 16 March 2010 to implement the Recommendation of the report	Article 19 of the LPMLTF defines a beneficial owner: "In the context of this Law the following shall be considered as a beneficial owner of a business organisation or legal person: 1. a natural person who indirectly or directly owns more than 25% of the shares, voting rights and other rights, on the basis of which he/she participates in the management, or owns more than a 25% share of the capital or has a dominating influence in the assets management of the business organisation, and 2. a natural person that indirectly ensures or is ensuring funds to a business organisation and on that basis has the right to influence significantly the decision making process of the managing body of the business organisation when decisions concerning financing and business are made. Also, a business organisation, legal person, as well as an institution or other foreign legal person that is directly or indirectly a holder of at least €500,000 of shares, or capital share, shall be considered a foreign owner. As a beneficial owner of an institution or other foreign legal person (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered: 1. a natural person, that indirectly or directly controls more than 25% of a legal person's asset or of a similar foreign legal entity, and 2. a natural person, determined or determinable as a beneficiary of more than 25% of the income from property that he/she manages." Article 10 of the LPMLTF defines that a reporting entity, when establishing a business relationship with a customer shall: 1. identify a customer and beneficial owner if the customer is a legal person: 2. obtain and verify data on a customer, or beneficial owner, if the customer is a legal person, on the purpose and nature of a business relationship or transaction and other data pursuant to this Law, and 3. monitor regularly the business activities that a customer undertakes with the reporting entity and verify their compliance with the nature of a business relationship and the usual scope and type of customer's affairs. Under Article 20 of the LPMLTF a reporting entity shall establish the beneficial owner of a legal person or foreign legal person by obtaining data from Article 71 item 15 of this Law (name, address of permanent residence or temporary residence, date and place of birth of the beneficiary owner- legal person or in case from the Article 19 paragraph 2 item 2 of this Law, data on the category of the person, on whose behalf is establishing and operating of the legal person or similar foreign legal person). A reporting entity shall obtain these data by checking the original or certified copy of the documentation from the CRCC or other appropriate public register that may not be older than three months of its issue date or obtain them on the basis of the CRCC or other public register in accordance with Article 14 paragraphs 3 and 5 of this Law. If the required data cannot be obtained in the manner determined in paragraphs 1 and 2 of this Article, an reporting entity shall obtain the missing data from a written statement of an agent or authorised person. Data on beneficial owners of a legal person or similar foreign legal entity shall be verified to the extent that ensures complete and clear insight into the beneficial ownership and managing authority of a customer respecting risk-degree assessment. Moreover, under Art. 21 of the LPMLTF, within the customer due diligence, a reporting entity shall, - when establishing business relationship, obtain the data from Art. 71 items 1, 2, 4,

	5, 7, 8 and 15 (name, address of permanent residence or temporary residence and the birth date and birth place of the beneficial owner of a legal person, or in the case from Art. 19 paragraph 3 item 2 of the Law, obtain the data on the category of the person, on whose behalf is the establishing and operating of the legal person or similar foreign legal person) of this Law. - when one or several linked transactions in the amount of €15.000 are executed, obtain data from Art. 71 items 1, 2, 3, 4, 5, 9, 10, 11, 12 and 15 (name, address of permanent residence or temporary residence and the birth date and birth place of the beneficial owner of a legal person, or in the case from Art. 19 paragraph 3 item 2 of the Law, obtain the data on the category of the person, on whose behalf is the establishing and operating of the legal person or similar foreign legal person) of this Law. - from Art. 9 paragraph 1 items 3 and 4 of the Law/(3) when there is a suspicion about the accuracy or veracity of the obtained customer identification data; 4) when there are reasonable grounds to suspect that a transaction or customer are related to ML and TF, obtain data from Art. 71 of this Law (which includes item 15 referring to beneficial owner). Art. 22 /Monitoring business activities/, defines the following: **"**An reporting entity shall monitor customer's business activities, including the sources of funds the customer uses for business, in order to identify the customer more easily. Monitoring business activities from paragraph 1 of this Article at an reporting entity shall particularly include the following: 1. verifying the compliance of customer's business with nature and purpose of contractual relationship; 2. monitoring and verifying the compliance of customer's business with usual scope of her/his affairs, and 3. monitoring and regular updating of documents and data on a customer, which includes conducting repeated annual control of a customer in the cases from Article 24 of this Law. An reporting entity shall ensure and adjust the dynamics of undertaking measures from paragraph 1 of this Article to the risk of money laundering and terrorist financing, to which an reporting entity is exposed when performing certain work or when dealing with a customer."
Measures taken to implement the recommendations since the adoption of the first progress report	The proposed changes of Article 19 of LPMLTF are adopted and incorporated in Article 14 of the Bill on Amendments and Changes to the Law on PMLTF due to that the new definition of the beneficial owner is compliant with the definition stated in Directive2006/60 and also with the FATF definition. **Article 14 (the Bill on Changes and Amendments to the LPMLTF)** Article 19 is changed as follows: "Beneficial owner is the natural person who ultimately owns or controls the client and/or the natural person on whose behalf a transaction or activity is being conducted. Beneficial owner shall also include the natural person(s) who ultimately who exercises control over a legal entity or legal arrangement. A beneficial owner of a business organization, i.e. legal person, in the context of this Law, shall be: 1) a natural person who indirectly or directly owns at least 25% of the shares, voting rights and other rights, on the basis of which he/she participates in the management, or owns at least 25% share of the capital or has a dominating influence in the assets management of the business organization; 2) a natural person that indirectly ensures or is ensuring funds to a business

	organization and on that basis has the right to influence significantly the decision making process of the managing body of the business organization when decisions concerning financing and business are made. As a beneficial owner of an institution or other foreign legal person (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered 1) a natural person, that indirectly or directly controls at least 25% of a legal person's asset or of a similar foreign legal entity; 2) a natural person, determined or determinable as a beneficiary of at least 25% of the income from property that is being managed.''
Recommendation of the MONEYVAL Report	*Article 25 of the LPMLTF is very specific and does not cover a number of the specified categories as set out in Criteria 5.8, namely all non-resident customers, private banking, legal persons or arrangements such as trusts that are personal assets holding vehicles and companies that have nominee shareholders or shares in bearer form. The evaluators consider that the LPMLTF should be amended to fully reflect all of the categories in Criteria 5.8.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	In Montenegro trusts may not be formed. The legal persons or practitioners may just register companies, but may not as a way of business form companies or other legal persons, act or arrange for another person to act as a director or secretary of a company; as a partner of a partnership; in a similar position in relation to other legal persons; provide a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement, act or arrange for another person to act as: (i) a trustee of an express trust or similar legal arrangement (ii) a nominee shareholder for another person other than a company listed on a regulated market which is subject to disclosure requirements consistent with Community legislation or equivalent international standards; The Working Group that will prepare the changes and amendments to the LPMLTF will be presented with this MONEYVAL recommendation as well.
Measures taken to implement the recommendations since the adoption of the first progress report	In Montenegro, trusts may not be formed as a model of performing a business activity but the changes are made and incorporated in **Article 19** of the Bill on Changes and Amendments to the LPMLTF (**Article 25 of the current Law**), as follows: ''Enhanced customer due diligence Article 25 A reporting entity shall conduct enhanced customer due diligence in cases when a reporting entity estimates that there is high risk on money laundering or terrorist financing. Reporting entity shall conduct enhanced CDD measures in the following cases as well: 1. on entering into open account relationship with a bank or other similar credit institution, with registered office outside the EU or outside the states from the list; 2. on entering into business relationship or executing transaction from Article 9 paragraph 1 item 2 of this Law with a customer that is a politically exposed person from Article 27 of this Law, 3. when a customer is not present during the verification process of establishing and verifying the identity. A reporting entity shall apply enhanced customer due diligence measures in cases when, in accordance with the Article 8 of this Law, a reporting entity estimates that regarding the nature of a business relationship, the form and manner of executing a

	transaction, business profile of the client or other circumstances related to the client, there is or there could be a high risk of money laundering or terrorist financing."
Recommendation of the MONEYVAL Report	*Risk guidelines in accordance with Criteria 5.12 should be completed and published.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The Ministry of Finance adopted, "The Rulebook on Developing Risk Analysis Guidelines with a view to Preventing Money Laundering and Terrorist Financing" (Official Gazette of Montenegro No. 20/09 of 17.03.2009). APMLTF has determined the Guidelines on Developing Risk Analysis with a view to Preventing Money Laundering and Terrorist Financing for the reporting entities that are supervised by APMLTF. The Guidelines define specific risk factors used as basis for establishing the degree of risk of customers, group of customers, business relationship, transaction or product. The Guidelines are applicable since 25th September 2009. On the basis of the Guidelines, the reporting entities from Art. 4 paragraph 2 it. 14 and 15 of the LPMLTF, will, according to the provisions of Art. 8 paragraph 1 of the LPMLTF, make risk analysis in order to determine the risk assessment of groups of customers or of an individual customer, business relationship, transaction or product related to the possibility of misuse for the purpose of money laundering or terrorist financing. The APMLTF Guidelines are given in the ANEX of this Report. The Securities and Exchange Commission has issued Instruction of the Securities and Exchange Commission of on risk analysis of money laundering, „know your client" procedures and other procedures for recognising suspicious transactions of November 28, 2008. This Instruction has been adopted before last evaluation. The Instruction implements the Rulebook on developing risk analysis guidelines with a view to preventing money laundering and terrorist financing. The Administration for the games on chance adopted on 25th December 2009, the Guidelines on developing risk analysis with a view to preventing money laundering and terrorist financing and forwarded it to the organisers of the games of chance that are supervised by the Administration. The Guidelines are given in the Annex of this Report. Pursuant to Article 86 of the LPMLTF (OGM 14/07 4/08) the Central Bank of Montenegro supervises the enforcement of this law by the reporting entities specified under Article 4 paragraph 1 points 1, 2, 3, 10 and 13, these being banks and foreign bank branches, savings banks and savings credit organisations, payment system organisations, exchange offices, and electronic money institutions. In line with Article 8 paragraph 3 of the LPMLTF, the Ministry of Finance passed the Rulebook on the development of guidelines on risk analysis with a view to preventing money laundering and terrorism financing (OGM 20/09) providing for detailed criteria for drafting the guidelines by the authorities specified under Article 86 of the LPMLTF. The Central Bank of Montenegro has prepared the Draft Guidelines on bank risk analysis aimed at preventing money laundering and terrorism financing to be adopted by the Council of the Central Bank of Montenegro. The Draft Guidelines above are attached hereof. We underline that the 5.12 criteria standards are covered in the Draft Guidelines. At the beginning of 2010, the ISA has started with the activities concerning preparation of risk analysis Guidelines regarding prevention of money laundering and terrorist financing, based on which reporting entities defined by the Law on

	PML/CFT and which are under the scope of ISA, will be obliged to make their internal procedures in this field. This work will be finished, at latest, by the end of the 6th month of 2010.
Measures taken to implement the recommendations since the adoption of the first progress report	There were no changes since the Bill on Changes and Amendments has not been adopted by the Parliament and due to that no changes in by laws can be performed. After the adoption of the Bill all guidelines, rulebooks and bylaws (currently in force) will be amended and changed , and the new ones will be adopted in accordance with the Law on PMLTF **Guidelines** on Bank Risk Analysis Aimed at Preventing Money Laundering and Terrorism Financing Were Enacted by the Central Bank Of Montenegro Council on 09 March 2009, and they are published at the CBMN website. We would like to note that they fully correspond to the draft guidelines presented in the corresponding segments in the columns of this questionnaire titled "Measures reported as of 16 March 2010 to implement the Recommendation of the report".
Recommendation of the MONEYVAL Report	*A specific clause should be inserted into the LPMLTF requiring reporting entities to consider making a suspicious transaction report in circumstances where they have been unable to conduct satisfactory CDD. Likewise there should also be a clause requiring reporting entities to terminate a business relationship in circumstances where they have been unable to conduct satisfactory CDD. This is particularly relevant in circumstances where CDD has not been possible for existing customers where there are one or more linked transactions amounting to €15,000, etc.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The above clauses are inserted into Securities and Exchange Commission Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09) The Securities and Exchange Commission Rules prescribe obligation of the licensed market participant to make a suspicious transaction report in circumstances where they have been unable to conduct satisfactory CDD. Also, the Rules authorise securities participants to withdraw from the contract and to reject acceptance of the client's order if they have any suspicion about money laundering (Article 19 par.6 item 4). Furthermore, the Instruction in the article 6 par. 5 and 6 prescribe: " If an reporting entity, when establishing and verifying the identity of a customer, doubts the accuracy of obtained data or veracity of documents and other business files from which the data have been obtained, he shall request a written statement from the agent or authorised person before establishing business relationship or executing a transaction. Capital market participant may refuse to establish business relationship with the client or executing of such transaction, if regardless of taking measures from this article, there are still serious doubts about identity of the beneficial customer." The Bill on Changes and Amendments to the LPMLTF will include this recommendation as well.
(Other) changes reported as of 16 March 2010	Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09)
Measures taken to implement the recommendations since the adoption of the first progress report	The recommendations are accepted and due to that Articles 11 and 12 of the current Law are changed and introduced into the Bill on Changes and Amendments to the LPMLTF. Namely, the Article 9 of the Changes and Amendments to the LPMLTF (Article 11 of the current Law) defines that a business relationship shall not to establish when the evidence on the client's

	identity cannot be obtained, and in case that a business relationship has already been established it can be terminated, is introduced Article 11 is changed as follows: „A reporting entity shall apply the measures from Article 10 items 1 and 2 of this Law prior to establishing a business relationship. By way of exception from paragraph 1 of this Article, a reporting entity can apply the measures from Article 10 items 1 and 2 of this Law during the establishment of a business relationship with a client when a reporting entity estimates it is necessary and when there is insignificant risk of money laundering or terrorist financing. When concluding a life insurance contract the reporting entity from Article 4 paragraph 2 item 8 of this Law can exert control over the insurance policy beneficiary even after concluding the insurance contract, but not later than the time when the beneficiary according to the policy can exercise his/her rights. If the evidence on the client's identity, from paragraph 3 of this Article, cannot be obtained the business relationship shall not be established, and if the business relationship has already been established it can be terminated. " **In the Article 10 of the Law on Changes and Amendments to the LPMLT (Article 12 of the current Law) defines that that the business relationship shall not be established and transactions shall not be executed if the evidence on client's identity cannot be obtained.** Article 10 (of the current Law) In Article 12 paragraph 1 words "Article 7 and" are deleted. After paragraph 1, a new paragraph is added, as follows: **If the evidence on the client's identity cannot be obtained the business relationship shall not be established and transactions shall not be executed.**
Recommendation of the MONEYVAL Report	*There needs to be a specific requirement for reporting entities to assess and consider the risks of technological developments as part of their risk analysis. This should also be introduced in the guidelines to be produced by the supervisory bodies.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Banks are obliged to assess and consider the risk of technology development which should be an integral part of a comprehensive analysis of the risk that could arise from money laundering and terrorism financing. Therefore, in its Draft Guidelines on bank risk analysis, chapter 3 paragraph 4, the Central Bank of Montenegro has defined the following: "With a view to ensuring a proper risk management in the area of preventing money laundering and terrorism financing, a bank shall reduce its exposure to risk arising from new technologies providing anonymity (electronic or internet banking, electronic money, etc.), i.e. the bank is obliged to define in its policies and procedures in particular, but not limited to the following: • identification of the party using electronic banking services; • authenticity of the signed electronic document; • reliable measures against the forgery of documents and signatures; • systems ensuring and enabling safe electronic banking; • other requirements in accordance with positive regulations governing the aforesaid business area. " The Securities and Exchange Commission implemented this recommendation by the article 22 par. 6-9 of the Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09). These Rules specifically regulate the procedures to be followed by the licensed

	market participants if the client uses electronic means of communication to submit an order or conclude a contract. "Client, who gives orders by phone, fax or electronically, may give the same with authorisation by identity code which licensee shall assign to a client when signing a contract. A client is obliged to keep his/her identity code as a secret, and may not make it available to third persons. Licensee is obliged to check client's identity through identity code, contained in any contract prescribing possibility of submitting orders by phone, fax or electronically or in any other manner which does not imply client's face to face transaction. When prescribing possibility of electronic submitting of client's orders, licensee is obliged to provide: - reliable manner of client identification; - that all necessary elements of an order are stated in the electronic message; - a record of exact time when the order arrived to an e-mail and time of its entry in the order book; - sending of reply to a received order, where the original message of order sender is clearly visible; When prescribing possibility of electronic submitting of client's orders, licensee shall retain the right to refuse order execution, if the order is unclear and/or ambiguous, and he/she shall inform a client on that in the same way it accepted an order." This condition will be an integral part of already mentioned risk analysis Guidelines.
(Other) changes reported as of 16 March 2010	Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09)
Measures taken to implement the recommendations since the adoption of the first progress report	The recommendations are accepted and due to that in Article 23 of the Bill on Changes and Amendments to the LPMLTF a new Article 28a defining obligation, primary for the banks, and then for other reporting entities to adopt internal procedures for prevention of the new technologies use for the purpose of money laundering and terrorist financing, is added. After Article 28, a new article is added as follows: "New technologies" Article 28a Banks and other financial institutions shall take measures and actions to eliminate money laundering risks that may arise from new developing technologies that might allow anonymity (internet banking, cash dispenser use, phone banking etc.). Banks and other financial institutions shall adopt internal procedures for prevention of the new technologies use for the purpose of money laundering and terrorist financing.''
Recommendation of the MONEYVAL Report	*It is the view of the evaluators that the requirements of Criteria 5.17 are essentially met although the wording of the first point above is too precise and could be interpreted to read that only transactions of exactly €15,000 require CDD. Furthermore, the requirement is for CDD to be conducted when "a transaction of significance takes place." and in the context of Criteria 5.17 it is considered that this is more appropriate wording. Overall the evaluators consider that a separate clause should be inserted into the LPMLTF to specifically deal with the issue of CDD on existing customers.*

Measures reported as of 16 March 2010 to implement the Recommendation of the report	The Bill on Changes and Amendments to the LPMLTF will include this recommendation as well. Art. 23 of the applicable LPMLTF determines the repeated annual control: "If a foreign legal person executes transactions from Article 9 paragraph 1 of this Law at an reporting entity, the reporting entity shall, in addition to monitoring business activities from Article 22 of this Law, conduct repeated annual control of a foreign legal person at least once a year, and not later than after the expiry of one year period since the last control of a customer. By the way of exception to paragraph 1 of this Article an reporting entity shall, at least once a year, and not later than after the expiry of one year period since the last control of a customer, also conduct repeated control when the customer executing transactions from Article 9 paragraph 1 of this Law is a legal person with a registered office in Montenegro, if the foreign capital share in that legal person is at least 25%. Repeated annual control of a customer from paragraphs 1 and 2 of this Article shall include: 1.obtaining or verifying data on the company, address and registered office; 2.obtaining data on personal name and permanent and temporary residence of an agent; 3.obtaining data on a beneficial owner, and 4. obtaining a new power of authorisation from Article 17 paragraph 2 of this Law. If the business unit of a foreign legal person executes transactions from Article 9 paragraph 1 of this Law on behalf and for the account of a foreign legal person, an reporting entity, when conducting repeated control of a foreign legal person, in addition to data from paragraph 3 of this Article, shall also obtain: 1.data on the address and registered office of the business unit of a foreign legal person, and 2. data on personal name and permanent residence of the agent of the foreign legal person business unit. A reporting entity shall obtain the data from paragraph 3 items 1, 2 and 3 of this Article by checking the original or certified copy of the documentation from the CRCC or other appropriate public register that may not be older than three months of its issue date, or by checking the CRCC or other appropriate public register. If the required data cannot be obtained by checking the documentation, the missing data shall be obtained from the original or certified copy of documents and other business files, forwarded by a legal person upon a reporting entity's request, or directly from a written statement of the agent of a legal person from paragraphs 1 and 2 of this Article. By the way of exception to paragraphs 1, 2, 3, 4 and 5 of this Article a reporting entity shall conduct repeated control of a foreign person from Article 29 item 1 of this Law."
Measures taken to implement the recommendations since the adoption of the first progress report	
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft	**Article 7** of the Bill of the Law on Changes and Amendments to the Law on PMLTF defines that the title above Article 9, as well as the article itself, is amended as follows ''Cases in which CDD measures shall be conducted''

"other enforceable means" and other relevant initiatives	A reporting entity shall conduct the appropriate measures from Article 10 of this Law and particularly in the following cases: 1. when establishing a business relationship with a client; 2. of one or more linked transactions amounting to €15 000 or more; 3. when there is a suspicion about the accuracy or veracity of the obtained client identification data, and 4. when there are reasonable grounds for suspicion of money laundering or terrorist financing related to the transaction or client. If the transactions from paragraph 1 items 2 and 4 of this Article are based on an already established business relationship, a reporting entity shall: 1. verify the identity of the client that carries out the transaction and gather additional data in pursuant to this Law; 2. obtain evidence on the source of funds and check the consistence of the sources of funds with the business activity of the client, if the client is a legal person or with the profession of the client if the client is a natural person. An organizer of special games of chances shall in carrying out the transaction in the amount of at least € 2.000 verify the identity of a client and obtain the data from the Article 71 item 6 of this Law. In the context of this Law, the following shall also be considered as establishing a business relationship: 1. client registration for participating in the system of organizing games of chances at the organizers that organize games of chances on the Internet or by other telecommunication means, and 2. client's access to the rules of managing a mutual fund at managing companies. "

Recommendation 10 (Record keeping) I. Regarding Financial Institutions	
Rating: LC	
Recommendation of the MONEYVAL Report	*There is no requirement that transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity in accordance with the requirements of essential criteria 10.1.1. The LPMLTF should be amended to take this requirement into account.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The Securities and Exchange Commission prescribes this requirement explicitly. This requirement is imposed by the article 38 of the Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09). The article states: "This information shall be entered in a manner that all transactions can be easily identified at any time, as well as a manner to easily track transaction from the time of initial order entry to final transaction;"
(Other) changes reported as of 16 March 2010	Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09).
Measures taken to implement the recommendations since the adoption of the first progress report	
(Other) changes since the first	On the basis of performed on-site control in banks, it was determined that Banks in Montenegro have up-to-date IT equipment enabling the reconstruction of individual

progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	transactions (including the amount and currency), as well as identification data on clients which are, pursuant to authorization, available to competent authorities. The aforementioned is regulated by banks' policies and procedures.

Recommendation 13 (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: PC	
Recommendation of the MONEYVAL Report	*The reporting obligation should be extended to include money laundering reporting obligations if the transaction has already been performed.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The Central Bank of Montenegro, by applying good practices, demands from banks to inform the Administration for the Prevention of Money Laundering and Terrorism Financing on any suspicious transaction (regardless of the amount and type) also after its execution. The Bill on Changes and Amendments to the LPMLTF will include this recommendation as well.
Measures taken to implement the recommendations since the adoption of the first progress report	The recommendations are accepted and due to that **Article 27** of the Law on Changes and Amendments to the LPMLTF (Article 33 of the current Law) defines that reporting entity is obliged to submit a suspicious transaction report to APMLTF even after the execution of the transaction. The manner and requirements of providing the data defined in this Article shall be more specifically defined by the Ministry. **Article 27 of the Bill on Changes and Amendments to the LPMLTF is defined as follows:** In Article 33 paragraph 1 the words: ''in the amount of €15.000 or more" are replaced by the words: ''in the amount of at least € 15,000''. After paragraph 2 two new paragraphs are added, as follows: ''A reporting entity shall provide to the competent administration body data from Article 71 of this Law **after the executed transaction** when there is suspicion of money laundering or terrorist financing related to the transaction (regardless of the amount or type) or client. Where a transaction is considered to represent money laundering or terrorist financing and when it is not possible to suspend such transaction, or when there is probability that the efforts of monitoring a client engaged into activities suspected to be related to money laundering or terrorist financing could be frustrated, reporting entities shall notify the competent administration body immediately afterwards. Paragraph 4 is changed as follows: The manner and requirements of providing the data from paragraphs 1 to 5 of this Article shall be more specifically defined by the Ministry.'' The existing paragraphs 3 and 4 now become paragraphs 5 and 6.
Recommendation of the MONEYVAL Report	*The Book of Rules should be endorsed in law with sanctions for breaches in order to become "other enforceable means".*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The Law prescribes that the implementing regulations (rulebooks, decrees) shall be adopted six months after the date the Law entered into force. **Drafting Regulations Rules (Official Gazette MNE, No.02/10 from 18.01.2010)** define the legal and technical rules for drafting laws and other regulations, as well as

	other enactments whose preparation, proposal and adoption are within the competence of the Government of Montenegro and Ministries, in order to ensure the uniformity in drafting regulations, to avoid legal and technical omissions and to accelerate the adoption procedure. 1.1. When drafting a law and determining its contents and scope, and elaborating the constitutional principles, it is important to distinguish between the issues that can be regulated only by law and those that can be regulated by other regulations and general enactments. 1.2. The contents of a law are classified by systematization of provisions according to what they are related to: a. General Provisions b. Main provisions c. Penalty provisions d. Transitional provisions e. Final provisions If the law prescribes that certain questions shall be regulated by several different bylaws and other laws (ex. Decrees and rulebooks…), special attention has to be paid to defining the issues that should be regulated by a single enactment, in order to ensure the harmonisation of these enactments according to their hierarchy and to avoid repetitions. **B. Drafting bylaws** A bylaw cannot contain the same provisions as law. A bylaw is composed of: a. Preamble b. Title c. Contents of the enactment d. Signature of the responsible person e. The number under which the enactment is recorded at the authority that adopted it and the date of adoption. Consequently, only law includes penalty provisions.
Measures taken to implement the recommendations since the adoption of the first progress report	There were no changes in relation to this response.
(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 (Criminalisation of terrorist financing)	
Rating: PC	
Recommendation of the MONEYVAL Report	*A definition of "funds", which includes "assets of every kind, whether tangible or intangible, movable or immovable, however, acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of*

	credit." should be laid down in the Criminal Code.
Measures reported as of 16 March 2010 to implement the Recommendation of the report	In compliance with the Special Recommendation II of the Financial Action Task Force (FATF), "financing of terrorism" is defined as a separate criminal offence in the current Criminal Code of Montenegro ("Official Gazette of the RMNE" 70/03, 13/04, 47/06 and "Official Gazette of Montenegro" 40/08). The criminal offence of "Financing of Terrorism" (Article 449) is done by a person who provides or collects funds intended for financing execution of criminal offences of terrorism, international terrorism and taking of hostages. All the forms of criminal activity mentioned above are defined as separate criminal offences (Articles 365, 447 and 448 of the Criminal Code). Imprisonment for the period of one to ten years is prescribed for this offence. The Criminal Code prescribes mandatory confiscation of resources intended for financing of terrorism. A draft law amending the Criminal Code is currently in Parliament and hence the incrimination of the offence "Financing of terrorism" will be considerably extended. The new definition of offence of financing of terrorism, amended states as follows: ***"Financing of Terrorism*** **Article 449** **(***1) Anyone who in any way provides or raises money, securities, other funds or property intended entirely for financing the commission of criminal offences referred to in Articles 447, 447a, 447b, 447c, 447d and 448 of the present Code, or for financing organisations that have the aim of committing those offences, or members of those organisations,* *shall be punished to imprisonment for a term of one to ten years.* *(2) Funds referred to in Paragraph 1 of this Article shall be confiscated."* Such definition clearly states the funds intended for financing terrorist offences – money, securities, other assets or property whose purpose is for complete or partial use for financing terrorist offences, public callings to commit acts of terrorism, incitement and training to commit acts of terrorism, use of lethal device, damage and destruction of nuclear facility and endangering persons under international protection. Incrimination of the offence of "Financing of Terrorism" will be considerably extended by adoption of the Law on Amendments to the Criminal Code, which is in the parliamentary procedure. In pursuance with the new definition of the criminal offence of financing of terrorism, this offence is done by a person who in any way provides or collects money, securities, other resources or assets intended to be fully or partially used for financing of execution of the criminal offences as under Article 447, 447a, 447b, 447c, 447d and 448 of the Criminal Code (terrorism, public invitation to execution of terrorist activities, recruiting and training for execution of terrorist activities, use of a lethal device, damage to and destruction of a nuclear facility and endangering of persons under international protection) or for financing of organisations whose aim is to execute such activities, or for financing of members of such organisations. Imprisonment for the period of one to ten years remains the prescribed punishment, along with mandatory confiscation of resources intended for financing of terrorism. In accordance with the recommendation made following the evaluation of Montenegro before the MONEYVAL Committee on 17 March 2009, the new definition will clearly specify resources intended for financing of criminal offences of terrorism - money, securities, other resources or assets intended to be fully or partially used for financing execution of criminal offences. The legal definition will be extended with the term "and other resources or assets", in compliance with the

	recommendation, the Convention on the Suppression of Terrorism and the Palermo Convention. Thus, the innovated definition of the offence of "Financing of Terrorism" also includes such activities which contribute to financing of terrorism and which are not strictly speaking collection of money and securities – therefore, provision of any resources or assets in the aim of financing of terrorism. The terms "resources" and "assets" shall be construed in accordance with the ratified international conventions. Furthermore, Montenegro has ratified the Convention on Prevention of Financing of Terrorism ("Official Gazette of the Federal Republic of Yugoslavia / International agreements" 7/02), as well as Palermo, Strasbourg and Warsaw convention. Having in mind the hierarchy of normative acts stipulated by the Constitution, the terms "funds", "properties", "confiscations", "seizing", „predicate part" and other stipulated by this convention are a constituent part of the legal order – therefore applicable in case law.
(Other) changes reported as of 16 March 2010	The innovated definition of terrorist financing offence includes activities that contribute to financing of terrorism and that are not strictly raising money and securities. This definition includes also providing funds or property for the purposes of financing of terrorism. The terms "Funds" and "Property" are interpreted broadly, in accordance with the ratified international conventions
Measures taken to implement the recommendations since the adoption of the first progress report	The recommendations are accepted and due to that Article 4 of the Law on Changes and Amendments to the LPMLTF (it refers to changes of Article 5 of the current Law) provides the definition of property, as follows: 9) "property" means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments in any form including electronic or digital, evidencing title to or an interest in such assets; In accordance with the tendency to fully harmonize legislation with relevant international standards, changes and amendments of Criminal Code had impact on group of criminal offences against humanity and other welfares protected by international law. The most significant innovations are the ones introducing new concept of criminal offences of terrorism. The basic criminal offence Terrorism (regardless of weather it is directed against Montenegro, foreign state or international organization) is defined in the art.447 with many forms of perpetration. ***„Terrorism*** ***Article 447*** *(1) Anyone who, with the intention to seriously intimidate the citizens or to coerce Montenegro, a foreign state or international organization to do or not to do something, or to seriously endanger or violate the basic constitutional, political, economic or social structures of Montenegro, foreign state or international organization, commits one of the following offences:* *1) attack the life, body or freedom of another,* *2) abduction or hostage taking,* *3) destruction of state or public facilities, traffic systems, infrastructure, including information systems, fixed platforms in the epicontinental shelf, public good or private property that may endanger the lives of people or cause considerable damage to the economy,* *4) abduction of aircraft, vessel, means of public transport or transport of goods that may endanger the lives of people,* *5) development, possession, procurement, transport, provision or use of weapons, explosives, nuclear or radioactive material or devices, nuclear, biological or chemical weapons,*

	6) research and development of nuclear, biological and chemical weapons, *7) emission of dangerous substances or causing fires, explosions or floods or taking other generally dangerous actions that might harm the lives of people,* *8) obstruction or discontinuation of water supply, electric energy or another energy generating product supply that might endanger the lives of people shall be punished by an imprisonment sentence for a minimum term of five years.* *(2) Anyone who threatens to commit the criminal offence referred to in paragraph 1 of this Article shall be punished by an imprisonment sentence for a term of six months to five years.* *(3) Where an offence referred to in paragraph 1 of this Article has caused death of one or a number of persons or large-scale destruction, the offender shall be punished by imprisonment for a minimum term of ten years.* *(4) Where during the commission of the offence referred to in paragraph 1 of this Article the offender deprived one or several persons of life with guilty mind, s/he shall be punished by an imprisonment sentence for a minimum term of twelve years or by an imprisonment sentence of forty years."* In the previous Progress report we informed about future changes and amendments which introduce new criminal offences of terrorism. It is adopted in 2010. and now Criminal Code beside criminal offence Terrorism defines criminal offences: public invitation to execution of terrorist activities (art. 447a), recruiting and training for execution of terrorist activities (art. 447b), use of a lethal device (art.447c), damage to and destruction of a nuclear facility (art. 447d) and endangering of persons under international protection (art. 448). Changes and amendments in 2010 advanced incrimination of the criminal offence Terrorist financing (art.449) –in line with conventions aiming to prevent acts of terrorism, especially CoE Convention 2008., which was ratified by Montenegro in 2008. New definition of criminal offence Terrorist financing, advanced, encompasses term „funds" in accordance with the recommendation, and is as follows: ***"Terrorism Financing*** ***Article 449*** *(1) Whoever provides in any manner or raises funds, securities, other resources or property intended for financing entirely or partially, of criminal offences referred to in Art. 447, 447a, 447b, 447c, 447d and 448 of this Code, or for the funding of organizations which have the commission of those offences as their aim or members of such organizations, shall be punished by an imprisonment sentence for a term of one to ten years.* *(2) The resources referred to in paragraph 1 of this Article shall be confiscated*." Such definition in The Criminal Code clearly states the means intended to be finance criminal offences of terrorism - funds, securities, other resources or property intended for financing entirely or partially be used for financing of criminal offences Terrorism, Public invitation to execution of terrorist activities, Recruiting and training for execution of terrorist activities, Use of a lethal device, Damage to and destruction of a nuclear facility and Endangering of persons under international protection. This definition, expanded by term „other resources or property" is comprehensive and in line with the requests of Convention on suppression of Terrorism. Montenegro ratified Convention on The Suppression of Terrorism Financing (»Official Gazette of FRY – International agreements» no.7/02), as well as Palermo, Strasbourg and Warsaw Convention. It is important to stress out that The Constitution of Montenegro defines that ratified

	and published international agreements and generally accepted rules of International law are integral part of internal legal order, that they have primacy over domestic legislation and that they are applied directly when they regulate relations differently than internal legislation. Having that in mind, terms „funds“, „property“, „confiscation“, „seizure“, „Predicate offence“ and other defined by conventions are integral part of legal order – thus applicable in practice.
Recommendation of the MONEYVAL Report	*The reference to specific criminal offences (terrorism, international terrorism and hostage taking) in Article 449 should be brought into line with the scope of the Terrorist Financing Convention and the Interpretive Note to SR II, as the scope which constitutes the criminal offence becomes narrower. Under Articles 365 and 447, only the acts, intended to cause harm (to the constitutional order of Montenegro, or the foreign state/international organisation) are criminalized, while the convention requires the incrimination of any acts of violence which purpose is to intimidate a population or compel a government or international institution (to do/to abstain from doing).*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	With amendments to the Criminal Code that are in progress, the concept of terrorism is amended and closer defined through introduction of new terrorist offences (public calling to commit acts of terrorism, incitement and training to commit acts of terrorism, use of lethal device and destruction and damaging of a nuclear facility. Terrorism offences from Article 365 and international terrorism are unified in a unique act – terrorism. Through this the citizens, the state of Montenegro, a foreign country and international organisations – and their constitutional, political, economic and social structures are protected in a unique way. Through amendments to this Article it is harmonised with the recommendations to incriminate any acts of violence whose purpose is to intimidate a population or compel a government or international institution (to do/to abstain from doing). Apart from these and incorporating new acts, any act directed against these values shall be considered financing of terrorism. The innovated definition of terrorist financing offence includes activities that contribute to financing of terrorism and that are not strictly raising money and securities.
Measures taken to implement the recommendations since the adoption of the first progress report	The concept of terrorism has been advanced introducing changes and amendments of the Criminal Code, concept of terrorism was amended and defined in detailed manner through introducing criminal offences Public invitation to execution of terrorist activities, Recruiting and training for execution of terrorist activities, Use of a lethal device, Damage to and destruction of a nuclear facility and Endangering of persons under international protection. Criminal offences Terrorism art. 365 and International terrorism are encompassed by single offence – terrorism. In this way there is a unified protection mechanism for citizens, State of Montenegro, foreign state and internal organizations – and their constitutional, political, economical and social structures. These changes and amendments made the definition in line with the recommendation that every act of violence aiming to intimidate population or force government to do/abstain from doing). With these and introducing new offences, every action against these values is considered as terrorist financing.
Recommendation of the MONEYVAL Report	*The Criminal Code should be amended to incorporate the incrimination of funding of terrorist organisations and individual terrorists.*
Measures reported as of 16 March 2010 to implement the	This recommendation was adopted through amendments of the Criminal Code and incrimination of the act of financing of terrorism planned and conducted both by individual terrorists and by a terrorist organisation is clearly stated.

Recommendation of the report	The new definition is as follows: ***"Financing of terrorism*** ***Article 449*** *(1) Anyone who in any way provides or raises money, securities, other funds or property intended entirely for financing commission of criminal offences referred to in Articles 447, 447a, 447b, 447c, 447d and 448 of the present Code, or for financing organisations that have the aim to commit those offences, or members of those organisations,* *shall be punished to imprisonment for a term of one to ten years.* *(2) Funds referred to in Paragraph 1 of this Article shall be confiscated."* It is clear that this definition includes financing terrorist organisations and individual terrorists as separate categories. Apart from that, terrorist association is also stipulated as a new criminal offence - when two or more persons associate for a longer time period in order to commit terrorist offences, endangering persons under international protection and financing of terrorism: *"**Terrorist association*** ***Article 450*** *(1) If two or more persons associate for a longer period to commit criminal acts referred to in Articles 447 to 449 of this code (terrorism offences, endangering persons under international protection and financing of terrorism),* *they shall be punished by a sentence stipulated for the act for whose commission the association was organised.* *(2) A perpetrator of an offence referred to in Paragraph 1 of this Article who prevents commission of criminal acts referred to in Paragraph 1 of this Article by revealing association or in any other way, or who contributes to its revealing,* *shall be punished by an imprisonment sentence of up to three years, and may also be acquitted".*
Measures taken to implement the recommendations since the adoption of the first progress report	This recommendation was adopted since the last Progress report, and through changes of The Criminal Code this recommendation was implemented, and incrimination of the criminal offence Terrorist financing planned or perpetrated by individual terrorist or by terrorist organization was specified. New definition is as follows: ***" Terrorism Financing*** ***Article 449*** *(1) Whoever provides in any manner or raises funds, securities, other resources or property intended for financing entirely or partially, of criminal offences referred to in Art. 447, 447a, 447b, 447c, 447d and 448 of this Code, or for the funding of organizations which have the commission of those offences as their aim or members of such organizations, shall be punished by an imprisonment sentence for a term of one to ten years.* *(2) The resources referred to in paragraph 1 of this Article shall be confiscated."* It is clear that new definition includes as separate categories financing of terrorist organizations and individual terrorists. Additionally, Terrorist conspiracy is also defined as new criminal offence – if two or more persons associate for longer time with the aim of committing criminal offences of Terrorism, Endangering persons under international protection and Terrorist financing: ***"Terrorist Conspiracy***

	Article 449a *(1) If two or more persons conspire for a longer period to commit criminal offences referred to in Art. 447, 448 and 449 of this Code, they shall be punished by a sentence provided for the offence for the exercise of which the association has been organized.* *(2) The perpetrator of the offence referred to in paragraph 1 of this Article who prevents the commission of criminal offences referred to in paragraph 1 of this Article by revealing the association or otherwise, or contributes to its revelation, shall be punished by an imprisonment sentence not exceeding three years, and may be released from the penalty."*
Recommendation of the MONEYVAL Report	*The solution of relating the existence of the terrorist financing offence to specific criminal offences, found under other Articles of the CC is also appropriate (IN 6). Under current legislation, terrorist financing is only considered to be a criminal offence if funds are intended for one of three specific criminal offences (Terrorism, Article 365, International Terrorism, Article 447 and Hostage Taking, Article 448). A more flexible definition which would incriminate financing. Furthermore, there needs to be an offence introduced to cover cases when funds are not linked with a specific terrorist.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Amendments to the Criminal Code introduced a completely new concept of terrorist criminal offences. Basic terrorist offence (regardless whether the act is directed against Montenegro, a foreign state or an international organisation) is stipulated in Article 447 with many forms of act of commission. This criminal offence, as well as new terrorist offences such as public calling to commit acts of terrorism (Article 447a CC), incitement and training to commit acts of terrorism (Article 447b CC), use of lethal device (Article 447c CC), destruction and damage of nuclear facility (Article 447d CC), endangering of persons under international protection (Article 448), as well as financing of terrorism (Article 449) were included and brought in line with a number of conventions aiming at prevention of acts of terrorism. In compliance with the recommendation made after the evaluation, amendments will eliminate the narrow framework within which the existence of this criminal offence is established (the present solution defines financing of three types of this criminal offence) – namely, the framework within which the existence of such criminal offence is established will be extended to all criminal offences in the area of terrorism, whose scope will be widened by amendments to the law. Thus, the framework for existence of this offence will not include only criminal offences of terrorism, international terrorism and taking of hostages; in addition to these offences, it will also include public invitation to execution of terrorist activities, recruiting and training for execution of terrorist activities, use of a lethal device, damage to and destruction of a nuclear facility and endangering of persons under international protection. In this way the deficiencies of the definition which has been assessed as narrow are eliminated and a more flexible and clearer definition of this offence is created. Apart from adding new articles as afore mentioned, the criminal offence of hostage taking was changed and is as follows: ***"Endangering persons under international protection*** ***Article 448*** *(1) Anyone who conducts abduction or some other act of violence upon a person under international legal protection,* *shall be punished by an imprisonment sentence of two to twelve years.* *(2) Anyone who violates official premises, a private apartment or a means of*

	transport of a person under international legal protection, in the manner that endangers his/her security and personal freedom, *shall be punished by an imprisonment sentence of one to eight years.* *(3) If an act referred to in Paragraphs 1 and 2 of this Article results in death of one or more persons, the offender shall be punished by an imprisonment sentence of five to fifteen years.* *(4) If in commission of an act referred to in Paragraphs 1 and 2 of this article, the offender committed a premeditated murder of a person,* *he/she shall be punished by an imprisonment sentence of minimum ten years or an imprisonment sentence of fourteen years* *(5) Anyone who endangers security of persons referred to in Paragraph 1 of this Article by a serious threat to attack him/her, his/her official premises, private apartment or a means of transport, shall be punished by an imprisonment sentence of six months to five years."*
Measures taken to implement the recommendations since the adoption of the first progress report	As stated earlier, changes and amendments of The Criminal Code introduced new concept of criminal offences of terrorism. Basic criminal offence Terrorism (regardless of weather it is against Montenegro, foreign state or international organization) is defined in the art. 447 with many forms of perpetration. This criminal offence, as well as the new terrorist criminal offences such as public calling to commit acts of terrorism (Article 447a CC), incitement and training to commit acts of terrorism (Article 447b CC), use of lethal device (Article 447c CC), destruction and damage of nuclear object (Article 447d CC), endangering of persons under international protection (Article 448), as well as financing of terrorism (Article 449) were included and brought in line with a number of conventions aiming at prevention of acts of terrorism. In accordance with the recommendation, criminal offence of hostage taking was also amended by changes and amendments of the Criminal Code,, and is as follows: *" **Endangering Persons under International Protection*** ***Article 448*** *(1) Whoever commits abduction or another type of violence against a person under international legal protection shall be punished by an imprisonment sentence for a term of two to twelve years.* *(2) Anyone who attacks the official premises, private apartment or vehicle of a person under international legal protection in a manner that endangers his/her safety and personal freedom, shall be punished by an imprisonment sentence for a term of one to eight years.* *(3) Where an offence referred to in paras. 1 and 2 of this Article has caused death of one person or more, the offender shall be punished by an imprisonment sentence for a term of five to fifteen years.* *(4) Where on the occasion of committing offences referred to in paras. 1 and 2 of this Article the offender deprived a person of life with guilty mind s/he shall be punished by an imprisonment sentence for a minimum term of ten years of by an imprisonment sentence for a term of forty years.* *(5) Whoever endangers the safety of a person referred to in paragraph 1 of this Article by a serious threat to attack him/her, his/her official premises, private apartment or a vehicle, shall be punished by an imprisonment sentence for a term of six months to five years."* Criminal offence Terrorism financing is defined in a way that it encompasses financing of all forms – criminal offences with elements of terrorism and endangering of persons under international protection. Criminal code by its

	definition encompasses offence regardless of whether it is committed by organization with aim of committing such offences, or a member of such organization.
Recommendation of the MONEYVAL Report	*Article 449 of the Criminal Code should be brought into line with international standards.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	In accordance with the recommendations, apart from the changes of the Article it relating to financing of terrorism, the Law on Amendments of the Criminal Code introduces a new article – terrorist association. This act stipulates as a criminal offence the association of two or more persons for a longer time period in order to commit acts of terrorism. Article 449 of the Criminal Code, as it is stated in the proposal of the Amendments of Criminal Code, is in compliance with the international standards. Indeed, in accordance with the recommendation made after the evaluation, the definition of this criminal offence, namely financing of terrorism, has been improved also in terms of defining in a clearer manner financing of both individual terrorists and terrorist organisations. This has eliminated the perceived deficiency in the current definition, namely it does not make clear difference between financing of an individual terrorist and financing of a terrorist organisation. Additionally, through adoption of amendments, the Criminal Code will define another criminal offence – terrorist association – when two or more persons associate for a longer period of time in order to execute criminal offences in the area of terrorism. In accordance with the recommendation stating that this Article (449) of the Criminal Code should be harmonised with international standards, from the viewpoint of everything mentioned above, we deem that all the perceived deficiencies have been defined, that all the recommendations have been accepted and incorporated in the planned amendments, and that the new definition of this criminal offence, after the Law on Amendments to the Criminal Code has been adopted, which is currently in the parliamentary procedure, will be even more efficient and provide better quality concerning its implementation in practice.
Measures taken to implement the recommendations since the adoption of the first progress report	MONEYVAL recommendations and standards from international conventions were accepted by changes of law in 2010. - definition of criminal offence Terrorism financing was improved. The law states that any manner of providing or raising funds, securities, other resources or property intended for financing entirely or partially, of criminal offences of terrorism or endangering of persons under international protection will undergo a sanction. The definition contains the term "funds". Additionally, recommendation to distinguish terrorist organisation from individual terrorist was also implemented by changes of law. In accordance with the recommendations, beside changes of the offence of terrorism financing, Law on changes and amendments of The Criminal Code introduced new offence – terrorist conspiracy. This offence defines as criminal offence if two or more persons conspire for a longer period to commit criminal offences of terrorism.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	Innovated definition of terrorist financing encompasses activities which are contributed to terrorism financing but which are not strictly gathering of money and securities. Definition also encompasses providing funds or property for the purpose of terrorism financing. Terms „funds" and „property" are interpreted widely, in accordance with ratified international conventions. Since last reporting, Criminal code contains new criminal offence Terrorist conspiracy", as follows: ***„Terrorist Conspiracy*** ***Article 449a***

	(1) If two or more persons conspire for a longer period to commit criminal offences referred to in Art. 447, 448 and 449 of this Code, they shall be punished by a sentence provided for the offence for the exercise of which the association has been organized. *(2) The perpetrator of the offence referred to in paragraph 1 of this Article who prevents the commission of criminal offences referred to in paragraph 1 of this Article by revealing the association or otherwise, or contributes to its revelation, shall be punished by an imprisonment sentence not exceeding three years, and may be released from the penalty."*

2.3. 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 what 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: PC	
Recommendation of the MONEYVAL Report	*The lack of awareness as regards PEPS and the consequent lack of proper procedures to address the risk should be addressed through proper training to be followed by the establishment of adequate procedures to address this risk.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	In its internal acts on risk analysis, a bank is obliged to assess and consider client risk, including clients who are politically exposed persons pursuant to the rules defined in the Draft Guidelines on bank risk analysis aimed at preventing money laundering and terrorism financing, chapter 2 section 1.2.5.1.2, prescribing the following: "Procedure of persons to be listed as politically exposed persons Pursuant to the provisions of the LPMLTF, a politically exposed person is `a natural person that is acting or has been acting in the last year on a distinguished public position in a state, including his/her immediate family members and close associates` (Article 27). In order to determine the politically exposed persons and his/her immediate family members and close associates within the meaning of the LPMLTF, a bank may act in one of the following manners: • offer a client to fill in a form (enclosed to these Guidelines and making an integral part hereof, the Form PEP); • obtain the information from public available sources; • obtain the information based on the review of databases covering the lists of politically exposed persons (World Check PEP List, internet inquiry, etc). The procedure of identifying close associates to politically exposed persons is applied if a bank estimates that such a relationship exists based on the indisputable facts. A bank is obliged to perform client identification in line with the LPMLTF and the procedure shall include one of the manners for determining politically exposed persons as specified under paragraph 2 of this section. Upon determining that the client is a politically exposed person, the employee of the bank shall perform the enhanced customer verification (Article 25 of the LPMLTF) that shall cover additional measures in the following cases: • entering into business relationship or executing transaction from Article 9 paragraph 1 item 2 of this Law (one or more transactions of or exceeding EUR 15,000), • when it estimates, due to the nature of the business relationship, the client's business profile and/or other circumstances connected with the client, that there is or could exist the risk of money laundering or terrorism financing. In addition, as a part of the enhanced client verification – the politically exposed person – in line with the LPMLTF, the employee of the bank shall: • obtain a written consent from the responsible person in the bank before the establishing of a business relationship with such a client;

- acquire information on the source of funds and property which are the subject of the business relationship and/or transaction, from personal and other identification documents submitted by the client; if the specified information is not possible to obtain from the submitted documents, the required information shall be acquired directly from the client's written statement;
- after the establishment of the business relationship, closely monitor transactions and other business activities of the politically exposed person with the bank, particularly considering the purpose of the transaction, as well as comparing it with his/her standard business operations.

Additional measures to be taken by bank within the enhanced client verification procedure				
Case prescribed in the Law ↓	1) Consent from the responsible person in the bank ↓	2) Acquiring additional documents and information ↓	3) Additional examination and monitoring of the client's business operations ↓	4) Additional measures ↓
Politically exposed person	Yes	Set of data defined under Art. 27 of LPMLTF	Yes	As estimated by the bank

A bank is obliged to determine the list of politically exposed persons which shall be available to the employees of the bank in direct contact with clients.

Procedure of cancellation of obligation of treating persons as politically exposed persons

A bank shall, by way of internal act, prescribe the procedure of cancellation of obligation of treating a client as politically exposed person. This implies the obligation on the bank to exclude a person from the list of politically exposed persons, as well as members of his/her immediate family and close associates, one year following the termination of activity of the politically exposed person at a prominent position in a country.

After the establishment of a business relationship with the politically exposed person, members of his/her family and close associates in accordance with the LPMLTF, the bank shall keep separate records on these persons and transactions.

The bank is obliged to regularly update its list of politically exposed persons in order to conduct customer due diligence in line with the LPMLTF for those clients who were not politically exposed persons within the meaning of the LPMLTF at the time of establishing the business relationship with the bank."

On 8th February 2010, at the Bank Association of Montenegro, representatives of the Central Bank of Montenegro held the meeting with the Committee for the prevention of money laundering and terrorism financing, where they discussed the draft Guidelines on Developing Risk Analysis with a view to Preventing of Money Laundering and Terrorist Financing for Banks. Also, in this meeting, detailed explanations were given, to the representatives of the banks, related to the identification of PEPs, with special emphasis on the form and content of the

	Questionnaire for identifying politically exposed persons. After adopting the Guidelines on developing risk analysis with a view to preventing money laundering and terrorist financing the APMLTF, in co-operation with OSCE, organised a two-day workshop for compliance officers, on 3rd and 4th November 2009, in Podgorica. The subject of the workshop was "Preventing money laundering and terrorist financing in financial and non-financial sector. The participants were employees from different commercial banks, participants at the capital market, car dealers, leasing companies, casinos. The Guidelines on risk analysis were presented at this workshop. The Guidelines for developing risk analysis, determined by the APMLTF, together with the Questionnaire for Identifying PEPs were presented at the Workshop. The Securities and Exchange Commission prescribed specific procedures to be followed in case of PEPs and these are very precisely defined in the article 12 of the Instruction of the Securities and Exchange Commission. Obliged entities are obliged to determine if the client is politically exposed person in accordance with the article 12 of the Instruction of the Securities and Exchange Commission of on risk analysis of money laundering, „know your client" procedures and other procedures for recognising suspicious transactions of November 28, 2008. To determine politically exposed persons and members of their close family and close associates by Law, Capital market participants may act on some of the following ways: a) By filing the written form by the customer; b) Collecting information from public sources; c) Collecting information based on insight on data bases that includes the lists of politically exposed persons (*World Check PEP List*, etc). Procedure of determining close associate of politically exposed persons is followed if the relationship with associate is publicly known or if capital market participant has reason to think that relationship exists. Therefore, during determining the persons who are considered as close associates of politically exposed persons, capital market participants are not expected to take active researching about this. Before establishing business relationship with politically exposed person, participant of securities market is obliged to: • Collect data about founding sources and property which are object of business relationship, transactions, from personal and another identification of customer, and if it is not possible to obtain such a data from the statements submitted, there are collected directly from written statement of the client; • Obtain written approval of responsible person according to internal acts of the participant before establishing business relationship with customer. • Approval of responsible person has to be given in written, in printed or in electronic form. After establishing business relationship with politically exposed person, members of his close family and close associates by Law, Capital market participants is obliged to keep records about this persons and transactions which are taken on behalf and for the account of those persons. After obtaining the approval from authorised person there is no need for approval of executing each transaction on behalf and for the account of the client, but capital market participant is obliged to follow transaction with special attention and other business activities by a politically exposed person within organisation and, if needed, notify authorised person in the shortest possible deadline about those transactions. It is considered that a need determined in the Article 6 exists if transaction is not

	adjusted to the sources of funds on client's account. The capital market participant are obliged to ordinarily update their lists of politically exposed persons in order to implement procedures of enhanced customer verification according to Law for the client who, in time of establishing business relationship were not politically exposed persons according to Law. The capital market participants are obliged to keep the data about politically exposed persons in electronic form. The form for PEPs is prescribed by the Guidelines on risk analysis with the view to prevent money laundering and terrorist financing and the Guidelines are forwarded to all operators of the games of chance on the territory of Montenegro and also in informal communication certain instructions were given to all operators of the games of chance. By its risk analysis Guidelines concerning prevention of money laundering and terrorist financing, ISA will also cover PEPs issue, and will prescribe a Form intended for the insurance companies especially regarding this issue. According to the competence of the APMLTF from the Article 64, item 5 to prepare and issue recommendations or guidelines for uniform implementation of the Law on AML/CTF, in July 2009 representatives of APMLTF participated at one- day workshop organised for employees from one commercial bank and its subsidiaries (14 participants). At this workshop representatives of APMLTF have pointed out the significance of implementation of legal provisions related to PEPs. Additionally, APMLTF employees, in their daily communication with compliance officers, through providing professional opinion and interpretation of the provisions of the Law, specify the necessity of applying legal provisions referring to PEPs. Within IPA 2007 Twinning project "Fight against organised crime and corruption" experts form United Kingdom and Northern Ireland, in co-operation with APMLTF, during May 2009 organised trainings for officers having a direct communication with customers. The training was conducted at 9 commercial banks with 100 participants. At the beginning of September 2009, trainings for supervisory bodies under the Law on the Prevention of Money Laundering and Terrorist Financing were held for the following supervisors: APMLTF, Ministry of Finance, Insurance Supervision Agency, Department of Public Revenues, Central Bank, Administration for Games on Chance, Securities Commission. The workshop on Inter-agency co-operation in relation to organised crime and corruption was held in the period from 7th to 11th September 2009. The participants at this workshop were representatives from: APMLTF, Police Directorate, Directorate for Anticorruption Initiative and Ministry of Internal Affairs and Public Administration. After the Report of the MONEYVAL Committee has been adopted the employees of the Police Directorate accepted the recommendations given in the Report. Due to that there were organised 4 seminars on the prevention of money laundering and terrorist financing as well as financial investigations. The mentioned seminars were organised at the Police Academy in Danilovgrad and 45 officers involved in PML/TF participated at these seminars that were organised by APMLTF or international organisations. At these joint seminars together with officers from APMLTF and State Prosecutor's Office, participants were mainly higher level officers that have, made reports on the content of the seminars, and in such manner informed the heads of their sectors and field officers. Also, after the adoption of the Report of the MONEYVAL Committee, Police Academy introduced as regular subject „Money laundering and Corruption" and through this subject students quire

	the first and the most significant knowledge on this type of criminal activity. With a view to training its employees the Customs Administration signed an agreement with Faculty of Law Podgorica.
Measures taken to implement the recommendations since the adoption of the first progress report	The Bill on Changes and Amendments to the Law on PMLTF in Article 21 (it refers to the changes of Article 27) prescribes that APMLTF shall, on its website, publish the list of PEPs. In accordance with that banks and other reporting entities will be able to download the list from APMLTF official site. The APMLTF shall, on regular basis, keep data accurate and up to date. Also, the Bill on Changes and Amendments to the Law on PMLTF in Article 19 (it refers to amendments to Article 25of the current Law) defines that reporting entity is obliged to conduct enhanced customer due diligence in all cases when he/she estimates that there is high risk on money laundering or terrorist financing. Article 19 of the Bill on Changes and Amendments to the Law on PMLTF : Enhanced customer due diligence Article 25 A reporting entity shall conduct enhanced customer due diligence in cases when a reporting entity estimates that there is high risk on money laundering or terrorist financing. Reporting entity shall conduct enhanced CDD measures in the following cases as well: 1. on entering into open account relationship with a bank or other similar credit institution, with registered office outside the EU or outside the states from the list; 2. on entering into business relationship or executing transaction from Article 9 paragraph 1 item 2 of this Law with a customer that is a politically exposed person from Article 27 of this Law, 3. when a customer is not present during the verification process of establishing and verifying the identity. A reporting entity shall apply enhanced customer due diligence measures in cases when, in accordance with the Article 8 of this Law, a reporting entity estimates that regarding the nature of a business relationship, the form and manner of executing a transaction, business profile of the client or other circumstances related to the client, there is or there could be a high risk of money laundering or terrorist financing." In September 2010, the Central Bank of Montenegro organized the seminar titled "Implementation of Guidelines on Bank Risk Analysis Aimed at Preventing Money Laundering and Terrorism Financing", to which banks were explained the identification of a client – politically exposed person – as well as which measures and activities are to be performed when the bank established the business relation with the politically exposed person.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	**Article 21** of the Bill of Law on Changes and Amendments to the Law on PMLTF stipulates who is considered as a close associate of the politically exposed person, and the new paragraph was added stipulating that the List of politically exposed persons shall be published at the website of the competent authority.

Recommendation 8 (New technologies and non face-to-face business)	
Rating: PC	
Recommendation of the MONEYVAL Report	*A requirement for financial institutions to have policies and procedures to address the risk of misuse of technological developments in ML/TF schemes should be*

	introduced.
Measures reported as of 16 March 2010 to implement the Recommendation of the report	In their polices and procedures, banks have already prescribed certain rules regarding the protection from misuse of new technologies for the purposes of money laundering and terrorism financing, and now they are obliged to harmonise their policies and procedures with the rules and standards contained in the Central Bank's Guidelines on bank risk analysis aimed at preventing money laundering and terrorism financing, chapter 3 paragraph 4 that reads: "With a view to ensuring a proper risk management in the area of preventing money laundering and terrorism financing, a bank shall reduce its exposure to risk arising from new technologies providing anonymity (electronic or internet banking, electronic money, etc.), i.e. the bank is obliged to define in its policies and procedures in particular, but not limited to, the following: • identification of parties using electronic banking services; • authenticity of the signed electronic document; • reliable measures against the forgery of documents and signatures; • systems ensuring and enabling safe electronic banking; • other requirements in accordance with positive regulations governing the aforesaid business area." This requirement for securities providers is imposed by the newly adopted Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09). The Securities and Exchange Commission implemented this recommendation by the article 22 par.6-9 of the Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09). These Rules specifically regulate the procedures to be followed by the licensed market participants if the client uses electronic means of communication to submit an order or conclude a contract. "Client, who gives orders by phone, fax or electronically, may give the same with authorisation by identity code which licensee shall assign to a client when signing a contract. A client is obliged to keep his/her identity code as a secret, and may not make it available to third persons. Licensee is obliged to check client's identity through identity code, contained in any contract prescribing possibility of submitting orders by phone, fax or electronically or in any other manner which does not imply client's face to face transaction. When prescribing possibility of electronic submitting of client's orders, licensee is obliged to provide: - reliable manner of client identification; - that all necessary elements of an order are stated in the electronic message; - a record of exact time when the order arrived to an e-mail and time of its entry in the order book; - sending of reply to a received order, where the original message of order sender is clearly visible; When prescribing possibility of electronic submitting of client's orders, licensee shall retain the right to refuse order execution, if the order is unclear and/or ambiguous, and he/she shall inform a client on that in the same way it accepted an order."
(Other) changes reported as of 16 March 2010	Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09)

Measures taken to implement the recommendations since the adoption of the first progress report	The recommendations are accepted and due to that in Article 23 of the Bill on Changes and Amendments to the LPMLTF a new Article 28a defining obligation, primary for the banks, and then for other reporting entities to adopt internal procedures for prevention of the new technologies use for the purpose of money laundering and terrorist financing, shall be added. "New technologies" Article 28a Banks and other financial institutions shall take measures and actions to eliminate money laundering risks that may arise from new developing technologies that might allow anonymity (internet banking, cash dispenser use, phone banking etc.). Banks and other financial institutions shall adopt internal procedures for prevention of the new technologies use for the purpose of money laundering and terrorist financing.''
Recommendation of the MONEYVAL Report	*Regulations should clearly establish the obligation to obtain information on the purpose and intended nature of the business relationship for non-face to face business.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Chapter 3 paragraph 6 of the Guidelines on bank risk analysis aimed at preventing money laundering and terrorism financing reads: "Banks must have such policies and procedures to prescribe the requesting of all information on the purpose and the nature of business relationships or transactions with clients who are not present in person and they are obliged to apply these policies and procedures when establishing a business relationship with a client and in conducting the customer due diligence." The obligation of the licensed market participant to obtain information on the purpose and intended nature of the business relationship is imposed by the article 5 par. 5 and article 11 par. 2 of the Rules. The article 5 par. 5 of the Rules prescribe: "Licensee shall not give advice related to securities business, nor realise transactions for the client's account, until he/she determines that he/she possesses all facts revealed to him/her by his/her client and other relevant facts about client he/she is aware of or he /she should have knowledge about." The article 11 par. 2 of the Rules prescribe: "In order to provide that client understands actual risk, licensee is obliged to: - familiarize with client's financial status, his/her investment experience and other circumstances related to client, in order to provide him /her with appropriate service; put at client's disposal all necessary information (including information on risks) in order that client can make appropriate investment decisions."
Measures taken to implement the recommendations since the adoption of the first progress report	1. In Article 10 item 2 of the Law on the Prevention of Money Laundering and Terrorist Financing is defined that when establishing a business relationship a reporting entity (bank) is obliged to obtain data on the purpose and nature of a business relationship. 2. If a bank, during the business relationship, provides services of internet banking or electronic payment to its client then a bank is obliged , on the basis of Article 24 of the Law on National Payment Operations („Official Gazette of Montenegro No.61/08 and 40/11), to conclude, with its client, a contract on mutual rights and obligations.

	Additionally, Article 25 of the mentioned Law defines that a bank is obliged to prescribe, by its internal act, conditions for issuance and usage of the electronic payment instruments (bank payment cards and electronic banking applications). 3. Moreover, in March 2010- Central Bank of Montenegro issued the Guidelines on Bank Risk Analysis aimed at Preventing Money Laundering and Terrorist Financing, where are, besides other issues, prescribes that the bank is obliged to issue policies and procedures for adequate risk management in the area of prevention of money laundering and terrorist financing, including exposure to risk which is outcome of new technologies (Section 3.7 paragraph 4).
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 11 (Unusual transactions)	
Rating: NC	
Recommendation of the MONEYVAL Report	*Financial institutions should be required to examine as far as possible the background and purpose of unusual transactions. Enforceable requirements to set forth the finding of such examinations in writing should equally be provided. In addition specific enforceable requirement should be put in place for financial institutions to keep such findings available for authorities and auditors for at least five years.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Rulebook on Indicators for recognising suspicious clients and transactions ("Official Gazette of Montenegro ", No. 69/09, from 16th October 2009) adopted by Ministry of Finance and due to that the following List of indicators for recognising suspicious clients and transactions was established : - List of Indicators for banks, - List of Indicators for capital market, - List of Indicators for the Customs Administration, - List of Indicators for the Department of Public Revenues, - List of Indicators for leasing companies, - List of Indicators for auditors, - List of Indicators for accountants, - List of Indicators for lawyers and - General indicators. In the group of indicators referring to unusual changes on the account, indicator no.47 „Transactions that are recognised as unusual by employees with the bank, in accordance with their experience and knowledge "these transactions are treated as suspicious transactions. Also, in the group of suspicious transactions indicators with banks there is indicator no.9 stating „Client executes transactions which are unusual for him/her." Similar indicators are in the group for auditors (indicator No 6 and 8)
Measures taken to implement the recommendations since the adoption of	The mentioned recommendation is introduced in the Bill on Changes and Amendments to the LPMLTF, Article 33a.

the first progress report	
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	Article 33a of the Bill on Changes and Amendments to the LPMLTF defines that reporting entity is obliged to analyse all unusually large transactions which have no apparent economic or visible lawful purpose and to determine its own criteria for recognizing unusual transactions by an internal act. "Unusual transactions Article 33a A reporting entity shall analyze all unusually large transactions which have no apparent economic or visible lawful purpose. The findings of the analysis from paragraph 1 of this Article shall be recorded in writing by the reporting entity. A reporting entity shall determine by an internal act its own criteria for recognizing unusual transactions. The Guidelines on transactions that are considered as unusual shall be established by the Ministry on the basis of professional opinion of the competent administration body. In accordance with article 83 of the current Law on PMLTF obligor shall keep records provided on the basis this Law and related documentation ten years after the termination of business relationship.

Recommendation 16 (Suspicious transaction reporting) Regarding DNFBP	
Rating: NC	
Recommendation of the MONEYVAL Report	*A prohibition against tipping off should be made specifically applicable to lawyers.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Article 80 of the LPMLTF defines that reporting entities and employees with reporting entities, members of governing, supervising or managing bodies, or other persons, to which data from Article 71 of this Law were available, may not reveal to a customer or third person: 1. that data, information or documentation on the customer or the transaction, from Article 33 paragraph 2, 3 and 4, Article 43 paragraph 1*, Article 48 paragraph 1, 2 and 3, Article 49 paragraph 1 and 2* of this Law, are forwarded to the competent administration body ; 2. that the competent administration body on the basis of Article 51 of this Law, temporarily suspended transaction or in accordance with that gave instructions to the reporting entity; 3. that the competent administration body on the basis of Article 53 of this Law demanded regular supervision of customer's financial business; 4. that against customer or third party is initiated or should be initiated investigation for the suspicion of money laundering or terrorist financing. The information about the facts from paragraph 1 of this Article and notification on suspicious transactions or information about other offences from Articles 55 and 56 of this Law, are the official secret and designated as such, in accordance with Law. On removing the official secret designation, from paragraph 2 of this Article shall decide the authorised person of the Administration. Prohibition of giving information from paragraph 1 of this Article may not be applied on: **1.** data, information and documentation, that are, in accordance with this Law

	obtained and kept by reporting entity, and necessary for establishing facts in criminal proceedings, and if submitting those data in written form is required or ordered by the Competent court, and **2.** data from item 1 of this Article, if it is demanded by supervision body from Article 86 of this Law for the reasons of carrying out the provisions of this Law and regulations passed on the basis of this Law. *applicable to lawyers
Measures taken to implement the recommendations since the adoption of the first progress report	Article 81of the LPMLTF defines exception to the principle of keeping confidentiality Article 81 During the process of providing data, information and documentation to the administration, in accordance with this Law, the obligation to protect business secrecy, bank secrecy, professional and official secrecy shall not apply to reporting entities, an organization with public authorization, state bodies, courts, lawyers or notaries and their employees. Reporting entity , lawyer or notary and their employees shall not be liable for damage caused to their customers or third persons, if they are in accordance to this Law : 1. providing data, information and documentation on their customers, to the competent administration body 2. obtaining and processing data , information and documentation on their customers 3. carrying out the administration's order on temporary suspension of transaction, and 4. carrying out the administration's request on regular monitoring of customer's financial businesses Employees with reporting entities, lawyers or notaries shall not be disciplinary or criminally liable for breach of obligation of keeping data secrecy, if: 1. they are providing data, information and documentation to the competent administration body, and in accordance to provisions of this Law 2. they are processing data, information and documentation, obtained in accordance to this Law, for the evaluation of customer and transaction, for which there are reasons for suspicion of money laundering and terrorism financing.
Recommendation of the MONEYVAL Report	*More targeted training to sectors that pose the greatest risk should be considered.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Representatives of all categories of reporting entities participate at the training courses that APMLTF organises for compliance officers and employees with the reporting entities which have a direct contact with customers.
Measures taken to implement the recommendations since the adoption of the first progress report	Guidelines for analysis of AML / FT risk in life insurance companies, adopted at the Council meeting held on March 7, 2011. These Guidelines oblige just life insurance companies since only these companies are obliged to act according to the AML/FT Law (as prescribed in article 8 para. 2 point 4). After the adoption of the Guidelines, the document was sent to all obligors, and a seminar, introducing the new obligations brought by this act, was organized for the representatives of all life insurance companies, where all relevant information on Guidelines and obligations arising there from were shared. APMLTF, Central Bank of Montenegro, Securities Commission, Insurance Supervision Agency continued to strengthen its roles in the area of prevention of

	money laundering and terrorism financing through the realization of activities in the Twinning project MN 08 IB FI 01 –"Strengthening the regulatory and supervisory capacity of the financial regulators in Montenegro" financed by the European Commission and performed in cooperation with the De Nederlandsche Bank and the Bulgarian National Bank. The following project activities were as follows : November 22 -25, 2010Montenegro Twinning project – activity 4.3.1 AML/CFT supervision workshop for banks 18th - 19th January 2011within Activity 4.3.3. was organized Workshop on preparing AML/CFT information material for public, financial and non-financial institutions the slogan and the text for the brochure and the flyer which will be distributed to financial institutions and citizens, aimed at raising public awareness on the prevention of money laundering and terrorism financing. 25th - 26th January 2011 within Activity 4.4.1 was organized AML/CFT supervision workshop for financial institutions. 27th - 28th January 2011 within Activity 4.4.1. was organized AML/CFT supervision workshop for non-financial institutions 1st -2nd March 2011.godine, AMLCFT workshop for police and judicial institutions,
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 21 (Special attention for higher risk countries)	
Rating: NC	
Recommendation of the MONEYVAL Report	*Financial institutions should be required to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF recommendations. Effective measures should be put in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries and consideration should be given to the development of appropriate countermeasures as set out in the essential criteria to Recommendation 21.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	**Chapter 2 section 1.1 paragraph 4** of the Draft Guidelines on bank risk analysis aimed at preventing money laundering and terrorism financing reads: "In its internal act, a bank shall define conditions for refusing the establishment of a business relationship with a client, and in particular: • If the home country of the client or the beneficial owner of the client is on the list of non-cooperative countries published by the Financial Action Task Force – FATF, the list of offshore jurisdictions, or the list of countries deemed risky by the authority based on its own assessment; • If the client or the beneficial owner of the client comes from the country which has been subject to measures in line with the UN Security Council resolutions; • If the client is on the list compiled in line with the UN Security Council resolutions; " **Chapter 2 section 1.3.1** of the Draft Guidelines on bank risk analysis aimed at preventing money laundering and terrorism financing reads: **"Risk factors used for establishing the risk of an individual client or a group of**

	clients and the business relationship Internationally accepted standards used as the basis for preparing risk analysis with a view to preventing money laundering and terrorism financing (e.g. FATF recommendations and Wolfsburg guidelines) shall cover the following risk factors: - **Client risk factors:** risk factors relating to the client's status or activity (e.g. state authority, a politically exposed person, a client whose activity is connected with cash transactions, non-profitable organisations, and the like). - **Risk factors connected with business relationship**: risk of business relationship, for example, with a client whose home country does not follow the standards in the prevention of money laundering and terrorism financing, with a politically exposed person, and other business relationship deemed by the bank to involve high risk. - **Risk factors connected with geographical region**: countries having in place inadequate systems for the prevention of money laundering and terrorism financing, countries with high levels of corruption or criminal activities, countries subject to restrictive measures of international organisations; Risk factors for determining the risk of an individual client or a group of clients, the business relationship, and risk factors connected with the geographical region are illustrated in the risk matrix. In addition to risks presented in the risk matrix, a bank may define additional factors in relation with the specific nature of the client1`s business." The obligation of providing special attention to business relationships with the clients where AML/CFT procedures are not implemented is imposed by the Securities and Exchange Commission Instruction. This Instruction in the Article 2 items *a* and *b* prescribes: "Participants at the capital market are obliged to establish risks factors upon which shall determine acceptability of the clients, especially based at the following facts: a) Home country of the client, home country of the majority founder, and/or real owner of the client regardless of the position of such country on the list of non-cooperative countries and territories issued by the international body for control and combating of money laundering, on a list of countries presented as off-shore zones or uncooperative jurisdiction or on list states which participant on securities market considers risky upon its own estimations. b) Home country of the person who conducts transactions with the client, regardless of the position of such a country at the lists from the item a) above; And article 3 paragraph 1 prescribes: "Capital market participants establish acceptability of the client depending on a risk factors from the article 2 of this Instruction and may refuse to conclude a contract with the customer in relation to whom some of the abovementioned risk factors are established, or concluding or terminating of the already concluded contract condition upon fulfilment of some specific requirements prescribed by the general act of the capital market participant".
Measures taken to implement the recommendations since the adoption of the first progress report	
(Other) changes since the first progress report (e.g. draft laws, draft	Article 20 of the Bill on Changes and Amendments to the LPMLTF (it refers to the changes of the Article 26of the current Law)defines following: Article 20 The title of the article and article 26 are changed as follows:

regulations or draft "other enforceable means" and other relevant initiatives	''Correspondent relationships of banks with credit institutions of other countries When establishing a correspondent relationship with a bank or other similar credit institution that has a registered office outside the European Union or outside the states from the list, a reporting entity shall perform customer due diligence pursuant to Article 10 of this Law and obtain the following data; 1) issue date and validity of the license for providing banking services and the name and registered office of the competent state body that issued the license; 2) description of conducting internal procedures, related to detection and prevention of money laundering and terrorist financing, and in particular, client verification procedures, determining beneficial owners, reporting data on suspicious transactions and clients to competent bodies, records keeping, internal control and other procedures, that a bank or other similar credit institution has established in relation to preventing and detecting money laundering and terrorist financing; 3) description of systemic organization in the area of detecting and preventing money laundering and terrorist financing, applied in a third country, where a bank or other similar credit institution has a registered office or where it has been registered; 4) a written statement, that a bank or other similar credit institution in the state where it has a registered office or where it has been registered, under legal supervision and that, in compliance with legislation of that state, it shall apply appropriate regulations in the area of detecting and preventing money laundering and terrorist financing; 5) a written statement that a bank or other similar credit institution does not operate as a shell bank; 6) a written statement that a bank or other similar credit institution has not established or it does not establish business relationships or executes transactions with shell banks. 7) with respect to payable-through accounts, be satisfied that the respondent credit institution has verified the identity of and performed ongoing due diligence on the customers having direct access to accounts of the correspondent and that it is able to provide relevant data from the CDD procedure. A reporting entity shall obtain the data from paragraph 1 of this Article from public or other available data records, or by checking documents and business files provided for by a bank or other similar credit institution that has a registered office outside the European Union or outside the states from the list. Additionally, Article 37 of the Bill on Changes and Amendments to the LPMLTF (it refers to changes of Article 64of the current Law) defines that APMLTF shall publish on its web site the list of countries that do not apply standards in the area of detection and prevention of money laundering and terrorist financing.

Recommendation 24 (DNFBP – Regulation, supervision and monitoring)	
Rating: PC	
Recommendation of the MONEYVAL Report	*A comprehensive register of all reporting entities should be developed by APMLTF.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Out of all categories of reporting entities, subject to inspection control performed by Reporting Entities Control Department of the APMLTF, the real estate area is the most controlled one and there are comprehensive records. Also, this area is closely connected with the construction business. Companies that deal with construction business, besides its main business activity, they also deal with real estate trade even if they are not registered for it. In relation to NGOs there is a comprehensive register that includes 4000 NGOs.

	Most of registered NGOs are not active or they do not have any registered transaction which could be defined, on any basis, as suspicious. The number of other reporting entities categories supervised by APMLTF is lower than the number of previously described categories of reporting entities.
Measures taken to implement the recommendations since the adoption of the first progress report	There were no changes in relation to this response.
Recommendation of the MONEYVAL Report	*Guidelines to assist DNFBPs in implementing and complying with respective AML/CFT requirements are, at should be developed. Adequate and appropriate feedback on suspicious transaction reporting for DNFBPs should be provided.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The APMLTF provide information, in written form, to the reporting entity or other requester, on obtaining and analysing data, information and documentation related to persons or transactions for which there are reasonable grounds for suspicion in criminal offence of money laundering or terrorist financing. The APML will not provide the mentioned information if it is assessed that such informing could have harmful effects for the process and outcome of the procedure, as it is defined in Article 57 of the LPMLTF.
Measures taken to implement the recommendations since the adoption of the first progress report	There were no changes in relation to this response.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 32 (Statistics)	
Rating: PC	
Recommendation of the MONEYVAL Report	*Clear comprehensive and well-structured statistics should be kept systematically. Such statistics should differentiate the amounts of assets, types of measures, duration of measures and primarily request/imposition ratio, etc. These statistics should then be utilised to measure the effectiveness of the system of confiscation, freezing and seizing of proceeds of crime.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Besides the statistical tables provided in this Report, the APMLTF is keeping statistics on inspection control, comprehensive statistics on misdemeanour procedure and statistics related to exchanging information with foreign FIUs *Department of Public Revenues possesses appropriate software and data base that enables collecting, analysing and forwarding data. This data base is upgraded continuously and upon appropriate requests is available to all authorities involved in the system of prevention of money laundering and terrorist financing.* The Project of Integrated registration and payment is in the final phase and more efficient data access and keeping statistics will be provided by this project.

	Note: The Central Bank of Montenegro has presented the statistical tables in the Chapter 4 – Statistics hereof Supreme State Prosecutor's Office keeps comprehensive statistics for all criminal offences and for the criminal offence of money laundering. In the attachment you can find table in which is presented the number of criminal offences money laundering in the period of 2004 until December 31st 2009, the way the cases are solved, the number of the temporary measures suggested, amount of the proceeds of crime, suggested confiscation and the number of the convictions. This kind of statistical data gives the possibility to measure the efficiency Department of Public Revenues possesses appropriate software and data base that enables collecting, analysing and forwarding data. This data base is upgraded continuously and upon appropriate requests is available to all authorities involved in the system of prevention of money laundering and terrorist financing. The Project of Integrated registration and payment is in the final phase and more efficient data access and keeping statistics will be provided by this project
Measures taken to implement the recommendations since the adoption of the first progress report	There were no changes in relation to this response. During 2009 and 2010 the requests for initiating first degree misdemeanour procedure were submitted to the person authorized for conducting first degree misdemeanour procedures (Department for conducting a first degree misdemeanour procedure was within the APMLTF). In November 2010 the Authorized person moved to another state authority. In February 2011 the new Rulebook on internal organization and systematization of APMLTF dissolved the Department for conducting a first degree misdemeanour procedure. According to the new Law on misdemeanours that entered into force on 1st September 2011, the requests for initiating first degree misdemeanour procedure are submitted to the District misdemeanour authorities.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 33 (Legal persons – beneficial owners)	
Rating: PC	
Recommendation of the MONEYVAL Report	*The acquisition of information on beneficial owners by the agencies and institutions which deal with clients form abroad seems to be less effective. Considering the very intensive involvement of foreign legal entities on the Montenegrin real-estate market and rather poor information on beneficial ownership in such entities, this might present a considerable risk of abuse of such legal entities for money laundering and terrorist financing and it is recommended that financial institutions and DNFBPs be reminded to apply the same standards to overseas customers as to domestic.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	As a part of verification and examination of the client being a legal person, in addition to identification, a bank is obliged to identify the actual owner of such a legal person. In line with provisions of the LPMLTF, a bank shall apply the measures required for acquiring information on the person being the actual owner. In case of a high-risk client, a bank must confirm the acquired information if it is not received from a reliable and independent source (e.g. if a written statement of a legal representative was the only source of information for determining the client's

	identity, a bank must check the information to the extent that will enable it to understand the ownership of the legal person and its controlling structure, in order to identify all beneficial owners of the client). **Beneficial owner** of a legal person within the meaning of Article 19 of the LPMLTF is considered: (1) a natural person who indirectly or directly owns more than 25% of the shares, voting rights and other rights, on the basis of which he/she participates in the management, or owns more than a 25% share of the capital or has a dominating influence in the assets management of the business organisation, and (2) a natural person that indirectly ensures or is ensuring funds to a business organisation and on that basis has the right to influence significantly the decision making process of the managing body of the business organisation when decisions concerning financing and business are made. As per the aforesaid definition, a beneficial owner is a natural person participating (directly or indirectly) in the legal person's management based on 25% of share. When identifying the beneficial owner, it is necessary to identify the natural person's ownership share in that legal person, as well as the ownership share of a legal person controlled by the same natural person. A bank may obtain ownership information based on the original or a certified copy of excerpt from the court registry or any other official registry submitted by the legal representative or the person authorised on behalf of the legal person. In addition, a bank may apply provisions of the LPMLTF enabling the obtaining of information on the beneficial owner through a direct inquiry into the court registry or any other public registry or through other available sources. If all the prescribed information regarding the beneficial owner (e.g. date and place of birth) cannot be obtained from the court registry or any other official registry, a bank may obtain the lacking information from the legal representative or the authorised person. A beneficial owner of an institution or other foreign legal person (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered: (1) a natural person, that indirectly or directly controls more than 25% of a legal person's asset or of a similar foreign legal entity (2) a natural person, determined or determinable as a beneficiary of more than 25% of the income from property that he/she manages. A bank must confirm the ownership structure of clients - legal persons and acquire all necessary information on their beneficial owners, in accordance with the LPMLTF. If the registered office of the legal person is in Montenegro, the bank is recommended to perform direct inquiry into the court registry or any other public registry in order to obtain or confirm information on the beneficial owner of such a legal person. If one of the beneficial owners is a foreign legal person, the bank is recommended to acquire the information on the beneficial owner of such a legal person based on the original or a certified copy from a foreign registry or from business documents to be submitted by the legal representative or the authorised person on behalf of the client. Since the bank has no information regarding the authenticity of information from other countries, it is recommended that the legal representative or the authorised person of the client submit an electronic statement from the public registry in the foreign country. If the legal representative, due to objective reasons, cannot provide the requested

	documentation that clearly shows the information on the beneficial owner, such information shall be obtained from the written statement to be submitted by the legal representative or the authorised person of the client. A bank shall also request a written statement from the legal representative in case of any suspicion regarding the accuracy of the submitted information. If the legal representative does not show his/her willingness to cooperate with the bank in offering the requested information and thus rendering the identification of the beneficial ownership impossible, the bank should not establish the business relationship with the client. Also, in case the client avoids submitting the legally requested information, a bank is recommended to use this as the indicator for detecting suspicious activities of the client involving money laundering and terrorism financing. A bank must adopt the procedures for identifying beneficial owners, taking into account the aforesaid recommendations and/or instructions. If a bank is still unable to acquire information on the beneficial owner in spite of the undertaken actions (even after a detailed analysis of the ownership structure), due to the complexity of the structure itself, a bank shall be allowed to establish or continue such a business relationship, provided that it classifies the client as a high-risk client, which requires enhanced monitoring of business activities. It should be underlined that this applies to cross-border cases and it does not represent normal practice. The aforesaid deviation does not mean that procedures for identifying the beneficial owner should be excluded - in such cases a bank has to prove to the competent authority that it has properly applied the procedure for identifying the beneficial owner and that that is a special case of complex ownership which justifies the bank's action. The bank is also recommended to deem such a complex ownership structure as a potential reason for reporting suspicious transactions." In addition, in their internal acts (policies and procedures), banks have already prescribed the procedure for identifying beneficial owners, both natural and legal persons, which implies the use of information from the relevant public registries. Clients are also obliged to inform the bank in writing on any changes in their beneficial owners.
Measures taken to implement the recommendations since the adoption of the first progress report	In **Article 14** of the Bill on Changes and Amendments to the LPMLTF **(it refers to changes of Article 19 of the current Law**) the definition of the beneficial owner is harmonized with the definition provided in the Directive 2005/60/EC of the European Parliament and of the Council, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. In accordance with Article 14 of the Bill on Changes and Amendments to the LPMLTF the beneficial owner is defined as follows: „Article 19 is changed as follows: "Beneficial owner is the natural person who ultimately owns or controls the client and/or the natural person on whose behalf a transaction or activity is being conducted. Beneficial owner shall also include the natural person(s) who ultimately who exercises control over a legal entity or legal arrangement. A beneficial owner of a business organization, i.e. legal person, in the context of this Law, shall be: 1) a natural person who indirectly or directly owns at least 25% of the shares, voting rights and other rights, on the basis of which he/she participates in the management, or owns at least 25% share of the capital or has a dominating influence in the assets management of the business organization; 2) a natural person that indirectly ensures or is ensuring funds to a business organization and on that basis has the right to influence significantly the decision

	making process of the managing body of the business organization when decisions concerning financing and business are made. As a beneficial owner of an institution or other foreign legal person (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered 1) a natural person, that indirectly or directly controls at least 25% of a legal person's asset or of a similar foreign legal entity; 2) a natural person, determined or determinable as a beneficiary of at least 25% of the income from property that is being managed.
Recommendation of the MONEYVAL Report	*Consideration should be given to the risk of foreign bearer shares being sold in Montenegro.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The bearer shares in Montenegro may not be issued. The Law on Securities ("Official Gazette of Montenegro", No. 59/00 and 28/06). Article 5 of the Law on Securities prescribe: "*Securities issued in accordance with this Law must be registered at the Central Depository Agency that is established and operates in accordance with this Law.* *The rights and obligations related to the securities shall start upon registration at the Central Depository Agency*." Article 100 par. 1 and 2 of the Law on Securities prescribes: "*The owner of the account in the Central Depository Agency in which the security is recorded shall be considered the owner of the dematerialized security.* *The Central Depository Agency statement is the only legal proof of ownership of securities*." Foreign bearer shares may not be traded at the stock exchanges in Montenegro. Article 26 of the Law on Securities prescribes: "*No shares shall be traded on a licensed security market other than shares issued by a registered issuer*."
Measures taken to implement the recommendations since the adoption of the first progress report	
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	In accordance with Article 14 of the Bill on Changes and Amendments to the LPMLTF the beneficial owner defines that the existing Article 19 shall be amended as follows: „Article 19 is changed as follows: "Beneficial owner is the natural person who ultimately owns or controls the client and/or the natural person on whose behalf a transaction or activity is being conducted. Beneficial owner shall also include the natural person(s) who ultimately who exercises control over a legal entity or legal arrangement. A beneficial owner of a business organization, i.e. legal person, in the context of this Law, shall be: 1) a natural person who indirectly or directly owns at least 25% of the shares, voting rights and other rights, on the basis of which he/she participates in the management, or owns at least 25% share of the capital or has a dominating influence in the assets management of the business organization; 2) a natural person that indirectly ensures or is ensuring funds to a business organization and on that basis has the right to influence significantly the decision making process of the managing body of the business organization when decisions concerning financing and business are made.

	As a beneficial owner of an institution or other foreign legal person (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered 1) a natural person, that indirectly or directly controls at least 25% of a legal person's asset or of a similar foreign legal entity; 2) a natural person, determined or determinable as a beneficiary of at least 25% of the income from property that is being managed.''

Special Recommendation I (Implement UN instruments)	
Rating: PC	
Recommendation of the MONEYVAL Report	*The incrimination of money laundering is limited to actions, defined as "business operations", which is narrower than the convention and this formulation should be further refined.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	As explained in detail in the explanation of the measures taken according to recommendations of MONEYVAL relating to Recommendation 1 FATF (money laundering offence), this shortcoming was removed by the Law on Amendments to the Criminal Code, which is in the adoption procedure. **Please see the answers in the Recommendation 1 (money laundering offence).**
Measures taken to implement the recommendations since the adoption of the first progress report	As it is explained in details in answer on measures taken to implement recommendations of MONEYVAL referring to Recommendation 1 of The FATF (criminal offence Money laundering), this short-coming was removed by Law on changes and amendments of The Criminal Code in 2010 („Official Gazette of MNE" 25/2010). In accordance with the recommendation, changes and amendments of The Criminal Code removed the limitation that money laundering can be performed „through banking, financial or other business operations". Namely, by new definition, criminal offence Money laundering is considered „conversion or transfer of money or other property knowing that they have been obtained by criminal activity, with the intention to conceal or falsely represent the origin of money or other property, or whoever acquires, keeps or uses money or other property knowing at the moment of receipt that they derive from a criminal offence, or concealing or fraudulently representing facts on the nature, origin, place of depositing, movements, disposal of or ownership over money or other property knowing that they were obtained through a criminal offence." It is clear that in accordance with the recommendation, the definition is improved.
Recommendation of the MONEYVAL Report	*Laws and mechanisms for immediate freezing of the funds belonging to or intended for the designated terrorist organisations or individuals as defined by Resolution S/RES/1267 (1999) should be put in place.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Based on the Article 9 of the Constitution of Montenegro on the grounds of which the confirmed and published international contracts as well as commonly accepted regulations of international law which make constituent part of domestic legal order, as well as the fact that the UN Charter, bearing in mind that Montenegro is an UN member, represents international agreement Montenegro accepted (Independence Decision: UN Charter published in the Official Gazette of RFY 69/45), Montenegro is under obligation to implement measures adopted on the grounds of the Chapter VII of the UN Charter. In accordance with the EU National Integration Program for Montenegro the passing of the Law was planned for the end of 2011. in order to prepare for application and enactment of restrictive measures, jurisdictions of specific state institutions, as well as keeping records on natural and legal persons against which

	international restrictive measures have been introduced, and/or create legal framework for introduction of unilateral restrictive measures., Ministry of Foreign Affairs initiated the procedure of collecting all relevant international documents, EU regulations, as well as the guidelines related to implementation of all restrictive measures categories. Also, in order to determine the mechanism for overall regulation of the given area comparative analyses of the legal solutions of the states in the region are performed. The models of the established entities whose jurisdiction is to update the list are considered, as well as the relation of the laws on restrictive measures with other legal documents dealing with the issue of sanctions introduction. At this stage the model of introducing the institute of,, freezing assets'' (in a manner S/RES/1267) into the legal system of Montenegro, and/or whether it is more relevant to make it a part of criminal legislation or introduce it with the Law on restrictive measures.
Measures taken to implement the recommendations since the adoption of the first progress report	In compliance with the Law on Foreign Trade in Arms, Military Equipment and Dual Goods, Montenegro abides by its international commitments, particularly those relevant to the sanctions introduced by the UN Security Council, EU and OSCE; international agreements on non-proliferation as well as other international commitments. This Law stipulates foreign trade in controlled goods and it determines the terms and conditions for foreign trade, transit and transportation of controlled goods, for providing technical assistance pertinent to controlled goods as well as other issues relevant for foreign trade in this kind of goods. This law extends control to cover brokering activities, in-kind transfers of technologies, technical assistance concerning the goods from Catch all category, too. Banks and other institutions operating in Montenegro have to abide by the Law on Prevention of Money Laundering and Financing of Terrorism ("Official Gazette of Montenegro", No.14/07 and 04/08) and by the Guidelines for Risk Analysis for Banks in order to prevent money laundering and financing of terrorism as drafted by the Central Bank of Montenegro. Based on those acts, banks in Montenegro have passed their internal rules on measures and activities to be conducted for detecting and preventing money laundering and financing of terrorism. Banks in Montenegro have to classify their clients, business relations, transactions or products based by the degree of risk and put them into respective classification categories (A- insignificant risk, B-low risk, C-medium risk and D- high risk). Also, in their internal acts (such as „Know Your Client") banks defined the way in which they determine client's eligibility i.e. the reasons to refuse to contract any business deal with individuals from the states towards whom the measures from UN Security Council Resolution apply and individuals whose names were put on the List made in compliance with the UN Security Council resolutions. With a view to improve the system of prevention of money laundering and financing of terrorism, banks developed tools to detect persons whose names can be found on the Lists made on the basis of the UN security Council resolutions such as „Labo-on line", „Labo 1" and „Labo 2". If a person from the List made by the UN Security Council Resolution requests to make a transaction at a bank, the bank will refuse the request and inform the Administration for Prevention of Money Laundering and Financing of Terrorism of Montenegro promptly. In accordance with the EU National Integration Program for Montenegro the adoption of the Law on the implementation of international restrictive measures is planned. The working group for the drafting of the above mentioned law has already prepared the text, which is planned to be adopted in 2012.This law will be the legal ground for the application and enactment of restrictive measures,

	jurisdictions of specific state institutions, as well as keeping records on natural and legal persons against which international restrictive measures have been introduced, and/or create legal framework for introduction of unilateral restrictive measures. Ministry of Foreign Affairs initiated the procedure of collecting all relevant international documents, EU regulations, as well as the guidelines related to implementation of all restrictive measures categories. Also, in order to determine the mechanism for overall regulation of the given area, comparative analyses of the legal solutions of the states in the region are performed. The models of the established entities whose jurisdiction is to update the list are considered, as well as the relation of the laws on restrictive measures with other legal documents dealing with the issue of sanctions introduction. At this stage the model of introducing the institute of, freezing assets'' (in a manner S/RES/1267) into the legal system of Montenegro, and/or whether it is more relevant to make it a part of criminal legislation or introduce it with the Law on restrictive measures.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Special Recommendation III (Freeze and confiscate terrorist assets)	
Rating: NC	
Recommendation of the MONEYVAL Report	*A central authority at national level to examine, integrate and update the received lists of persons and entities suspected to be linked to international terrorism before sending them to the financial sector and DNFBP should be introduced.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	After reviewing the Report of the MONEYVAL Committee on the third round of detailed assessment of 17th March 2009, with the conclusion of the Government of Montenegro of 23rd April 2009, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Internal Affairs and Public Administration and the Administration for Prevention of Money Laundering and Financing of Terrorism were put in charge to consider the method of application of the Special Resolutions of the United Nations Security Council S/RES/1267 (1999), S/RES/1373 (2001) and S/RES/1452(2002) and propose to the Government the measures for their implementation Although there is still no legal framework defining the system of publishing, or informing, integrating and updating the received lists of persons and companies suspected to be related to international terrorism, there is a practice to, after receiving such lists from the Permanent Mission at the United Nations Headquarters in New York, the Ministry of Foreign Affairs forwards the lists to the Ministry of Finance and Police Directorate. APMLTF receives, through its Department for National and International Co-operation, MONEYVAL and FATF statements referring to non cooperative countries with significant risk of money laundering and terrorist financing. After processing, the statements are forwarded to Analytics Department which, in written form, notifies all reporting entities under the Law on the Prevention of Money Laundering and Terrorist Financing. The statements are also published on the APMLTF website.

Measures taken to implement the recommendations since the adoption of the first progress report	After reviewing the Report of the MONEYVAL Committee on the third round of detailed assessment of 17th March 2009, with the conclusion of the Government of Montenegro of 23rd April 2009, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Internal Affairs and Public Administration and the Administration for Prevention of Money Laundering and Financing of Terrorism were put in charge to consider the method of application of the Special Resolutions of the United Nations Security Council S/RES/1267 (1999), S/RES/1373 (2001) and S/RES/1452(2002) and propose to the Government the measures for their implementation.
Recommendation of the MONEYVAL Report	*A domestic mechanism to enact S/RES/1373 (2001) should be implemented to be able to designate terrorists at national level as well as to give effect to designations and requests for freezing assets from other countries.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	This issue is planned to be regulated by the Law on restrictive measures.
Measures taken to implement the recommendations since the adoption of the first progress report	Apart from already implemented national regulations, Law on the implementation of international restrictive measures will be adopted in 2012. The working group for the drafting of the above mentioned law has already prepared the text, which is at the moment sent to the relevant institution for consideration. This law will be the legal ground for the implementation and enactment of restrictive measures, jurisdictions of specific state institutions, as well as keeping records on natural and legal persons against which international restrictive measures have been introduced.
Recommendation of the MONEYVAL Report	*Procedures for evaluating de-listing requests, for releasing funds or other assets of persons or entities erroneously subject to the freezing and for authorising resources pursuant to S/RES/1452 (2002) should be adopted.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	This issue is planned to be regulated by the Law on restrictive measures
Measures taken to implement the recommendations since the adoption of the first progress report	There were no changes in relation to this response.
Recommendation of the MONEYVAL Report	*Practical guidance to the financial institutions and DNFBP concerning their responsibilities under the freezing regime as well as for the reporting of suspicious transactions that may be linked to terrorism financing should be issued by the authorities.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The Guidelines on Developing Risk Analysis with a view to Preventing Money Laundering and Terrorist Financing define: The customers that present high risk from money laundering and terrorist financing are included in customers with the permanent residence or registered office: 1. in the state that is non EU member state or did not sign EU pre accession agreement, 2. in the state that is, based on assessment of the competent international

	organisations, known for production or well organised drug trafficking (Middle and Far East countries known for heroin production: Turkey, Afghanistan, Pakistan and golden triangle countries (Myanmar, Laos, Thailand), South American Countries known for cocaine production Peru, Columbia and neighbour countries, Middle and Far East Countries, Central American Countries known for Indian hemp production: Turkey, Lebanon, Afghanistan, Pakistan, Morocco, Tunis, Nigeria and neighbour countries, Mexico), 3. state that is, based on the assessment of the competent international organisations, known as country with high level of organised crime due to corruption, arm trafficking, human trafficking or human rights violation, 4. state that is, based on assessment of the international organisation FATF (Financial Action Task Force) classified in to the non cooperative countries or territories (that are countries and territories that, according to FATF assessment, do not have relevant legislation in the area of prevention and detection of money laundering or terrorist financing, the state supervision of financial institutions does not exist or it is not relevant, establishing and acting of the financial institutions is possible without state certificates or registration at the competent authorities, state supports opening anonymous accounts or other anonymous financial instruments, the system of recognising and reporting suspicious transactions is inappropriate, the establishing beneficial owner is not an obligation prescribed by the law, international co-operation is not efficient or does not exists at all) 5. country against which UN or EU measures are imposed, including complete or partial break up of economic relations, railways, waterways, post, telephone lines, telegraph lines, radio and other communicational relations, breakup of diplomatic relations, military embargo, travel embargo etc. 6. country which is known as financial or tax paradise (for these countries it is particularly important that they enable complete or partial tax free obligation, or tax rate is significantly lower than tax rate in other countries. These countries usually do not have concluded agreements for the avoidance of double taxation, or if they do sign the agreements, they do not obey them. The legislation of these countries requires strict observance of bank and business secrecy and also quick, discreet and cheap financial services are provided. Countries known as financial or tax paradises are : Dubai – Jebel Ali Free Zone, Gibraltar, Hong Kong, Isle of Man, Lichtenstein, Macau, Mauritius, Monaco, Nauru, Nevis Island, Iceland –Norfolk Area, Panama, Samoa, San Marino, Isle of Sark, Seychelles, St. Kitts and Nevis, St. Vincent and Grenadine, Switzerland – canton Vaud and Zug, Turks and Caicos Islands, the USA – federal states Delaware and Wyoming, Uruguay, British Virgin Islands and Vanuatu 7. country known as offshore financial center (these countries define certain limitations in the process of direct activities registration of business entities in the country, provide high level of bank and business secrecy, liberal control over international trade business is performed, quick, discreet and cheap financial services and legal person registration are enabled. It is significant that these countries do no not have adopted relevant legislation in the area of prevention and detection of money laundering and terrorist financing. Countries known as offshore financial centers are: Andorra, Angola, Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bermudas, British Virgin Islands, Brunei Darussalam, Cape Verde, Cayman Islands, Cook Islands, Costa Rica, Delaware (USA), Dominica, Gibraltar, Grenada, Guernsey, Isle of Man, Jersey, Labuan (Malaysia), Lebanon, Lichtenstein, Macao, Madeira (Portugal), Marshall Islands, Mauritius, Monaco, Montserrat, Nauru, Nevada (USA), The Netherlands Antilles, Niue, Palau, Panama,

	Philippines, Samoa, Seychelles, St. Kitts and Nevis, St Lucia, St Vincent and Grenadines, Zug (Switzerland), Tonga, Turks and Caicos Islands, Uruguay, Vanuatu and Wyoming (USA). Transactions that could represent high risk of money laundering and terrorist financing include: 1. payment from customer's account or payment to customer's account, which differ from the account that customer provided in the process of identification of the account through which customer regularly carried or has been carrying business activities (particularly in case of crossbred transactions) 2. transactions intended to be sent to a persons with the residence or registered office in country known as financial or tax paradise, 3. transactions intended to be sent to persons with the residence or registered office in country known as off shore financial center, 4. transactions intended to be sent to non profit organisations with the registered office in: country known as off shore financial center, country known as financial or tax paradise or in non- EU member states, or country which did not sign EU Pre-Accession Agreement, Public statement under Step VI on MONEYVAL Compliance Enhancing Procedures in respect of Azerbaijan (12 December 2008) Public statement under Step VI of MONEYVAL's Compliance Enhancing Procedures in respect of Azerbaijan (24 September 2009)
(Other) changes reported as of 16 March 2010	Please see answer to question 1 in section "Special Questions" of this Questionnaire – relating to crucial substantive and procedural changes regarding the procedure of confiscation of property gain acquired through criminal offence (the procedure of permanent confiscation of property whose legal origin is not proved is introduced). Montenegro has accessed another very important convention in the field of international legal assistance – the European Convention on International Validity of Criminal Judgments (CETS 070). Having in mind that Montenegro has accessed the European Convention on Mutual Assistance in Criminal Matters with additional protocols, the European Convention on Extradition with additional protocols, the European Convention on Transfer of Convicted Persons with additional protocol, by confirming this convention Montenegro has completed the set of international instruments applied in the area of international legal assistance in criminal matters.
Measures taken to implement the recommendations since the adoption of the first progress report	
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	During preparation of replies in the previous progress evaluation, it was pointed out that changes and amendments were in progress also with respect to introducing confiscation of property whose legality of origin could not be proven („extended confiscation"). In accordance with the changes and amendments of The Criminal Code („Official Gazette of MNE", no.25/2010), art. 113 defines that from the perpetrator of criminal offence it is possible to seize material benefit for which there is well-founded suspicion that it has been acquired through criminal activity, unless the offender makes plausible that its origin is legal (extended confiscation). Extended confiscation can be applied if the offender was sentenced by a final and enforceable decision for: 1) one of the criminal offences committed within a criminal organization (Article 401a);

	2) one of the following criminal offences: - against humanity and other assets protected under international law and committed out of greed; - money laundering; - unauthorized manufacture, possession and distribution of narcotic drugs; - against payment and business operations and against official duties, committed out of greed and with a stipulated imprisonment sentence of eight years or a more severe sentence. Also, on September 1st 2011, new Criminal Procedure Code started its full application. Comparing to earlier criminal procedure, this Code introduced numerous changes of criminal proceeding, and the most important change is introducing concept of prosecutorial investigation. Having in mind Article 9 of the Constitution of Montenegro according to which the ratified and published international treaties and generally accepted international rules of the international law are an integral part of the internal legal system, as well as in accordance with the fact that Montenegro, as a member of the United Nations, accepted the UN Charter (Decision on proclamation of Independence of Montenegro, Official Gazette No. 36/06; UN Charter published in the Official Gazette of the Democratic Federal Yugoslavia 69/45), Montenegro is obliged to implement the measures which has been adopted on the basis of Chapter 7 of the UN Charter. In Montenegro, the international restrictive measures towards third countries are implemented by the competent state authorities in accordance with the provisions of the following laws: 1. Law on Foreign Trade (Official Gazette of the Republic of Montenegro No. 28/2004 and 37/2007), 2. Law on the Prevention of Money Laundering and Terrorist Financing (Official Gazette of Montenegro No. 14/07 and 4/08), 3. Law on Foreign Trade in Armament, Military Equipment and Goods with Dual Purpose (Official Gazette of the Republic of Montenegro No. 80/08), 4. Law on Foreigners (Official Gazette of Montenegro, 82/08) 5. Criminal Code (Official Gazette of Republic of Montenegro No. 70/2003, 13/2004, 47/2006 and Official Gazette of Montenegro No. 40/2008, 25/2010 and 32/2011), 6. Criminal Procedure Code (Official Gazette of Montenegro 57/09 and 49/10). The administrative framework for the implementation of the mentioned laws and related bylaws consists of the following competent authorities:: 1. Ministry of Foreign Affairs and European Integrations, 2. Ministry of Economy, 3. Ministry of Defence, 4. Ministry of Finance (Administration for the prevention of Money Laundering and Terrorist Financing), 5. Ministry of Interior , 6. Police Directorate, 7. Customs Administration , 8. Tax Administration, 9. Central Bank, 10. Securities Commission

	The Law on the implementation of international restrictive measures shall be adopted in 2012 and after its adoption all necessary bylaws for its implementation shall be adopted, too. As an example of implementation of the restrictive measures is the Central Bank of Montenegro passed the Decision on prohibition of conducting financial transactions with the Central Bank of Iran, financial institutions from Iran and persons related to these institutions.

Special Recommendation VI (AML requirements for money/value transfer service)	
Rating: PC	
Recommendation of the MONEYVAL Report	*The requirements of Special Recommendation VI need to be implemented.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	National payment system is regulated by the National Payment Systems Law (OGM 61/08), as well as by secondary legislation acts, among which, the following are particularly important with respect to the Special Recommendations VI and VII: • Decision on the structure of transfer execution account and the detailed conditions and manner of account opening and closing (OGM 24/09); • Decision on unified structure for identification and classification of accounts using IBAN standard for international payments (OGM 24/09), • Decision on minimum elements of credit and debit order (OGM 24/09), • Decision on conditions and manner of performing individual transfer execution by agents (OGM 24/09); • Decision on the issuing and use of remote access instruments and the reporting manner and timelines (OGM 24/09), • Decision on detailed conditions of issuing and revoking licenses for payment system and granting approvals (OGM 24/09), • Decision on payment system oversight (OGM 24/09), • Payment system rules for interbank transfer execution (OGM 24/09). The National Payment Systems Law governs the performance of national payment system: transfers of funds, settlement of inter-bank transfers, electronic payment instruments and payment systems and out-of-court settlement of payment system-related disputes. Transfer of funds, under this Law, shall be a transfer of monetary assets executed at the originator's order by the performing institution. International payment system operations are regulated by the External Current and Capital Transactions Law (OGM 45/05 and OGM 62/08).

	This Law regulates the performance of payment operations between residents and non-residents in euro and currency other than euro, as well as the manner for transfer of property to Montenegro and out of Montenegro, and the capacity of residents to have ownership over means of payment denominated in currency other than euro. According to Montenegrin legislation (Banking Law, OGM 17/08, National Payment Systems Law, and External Current and Capital Transactions Law), the transfer of funds in the country and abroad is performed exclusively by legal persons, primarily banks, foreign bank branches and other legal persons that have obtained license or approval for transfer execution by the Central Bank. The National Payment Systems Law additionally regulates agents as legal persons that may be entrusted by the performing institution, in accordance with the appropriate agreement, certain activities related to the execution of a transfer. The agent performs these activities in the name of and for the account of the performing institution that is responsible for all the agent's procedures and failures arising from the performance of the aforesaid activities. The Central Bank has up-to-date records on all service providers of transfer of funds. As described in point VI.1, the work of an agent, as a legal person to whom the performing institution has entrusted, in accordance with the appropriate agreement, certain activities related to the execution of a transfer is regulated by the National Payment Systems Law and Decision on conditions and manner of performing individual operations in transfer of funds execution by agents. Only Post Office of Montenegro is currently acting as an agent of the payment system in Montenegro. The aforesaid Decision regulating the work of agents is the act passed by the Central Bank of Montenegro, which will incorporate this requirement.
Measures taken to implement the recommendations since the adoption of the first progress report	There were no changes in relation to this response.
Recommendation of the MONEYVAL Report	*The Montenegrin authorities should introduce legislation to enforce the licensing/registration of all MVT service providers together with appropriate sanctions.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	See the answer presented in the first part of SR VI.
Measures taken to implement the recommendations since the adoption of the first progress report	
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable	The work on the new Payment Operations Law, which shall incorporate the international standards of the Directive 2007/64/EC on Payment Services (PSD), Directive 2009/110/EC on E-money institutions and Directive 98/26/EC on Settlement Finality in Payment systems, started under the Twinning project "Strengthening the Regulatory and Supervisory Capacity of the Financial

means" and other relevant initiatives	Regulator". According to the plan, the Council of the Central Bank should determine the draft of this Law in September 2012, after which plans regarding the enactment of the law will be determined. This law intends to introduce payment instructions and e-money institutions, as the providers of payment services.

Special Recommendation VII (Wire transfer rules)	
Rating: NC	
Recommendation of the MONEYVAL Report	*The requirements of Special Recommendation VII should be incorporated into the legislation of Montenegro.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Decision on the structure of transfer execution accounts and the detailed conditions and manner of account opening and closing (OGM 24/09) regulates, *inter alia*, opening and closing of transfer execution accounts in the country. The following data should be mentioned, *inter alia*, by the client in his application: - Name of the legal or natural person that performs registered activity, i.e. name and last name of natural person not performing registered activity, - Place – registered office or residence, address and phone number; - Identification number of legal or natural person performing registered activity or uniform identification number of citizens for natural person not performing registered activity and the like. In that respect, requested information on ordering party of electronic transfer in any transfer amount. The aforesaid is valid in situations when the cash payment of natural person precedes the transfer (e.g. cash payment by various accounts or any other basis). The account of the financial institution (bank) that simultaneously processes that transfer appears as the account of originator (ordering party) of such transfer. The Decision on minimum elements of credit and debit order prescribes the obligatory elements that these payment instruments must contain to initiate electronic transfers. The minimum prescribed elements includes also payment orders submitted electronically. In accordance with Articles 7 and 8 of the Decision, transfer should also contain the following in order to be executed,: - name of the originator as ordering party, i.e. name and registered office of legal or natural person performing registered activity or name, last name and address of residence of natural person not performing registered activity, and – debited or credited account. If the cash payment by natural person of such transfer preceded the transfer, the financial institution (bank) simultaneously processes that transfer, so the account of institution that debits the account is also mentioned. Pursuant to Article 16 of the National Payment Systems Law, the performing institution is obliged to archive the documentation on executed transfers and store them for five years, and to keep the electronic data on executed transfers for ten years from the date of the execution of the transfer. When developing risk analysis for money transfers, banks and/or financial institutions shall define in their internal acts, based on the Guidelines on bank risk analysis aimed at the prevention of money laundering and terrorism Financing, the criterion that will have high risk concerning electronic transfer that do not contain complete information on ordering party. Transfers without complete information on ordering party and related transactions shall be considered suspicious and shall be acted upon the prescribed manner, and in

	some cases, the termination of business relations shall be performed with the financial institutions not complying with standards referred to in Recommendation VII. Banks in Montenegro as bearers of national and international payment systems shall, pursuant to Articles 7 and 71 of the LPMLTF, identify client (legal or natural person) prior to execution of transaction and obtain all prescribed data and/or following data and information: - name of the company, address, registered office of the company and personal identification number of the legal person, that establishes business relationship or executes transaction, or legal person for whom is established business relationship or executed transaction; - name, address of permanent residence or temporary residence, date and place of birth and tax ID number of a representative or an authorised person, that for a legal person or other juristic person conclude the business relationship or execute transaction, number, kind and name of the authority that issued the personal documents; - name, address of permanent residence or temporary residence, date and place of birth and tax ID number of an authorised person, which requires or executes transaction for a costumer, and number, kind and name of the competent body that issued the personal documents; - name, address of permanent residence or temporary residence, date and place of birth and tax ID number of natural person or tax ID number of its representative, entrepreneur or natural person carrying out activities, and that establish business relation ship or execute the transaction, or natural person, for which is established business relationship or executed transaction, and number, kind and name of the competent body that issued the personal documents; - date and time of executing transaction ; - the amount of transaction and foreign currency of transaction that is executed; - the purpose of transaction and name and address of permanent residence or temporary residence, registered office of the company and residence of the person to which transaction is intended; - method of executing the transaction; - data on assets and income sources, that are or will be the subject of transaction or business relationship. Pursuant to Article 86 and with respect to Article 4 points 1, 2, 3, 10 and 13 of the LPMLTF, the Central Bank oversees the implementation of this law and enabling regulations and imposes measures against banks violating LPMLTF.
Measures taken to implement the recommendations since the adoption of the first progress report	**The Central Bank of Montenegro** passed the Decision on Mandatory Elements of the Payer` Transfer Order (OGM 15/11). The Decision was passed with a view to transposing the Regulation 1781/2006 of the European Parliament and Council aiming to prevent, investigate and detect the cases of money laundering and terrorist financing, and to apply the FATF's **Special Recommendation VII.** This Decision is enclosed to the questionnaire.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other	The recommendations are accepted and due to that in Article 11 of the Bill on Changes and Amendments to the LPMLTF a new Article 12a defining obligation for a reporting entity, engaged in payment operations services or money transfer, to obtain accurate and complete information on the originator and enter them into the form or message related to wire transfers of funds sent or received in any currency that is the subject of the wire transfer.

relevant initiatives	"Wire transfers Article 12a A reporting entity engaged in payment operations services or money transfer services shall obtain accurate and complete information on the originator and enter them into the form or message related to wire transfers of funds sent or received in any currency that is the subject of the wire transfer. The data from paragraph 1 of this Article shall remain with the funds transfer through the payment chain. A provider of payment operations or money transfer services, that is an intermediary or beneficiary person of the funds, shall refuse to transfer the funds unless the originator data are complete or shall require the originator data to be completed within the shortest time possible. In the process of gathering the data from paragraph 1 of this Article, providers of payment operations or money transfer services shall identify the originator by checking a personal identification document issued by a competent authority. The content and type of the data from paragraph 1 of this Article, and other obligations of the providers of payment operations or money transfer services, as well as the exceptions from data gathering requirement when transferring funds that present insignificant risk of money laundering and terrorist financing, shall be more specifically regulated by a regulation of the Ministry." Pursuant to Article 16 of the Law on National Payment Operations, (OGM 61/08), The performing institution shall be obliged to archive and keep the electronic data on executed transfers for ten years from the date of the execution of the transfer.

Special Recommendation VIII (Non-profit organisations)	
Rating: NC	
Recommendation of the MONEYVAL Report	*Montenegro should conduct a review of the adequacy of its legal framework that relates to NPOs that can be abused for terrorism financing.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The New Law on Non-Governmental Organisations (Official Gazette of Montenegro No. 11/07) was adopted in June of 2011, and regulates the issues of procedure, registration, terms and forms of associations of citizens in Montenegro.
(Other) changes reported as of 16 March 2010	**Normative framework** The Law on Non-Governmental Organisations (Official Gazette of Montenegro No. 11/07), regulates the issues of procedure, registration, terms and forms of associations of citizens in Montenegro. Non-governmental organisations shall be non-governmental associations and non-governmental foundations. A non-governmental association is defined as 'a non-profit organisation with members, founded by domestic and foreign physical persons and legal entities, in order to realise individual or common interests or for realisation and affirmation of public interest.' A non-governmental foundation is 'a non-profit organisation without members, founded by domestic and foreign physical persons and legal entities, for pooling resources and assets in order to realise charitable and other activity, which are of public interest and importance.' According to the provisions of this Law, non-governmental organisations are not political organisations, religious communities, trade union organisations, sport organisations, business associations, and organisations and foundations whose

	founder is the State. The changes and amendments of the Law on NGOs from 2007 precisely define the terms under which an NGO can perform its business activity. Certain issues related to the operating of NGOs are regulated by other laws: The Law on Tax on Profit of Legal Persons (Official Gazette MNE No. 80/04) defines non-taxable profit of NGOs; Law on Administrative Taxes (Official Gazette MNE No. 80/04) that liberates NGOs from paying taxes and fees for accomplishing the goals they are set for; Law on Value Added Tax (Official Gazette MNE No.80/04) that, under certain conditions, liberates from paying taxes of NGOs services; Law on Property Sales Tax (Official Gazette MNE No. 80/04) prescribes that this tax shall not be paid by NGOs for the real estates they use for performing the activities they are founded for; Law on State Administration (Official Gazette MNE No. 38/03) and Law on Local Self-Government (Official Gazette MNE No.13/06) regulate the relations between the state administration authorities, or local self-government authorities and NGOs. These laws define the obligation of appropriate consulting of NGOs in the procedure of preparing and adopting laws, bylaws and other regulations and enactments, as well as development projects and programs; Law on Games of Chance (Official Gazette MNE No. 52/04) prescribes that a part of the profit from games of chance shall be used for financing the projects of NGOs and other organisations, and the Government adopted the Bill on Changes and Amendments of the Law on Games of Chance, that precisely defines the amount of at least 75% of the profit from games of chance that shall be used for financing the plans and programs of NGOs and other organisations. 4200 NGOs are registered in Montenegro (the number has the tendency of growth, and it has been changing on daily basis). The registration and the register of NGOs are kept by the Ministry of Interior Affairs and Public Administration. The financing made by the state is done in accordance with the Law on NGOs and the Law on Games of Chance through public announcements, and the decisions are made by the Commission of the Montenegro Parliament and the Government Commission established in accordance with these laws. **Institutional framework** In the beginning of 2007 the Government of Montenegro established the Office for Co-operation with NGOs, which functions as an internal organisational unit of the General Secretariat of the Government.
Measures taken to implement the recommendations since the adoption of the first progress report	**Normative framework** The New Law on Non-Governmental Organisations (Official Gazette of Montenegro No. 11/07) was adopted in June of 2011, and regulates the issues of procedure, registration, terms and forms of associations of citizens in Montenegro. Non-governmental organizations shall be non-governmental associations, non-governmental foundations and foreign organizations. Non-governmental association is a non-profit membership organisation, which can be established by domestic and/or foreign natural and/or legal persons for the purpose of accomplishing certain common or public goals and interests. Association may be established by at least three persons, out of which one shall have domicile, residence or head office in Montenegro. A non-governmental foundation is a voluntary non-profit organization without membership, which can be established by a domestic and/or foreign natural and/or legal person with or without initial assets, for the purpose of accomplishing public goals and interests. A foundation may be established by a single person or more persons regardless of their domicile, residence or head office in Montenegro. A foundation may also be established by a will.

	Foreign organization, for the purpose of this Law, shall mean non-governmental organization with the status of legal person, whose head office is in other country, and which has been founded in accordance with regulations of that country for the purpose of accomplishing common or public goals and interests. In this moment in Montenegro exist approximately 6000 NGOs. Register of associations, register of foundations and register of foreign organizations in shall be kept in written and electronic form by the Ministry of interior. Registration of non-governmental organization in the Register shall be performed based on the application for registration. Non-governmental organization has the status of legal person which it shall obtain on the day of registration. Decision on registration and decision on deletion from the Register shall be published in the "Official Gazette of Montenegro". Non-governmental organization acquires property from membership fees, donations, gifts, financial subventions, inheritances, interests on bank deposits, dividends, lease, and revenues realised from economic business activities and other income generated from any lawful activities. Non-governmental organisation, which has realised on all grounds during the calendar year revenues higher than 10.000,00 EUR shall publish at its website its annual report adopted by the competent body of that organisation, within ten days from adoption of the report. Law on PMLTF is one of the rare Laws in Europe and beyond that defines that Non-governmental organizations, as reporting entities under the LPMLTF, are obliged to take measures for detection and prevention of money laundering and terrorist financing. Furthermore, Article 86 of the LPMLTF defines that APMLTF shall conduct supervision over NGO in relation to implementation of the Law on PMLTF and regulations passed in accordance with this Law.
Recommendation of the MONEYVAL Report	*Montenegro should implement measures to ensure that terrorist organisations cannot pose as legitimate NPOs.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	No significant measures have been taken
Measures taken to implement the recommendations since the adoption of the first progress report	Law on PMLTF defines that Non-governmental organisations, as reporting entities under the LPMLTF, are obliged to take measures for detection and prevention of money laundering and terrorist financing. Furthermore, Article 86of the LPMLTF defines that APMLTF shall conduct supervision over NGO in relation to implementation of the Law on PMLTF and regulations passed in accordance with this Law. Also, Reporting Entities Control Department of the APMLTF, in accordance with the Law on PMLTF and Law on inspection control conducts control with the designated reporting entities. The list of reporting entities supervised by APMLTF is defined in Article 4, item 14 and 15 of the LPMLTF and in Articles 14, 15 and 16 of the Law on inspection control define Authorities of Inspectors, Obligations and authorities in eliminating the irregularities and Administrative measures and actions that can be performed during the control. **Additional explained in the part that refers to Normative framework:** The New Law on Non-Governmental Organizations (Official Gazette of

	Montenegro No. 11/07) was adopted in June of 2011, and regulates the issues of procedure, registration, terms and forms of associations of citizens in Montenegro.
Recommendation of the MONEYVAL Report	*Montenegro should also reach out to the NPO sector with a view to protecting the sector from terrorist financing abuse. This outreach should include i) raising awareness in the NPO sector about the risks of terrorist abuse and the available measures to protect against such abuse; and ii) promoting transparency, accountability, integrity, and public confidence in the administration and management of all NPOs.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	No significant measures have been taken
Measures taken to implement the recommendations since the adoption of the first progress report	Law on Non-Governmental Organizations defines following: Non-governmental organisation shall be deleted from the Register: 1) if the period for which it was founded expires, within three days from the last day of that period; 2) based on the decision on termination of operations, within three days from the submission of that decision to the Ministry by the authorised representative of organization; 3) based on the decision to prohibit the work of non-governmental organization, within three days from the day this decision is published in the "Official Gazette of Montenegro". The decision to prohibit the work of non-governmental organization adopt the Constitutional Court of Montenegro (Law on the Constitutional Court of Montenegro, Official Gazette of Montenegro", No. 64/2008). The proceedings deciding to ban the work of a non-governmental organization shall be initiated by a proposal which, within their competences, may be submitted by: the Protector of human rights and liberties; the Council of Defence and Security; state administration authority in charge of protection of human and minority rights; state administration authority in charge of entry of a non-governmental organization in the registry. The Constitutional Court may ban the work of a political party or of a non-governmental organization if their activities are directed or aimed at violent destruction of constitutional order, infringement on the territorial integrity of Montenegro, violation of human rights and freedoms or instigating of racial, religious and other hatred and intolerance. 4) based on the decision to finish the bankruptcy proceeding or the voluntary liquidation proceeding in summary proceedings in accordance with laws regulating the bankruptcy proceedings or voluntary liquidation, within three days from the day of deletion from the Company Register. Association shall also be deleted from the Register upon request of the member of association, if the number of members of association is reduced below the minimum number of founders stipulated by the law, when competent body of the association does not render a decision on admission of new members within the period of one year.
Recommendation of the MONEYVAL Report	*Montenegro should take more proactive steps to promote effective supervision or monitoring of NPOs. Authorities should ensure that detailed information on the administration and management of NPOs are available during the course of an investigation or on request internationally. Montenegro should also implement effective sanctions for violations of oversight measures or rules by NPOs or persons acting on behalf of NPOs.*

Measures reported as of 16 March 2010 to implement the Recommendation of the report	The Administration for the Prevention of Money Laundering and Terrorist Financing, within its defined competences, supervises humanitarian organisations, NGOs and NPOs regarding the implementation of the LPMLTF and the bylaws adopted upon this Law. The supervision is carried out through the compliance officer, in accordance with the law regulating the issue of supervision
Measures taken to implement the recommendations since the adoption of the first progress report	Article 86 of the LPMLTF defines that APMLTF shall conduct supervision over NGO in relation to implementation of the Law on PMLTF and regulations passed in accordance with this Law. In Articles 45, 46, 47, 48 and 49 of the Bill on Changes and Amendments to the LPMLTF (it refers to Articles 92,93,94,95 and 96 of the current Law) Penalty provisions are amended. These provisions refer to all reporting entities under the LPMLTF as well as to NPOS.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Special Recommendation IX (Cross Border declaration and disclosure)	
Rating: PC	
Recommendation of the MONEYVAL Report	*The Customs Administration should be given clear powers to stop individuals and restrain currency in all circumstances.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The customs control of cross border money transferring is prescribed by the following: • Law on Foreign Current and Capital Operations ("Official Gazette of the Republic of Montenegro, No. 45/05, 62//08), • Decision on the amount of cash that can brought in or out of the Republic of Montenegro without declaring- Official Gazette of the Republic of Montenegro, No.58/05), • Law on the prevention of money laundering and terrorist financing ("- Official Gazette of the Republic of Montenegro, No.14/07, 4/08) • Rulebook on the Manner of Reporting Cash Transactions exceeding €15,000 or more and Suspicious Transactions to the Administration for the Prevention of Money Laundering and Terrorist Financing (Official Gazette of the Republic of Montenegro, No. 79/08). In accordance with valid regulations, residents and non-residents are obligated to report physical bringing in or out of currency at place of entry or exit to/from Montenegro. Physical persons, Le. Residents and non-residents, in passengers traffic with foreign countries, can bring in or out the amounts up to 2000 € (in euro or other currency) without reporting it to the customs authorities. The amount exceeding 2000 € is reported to the border customs authority. Pursuant to the Article 66 of Law the Customs Administration is obligated to submit to the Administration for the prevention of anti-laundering information on every cross-border transport of money, checks and bearer negotiable instruments, precious metal and precious stones, in value exceeding 10,000 Euro, within 3 days following the cross-border transport. (Official Gazette of Montenegro 14/07).

	In accordance with the above Law, Customs Administration is obligated to submit to the Administration for the prevention of anti-laundering information on every cross-border transport or attempt to transfer money, checks and bearer negotiable instruments, precious metal and precious stones, in value below 10,000 Euro, if there is a suspicion of money laundering or terrorism financing. Reporting forms, which we previously used, was addendum to the Agreement on co-operation between the Administration for the Prevention of Anti-laundering and Terrorism Financing and the Customs Administration, from October 2004. Since 31 December 2008 when the Rulebook on providing data on cash operations of value of or exceeding 15,000 € and suspicious transactions to the Administration for Prevention of Money-laundering and terrorism financing entered into force (Official Gazette of Montenegro 79/08) we are using new form - FORM 06 for Customs authorities, which was printed together with the Rulebook and represents its integral part.
Measures taken to implement the recommendations since the adoption of the first progress report	- Decision on the amount of cash that can be brought in or out of Montenegro without declaring (Official Gazette of Montenegro 38/10). On the day of entering into force of this Decision, the Decision on the amount of cash that can brought in or out of the Republic of Montenegro without declaring (Official Gazette of Montenegro 58/05) ceases to be valid. Consequently, resident or non-resident can, physically entry or exit in/out of Montenegro without declaring means of payment in the value up to 10.000 Euro or in that value converted from the currency other than euro. - Rulebook on detailed evidence on performed controls of physical entry and exit of means of payment across state border (Official Gazette of Montenegro 35/11). This Rulebook closely defines the records on conducted controls of physical entry or exit of means of payment at the locations of entry or exit in/out of Montenegro. The records on conducted controls of physical entry or exit of means of payment in the value exceeding 10.000 Euro or in that value converted from the currency other than euro, during the entry or exit in Montenegro, on the reporting form, which makes the integral part of this Rulebook. In accordance with the referred Rulebook, the Customs Administration of Montenegro has posted the Notification on method of declaring physical entry and exit of means of payment at visible location at border crossings.
Recommendation of the MONEYVAL Report	*The Customs Administration should have the legal authority to restrain currency in cases of an administrative offence.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Valid legal regulations (Law on Foreign Current and Capital Operations, Official Gazette of the Republic of Montenegro 45/05, 62/08, Official Gazette of Montenegro 62/08, Decision on the amount of cash that can be brought in or out of the Republic of Montenegro without declaring- Official Gazette of the Republic of Montenegro 58/05, Law on Prevention of Money-laundering and terrorism financing - Official Gazette of Montenegro 14/07, 4/08, Rulebook on providing data on cash operations of the 15,000 € value or more and suspicious transactions to the Administration for Prevention of Money-laundering and terrorism financing Official Gazette of Montenegro 79/03) prevent Customs Administration to keep funds in the cases of administrative offences. During the period 1 March 2009 - 31 December 2009, Customs Administration had four cases of non-declaring currency by persons entering or exiting territory of Montenegro. In all four cases, persons who didn't declare the currency to the customs authority were fined in accordance with Article 15, Paragraphs 1 and 3 of

	the Law on Foreign Current and Capital Operations, with adequate pecuniary fines. During the period from 1 March 2009 - 31 December 2009, Customs Administration has forwarded 144 reports on transport of money, checks and bearer negotiable instruments, precious metal and precious stones, as divided per months: March- 14, April- 16, May - 16, June - 19, July - 15, August - 11, September - 19, October - 11, November - 9 and December - 14. Also, during the period 1 March 2009 - 31 December 2009, Customs Administration has provided information on 26 instances on suspicious transactions to the Administration for the Prevention of Anti-laundering and Terrorism Financing.
Measures taken to implement the recommendations since the adoption of the first progress report	During 2010 and 2011 the Customs Administration Montenegro detected 11 cases of non-declaring currency at the border crossings. Against all offenders were filed misdemeanour charges. In all cases the persons who failed to declare currency to the customs authority are sentenced with adequate pecuniary fines, in accordance with the Article 15, Paragraphs 1 and 3 of the Law on Foreign Current and Capital Operations. In accordance to the valid legal provisions, Customs Administration has no mandate to hold the currency in case of administrative offence.
Recommendation of the MONEYVAL Report	*The Customs Administration should take into consideration a system to use reports on currency declaration in order to identify money launderers and terrorists.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Customs administration is keeping records of all reports made by all customs officers on the territory of Montenegro, which is later forwarded to the Administration for the prevention of anti-laundering. In case of suspicion of money laundering, regardless of amount of cash, or value of checks and bearer negotiable instruments, precious metal and precious stones, transported across the border, the customs officer at border crossing is obligated to immediately inform the officers in Customs Enforcement sector. Afterwards, the information, i.e. the report, using the same form is submitted to the Customs Enforcement sector, which shall forward it to the Administration for the prevention of anti-laundering, within 3 days from transport, as legally required. Pursuant to the Article 69 of Law on prevention of money laundering and terrorism financing, Customs Administration is obligated to inform the Administration for the prevention of anti-laundering information on annual basis, and until the end of January at the latest, on its observations and undertaken activities related to the transactions suspicious of money laundering or terrorism financing. Articles 74 and 75 of this Law prescribed the records, which the Customs Administration is obligated to keep, as well as its contents. The Customs Administration is obligated to keep the records for 11 years after its collection, and such information is being destroyed after the expiry of that deadline.
Measures taken to implement the recommendations since the adoption of the first progress report	Customs Administration is keeping records of all reports made by the competent customs officers on whole territory of Montenegro, which are later forwarded to the Administration for prevention of money laundering. Specifically, in the case of suspicion of money laundering, regardless of the amount of currency, checks and bearer negotiable instruments, precious metal and precious stones transferred across the state border, the customs officer at the border crossing shall notify the officers from the Sector of customs enforcement. Afterwards, the data, i.e. the report using the Form 06 in the Rulebook on providing data on cash operations of value of or exceeding 15,000 € and suspicious transactions to the Administration for Prevention of Money-laundering and terrorism financing (Official Gazette of Montenegro 79/08), is submitted to the Sector of customs enforcement, which is forwarding to the Administration for Prevention of Money-laundering, within the legally prescribed deadline of 3 days after the transfer.

	In 2010 Customs Administration submitted to the APML 386 reports on cross border transfer of currency, payment instruments etc. In 2011 Customs Administration submitted to the APML 358 reports on cross border transfer of currency, payment instruments etc. In 2010 Customs Administration submitted to the APML 15 suspicious transaction reports and **14** suspicious transaction reports in 2011.
Recommendation of the MONEYVAL Report	*The administrative sanctions for false declarations or non-declared currency should be raised considerably. Taking into account the low chance of detection, the fines are not considered to be dissuasive or effective.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	All the cases of finding currency that was not declared at the moment of crossing border are processed to the competent organisational unit of the customs administration and the offenders are sentenced administrative fines, pursuant to the Article 15 of the Law on Foreign Current and Capital Operations, which lay down the amount of fine.
Measures taken to implement the recommendations since the adoption of the first progress report	There were no changes in relation to this response.
Recommendation of the MONEYVAL Report	*In order to increase its effectiveness, the Customs Administration should hire more specialised staff to deal with money laundering and terrorist financing cross-border transportation of currency.*
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Customs Administration in 2009 continued with comprehensive training of customs officers in the area of money laundering and terrorism financing. Customs officers working in customs offices at the border or at airports, together with officers from the Department of prevention of smuggling that belong to headquarters and two officers appointed in accordance with Article 1 of the Agreement between the Administration for the prevention of anti-laundering and Customs Administration, to act as liaison officers and official contact points for the Administration for the prevention of anti-laundering, are employees of customs administration involved in control of bringing in or out of domestic or foreign currency. We would like to note that positive legal regulations are defining the amount of administrative fines for false impersonation or non-declaring currency, and that it prevents the Customs Administration from withholding funds from fines in cases of administrative offences, and provide recommendations in the section related to amendment of existing legal acts in jurisdiction of the Ministry of Finance. In the period from 1st March to 31st December 2009 the Customs Administration had four cases of non declaring cash by persons entering and leaving the territory of Montenegro. In all four cases persons that failed to declare money are penalized, by appropriate fines, in accordance with Article 15 paragraph 1 and 3 of the Law on Foreign Current and Capital Operations. Since 31st December 2008 when the Rulebook on the Manner of Reporting Cash Transactions exceeding €15,000 or more and Suspicious Transactions to the Administration for the Prevention of Money Laundering and Terrorist Financing, the Customs Administration uses the new form (Form 06 for customs authorities) and it is the integral part of the Rulebook.
Measures taken to implement the recommendations	Within the referred period of time, The Customs Administration has participated at the meeting organized for the purpose of exchanger of information related to the

since the adoption of the first progress report	money laundering and terrorism financing, which was organized within the ET Twining project of Bulgaria, Central Bank of the Netherlands and supervisory authorities of Montenegro, held on 18/04/2011 in the premises of the Central Bank of Montenegro. The custom administration also participated at the workshop entitle “investigations of money laundering” held within the »ILECUS 2« project, and topics f the workshop were: investigations of money laundering, legal framework which defines the investigations of money laundering, comparable practice and practical experience of Austria in investigations and criminal prosecution related to the money laundering, international cooperation in the investigation of money laundering and financial investigation, identification of gains from criminal activities-relationship between the investigations of money laundering and financial investigations. The workshop was held on 19-21 April 2011, in Budva, and the lecturers were eminent experts in this line of works from the criminal police of Austria, as well as manager of ILECUs project for Montenegro. We would like to note that customs officers deployed in border customs offices and at airports, together with the customs officers from the Anti-smuggling Department, as well as two officers selected in accordance with the Article 1 of the Agreement between the Administration for the prevention of Money laundering and Customs Administration to be liaison officers and official contact pints with APML, are presenting the staff of customs administration involved in the control of entry and exit of domestic and foreign means of payment.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	

2.4. Specific Questions

Answers from the first progress report

1. Have any steps been taken to introduce a reversal of the burden of proof regarding property subject to confiscation?
In August 2009, the Parliament of Montenegro adopted new Criminal Procedure Code (Official Gazette of Montenegro no 57/09) in which it is prescribed reversed burden of proof in order to extend confiscation of the property (confiscation of property whose legal origin has not been proved). In the article 486-489 of the CPC it is prescribed *„after the finality of the judgment finding the accused person guilty of the criminal offence for which Criminal Code prescribes the possibility of extended confiscation of property from the convicted person, his legal successor or the person to whom the convicted person has transferred the property and who cannot prove the legality of its origin, the State Prosecutor shall, at the latest within one year, submit the request for the confiscation of the property of the convicted person, his legal successor or the person to whom the convicted person has transferred the property for which there is no evidence on the legality of its origin.“* Those articles in the CPC are procedural norms and for their implementation there is a need for the change of the existing Criminal Code and to have the institute of extended confiscation of property. According to this, in the proposal of the changes of Criminal Procedure Code there are three new paragraphs and the Article 113 is now: „ (1) Money, things of value and all other property gains obtained by a criminal offence shall be confiscated from the offender; should such a confiscation be not possible, the perpetrator shall be obliged to pay for the monetary value of the obtained property gain. (2) property for which there is founded suspicion that derives from the criminal activity shall be confiscated form the offender unless the offender makes it probable legality of its origin (extended confiscation) (3) Confiscation from the paragraph 2 of this Article can be applied if the offender is finally convicted for -some of the criminal offence from the Article 401 a of this Code that was committed within the criminal organisation; - some of the following criminal offences: 1) terrorism 2) Non authorised production, keeping and releasing for circulation of narcotics; 3)against payment operations and economic transactions and against official duty committed out of lucrative for which it is the penalty of 8 years or more of the imprisonment can be imposed (4) Property from the paragraph 2 of this article can be confiscated if it is gained from the criminal activity in the period of 5 years before the committing the crime from the paragraph 3 of this article and/or after committing criminal offence until the judgment is final. (5) A material gain obtained by a criminal offence shall also be confiscated from the persons it has been transferred to without compensation or against compensation that is obviously inadequate of its real value (6) Confiscated shall also be any property obtained by a criminal offence in favour of other persons.”
2. Since the on-site visit, have any steps been taken to expand access by the APMLTF to other authorities' databases?
The APMLTF, Police Directorate, Department of Public Revenues and Customs Directorate, with the help of: OSCE Mission to MNE, Customs and Fiscal Assistance Office (EU) – CAFAO, United Nations Office on Drugs and Crime – UNODC, Swedish National Police Board, International Criminal Investigative Training Assistance Program – ICITAP, US Embassy and British Embassy, harmonised the model of joint office for coordination and intelligence data exchange- with working title “ National coordination office

for the state administration. The Working group adopted the Conclusion that the conditions for establishing this office are fulfilled and send the letter to the Prime Minister of Montenegro (directors of all involved state administration authorities has signed this letter) suggesting the specific measures. The Prime minister has forwarded the suggestion to the Ministry of Internal Affairs and Public Administration so that the national office could be established. The establishing of this office will enable data exchange between: the Administration for the Prevention of Money Laundering and Terrorist Financing, Police Directorate, Department of Public Revenues and the Customs Administration

Department of Public Revenues possesses appropriate software and data base that enables collecting, analysing and forwarding data. This data base is upgraded continuously and upon the appropriate requests is available to all authorities involved in the system of prevention of money laundering and terrorist financing.

3. Has an updated list of suspicious transaction indicators been issued to obligors? If so, when was the list last updated? Furthermore, does APMLTF now provide regular general feedback to all obligors containing:

(a) statistics on the number of disclosures, with appropriate breakdowns, and on the results of the disclosures;

(b) information on current techniques, methods and trends (typologies); and

(c) sanitised examples of actual money laundering cases.

Yes .

Rulebook on Indicators for recognising suspicious clients and transactions ("Official Gazette of Montenegro " No. 69/09, from 16th October 2009) adopted by Ministry of Finance and due to that the following List of indicators for recognising suspicious clients and transactions was established :

- List of Indicators for banks,
- List of Indicators for capital market,
- List of Indicators for the Customs Administration,
- List of Indicators for the Department of Public Revenues,
- List of Indicators for leasing companies,
- List of Indicators for auditors,
- List of Indicators for accountants,
- List of Indicators for lawyers and
- General indicators.

Department of Public Revenues, in relation to risk assessment on money laundering and terrorist financing and instructions sent to the inspection control subsidiaries, obliged the tax inspectors to check the origin, purpose of the business relationship and transaction in accordance with the List of Suspicious Transactions Indicators, to the greatest extent possible. The real-estate and construction sectors are designated as specific sectors.

Furthermore, does APMLTF now provide regular general feedback to all reporting entities containing:

The APMLTF provides information, in written form, to the reporting entity or other requester, on obtaining and analysing data, information and documentation related to persons or transactions for which there are reasonable grounds for suspicion in criminal offence of money laundering or terrorist financing except in case when it is assessed that such informing could have harmful effects for the process and outcome of the procedure.

APMLTF provides feedback on results of the actions that are undertaken upon the STRs submitted by reporting entities. For the purpose of data confidentiality and data secrecy the feedback breakdown is given in statistical form. The breakdown is made in total and individually for each reporting entity. It includes the number of analytical cases opened on the basis of STRs.

In 2009 the APMLTF has sent 38 feedback information to the reporting entities and in 2010 three information are sent.

2009

Commercial Banks	42 feedback information
Lawyers	1 feedback information
Capital city of Podgorica	1 feedback information
SEC	2 feedback information

2010

Securities Commission	1 feedback information
Insurance company	1 feedback information
Customs administration	1 feedback information

(a) statistics on the number of disclosures, with appropriate breakdowns, and on the results of the disclosures;

(b) information on current techniques, methods and trends (typologies);

APMLTF established, based on analysis, money laundering typologies that are presented to the compliance officers and employees with the reporting entities that have a direct contact with customers.
The following business activities are designated, on the basis on present experience, as high risk areas from the aspect of money laundering and terrorist financing :

- Real-estate trade,
- Construction business,
- Service providing companies,
- Capital market,
- Organisers of games of chance
- Sport organisations

In relation to the above mentioned business activities, APMLTF processed cases related to numerous legal and natural persons, residents and non-residents, and achieved a significant co-operation with foreign FIUs. After analysis performed these cases are forwarded to the competent state authorities or foreign FIUs.
According to feedback information, the significant number of cases resulted with police investigations, bringing indictments for the criminal offence of money laundering and other criminal offences and final court decisions for other criminal offences related to money laundering.
Real-estate trade:

- Fictitious contracts– contract cancellation right after concluding the contract. Presenting the same land parcels as the subject of sale in the contract and under the different conditions.
- Fictitious contracts where unreal –false price is presented in the contract or by direct bargain between seller and buyer where seller consent not to record the status in ownership change at the ownership registry (obtaining property rights is not recorded)
- Founding capital increase without recording changes of the status documentation at the Commercial Court (provision of the Law) and afterwards withdrawing cash from the account in the same amount (deposited).

Construction business:

- This business activity is related to the real estate trade.
- Using cash for constructing buildings
- Making contract on selling buildings that are neither constructed nor in the starting phase of construction.
- Fictitious Companies
- Illegal founding of legal persons
- Parallel – linked companies (the same persons are founders and representatives)
- Non existing companies
- Non available companies (non-residents)
- Transactions that do not correspond with the business activity for which the company is registered by the range of business activity or natural person does not have a company and the natural person is unemployed but on its account are recorded enormous inflows without the clear purpose of transaction.

*(I Case study from practice: 2 resident and 2 non resident natural persons from the neighbour country. The case is forwarded to the Police directorate and State Prosecutor's Office and afterwards assets were confiscated and natural persons were arrested. There was a significant co-operation with the foreign FIU.
A natural person, without criminal records, has been engaged by criminal group and (with benefits) this natural person is used for opening account and enormous inflows from abroad and afterwards withdrawal and cash payments to the members of this criminal group in order to conceal the trace .
*(II Case study related to alleged spot managers when high amounts were sent from abroad for football transfers. There was a significant co-operation with the foreign FIU. The FIU confirmed that the case has been pursued and that our information was used in the court process.
(III Case study: presenting enormous amounts as alleged prize from games of chance (betting house) The case has been pursued.

- Loans from companies
- Magnified invoice value(disproportional expenses)
- In relation to the capital market :
- Block businesses

These business activities are used with the aim of justifying the origin of money that would be gained by sail (on the capital market), after direct agreement between stock exchange market clients(buyer and seller) about the stock price and in the manner that the price would be unrealistically high or low.

Services providing companies

- TAXI associations (registration of unrealized profit from providing services) delivered to the Department of Public Revenues and APMLTF due to reasonable grounds of suspicion in other criminal
- - Catering companies (forwarded to the Tax Administration) registration of unrealized profit from providing goods and services

Transferring non-declared TRAVELLERS checks (amounts in million of Euros) across the state border and attempt of converting checks at banks in Montenegro. This case has been forwarded to the Police Directorate) and
(c) sanitised examples of actual money laundering cases.
At trainings, seminars and round tables organised by APMLTF case studies and sanitised examples are jointly presented and analysed.

4. Please explain the arrangements for co-operation between policy makers, FIU, law enforcement and supervisory bodies at a strategic level. At the operational level, have additional formal agreements been concluded in order to define the type of information to be exchanged, timeliness of the exchange, the names of contact person, etc.?

On 19th February 2010 APMLTF, Supreme State Prosecutor's Office, Police Directorate Department of Public Revenues and Customs Administration signed the MoU in prevention and prosecution of offenders related to organised crime and corruption. The MoU defines obligations, general rules and terms of forming and working of the joint team that will act in special cases of organised crime and corruption. The team, whose work will be coordinated by the Supreme State Prosecutor, is composed of representatives of APMLTF, Supreme State Prosecutor's Office, Police Directorate Department of Public Revenues and Customs Administration, who will be appointed for the period of three years.

With a view to establishing better co-operation between the Supreme State Prosecutor's Office and Police Directorate, and according to the evaluators' recommendations, the Memorandum on Understanding and information exchange related to prevention, detection and prosecution of offenders prosecuted ex officio.

The Memorandum refers to co-operation and acting in pre-trial criminal and criminal procedure, especially to:

1. direct communication between the competent state prosecutor and the competent officer of the Police Directorate
2. forming ad hoc joint teams for complex investigations
3. ensuring procedure and data secrecy

Signing the Memoranda of understanding related to preventing, detecting and prosecuting the offenders in the area of organised crime and corruption, is planned and it will be signed by State Prosecutor's Office, Police Directorate, APMLTF, Department for Public Revenues and Customs Administration.

Signing the memoranda of understanding between the APMLTF and Deposit Protection Fund is planed as well as innovation of the MoU between APMLTF and CBM. There are designated representatives of these institutions that will prepare the text of the new MoU.

On the basis of analysing the assessment of needs for concluding new bilateral Memoranda, the APMLTF has, for the forthcoming period, planned innovating memoranda with Central Bank of Montenegro(CBM) and signing the new memoranda with the supervising authorities from Article 86 of the LPMLTF . In March 2009 the APMLTF signed MoU with the State Audit Institution of Montenegro. Previously signed MoUs between the APMLTF and Customs Administration, Securities Commission, Ministry of Interior and Public Administration, Department for Public Revenues, CBM and basic Court in Podgorica, are fully applied. The co-operation with the Police Directorate and State Prosecutor's Office is achieved through daily communication.

The establishment of the National coordination office for the state administration is in progress.

The time period for exchange of information is prescribed by the LPMLTF, Article 50 of the LPMLTF:

State authorities and public powers holders shall provide the requested data, information and documentation to the competent administration body without delay, and not later than eight days after the day of receiving the request, or enable, without compensation, direct electronic access to data and information stated in the request.

(In relation to supervision Article 89 of the LPMLTF „Bodies from Article 86 of this law shall inform the competent administration body on measures taken in process of supervising in accordance with this Law, and within 8 days from the date on which the measures were taken.)

The APMLTF and Ministry of Interior agreed, due to MoU signed in 2004, that in these institutions shall be designated an officer and its deputy that will be the official contact person for co-operation between these institutions.

On 17th February 2009 Securities commission signed IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Co-operation and the Exchange of Information? With signing this memorandum Securities and Exchange Commission become included into the international network of supervisors and provided a significant asset in acting upon taking measures on the international level. Signing this MoU shows the capability of the Securities and Exchange Commission to ensure harmonisation with regulations and full implementation of regulations related to securities. Also, the MoU confirms capacities and readiness of the Securities and Exchange Commission to provide the greatest possible assistance to the international regulators of the securities market in order to facilitate their work on the securities market. Signing this MoU is a significant step for SEC since it enables the Commission to

exchange information with all relevant world wide jurisdictions and leads Montenegro to full compliance with best international practice. The SEC drafted the proposal of the memorandum with CBM and drafting the proposal with the ISA is underway. ISA has not signed the MoUs with the competent authorities from the LPMLTF. The activities on signing the mentioned are one of the priorities of ISA in 2010. The Customs Administration signed the MoU with the Faculty of Law in Podgorica (training employees)
5. Have provisions been introduced to ensure that the names and personal details of staff of financial institutions that make a STR are kept confidential by APMLTF?
Article 55, paragraph 2 of the LPMLTF defines as follows : In notification from paragraph 1 of this Article the competent administration body shall not state data on reporting entity and on person employed in the organisation, that announced data unless there are reasonable grounds for suspicion that reporting entity or reporting entity's employee committed criminal act of money laundering or terrorist financing, or if those data are necessary for establishing facts in criminal proceedings and if transferring those data are required, in written form, by Court. Article 80, paragraph 2 and 3 of the La won PML/TF defines The information about the facts from paragraph 1 of this Article and notification on suspicious transactions or information about other offences from Articles 55 and 56 of this Law, are the official secret and designated as such, in accordance with Law. On removing the official secret designation, from paragraph 2 of this Article shall decide the authorised person of the administration.

Additional questions since the first progress report

1. Have there been any successful prosecutions for autonomous and/or third party money laundering? If so please provide details.
In previous report (March 2010.) changes and amendments of the Criminal code were announced which refer, among other aspects, to institute of confiscation of material gain whose legality of origin was not proven („extended confiscation"). These changes and amendments were adopted by the Parliament of Montenegro in April 2010. The procedure is defined by The Criminal Procedure Code which started full application of September 1st, 2011. In accordance with the Code, reversal burden of proof of legality of origin of property is on force. Since the first progress report we have had three cases against 6 persons for money laundering offences. All of those cases have started in 2011 and in all of the cases the procedure before the court is now in process. So, we still cannot judge successfulness of the prosecution because the court procedures are not yet finished.
2. Have there been any non-conviction based confiscations? If so please provide details.
No, we have not had any non conviction based confiscation Criminal legislation of Montenegro does not contain the institute of permanent confiscation of property without conviction before ("NCB confiscation").
3. Has there been any relevant court practice which clarifies the term "business operations" as set out in Article 268 (1) of the Criminal Code?
In the period from the First Progress Report we have not had any court practice that would clarify the term "business operation" as it is set out in the Article 268 of the previous Criminal Code. It is worth mentioning that we have adopted amendments and changes of the Criminal Code as it is explained under the Recommendation I.
4. Please provide a breakdown of the relevant investigations, prosecutions and convictions for money laundering between fiscal (e.g. tax evasion, etc.) and non-fiscal offences.
Since the First progress report, Department for suppression of organized crime, corruption, terrorism and war crime, has had three cases of money laundering offences.

Fiscal offences:

- One case: Investigation against one person, for the money laundering offence, where there was fiscal predicate offence. In this case, predicate offences were committed in the foreign country and were related to the abuse of the authority by function, unlawful enterprises and robbery. Prosecutor raised an indictment against this person and the main hearing is in process right now.

Non-fiscal offences:

- One case: Investigation against two persons, for money laundering, where there was non-fiscal predicate offence. In this case, predicate offence was drug trafficking. The indictment was raised before the court in may 2011 and the main hearing is now is process
- One case: Investigation against three persons, for money laundering, where there was non-fiscal predicate offence- drug trafficking. The indictment is raised, and the main hearing is in process now.

5. Please provide a breakdown of the relevant freezing, seizing and confiscation of proceeds between proceeds linked to fiscal offences and proceeds linked to non-fiscal offences.

Fiscal Offences:

- One case against one person: seizure that was issued by the court is in the amount of 6.8 million Euros

Non-Fiscal offences:

- One case against three persons: seizure that was issued by the court is in the amount of 28 million Euros
- One case against 2 persons: seizure that was issued by the court in the amount of 12.5 million Euros

6. Have any specific training on AML/CFT related issues been provided to investigators, prosecutors and judges since the date of the previous progress report?

In Montenegro, relevant institutions regularly organize trainings for the investigators, prosecutors and judges. Especially, Special investigative team has regular trainings for their members (from Tax Administration, FIU, Police Administration and Custom Administration, as well as from the prosecutors) Organized by the USA Office for legal aid.

7. When was the list of suspicious indicators last updated and disseminated to obligors?

The list of indicators for recognizing suspicious customers and transactions is updated and amended with 16 new indicators for recognizing suspicious transactions and clients regarding real estate trade and construction businesses. Furthermore, the list is amended with 11 new indicators referring to lawyers and notaries. Due to that, in addition to the indicators for lawyers there are introduced indicators that will assist notaries to recognize suspicious transactions and part of indicators refers to real estate trade and construction business. The list is forwarded to reporting entities and on 8th December 2012 APMLTF organized a meeting with reporting entities in order to present novelties and discuss on the list of indicators.

8. Have any supervisory visits on AML/CFT related issues been conducted with money service bureaux and currency exchange offices? Did any sanctions result from these visits?

The Banking Law (OGM 17/08 and 44/10) stipulates that banks perform exchange operations. On-site examinations of banks also checked the exchange operations, whereby it was concluded that there were no irregularities in these operations, and thus there were no sanctions.

9. How many requests for mutual legal assistance were received in 2010 and 2011? What was the average time to respond to these requests?

During 2010, Ministry of Justice received 6 rogatory letters from the judiciary authorities from other states, on the occasion of criminal proceedings for the criminal offence Money laundering.
During 2011, Ministry of Justice received 1 rogatory letters from the judiciary authorities from other states, on the occasion of criminal proceedings for the criminal offence Money laundering.
The time to act upon the rogatory letters for international legal assistance depends on the type and complexity of the request stated in rogatory letters.

2.5. Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)[4]

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.	Yes in the Law on the Prevention of Money Laundering and Terrorist Financing
Measures taken to implement the recommendations since the adoption of the first progress report	Yes. In the process of preparing the Bill on Changes and Amendments to the LPMLTF a transposition table for compliance of the Montenegrin legislation for the prevention of money laundering and terrorist financing with the requirements of Directive 2005/60/EC is created. The LPMLTF is partly compliant with the III Directive. It is not compliant in the part defining trusts since the Law on business organisations does not define trusts as a type of conducting business activity. The Law on PMLTF will be amended with the provision referring to trusts When the amendments and changes Law on business companies came into force. The last revision of compliance of the Law on PMLTF with the 3rd Directive is performed in period September – November 2011, when the Draft of the Law on Changes and Amendments to the LPMLTF is submitted to the Government. On 1st December 2011 the Government of Montenegro adopted the Bill on Changes and Amendments to the LPMLTF. Harmonisation with the THIRD DIRECTIVE Articles 1 and 2 of the Law on Amendments and Changes to the Law on are harmonized with Article 1 of the Third Directive (2005/60/EC) – changes are made in relation to the definitions of money laundering and terrorist financing). Article 3 of the Law on Amendments and Changes to the Law on PMLTF is partly compliant with Article 2 of the Third Directive (Directive 32005L0060 defines trusts which currently do not exist in Montenegro and its establishment id not defined by the Law on business organisations). Article 4 of the Law on Amendments and Changes to the Law on PMLTF is harmonized with Article 3 of the Third Directive (this Article refers to the changes of the Article 5, of the current Law, where are provided amended definitions of terms: correspondent relationship, shell banks, insurance intermediary, property, business relationship and customer identification). Article 7 of the Law on Amendments and Changes to the Law on PMLTF is harmonized with Articles 7 and 10 of the Third Directive (this Article refers to the changes of the Article 9-(Cases in which CDD measures shall be conducted) of the current Law on PMLTF) Articles 9 and 10 of the Law on Amendments and Changes to the Law on PMLTF are harmonized with Article 9 of the Third Directive (these Articles refer to the

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

	changes of the Article 11 (Customer control when establishing a business relationship) and Article 12 (Control of the customer before carrying out a transaction) of the current Law on PMLTF.) Articles 11 and 14 of the Law on Amendments and Changes to the Law on PMLTF are harmonized with Article 11 of the Third Directive (these Articles refer to introduction of new Article 12a (Wire transfers) and changes of the Article 19 (Beneficial owner) of the Current Law on PMLTF) Article 20 of the Law on Amendments and Changes to the Law on PMLTF is harmonized with Article 13 of the Third Directive (this Article refers to the changes of the title of the Article and Article 26 (Correspondent relationships of banks with credit institutions of other countries) of the current Law on PMLTF) Article 21 of the Law on Amendments and Changes to the Law on PMLTF is harmonized with Articles 2, 3 and 13 of the COMMISSION DIRECTIVE 2006/70/EC regarding politically exposed persons (this Article refers to the changes of the Article 27 (Politically exposed persons) of the current Law on PMLTF) Article 27 of the Law on Amendments and Changes to the Law on PMLTF is harmonized with Article 22 of the Third Directive (this Article refers to the changes of the Article 33 (Reporting obligation) of the of the current Law on PMLTF) Article 28 of the Law on Amendments and Changes to the Law on PMLTF is harmonized with Article 20 of the Third Directive (this Article refers to introduction of new Article 33a (Unusual transactions)).
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive[5] (please also provide the legal text with your reply)	**LPMLFT /Establishing the Beneficial Owner** **Beneficial Owner** **Article 19** In the context of this Law the following shall be considered as a beneficial owner of a business organisation or legal person: 1. a natural person who indirectly or directly owns more than 25% of the shares, voting rights and other rights, on the basis of which he/she participates in the management, or owns more than a 25% share of the capital or has a dominating influence in the assets management of the business organisation, and 2. a natural person that indirectly ensures or is ensuring funds to a business organisation and on that basis has the right to influence significantly the decision making process of the managing body of the business organisation when decisions concerning financing and business are made. Also, a business organisation, legal person, as well as an institution or other foreign legal person that is directly or indirectly a holder of at least €500,000 of shares, or capital share, shall be considered a foreign owner. As a beneficial owner of an institution or other foreign legal person (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered: 1. a natural person, that indirectly or directly controls more than 25% of a legal person's asset or of a similar foreign legal entity, and 2. a natural person, determined or determinable as a beneficiary of more than 25% of the income from property that he/she manages. **Establishment of a beneficial owner of a legal person or foreign legal entity** **Article 20** A reporting entity shall establish the beneficial owner of a legal person or foreign legal person by obtaining data from Article 71 item 15 of this Law. An reporting entity shall obtain the data from paragraph 1 of this Article by checking the original or certified copy of the documentation from the CRCC or other appropriate public register that may not be older than three months of its issue date or obtain them on the basis of the CRCC or other public register in accordance with Article 14 paragraphs 3 and 5 of this Law. If the required data cannot be obtained in the manner determined in paragraphs 1 and 2 of this Article, a reporting entity shall obtain the missing data from a written statement of an agent or authorised person. Data on beneficial owners of a legal person or similar foreign legal entity shall be verified to the extent that ensures complete and clear insight into the beneficial ownership and managing authority of a customer respecting risk-degree assessment.
Measures taken to implement the recommendations since the adoption of the first progress report	**The definition of the beneficial owner provided in the Bill of the Law on Changes and Amendments to the LPMLTF is harmonised with the definition provided in 3rd Directive, except in part that refers to trusts.** In Article 14 of the Bill on Changes and Amendments to the LPMLTF (it refers to changes of Article 19 of the current Law) the definition of the beneficial owner stipulates the following: „Beneficial owner" means the natural person(s) who ultimately owns or controls the client and/or the natural person on whose behalf a transaction or activity is being conducted. Beneficial owner shall also include the natural person(s) who ultimately

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

	who exercises control over a legal entity or legal arrangement. A beneficial owner of a business organization, i.e. legal person, in the context of this Law, shall be: 1) a natural person who indirectly or directly owns at least 25% of the shares, voting rights and other rights, on the basis of which he/she participates in the management, or owns at least 25% share of the capital or has a dominating influence in the assets management of the business organization; 2) a natural person that indirectly ensures or is ensuring funds to a business organization and on that basis has the right to influence significantly the decision making process of the managing body of the business organization when decisions concerning financing and business are made. As a beneficial owner of an institution or other foreign legal person (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered 1) a natural person, that indirectly or directly controls at least 25% of a legal person's asset or of a similar foreign legal entity; 2) a natural person, determined or determinable as a beneficiary of at least 25% of the income from property that is being managed. Article 15 of the Bill of the Law on Changes and Amendments to the LPMLTF (it refers to changes in Article 20) defines the following: An obligor **shall be bound to** establish the beneficial owner of a legal person or foreign legal person by obtaining data from Article 71 item 15 of this Law. This Law by checking the original or certified copy of the document from the Central Business Register (hereinafter: CBR) or other appropriate public register, submitted by an agent on behalf of a legal person. An obligor shall obtain the data from paragraph 1 of this Article by checking the original or certified copy of the documentation from the CRCC or other appropriate public register that may not be older than three months of its issue date or obtain them on the basis of the CBR or other public register in accordance with Article 14 paragraphs 3 and 5 of this Law. If the required data cannot be obtained in the manner determined in paragraphs 1 and 2 of this Article, an obligor shall obtain the missing data from a written statement of an agent or authorised person. Data on beneficial owners of a legal person or similar foreign legal entity shall be verified to the extent that ensures complete and clear insight into the beneficial ownership and managing authority of a customer respecting risk-degree assessment.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Risk-Based Approach	
Please indicate the extent to which financial institutions have been permitted to use a risk-based	The LPMLTF prescribes in Article 13 transactions that do not require the application of customer due diligence measures, which reads: "Insurance companies conducting life insurance business and business units of foreign insurance companies licensed to conduct life insurance business

approach to discharging certain of their AML/CFT obligations.	Montenegro, founders, managers of pension funds, and legal and natural persons conducting representation and brokerage business in insurance, when entering into life insurance contracts do not need to conduct the verification of a customer when: 1) entering into life insurance contracts where an individual instalment of premium or multiple instalments of premium, payable in one calendar year, do not exceed the amount of €1,000, or where the payment of a single premium does not exceed the amount of €2,500; 2) concluding pension insurance business providing that it is: - insurance within which it is not possible to assign the insurance policy to a third person or to use it as security for a credit or borrowing, or - a conclusion of a collective insurance contract ensuring the right to a pension. Domestic and foreign companies and business units of foreign companies that issue electronic money do not need to conduct the verification of a customer when: 1)issuing electronic money, if the single maximum value issued on the electronic data carrier, upon which it is not possible to re-deposit value, does not exceed the amount of €150, and 2)issuing and dealing with electronic money, if the total amount of value kept on the electronic data carrier, upon which it is possible to re-deposit value, and which in the current calendar year does not exceed the amount of €2,500, unless the holder of electronic money in the same calendar year cashes the amount of €1,000 or more. A reporting entity does not need to conduct control over a customer to whom it provides other services or related transactions representing an insignificant risk of money laundering or terrorist financing, unless there are reasonable grounds for suspicion of money laundering or terrorist financing. Cases representing an insignificant risk of money laundering or terrorist financing shall be more specifically regulated by a regulation of the Ministry." Simplified customer verification is prescribed in Article 29 of the LPMLTF, which reads: "Unless there are reasonable grounds for suspicion of money laundering or terrorist financing in relation to a customer or transaction from Article 9 paragraph 1 items 1 and 2 of this Law, an reporting entity can conduct simplified verification of a customer that is: 1)the reporting entity from Article 4 paragraph 2 items 1, 2, 4, 5, 6, 8 and 9 of this Law or other appropriate institution that has a registered office in the EU or in a state from the list; 2)state body or local governance body and other legal persons exercising public powers; 3)an organisation whose securities are included in the trade on the organised market in the EU member states or other states where the EU standards are applied on the stock markets, and 4) the customer from Article 8 paragraph 4 of this Law to whom an insignificant risk of money laundering or terrorist financing is related. The list of the states from paragraph 1 of this Article shall be determined by the Ministry."
Measures taken to implement the recommendations since the adoption of the first progress report	The recommendations are accepted and due to that in Article 12 of the Bill on Changes and Amendments to the LPMLTF (refers to amendments of Article 13 of the current Law) the following changes are made: Article 12 of Bill on Changes and Amendments to the LPMLTF ‘’Exemption from customer due diligence in relation to certain services Article 13 Insurance companies conducting life insurance business and business units of

	foreign insurance companies licensed to conduct life insurance business in Montenegro, founders, managers of pension funds, and legal and natural persons performing representation and brokerage activities in insurance, **in cases of concluding life insurance contracts, are not obliged to conduct customer due diligence measures when:** 1) entering into life insurance contracts where an individual instalment of premium or multiple instalments of premium, payable in one calendar year, do not exceed the amount of €1,000, or where the payment of a single premium does not exceed the amount of €2,500; 2) concluding pension insurance business providing that it is: - insurance within which it is not possible to assign the insurance policy to a third person or to use it as security for a credit or borrowing; - a conclusion of a collective insurance contract ensuring the right to a pension. Domestic and foreign companies and business units of foreign companies that issue electronic money do not need to conduct customer due diligence measures when: 1. issuing electronic money, if the single maximum value issued on the electronic data carrier, upon which it is not possible to re-deposit value, does not exceed the amount of €150; 2. issuing and dealing with electronic money, if the total amount of value kept on the electronic data carrier, upon which it is possible to re-deposit value, and which in the current calendar year does not exceed the amount of €2,500, unless the holder of electronic money in the same calendar year cashes the amount of at least €1,000. The provisions of paragraphs 1 and 2 of this Article do not apply to cases when in relation to a transaction or client there is suspicion in 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)	

Politically Exposed Persons	
Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive[6] are provided for in your domestic legislation (please also provide the legal text with your reply).	Article 27 of the LPMLTF determines the following PEPs definition: A natural person that is acting or has been acting in the last year on a distinguished public position in a state, including his/her immediate family members and close associates, shall, in the context of this Law, be considered politically exposed person, as follows: 1. presidents of states, prime ministers, ministers and their deputies or assistants, heads of administration authority and authorities of local governance units, as well as their deputies or assistants and other officials; 2. elected representatives of legislative authorities; 3. holders of the highest juridical and constitutionally judicial office; 4. members of State Auditors Institution or supreme audit institutions and central banks councils; 5. consuls, ambassadors and high officers of armed forces, and 6. members of managing and supervisory bodies of enterprises with majority state

	ownership. Marital or extra-marital partner and children born in a marital or extra-marital relationship and their marital or extra-marital partners, parents, brothers and sisters shall be deemed immediate family members of the person from paragraph 1 of this Article. A natural person that has a common profit from the asset or established business relationship or other type of close business contacts shall be deemed a close assistant of the person from paragraph 1 of this Article. Within enhanced customer verification from paragraph 1 of this Article, in addition to identification from Article 7 of this Law, an reporting entity shall: 1. obtain data on funds and asset sources, that are the subject of a business relationship or transaction, from personal or other documents submitted by a customer, and if the prescribed data cannot be obtained from the submitted documents, the data shall be obtained directly from a customer's written statement; 2. obtain a written consent of the person in charge before establishing business relationship with a customer, and 3. after establishing a business relationship, monitor with special attention transactions and other business activities carried out with an institution by a politically exposed person. A reporting entity shall by an internal enactment, in accordance with the guidelines of a competent supervisory authority, determine the procedure of identifying a politically exposed person. Article 25 of the LPMLTF defines the Enhanced Customer Verification Enhanced customer verification, in addition to the identification from Article 7 of this Law, shall include additional measures in the following cases: 1. on entering into open account relationship with a bank or other similar credit institution, with registered office outside the EU or outside the states from the list; 2. on entering into business relationship or executing transaction from Article 9 paragraph 1 item 2 of this Law with a customer that is a politically exposed person from Article 27 of this Law, and 3. when a customer is not present during the verification process of establishing and verifying the identity. An reporting entity shall apply a measure or measures of enhanced customer verification from Articles 26, 27 or 28 of this Law in the cases when he/she/it estimates, that due to the nature of a business relationship, type and manner of transaction execution, business profile of a customer or other circumstances related to the customer, there is or there could be a risk of money laundering or terrorist financing. As the constituent part of the Guidelines about the risk analysis assessment in the scope of money laundering and terrorism financing assessment for reporting entities from the Article 4 Paragraph 2 Items 14 and 15 of the LPMLTF, the APMLFT determined form for PEP identification. The reporting entity receives information whether the specific customer is politically exposed persons or not from specific written and signed notification which is given to the customer to be fulfilled before concluding business relation or carrying out the transaction (Questionnaire for Identification of PEPs). Written notification needs to be drafted both in local and in English language).

QUESTIONNAIRE FOR IDENTIFYING A POLITICALLY EXPOSED PERSON

In accordance with the Law on the Prevention of Money Laundering and Terrorist Financing (hereinafter: the LPMLTF, Official Gazette of Montenegro, No. 14/07), _____ (reporting entity) must establish whether a customer is a politically exposed person when entering into a business relationship or executing transactions (Article 9 Paragraph 1 Item 2) with the customer .

*A **politically exposed person** is any natural person who works or has worked in the last year in a high-profile public position, including that person's immediate family members and co-workers.*

***Immediate family members of a politically exposed person** are spouses or cohabiting partners, parents, brothers and sisters, as well as children and their spouses or cohabiting partners.*

***Immediate co-workers of a politically exposed person** are all persons who have joint income from property, an active business relationship or any other form of close business contact.*

Pursuant to the requirements of the LPMLTF, we are kindly requesting that you answer the following questions.

1. Are you:

1.	a head of state?	YES	NO
2.	the head of a government?	YES	NO
3.	a minister or deputy or assistant thereof?	YES	NO
4.	Head of state administrative body or local administrative body, or his /her deputy or assistant and other official?	YES	NO
5.	an elected representative of a legislative body (MPs and other person appointed or elected by the Parliament)	YES	NO
6.	a holder of the highest judicial and constitutional court functions (judges, prosecutors, and their deputies)	YES	NO
7.	a member of a court of auditors or supreme auditing institutions and central bank governing board?	YES	NO
8.	an ambassador?	YES	NO
9.	A consul? (diplomatic agents)?	YES	NO
10.	a high-ranking officer in the armed forces?	YES	NO
11.	a member of the management or supervisory board of a company under majority state ownership?	YES	NO

2. Are you:

1.	An immediate family member of the persons defined in point 1?	YES	NO
	• Spouse of cohabiting partner	YES	NO
	• Parent	YES	NO
	• Brother or sister	YES	NO
	• Child born in a marital or extramarital relationship and his or her spouse or cohabiting partner		
2.	An immediate co-worker of the persons defined in point 1		
	• Do you have joint income from property or an active business relationship with the persons defined above?	YES	NO
	• Do you have any other form of close business contact with the persons defined above?	YES	NO

	3. Have you: In the last 12 months worked in any of the positions set out in point 1? YES NO Are you an immediate family member or co-worker of a person who has worked in any of the positions, set out in point 1, in the last 12 months? YES NO If you have answered YES to any of the above questions, you are considered a politically exposed foreign person according to the law. We therefore kindly request that you state the origin of funds and property that are or will be the subject of the business relationship or transaction: **I, the undersigned, hereby confirm that the above stated data are correct and true.** Name and surname of person completing the questionnaire Customer's address Customer's data of birth Place and date Signature of the customer Name and surname of the bank employee Place and date Signature of the bank employee **I hereby authorise the entering into a business relationship with a politically exposed person.** Name and surname of the responsible senior staff member Place and date Signature of the responsible senior staff member
Measures taken to implement the recommendations since the adoption of the first progress report	With a view to supervising the implementation of the Law on the Prevention of Money Laundering and Terrorist Financing and the Guidelines on Bank Risk Analysis Aimed at Preventing Money Laundering and Terrorism Financing, the **Central Bank of Montenegro** performed inspections of compliance to the parts of regulations defining the CDD of clients who are politically exposed persons (PEPs). During those decisions, it was determined that in once case a PEP has not signed the Form for Identification of a Politically Exposed Person. However, using other publically available sources, the Bank determined that it is a PEP and classified that client into high risk category, with

	the obligation of permanent monitoring of the client's account.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

"Tipping off"	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.	**Prohibition of giving information** Article 80 of the LPMLTF determines: Reporting entities and reporting entity's employees, members of authorised, supervising or managing bodies, or other persons, to which were available data from Article 71 of this Law, shall not reveal to a customer or third person: 1. that data, information or documentation on the customer or the transaction, from Article 33 paragraph 2, 3 and 4, Article 43 paragraph 1, Article 48 paragraph 1, 2 and 3, Article 49 paragraph 1 and 2 of this Law, are forwarded to the competent administration body ; 2. that the competent administration body on the basis of Article 51 of this Law, temporarily suspended transaction or in accordance with that gave instructions to the reporting entity; 3. that the competent administration body on the basis of Article 53 of this Law demanded regular supervision of customer's financial business; 4. that against customer or third party is initiated or should be initiated investigation for the suspicion of money laundering or terrorist financing. The information about the facts from paragraph 1 of this Article and notification on suspicious transactions or information about other offences from Articles 55 and 56 of this Law, are the official secret and designated as such, in accordance with Law. On removing the official secret designation, from paragraph 2 of this Article shall decide the authorised person of the administration. Prohibition of giving information from paragraph 1 of this Article shall not be applied on: 1. data, information and documentation, that are, in accordance with this Law obtained and kept by reporting entity, and necessary for establishing facts in criminal proceedings, and if submitting those data in written form is required or ordered by the Competent court, and 2. data from item 1 of this Article, if it is demanded by supervision body from Article 86 of this Law for the reasons of carrying out the provisions of this Law and regulations passed on the basis of this Law. **Disclosing a Business Secret is criminalized in the Article 280 of the Criminal Code (Official Gazette of the RM 70/03, 13/04, 47/06, and Official Gazette of the RM 40/08, 25/10 and 32/11)** (1) Anyone who without authorisation communicates to another, hands over or in any other manner makes available data representing a business secret or who obtains such data with the intention to hand them over to an unauthorised person, shall be punished by an imprisonment sentence of three months to five years. (2) If the offence referred to in paragraph 1 of this Article was committed out of

	greed or with reference to strictly confidential data or in order to make the data public or use them abroad, the offender shall be punished by an imprisonment sentence from two to ten years. (3) Anyone who commits an offence referred to in paragraph 1 of this Article out of negligence, shall be punished by an imprisonment sentence not exceeding three years. (4) Business secrets are deemed to be data and documents which were proclaimed as such by means of a law, other regulation or decision of a competent authority passed under law, and whose disclosure would or could cause detrimental consequences for a business organisation or other business entity. Business secret is also determined in the Law on Civil Servants and State Employees Article 52 (Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08 and 86/09) states: *"A Civil Servant, i.e. State Employee shall keep an official secret stipulated by the law or other regulation, regardless of the manner in which he/she has learned about it.* *The obligation to keep an official secret shall last even after the termination of employment, but no longer than five years from the day of the termination of office. Exceptionally, the obligation to keep an official secret may last even longer, when this is stipulated by the law.* *The head of a state authority may release a Civil Servant, i.e. State Employee, from the obligation to keep an official secret during a court or administrative procedure, if it relates to data without which the establishment of facts and making of a legal decision would not be possible."* Article 59 of the same Law determines that the reviling of business, professional and other secret is determined by the Law and by other regulations and is a serious disciplinary offence: *Serious disciplinary offences are:* *- a fine in the amount of 20 to 30% of a salary paid in the month in which the offence was committed;* *- termination of employment.*
Measures taken to implement the recommendations since the adoption of the first progress report	In accordance with art.280 of **The Criminal Code of Montenegro**, disclosing a business secret is a criminal offence. Business secrets are deemed to be data and documents which were proclaimed as such by means of a law, other regulation or decision of a competent authority passed under law, and whose disclosure would or could cause detrimental consequences for a business organization or other business entity. The Code defines that person shall be punished by an imprisonment sentence of three months to five years who without authorization communicates to another, hands over or in any other manner makes available data representing a business secret or who obtains such data with the intention to hand them over to an unauthorized person. If this offence was committed out of greed or with reference to strictly confidential data or in order to make the data public or use them abroad, the prescribed sentence is imprisonment sentence from two to ten years. If the offence was committed out of negligence, prescribed sentence is imprisonment sentence not exceeding three years. **The Criminal Procedure Code**, in part which defines conditions and manners of determining measures of secret surveillance defines that Persons acting in an official capacity and responsible persons involved in the process of passing the order and

	enforcement of the measures of secret surveillance shall keep as secret all the data they have learned in the course of this procedure. Criminal offence Money laundering is among offences for which secret surveillance measures can be issued. Also, Criminal Procedure Code defines obligation of keeping secret in the investigation. Should it be in the interests of criminal proceedings, keeping information as secret, public order, moral or protection of personal or family life of the injured party or the accused person, the person acting in an official capacity who is undertaking an evidence gathering action shall order the persons who are being examined or who are present while the abovementioned actions are being carried out, or who inspect the files of the investigation, to keep as secret certain facts or information they have learned in the course of proceedings and shall advise them that any disclosure of a secret constitutes a criminal offence. In accordance with **the Law on Civil Servants and State Employees** ("Official Gazette of MNE", no.50/08, 86/09 i 49/10), civil servants and state employees are obliged to keep as official secret as determined by law or other regulation, regardless of the way they had learned about it. The obligation to keep an official secret lasts even after the termination of employment, but no longer than five years from the day of the termination of office. Exceptionally, the obligation to keep an official secret may last even longer, when this is stipulated by the law. The head of a state authority may release a Civil Servant, i.e. State Employee, from the obligation to keep an official secret during a court or administrative procedure, if it relates to data without which the establishment of facts and making of a legal decision would not be possible. Revealing of business, professional and other secret determined by the Law or by other regulations is a serious disciplinary offence, for which the disciplinary measures are: fine in the amount of 20% to 30% of a salary paid in the month in which the offence was committed and termination of employment.
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.	As it is defined in the previous response On removing the official secret designation from Article 80, paragraph 2 of the LPMLTF shall decide the authorised person of the administration. Article 80 paragraph 4 defines: Prohibition of giving information from paragraph 1 of this Article may not be applied on: 1. data, information and documentation, that are, in accordance with this Law obtained and kept by reporting entity, and necessary for establishing facts in criminal proceedings, and if submitting those data in written form is required or ordered by the Competent court, and 2. data from item 1 of this Article, if it is demanded by supervision body from Article 86 of this Law for the reasons of carrying out the provisions of this Law and regulations passed on the basis of this Law.
Measures taken to implement the recommendations since the adoption of the first progress report	In Article 41 of the Bill on Changes and Amendments to the LPML (it refers to Article 80 of the current Law) the following changes are made: In Article 80 after paragraph 1 a new paragraph is added, as follows: ''An attempt to retort a client from engaging into illegal activity shall not be deemed as disclosure in the sense of paragraph 1 of this Article.'' The existing paragraphs 2, 3 and 4 now become paragraphs 3, 4 and 5.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other	

enforceable means" and other relevant initiatives)	

"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.	This possibility exists. In accordance with the Law on Liability of Legal Entities for Criminal Offences ("Official Gazette of the Republic of Montenegro" 2/2007), a legal person liable for a criminal offence of the responsible person who acting on behalf of the legal person within its competence commits a criminal offence with the intent to acquire some gain for that legal person. The liability of the legal person exists also when the acting of that responsible person was contrary to the business politics or orders of the legal person. Regarding the limits of liability of a legal person for criminal acts, when the legal conditions are met, a legal person is liable for a criminal act even if the responsible person who committed the criminal act was not convicted for that criminal act. The law also stipulates that the liability of a legal person does not exclude criminal liability of the responsible person for the committed criminal act. In accordance with the provision Article 5 of the Law on Liability of Legal Persons for Criminal Offences ("Official Gazette of the Republic of Montenegro" 2/2007, 13/2007), a legal person can also be liable for a money laundering offence.
Measures taken to implement the recommendations since the adoption of the first progress report	There were no changes since the last reporting.
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?	As above stated, a legal person is liable for the criminal offence of a responsible person who acting on behalf of the legal person within its competence commits a criminal offence with the intent to acquire some gain for that legal person**.** The Criminal Code of Montenegro stipulates that a criminal offence can be done by an act or omission (Article 6). Offence is done by omission when the perpetrator omitted the act which he/she was obliged to do. Also, an offence that is legally not determined as omission can be done by omission, if the perpetrator achieved characteristics of offence by omitting the due act. According to that, common liability can be applied when the act was committed to the benefit of legal person due to lack of supervision or control of the responsible person in the legal person.
Measures taken to implement the recommendations since the adoption of the first progress report	There were no changes since the last reporting.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant	

initiatives)	

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.	Article 4 paragraph 2 of the LPMLTF: Measures from Paragraph 1 of this Article shall be undertaken by business organisations, other legal persons, entrepreneurs and natural persons (hereinafter referred to as: reporting entities), as follows: 1) banks and foreign banks' branches and other financial institutions; 2) savings-banks, and savings and loan institutions; 3) organisations performing payment transactions, 4) post offices, 5) companies for managing investment funds and branches of foreign companies for managing investment funds; 6) companies for managing pension funds and branches of foreign companies for managing pension funds; 7) stock brokers and branches of foreign stock brokers; 8) insurance companies and branches of foreign insurance companies dealing with life assurance; 9) organisers of lottery and special games of chance; 10) exchange offices; 11) pawnshops; 12) audit companies, independent auditor and legal or natural persons providing accounting and tax advice services; 13) institutions for issuing electronic money; 14) humanitarian, nongovernmental and other non-profit organisations, and 15) other business organisations, legal persons, entrepreneurs and natural persons engaged in an activity or business of: - sale and purchase of claims; - factoring; - third persons' property management; - issuing and performing operations with payment and credit cards; - financial leasing; - travel organisation; - real estate trade; - motor vehicles trade; - vessels and aircrafts trade; - safekeeping; - issuing warranties and other guarantees; - crediting and credit agencies; - granting loans and brokerage in loan negotiation affairs; - brokerage or representation in life insurance affairs, and - organising and conducting biddings, trading in works of art, precious metals and precious stones and precious metals and precious stones products, as well as other goods, when the payment is made in cash in the amount of € 15.000 or more, in one or more interconnected transactions.
Measures taken to implement the recommendations since the adoption of the first progress report	The obligation refers to all obligors and additionally in Article 3 of the Bill on Changes and Amendments to the LPMLTF(refers to amendments to Article 4 of the current Law) the list of obligors is amended in respect to insurance companies and intermediaries and companies providing services in respect of the activities of insurance agents when they act in respect of life insurance; - investment, and

	agency in real estate trade; sport organizations and catering; Guidelines for analysis of AML / FT risk in life insurance companies, adopted at the Council meeting held on March 7, 2011. These Guidelines oblige just life insurance companies since only these companies are obliged to act according to the AML/FT Law (as prescribed in article 8 para 2 point 4). After the adoption of the Guidelines, the document was sent to all obligors, and a seminar, introducing the new obligations brought by this act, was organized for the representatives of all life insurance companies, where all relevant information on Guidelines and obligations arising therefore were shared. These Guidelines prescribe minimum activities that should be performed by the life insurance companies. The Obligor shall adopt an internal act on business policy which is to regulate the following activities: - development of a risk analysis in relation to the money laundering and terrorism financing, with the purpose of defining areas of business which are, given the possibilities of money laundering or terrorism financing, more or less critical, i.e. of self-determining other risks in business operation, - definition of measures and manner for their implementation for the purpose of preventing the risk of money laundering and terrorism financing, - appointment of person authorized for implementation of measures aimed at preventing the risk of money laundering and terrorism financing and undisturbed performance of activities by this person, - training program for employees, especially for authorized person, for the purpose of adequate fulfilment of activities prescribed by the Law and these Guidelines, - collection of data in a manner prescribed by the Law and these Guidelines, - reporting to the authorities in a manner prescribed by the Law, - assessment of procedures on prevention of money laundering and terrorism financing implemented by the insurance brokers or agents that the Obligor cooperates with, - treatment of client's data in the procedure of establishing identity, reviews of and monitoring the basis for establishing client's identity and risk factor, - treatment of data on transactions performed under the business relationship with the client, especially of those that cause doubt whether they are appropriate for the type of business and in line with the client's risk and information on the respective client, - keeping records in a manner prescribed by the Law.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

2.6. Statistics

2.6.1 Money laundering and financing of terrorism cases

a) Statistics provided in the first progress report

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	3	8	1	1	1	1						
FT												

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	7	39	7	42	1	1				1958000€		161000€
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	11	1	10								
FT												

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	3	7	2	5	1	4				87600€		
FT												

2009*												
	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												
FT												

* - in 2009 and 2010 there were no cases of money laundering and terrorist financing. There are ongoing proceedings for 3 cases related to money laundering in 2011.

SUPREME STATE PROSECUTOR'S OFFICE
Statistical data for the criminal offence- money laundering for the period from 2004 to 31.12.2009

Year	No. cases	No. persons	investigation		Temporary measures		Amount of proceeds derived from crime	Termination of investigation		Pending investigation		Raised indictment		Confiscation proposed	Convictions		Conviction based confiscation)	Transferred criminal cases	
			No. cases	No. persons	No. cases	No. persons		No. cases	No. persons	No. cases	No. persons	No. cases	No. persons		No. cases	No. persons		No. cases	No. persons
2004	2	3	1	2			895 000 $					1	2	895 000 $	1	2	895 000 $	1	1
2005	3	8	3	8			over 40 000 €	2	7			1	1		1*	1			
2006	10	53	7	39	4	31	5 965 000 €			2	8	7	42	1958000 €	1* 1**	1* 2**	161 000€	1	3
2007	2	11					190 000€ ****					1	10					1	1
2008	3	7	3	7	1	1	over 80 000€			1	2	2	5	87.600€	1*	4*			

* Conviction of release.
** Conviction is not final.
**** In the case in which the investigation is being conducted was not suggested to determinate temporary measure, because this measure has already been determined against the same persons in the case from 2006

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

2010*												
	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												
FT												

2011												
	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	6	-	-			3	47,3 millions		
FT												

*****in 2009 and 2010 there were no cases of money laundering and terrorist financing. There are ongoing proceedings for 3 cases related to money laundering in 2011**.**

2.6.2 STR/CTR

a) Statistics provided in the first progress report

2005															
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		500													
Insurance Companies	4														
Notaries															
Currency Exchange															
Broker Companies	3.275														
Securities' Registrars															
Lawyers															
Accountants/Auditors															
Company Service Providers															
Car dealers	393														
Real estate agents	349														
Organisers of games of chance	1														
Total		500		158		**27**									

*** Cash transactions 20.755 +78.934*Cashless transactions = 99689 CTR**

Reports received from the competent state authorities

Customs	161	7	
Post office	4		
Stock exchange markets	110.042*		
CDA	663*		

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	49.539 CTR	183														
Insurance Companies	1															
Notaries																
Currency Exchange																
Broker Companies	3	1														
Securities' Registrars																
Lawyers																
Accountants/ Auditors																
Company Service Providers																
Car dealers	234															
Real estate dealers	96															
Total		**184**		**286**		**29**										

***Cash transactions 41.140 +8.399*Cashless transactions = 49.539 Currency Transaction Reports**

Reports received from the competent state authorities

Customs	**218**	**2**	
Post office	**31**		
Stock exchange market	111.809		
CDA	1.085		

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	Cash transactions 87.026 +646*	104														
Insurance Companies																
Notaries																
Currency Exchange																
Broker Companies																
Securities' Registrars																
Lawyers																
Accountants/Auditors																
Company Service Providers																
Car dealers	**211**															
Real estate agents	512															
Total		**104**		**220**		**43**										

*** Cash transactions 87.026 +646Cashless transactions= 87672 Currency Transaction Reports**

Reports received from the competent state authorities

Courts(contracts)**	14.457**		
Customs	333	**12**	
Post office	42		
Stock exchange market	215.403		
CDA	161.432		

****APMLTF possesses data base with verified copies of real estate sales contracts that are provided by courts**

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	*58.014 CTR	41														
Insurance Companies																
Notaries																
Currency Exchange																
Broker Companies	3	3														
Securities' Registrars																
Lawyers																
Accountants/Auditors																
Company Service Providers																
Car dealers	**199**															
Regal estate agents	338															
Organisers of games of chance	5															
		44		**148**		**38**										

*** Cash transactions 57.675 +339 Cashless transactions =58.014 Currency Transaction Reports**

Reports received from the competent state authorities

Courts (contracts)	8.887**		
Customs	387	**13**	
Post office	26		
Stock exchange markets	62.672		
CDA	79.859		

****APMLTF possesses data base with verified copies of real estate sales contracts that are provided by courts**

2009																
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	*34.743 CTR	48														
Insurance Companies																
Notaries																
Currency Exchange																
Broker Companies	7															
Securities' Registrars		2														
Lawyers		1														
Accountants/Auditors																
Company Service Providers																
Car dealers	**196**															
Real-estate agents	**356**	**1**														
Organisers of games of chance	192															
Total		**52**		**269**		**130**										

*** Cash transactions 34.702 +41*Cashless transaction =34.743 Currency Transaction Reports**

Reports received from the competent state authorities

Courts (contracts)**	3.888**		
CDA	53.663		
Customs	344	**38**	
Post office	5		
Stock exchange markets	33,262		
Department of Public Revenues		**1**	
Capital City Podgorica		**1**	
Analytics Department		**91**	
Anonymous tips			

****APMLTF possesses data base with verified copies of real estate sales contracts that are provided by courts**

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

2010															
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	33,787 CTR	63													
Insurance Companies		1													
Notaries															
Currency Exchange															
Broker Companies	3	1													
Securities' Registrars		3													
Lawyers															
Accountants/Auditors															
Car dealers	118														
Real-estate agents	310														
Organisers of games of chance	272														
Company Service Providers															
Others (please specify and if necessary add further rows)															
Total		**68**		**276**		**127**									

Reports received from the competent state authorities

	reports about transactions above threshold	reports about suspicious transactions	
		ML	**FT**
Courts (contracts)**	4,122		
CDA	17,545	-	
Customs	386	**15**	
Post office	5	-	
Department of Public Revenues		**2**	
APMLTF		**25**	
Stock exchange marker	5,277		
TOTAL		**42**	

****APMLTF possesses data base with verified copies of real estate sales contracts that are provided by court**

2011															
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	32,851	44													
Insurance Companies		1													
Notaries															
Currency Exchange															
Broker Companies	*														
Securities' Registrars		4													
Lawyers		1													
Accountants/Auditors															
Company Service Providers															
Car dealers	22														
Real-estate agents	301														
Organisers of games of chance	169														
Others (please specify and if necessary add further rows)															
Total		**50**		**285**		**125**	**2**								

***** some broker companies deliver APMLTF reports on cashless transactions, especially when the amount of the transaction is high, or the transaction is 'interesting' (gift – share in high amounts, 'interesting' persons…), as well as within the quarter reports

Reports received from the competent state authorities

	reports about transactions above threshold	reports about suspicious transactions	
		ML	**FT**
Courts (contracts)**	3,508	**-**	
CDA	12,444	**-**	
Customs	358	**14**	
Post office	5	**-**	
Department of Public Revenues		**-**	
APMLTF		**17**	
Others (report received by a judge)		**1**	
total		**32**	

**APMLTF possesses data base with verified copies of real estate sales contracts that are provided by courts

2.6.3 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	2007	2008	2009	2010	x.x.2011
Number of AML/CFT violations identified by the supervisor						**29**	**69**	**61**
Type of measure/sanction*								
Written warnings								
Fines						**€51.180,00**	**€44.185,00**	**-**
Removal of manager/compliance officer								
Withdrawal of license								
Other**								
Total amount of fines								
Number of sanctions taken to the court (where applicable)								
Number of final court orders								
Average time for finalising a court order								

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

Note: During 2009 and 2010 the requests for initiating first degree misdemeanour procedure were submitted to the person authorized for conducting first degree misdemeanour procedures (Department for conducting a first degree misdemeanour procedure was within the APMLTF). In November 2010 the Authorized person moved to another state authority. In February 2011 the new Rulebook on internal organization and systematization of APMLTF dissolved the Department for conducting a first degree misdemeanour procedure. According to the new Law on misdemeanours that entered into force on 1st September 2011, the requests for initiating first degree misdemeanour procedure are submitted to the District misdemeanour authorities.

3. Appendices

3.1. 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	
2.1 Criminalisation of Money Laundering (R.1 & 2)	• The money laundering offence as defined by the Criminal Code is basically sound, but it lacks further refinement; the current formulation of criminalised behaviour (conversion/transfer and concealment/disguise) is narrower than the requirements in the Vienna and Palermo Conventions and should be clarified in the Criminal Code. • The Criminal Code should be amended to clearly include insider trading and market manipulation offences as predicate offences for money laundering. • There is relatively strict regulation of extraterritoriality in the case of offences committed by persons who are not citizens of Montenegro against a foreign state. This also raises the question of inclusion of "all serious offences" in the predicate offences. This is subject to incriminations in those countries and if offences are not punishable with at least 5 years imprisonment, the offence would not be considered a predicate offence in Montenegro. Abolition of this limitation (5 years imprisonment) would prevent such situations.
2.2 Criminalisation of Terrorist Financing (SR.II)	• A definition of "funds", which includes "assets of every kind, whether tangible or intangible, movable or immovable, however, acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit." should be laid down in the Criminal Code. • The reference to specific criminal offences (terrorism, international terrorism and hostage taking) in Article 449 should be brought into line with the scope of the Terrorist Financing Convention and the Interpretive Note to SR II, as the scope which constitutes the criminal offence becomes narrower. Under Articles 365 and 447, only the acts, intended to *cause harm* (to the constitutional order of Montenegro, or the foreign state/international organisation) are criminalised, while the convention requires the incrimination of any acts of violence which purpose is to

	intimidate a population or *compel* a government or international institution (to do/to abstain from doing). • The Criminal Code should be amended to incorporate the incrimination of funding of terrorist organisations and individual terrorists. • The solution of relating the existence of the terrorist financing offence to specific criminal offences, found under other Articles of the CC is also appropriate (IN 6). Under current legislation, terrorist financing is only considered to be a criminal offence if funds are intended for one of three specific criminal offences (Terrorism, Article 365, International Terrorism, Article 447 and Hostage Taking, Article 448). A more flexible definition which would incriminate financing. Furthermore, there needs to be an offence introduced to cover cases when funds are not linked with a specific terrorist. • Article 449 of the Criminal Code should be brought into line with international standards.
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	• The Criminal Code should be amended to give a more comprehensive definition of "organised crime". • A reversal of the burden of proof regarding property subject to confiscation should be introduced. • A legal authority should be established to take steps to prevent or void actions where the person involved knew or should have known that the authorities would be prejudiced in their ability to recover property subject to confiscation
2.4 Freezing of funds used for terrorist financing (SR.III)	• A central authority at national level to examine, integrate and update the received lists of persons and entities suspected to be linked to international terrorism before sending them to the financial sector and DNFBP should be introduced. • A domestic mechanism to enact S/RES/1373 (2001) should be implemented to be able to designate terrorists at national level as well as to give effect to designations and requests for freezing assets from other countries. • Procedures for evaluating de-listing requests, for releasing funds or other assets of persons or entities erroneously subject to the freezing and for authorising resources pursuant to S/RES/1452 (2002) should be adopted. • Practical guidance to the financial institutions and DNFBP concerning their responsibilities under the freezing regime as well as for the reporting of suspicious transactions that may be linked to terrorism financing should be issued by the authorities.
2.5 The Financial Intelligence Unit and its functions (R.26)	• Specific criteria should be developed indicating the competent authority to receive the notification from APMLTF which normally starts an investigation. • APMLTF should take into consideration the necessity of expanding their direct access to other authorities' databases. • An updated List of Suspicious Transactions Indicators

	should be issued and regularly updated. • a register on reporting entities to be supervised by APMLTF should be maintained. • APMLTF should be staffed sufficiently to supervise the very large number of reporting entities. • The prohibition for the dissemination of information received by APMLTF's employees, after cessation of working, should be an explicit provision in the law without any time limit.
2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)	• The Prosecution Authority should implement a rigorous supervision mechanism in order to avoid unnecessarily returning cases to Police Administration, which may lead to a negative impact on the effectiveness of the system. • The special investigative techniques should be extended to all forms of money laundering to enable law enforcement authorities to ensure a proper investigation. • All law enforcement authorities should continue to strengthen inter-agency AML/CFT training programmes in order to have specialised financial investigators and experts at their disposal. • Further steps need to be taken to eradicate the perception of corruption in law enforcement bodies.
2.7 Cross Border Declaration & Disclosure	• The Customs Administration should be given clear powers to stop individuals and restrain currency in all circumstances. • The Customs Administration should have the legal authority to restrain currency in cases of an administrative offence. • The Customs Administration should take into consideration a system to use reports on currency declaration in order to identify money launderers and terrorists. • The administrative sanctions for false declarations or non-declared currency should be raised considerably. Taking into account the low chance of detection, the fines are not considered to be dissuasive or effective. • In order to increase its effectiveness, the Customs Administration should hire more specialised staff to deal with money laundering and terrorist financing cross-border transportation of currency.
3. Preventive Measures – Financial Institutions	
Risk of money laundering or terrorist financing	
3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)	• It is the view of the evaluators that the wording of the second point under Article 9 is too precise and could be interpreted to read that only transactions of exactly €15,000 require CDD. The evaluators consider that **"or more"** should be added in Article 9, Paragraph 1 number 2 in the LPMLTF. • The LPMLTF should be amended to require CDD to be

	conducted on wire transactions of €1,000 or more. • The LPMLTF should be amended to require obligors to verify that persons purporting to act on behalf of a customer have the authority to act on behalf of the customer. Article 15 of the LPMLTF should be amended to require the obtaining of copies of the document regulating the power to bind the legal person or arrangement. • The problem of reliance on certificates from the commercial register for CDD purposes should be addressed by establishing procedures to address the limitations of the commercial register. • Article 29.4 of the LPMLTF appears to go further than intended by Criteria 5.9 in that it permits simplified customer verification in respect of customers to "whom an insignificant risk of money laundering or terrorist financing is related" which could include a broader range of customers than those envisaged in Criteria 5.9. Article 29.4 should be amended to bring it into line with the essential criteria. • The FATF definition ("*Beneficial owner* refers to the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.") should be incorporated into the LPMLTF and a requirement to identify and verify the "ultimate" beneficial owner should be included. • Article 25 of the LPMLTF is very specific and does not cover a number of the specified categories as set out in Criteria 5.8, namely all non-resident customers, private banking, legal persons or arrangements such as trusts that are personal assets holding vehicles and companies that have nominee shareholders or shares in bearer form. The evaluators consider that the LPMLTF should be amended to fully reflect all of the categories in Criteria 5.8. • Risk guidelines in accordance with Criteria 5.12 should be completed and published. • A specific clause should be inserted into the LPMLTF requiring obligors to consider making a suspicious transaction report in circumstances where they have been unable to conduct satisfactory CDD. Likewise there should also be a clause requiring obligors to terminate a business relationship in circumstances where they have been unable to conduct satisfactory CDD. This is particularly relevant in circumstances where CDD has not been possible for existing customers where there are one or more linked transactions amounting to €15,000, etc.. • There needs to be a specific requirement for obligors to assess and consider the risks of technological developments as part of their risk analysis. This should also be introduced in the guidelines to be produced by the supervisory bodies.

	• It is the view of the evaluators that the requirements of Criteria 5.17 are essentially met although the wording of the first point above is too precise and could be interpreted to read that only transactions of exactly €15,000 require CDD. Furthermore, the requirement is for CDD to be conducted when "a transaction of significance takes place." and in the context of Criteria 5.17 it is considered that this is more appropriate wording. Overall the evaluators consider that a separate clause should be inserted into the LPMLTF to specifically deal with the issue of CDD on existing customers. • The lack of awareness as regards PEPS and the consequent lack of proper procedures to address the risk should be addressed through proper training to be followed by the establishment of adequate procedures to address this risk. • Article 25 of the LPMLTF should be amended to extend the requirement to all cross-border correspondent banking and other similar relationships. • A requirement for financial institutions to have policies and procedures to address the risk of misuse of technological developments in ML/TF schemes should be introduced. • Regulations should clearly establish the obligation to obtain information on the purpose and intended nature of the business relationship for non-face to face business.
3.3 Third parties and introduced business (R.9)	• The Montenegrin authorities should consider amending legislation to specifically prohibit financial institutions from relying on intermediaries or other third parties to perform specified elements of the CDD process.
3.4 Financial institution secrecy or confidentiality (R.4)	
3.5 Record keeping and wire transfer rules (R.10 & SR.VII)	• There is no requirement that transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity in accordance with the requirements of essential criteria 10.1.1. The LPMLTF should be amended to take this requirement into account. • The requirements of Special Recommendation VII should be incorporated into the legislation of Montenegro.
3.6 Monitoring of transactions and relationships (R.11 & 21)	• Financial institutions should be required to examine as far as possible the background and purpose of unusual transactions. Enforceable requirements to set forth the finding of such examinations in writing should equally be provided. In addition specific enforceable requirement should be put in place for financial institutions to keep such findings available for authorities and auditors for at least five years. • Financial institutions should be required to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently

	apply the FATF recommendations. Effective measures should be put in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries and consideration should be given to the development of appropriate countermeasures as set out in the essential criteria to Recommendation 21.
3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	• The reporting obligation should be extended to include money laundering reporting obligations if the transaction has already been performed. • The Book of Rules, should be endorsed in law with sanctions for breaches in order to become "other enforceable means". • A provision should be introduced to ensure that the names and personal details of staff of financial institutions that make a STR are kept confidential by APMLTF. • APMLTF should provide regular general feedback to all obligors which should contain: (a) statistics on the number of disclosures, with appropriate breakdowns, and on the results of the disclosures; (b) information on current techniques, methods and trends (typologies); and (c) sanitised examples of actual money laundering cases.
3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)	• Requirements should be developed that require financial institutions to put in place screening procedures to ensure high standards when hiring employees. • The inspection procedures that have been introduced by the Central Bank should be adopted by other financial services supervisors.
3.9 Shell banks (R.18)	
3.10 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)	• Although APMLTF provides general information on criteria for detection of suspicious activity as required in the LPMLTF guidelines referring to specific AML/CFT risk factors and measures to mitigate such risks should also be provided. • Typologies should be developed and presented to reporting entities. • There is a need to provide more guidance on AML/CFT issues, with particular focus on the non-banking sector.
3.11 Money value transfer services (SR.VI)	• The requirements of Special Recommendation VI need to be implemented. • The Montenegrin authorities should introduce legislation to enforce the licensing/registration of all MVT service providers together with appropriate sanctions.
4. Preventive Measures – Non-Financial Businesses and Professions	
4.1 Customer due diligence and record-keeping (R.12)	• Trust and Company Service Providers should be designated as obliged parties. • For casinos, CDD should be required above the €3,000

	threshold. • There should be a clear requirement for casinos to link the incoming customers to individual transactions. • Effective systems for monitoring and ensuring compliance with CDD requirements across most of the DNFBP sectors need to be developed. • DNFBPs need to be made aware of their obligations regarding PEPs. Specific guidelines, aimed at DNFBPs should be developed. It is also recommended that a training programme be undertaken concerning the risks and controls necessary concerning dealings with politically exposed persons. • A requirement should be introduced for DNFBPs to have policies in place to prevent the misuse of technological developments in ML/TF. • More attention need to be given to raising awareness and enforcing compliance in casinos
4.2 Suspicious transaction reporting (R.16)	• The obligation to report suspicious transactions that have been performed should be explicitly provided for in either law or regulation. • A prohibition against tipping off should be made specifically applicable to lawyers. • More targeted training to sectors that pose the greatest risk should be considered.
4.3 Regulation, supervision and monitoring (R.24-25)	• A comprehensive register of all reporting entities should be developed by APMLTF. • Guidelines to assist DNFBPs in implementing and complying with respective AML/CFT requirements are, at should be developed. Adequate and appropriate feedback on suspicious transaction reporting for DNFBPs should be provided.
4.4 Other non-financial businesses and professions (R.20)	• Montenegro has extended its AML/CFT obligations to other non-financial businesses, however, a regulatory and supervisory framework needs to be developed to ensure that FATF Recommendations 5, 6, 8 to 11, 13 to 15, 17 and 21 are being adhered to by these non-financial businesses. • A risk analysis to determine which other non-financial businesses and professions are at greatest risk of being misused for money laundering and/or terrorist financing should be undertaken. Based upon the results of such analysis, the authorities of Montenegro should direct priority outreach and educational efforts to those other non-financial businesses at the highest levels of risk.
5. Legal Persons and Arrangements & Non-Profit Organisations	
5.1 Legal Persons – Access to beneficial ownership and control information (R.33)	• The acquisition of information on beneficial owners by the agencies and institutions which deal with clients form abroad seems to be less effective. Considering the very

	intensive involvement of foreign legal entities on the Montenegrin real-estate market and rather poor information on beneficial ownership in such entities, this might present a considerable risk of abuse of such legal entities for money laundering and terrorist financing and it is recommended that financial institutions and DNFBPs be reminded to apply the same standards to overseas customers as to domestic. • Consideration should be given to the risk of foreign bearer shares being sold in Montenegro.
5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)	
5.3 Non-profit organisations (SR.VIII)	• Montenegro should conduct a review of the adequacy of its legal framework that relates to NPOs that can be abused for terrorism financing. • Montenegro should implement measures to ensure that terrorist organisations cannot pose as legitimate NPOs. • Montenegro should also reach out to the NPO sector with a view to protecting the sector from terrorist financing abuse. This outreach should include i) raising awareness in the NPO sector about the risks of terrorist abuse and the available measures to protect against such abuse; and ii) promoting transparency, accountability, integrity, and public confidence in the administration and management of all NPOs. • Montenegro should take more proactive steps to promote effective supervision or monitoring of NPOs. Authorities should ensure that detailed information on the administration and management of NPOs are available during the course of an investigation or on request internationally. Montenegro should also implement effective sanctions for violations of oversight measures or rules by NPOs or persons acting on behalf of NPOs.
6. National and International Co-operation	
6.1 National co-operation and coordination (R.31)	• Formal arrangements for co-operation between policy makers, FIU, law enforcement and supervisory bodies at a strategic level for AML/CFT should be developed. • At the operational level, the evaluators recommend that additional formal agreements be concluded in order to define the type of information to be exchanged, timeliness of the exchange, the names of contact person, etc.. The Montenegrin authorities should aim to continue interdepartmental coordination and to release periodically analysis which will enable them to develop and implement policies and activities to combat money laundering and terrorist financing at a national level. • The evaluators recommend that the Montenegrin authorities

	review periodically the performance of the system as a whole against some key strategic performance indicators and review, collectively, as much as possible, the available statistical information to better carry out each agency's task and enhance AML/CFT framework.
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	• As was already stated under 2.1 above, the incrimination of money laundering is limited to actions, defined as "business operations", which is narrower than the convention and this formulation should be further refined. • Laws and mechanisms for immediate freezing of the funds belonging to or intended for the designated terrorist organisations or individuals as defined by Resolution S/RES/1267 (1999) should be put in place.
6.3 Mutual Legal Assistance (R.36-38 & SR.V)	• With regard to financing of terrorism there are more problems present. Besides the narrower definitions of the financing of terrorism offence, the main shortcoming is inadequate implementation of UN Resolutions, primarily S/RES/1267 (1999). Regarding the incrimination of terrorist financing, the most important outstanding issues are: existing limitation of criminalisation on financing to concrete terrorist offences and, linked to that, inability of the present definition of criminal offence to also include the funds intentioned for terrorist organisations or individual terrorists. • Laws and mechanisms for immediate freezing of the funds belonging to or intended for the designated terrorist organisations or individuals as defined by Resolution S/RES/1267 (1999) should be put in place. • An asset forfeiture fund should be established.
6.4 Extradition (R.39, 37 & SR.V)	
6.5 Other Forms of Co-operation (R.40 & SR.V)	
7. Other Issues	
7.1 Resources and statistics (R. 30 & 32)	• APMLTF needs to enhance the training for its own staff and for reporting entities, in order to increase the awareness and understanding of money laundering and terrorism financing schemes which may be used • There is a need ensure that an international training programme on money laundering and terrorism financing issues is created and implemented. • The evaluators were concerned that there were not sufficient staff in APMLTF to supervise the very large number of reporting entities and recommend that the staff level be raised. • Clear comprehensive and well-structured statistics should be kept systematically. Such statistics should differentiate the amounts of assets, types of measures, duration of measures

	and primarily request/imposition ratio, etc.. These statistics should then be utilised to measure the effectiveness of the system of confiscation, freezing and seizing of proceeds of crime.
7.2 Other relevant AML/CFT measures or issues	
7.3 General framework – structural issues	

3.2. APPENDIX II – Relevent EU texts

Excerpt from Directive 2005/60/EC of the European Parliament and of the Council, formally adopted 20 September 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing

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;
Excerpt from 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 procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

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