

Strasbourg, 15 December 2020

C198-COP(2020)8

CONFERENCE OF THE PARTIES

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

12th meeting, Strasbourg, 27-28 October 2020

MEETING REPORT

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

SUMMARY ACCOUNT OF THE PROCEEDINGS

1. The Conference of the Parties to the Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS no. 198, hereafter: 'the Convention') held its twelfth meeting in Strasbourg, from 27 to 28 October 2020, under the Chairmanship of its President Mr Ioannis Androulakis (Greece). The agenda of the meeting, the decisions taken and the list of participants are annexed to the present report.

This report summarises the discussions on each agenda item and the decisions made by the plenary.

Opening of the Meeting

The President opened the meeting and welcomed the participants. All State Parties to the Convention were present apart from Denmark and UK. Denmark apologized beforehand for not being in a position to take part.

The President, together with the COP Executive Secretary, highlighted specific circumstances (i.e. Covid-19 pandemic) as a direct reason for having the meeting in a hybrid format which also impacted the duration of the meeting (limitation to 5 hours per day – from 9.30 to 12.00am and from 14.00 to 16.30pm).

Due to these circumstances the agenda was restricted to items requiring plenary's decision.

In addition, the President informed the plenary that the term of the office for some Bureau members expires this year, but the circumstances do not allow to carry out elections as foreseen. In view of these, the President suggested to prolong the term of office of the current Bureau members for one more year. The suggestion was accepted unanimously (see item 1 in the list of decisions, doc. C198- COP (2020)LP1prov).

Item 1. Adoption of the Agenda

The agenda was adopted with one adjustment in the order of items - agenda items 8 and 9 were switched with a view to hear the presentation on the ECtHR case Phillips vs UK immediately after discussion on Thematic Monitoring Report on Art.3(4) on reversal of burden of proof in confiscation procedures.

Item 2. Statement by Mr. Gianluca Esposito

This agenda item was deleted due to the unavailability of Mr. Esposito

Item 3. Communication by the President

3. The President welcomed the delegation of Lithuania, whose country ratified the Convention in August 2020. He also informed the plenary that Austria would ratify the Convention on 1 November 2020 and thus its delegation will be invited to take part in the next plenary meeting.
4. Both Lithuania and Austria, in line with the Rule 19 of the Rules of Procedure (RoP), will be subject to a horizontal review on those articles of the Convention covered in years 2018 – 2020: articles 11, 25 (paragraphs 2-3); 9 (3); 14; 3(4); and 7 (2c)/19(1).

5. The President also briefed the plenary about the Bureau meeting held on 26 October 2020, which discussed the agenda items and related documents prepared for this plenary.

As a part the recent communication with MONEYVAL President, the President pointed out the importance of the joint statement made with regard to the recent media reports known as FinCENen files disclosure. The joint statement of 22 September was then read out in its wording - it reiterates the importance of compliance with the AML /CFT Standards and puts emphasis on added value of Article 14 of the Warsaw Convention which refers to postponement of suspicious transactions. The joint statement was published on both COP198 and Moneyval websites.

6. The President also informed the Plenary on the discussions held by Bureau concerning the articles suggested for 2021 horizontal review. The Bureau proposed Art. 10, paragraphs 1 and 2 (corporate liability) for the next thematic review. Plenary agreed with this proposal. The President then invited delegations to put forward the candidacies for rapporteurs who would, together with the Secretariat, prepare the draft report.
7. Last but not least, the President informed that the UK delegation had not replied to the Questionnaire on Art. 7(2c)/19(1) and 3(4) although it had been approached several times by the Secretariat. He said that this issue would be further discussed in the context of the agenda item 9 on amendments to the Rules of Procedure (RoP).

Item 4. Communication by the Executive Secretary

8. The Executive Secretary informed the COP about his correspondence with Lithuania and Austria in relation to their accession to the Convention. Both countries have already made declarations and reservations which could also be seen in the revised Reservations and Declarations document distributed before the plenary. Lithuania was also invited to fill in the mutual legal assistance template, while Austria will be invited to do so immediately after the Convention enters into force in this jurisdiction (1 November 2020).
9. He further informed about FATF Plenary sessions in June and October 2020, in which the Secretariat participated virtually.
10. The Executive Secretary also informed about the contacts at the level of the Council of Europe with Morocco on their possible accession to the Convention. In addition, he informed the plenary of a recent presentation on Warsaw Convention delivered by Bureau member, Ms Ani Goyunyan, in Uzbekistan.
11. With regard to the silent procedure, the Executive Secretary confirmed that all documents were adopted as sent. This includes selected follow up procedure for Sweden, Croatia and Bulgaria and revisions to the Reservations and Declarations document. No cases of practical implementation of the Convention were received.
12. The meeting report of the 11th Plenary was also adopted by way of silent procedure, the one for the 12th Plenary will be treated likewise.
13. The Executive Secretary also announced that the proposal for changes in the RoP concerns the follow-up process and reiterated that it would be discussed in more details under the agenda item which covers this issue.

Item 5. Presentation of the transversal thematic monitoring of the implementation of the Convention by the State Parties: Art. 7 (2c) / 19(1)

14. The President thanked the Secretariat and the rapporteur, Mrs. Ewa Szwaraska-Zabuska (Chief Specialist of the Polish FIU), for their extensive and good quality work pointing out that all States Parties had submitted their inputs for this report, apart from the UK.
15. The rapporteur introduced the report (C198-COP (2020)1 prov2, Art.7-2 & 19-1) and its general features, putting emphasis on added value which Art.7(2c) and 19(1) brings in combating ML/FT. She also thanked the Secretariat and the Scientific Expert for support given during the process.
16. Following the introductory remarks by the rapporteur, States Parties were invited to provide their comments.
17. Italy asked for the floor and clarified that monitoring of banking transactions is possible in their jurisdiction for all crimes listed in the Appendix of the Convention, requesting that this fact is properly reflected in the report. The rapporteur and the President concluded that although no case law was received to confirm this statement, examples and explanation provided at the plenary were sufficient to trigger changes in the report. Italy was recommended to continue developing its case law. Consequently, changes in the general part of the report concerning Italy's application of these articles were made accordingly.
18. COP scientific expert, Mr Paolo Constanzo, stressed the need of consistent approach when analysing the application of Art.7(2c) across countries. Art.7(2c) primarily deals with a special investigative mean which is to be applied by LEAs predominantly. He also agreed with the proposed changes for the parts of the report covering Italy.
19. Turkey argued that its Criminal Procedure Code (CPC) gives power to prosecutors to collect any type of information and disagreed that there is a need for an explicit reference on monitoring of banking operations. Non explicit indication of this particular measure in the legislation does not mean that it is not possible to apply the monitoring of banking operations. However, the jurisdiction does not have a relevant case law on application of this measure. Turkey also requested some amendments in the text concerning the scope of the CPC and the competence of the FIU (MASAK) to request all kinds of information from public institutions.
20. The rapporteur stressed that information provided Turkey had already been reviewed given that similar comments were sent in writing prior to the Plenary. Having only a general provision without cases of application in practice is not deemed sufficient to consider that jurisdiction is compliant with Art.7(2c) requirements. Monitoring of bank accounts is not a simple investigative measure and may run against individual rights like data protection and privacy. Therefore, it needs special requirements to be fulfilled as laid down in Art.7 provisions. The chapter concerning Turkey thus could not be amended.
21. Romania stressed that it has an "all-crime-approach", thus covering all crimes listed in the Appendix. The delegation asked this to be clarified in the chapter concerning Romania. The text was then amended accordingly.
22. Bulgaria raised some legislative issues which were mostly of technical nature concerning the monitoring of banking operations once there is a suspicion on ML/FT and/or proceeds of crime are involved. Upon intervention by the scientific expert it was clarified in the text that in Bulgaria it was not possible to apply the measure foreseen by Art.7(2c) by LEAs for purposes of seizure

and confiscation. Bulgaria was then recommended to extend the application of monitoring of banking operations in this respect.

23. Bosnia and Herzegovina informed the Plenary that their government established a working group to discuss ML/TF with a view to elaborate actions on amend the legal framework. The group will take into account the recommendations made in the COP report.
24. North Macedonia also informed the Plenary on their preparatory work on amendments to the AML/CFT law, which will include the requirements of Art.19(1). Consequently, the chapter on North Macedonia was amended accordingly. It was also agreed to delete a sentence in the conclusions indicating the limitation of monitoring of banking activities to ML/TF cases.
25. Portugal's request for amendment of the conclusions part of their country's specific analysis was also approved given the arguments put forward by the delegation. The delegation explained how the legislation covers all the offences from the Appendix when it concerns the application of monitoring of banking operations.
26. Russian Federation also requested amendments in the text in relation to Art 19(1). It was agreed to insert the wording "*it appears uncertain whether this measure could be applied upon request of another State Party*" in the chapter covering Russia.
27. Slovakia clarified that despite a declaration made under Art. 53 of the Convention, the country is in a position, under current legislation, to cooperate internationally with regard to monitoring of banking operations. As a matter of fact this cooperation does not take place under the umbrella of Warsaw Convention. If Slovakia is about to amend its legislation, then the report should specify how this should be done.

The Plenary then agreed to amend the conclusions and recommendations part for Slovakia indicating that "*The country is encouraged to consider if the declaration is still necessary and in case of a finding that it is not, to consider amending its legislation as appropriate.*"

28. Monaco's requested that the report clearly indicates that the country aims to amend the legislation in line with the recommendations made in this report. This request was approved and changes were incorporated in line with this suggestion.
29. Ukraine provided certain clarifications of a technical nature concerning the competence and scope of measures entrusted to the National Anti-corruption Bureau of Ukraine (NABU) with regard to monitoring of banking operations. The scientific expert and the rapporteur pointed out that Art.7(2c) has much broader scope than what the legislation in Ukraine foresees. In other words, the scope of the offences covered by the Convention and its Appendix is broader than the one in Ukraine which is limited to those considered to be 'corruption related'. Therefore, a respective recommendation was inserted in the conclusions part. Further technical adjustments in the text on Art. 19(1) were also made.

The country informed the Plenary that a new AML/CFT Law was recently enforced covering a broad scope of offences which may be subject to monitoring of banking operations as well as the related international cooperation. The plenary invited Ukraine to provide details of the new legislation and its relevance vis-à-vis Art.7(2c)/19(1) during the follow-up- procedure.

30. Greece suggested an amendment in paragraph 12 of the general part to better clarify that recommended actions aim to increase the effectiveness. The proposal was approved and text was amended.
31. Slovenia asked for a clarification in the conclusion part which concerns its application of Art.19(1). The country provided a text of the law which concerns the situations when MLA requests are received by either State Parties to the Convention or EU Member States. The Plenary approved the proposal and amended the text accordingly.
32. The request of France to consider that a general provision is sufficient to allow for monitoring of banking operations was then considered. Similarly to what was concluded for Turkey, absence of the case law did not allow the rapporteurs to conclude that France applies this article of the convention.
33. The Netherlands agreed with the analysis of its legislation and practical application of the monitoring of banking operations but explained, with regard to Art.19(1), how the country may provide assistance to all COP State Parties. This part of the analysis was then amended.
34. Azerbaijan did not object the analysis and clarified that Art. 7(2c) was applicable to all crimes. The country was then deleted from the list in paragraph 21c) of the general part.
35. Croatia also explained that the scope of application of measures under Art.19(1) is not restricted to EU MS only. The text was then revised accordingly.
36. There were no other requests for the floor. No party objected the adoption of the report. The President then concluded that the report is adopted by the plenary, as amended during the discussion.

Item 6. Amendments to the 2018 and 2019 thematic monitoring reports following the ratification by Monaco and inputs received by the Russian Federation

37. The Secretariat presented its analysis and amendments to the Thematic Monitoring reports of 2018 and 2019 following the accession of Monaco in 2019 and inputs received by the Russian Federation. In line with the Rule 19bis of the RoP, the amendments covering Monaco concerned the country's application of Art. 11 and 25 (2 and 3) as well as Art.9 (3) and 14. For the Russian Federation, the analysis concerned country's application of Art.9(3) and 14 due to the late submissions of their responses to the 2019 thematic monitoring questionnaire.
38. Monaco, Art. 11: the analysis of Monegasque legislation confirms that the authorities of this State Party are in position to apply international recidivism. On the other hand, the analysis states that the list of offences for which the international recidivism is applicable (as per their Penal Code) does not include all the offences covered by the Appendix to the Convention. Whilst, in general, Monaco applies Article 11, the authorities are invited to consider extending the list of offences in their Penal Code for which the international recidivism should be applied.

Art.25 (2 and 3): the analysis confirms that asset sharing for the purpose of victim compensation or return of the property to the legitimate owner is possible upon the request of another Party, and as long as Monaco and the Party concerned conclude an agreement on this matter. Monaco also demonstrated that it can conclude and enforce asset sharing agreements – relevant examples of such practice were provided by the jurisdiction. Overall, the conclusion is that Monaco applies

Article 25 (2 and 3), whilst the authorities are invited to continue with good practice and further develop jurisprudence in this matter.

Art. 9(3): the Monegasque authorities argued that Article 218-2 of their Penal Code introduces the offense of “negligent laundering”. The analysis, however, concludes that this article of the Penal Code rather applies Article 9(1d) of the Convention, than that it introduces the negligent money laundering. Given the language of the Monegasque Penal Code, money laundering is an intentional offence (Article 218 of the Penal Code). Whereas a lesser mental element is required for those who ‘*by disregarding their professional duties*’ assist in committing the ML offence, this provision does not introduce that the ML can be committed if an offender suspected or ought to have known the illicit origin of the proceeds. The Monegasque authorities are therefore recommended to consider providing for a lesser mental element of either suspicion, negligence or both, that property is proceeds of crime in the context of the ML offence.

Art.14: legislation and statistics provided by Monaco confirm that the Monegasque FIU has acquired the competence to suspend a suspicious transaction, for which no underlying STR is required. The suspension may last for a period no longer than 5 working days. In view of that, it is concluded that Monaco applies Article 14 of the Convention.

39. Russian Federation, Art. 9(3): legislation provides that the ML offense is committed only in cases where knowledge is ascertained. Part One of Article 174 of the Criminal Code of the Russian Federation establishes a ML offense as financial transaction and/or other deals with money and other property which are knowingly acquired by other persons in a criminal way for the purpose of bringing the appearance of legality to the possession, use and disposal of the said amounts of money and other property. Thus, this article implies precise, reliable rather than presumptive knowledge by the person that the property involved in the transaction was acquired by criminal means. Therefore, the conclusion is that the Russian Federation has not transposed measures of Article 9(3) of the Convention in its domestic legislation. The Russian authorities are therefore recommended to consider providing for a lesser mental element of either suspicion, negligence or both that property is proceeds of crime in the context of the money laundering offence.

Art. 14: The Russian authorities, in their responses to the questionnaire referred to Article 7(10) of the AML/CFT Act which creates an obligation for the organisations that work with monetary funds or other assets to suspend the operations for five working days if at least one party of the transaction is directly or indirectly owned or controlled by the natural or legal person whose assets were frozen or if a natural person from the terrorists list is performing operations with monetary funds or other assets. In addition, the organisations that work with monetary funds or other assets are obliged to provide information on suspended operations to the national FIU immediately after the suspension.

The analysis, however, do not find that these provisions target the principles embedded in Article 14. Article 14 states that the FIU or other competent authorities are permitted to take urgent measures when there is a suspicion that a transaction is related to money laundering and/or terrorism financing, to suspend or withhold consent to a transaction going ahead in order to analyse the transaction and confirm the suspicion. The authorities also argued that a court may order suspension of operations on bank accounts and other operations with monetary funds or other assets of the natural or legal person if there is a legally obtained information on its involvement in extremist activity, terrorism or proliferation of weapons of mass destruction or if its directly or indirectly owned or controlled by the natural or legal person involved in such activity. Again, these provisions do not concern suspicion on ML and a possibility to undertake urgent action and suspend transaction in order to analyse it.

In view of these, it is concluded that the legal framework of the Russian Federation does not provide specific provisions which address the requirements of Article 14. The Russian authorities are therefore invited to adopt measures which would enable the FIU or other competent authorities to take urgent measures when there is a suspicion that a transaction is related to money laundering, to suspend or withhold consent to a transaction going ahead in order to analyse the transaction and confirm the suspicion.

40. The follow up discussion by the plenary that followed the Secretariat presentation, centred mainly around the mental element to commit ML required by the offender, who in accordance with Art. 9(3) either should have suspected or ought to have assumed that the property was proceeds.
41. Responding to Monegasque delegation request to further clarify how their legislation fail to comply with Art.9(3) of the Convention, the President asked Monaco to provide case law demonstrating that two elements referred in Art.9(3) were considered sufficient to pursue ML prosecution. Monaco delegation agreed to further review its case law and provide relevant cases in the follow up procedure.
42. With regard to comments made by the Russian delegation which were reiterating arguments put forward in their responses to the questionnaire, the Secretariat and the President agreed to fine tune the language of the conclusions and recommended actions so that it provides better guidance to the Russian authorities how to better apply the relevant provisions of the Warsaw Convention. Given the explicit request by the Russian delegation to discuss findings of the 2018 Horizontal Reviews on Art. 11 and 25 (2 and 3) of the Convention, the President and the Secretariat informed that that was not possible given that these reports were already discussed and adopted but proposed the plenary to approve a selected follow up procedure for the Russian Federation. The plenary agreed with the proposal and the Russian Federation was invited to prepare their inputs on these articles for the next regular plenary meeting.
43. The Netherlands and the scientific expert pointed out, that in last year's discussion it was envisaged to consider the issues related to negligent ML (i.e. Art.9(3) of the Convention) and to prepare an interpretative note on it. The Secretariat informed that this is the work in progress and that the draft note will be issued soon after this plenary meeting. The Plenary agreed that this issue should be discussed and analysed at an extraordinary virtual plenary meeting scheduled for May 2021.

Item7. Presentation of the transversal thematic monitoring of the implementation of the Convention by the States Parties: Article 3(4)

44. The rapporteur, Ms Ana Boskovic, presented the key findings of the report on Art. 3(4) which discusses the reversal of the burden of proof in confiscation procedures. Her presentation mostly focused on general parts of the report, including the Explanatory Memorandum to the Convention and Interpretative Notes adopted by the Conference in 2017.
45. State Parties were then invited to comment on general and specific parts of the report. Hungary pointed out that the approach undertaken by the rapporteur is not in line with the Explanatory Memorandum to the Convention. In their view, the approach undertaken in paragraph 17 to assess whether Art.3(4) is applicable for all offences listed in the Appendix to the Convention, is incorrect. The delegations referred to paragraph 71 of the Explanatory Memorandum to the Convention which states that '*the definition of the notion of serious offence for the purpose of the*

implementation of this provision is left to the internal law of the Parties. This possibility is however subordinate to the fact that it is compatible with the internal law of the Party concerned. The conclusion of the Party on this issue shall not be challenged in the course of the monitoring procedure. Consequently, the delegation asked that the part on Hungary as well as the general part should be duly amended.

46. The rapporteur responded that both, the Explanatory Memorandum (including its paragraph 310) and the Interpretative Notes (its part on Article 3(4)) clearly indicate that the Appendix should be taken into account when assessing the application of this provision. President and the Executive Secretary of the COP supported the views of the rapporteur reminding the plenary that the Interpretative Notes were adopted by the COP in 2017.
47. A number of delegations (Slovakia, Portugal, Monaco) and the scientific expert expressed some degree of sympathy for the concerns and interpretation of Hungary. Since no consensus could have been reached on this issue, the President concluded that, at the moment, the adoption of the report on Art. 3(4) has to be postponed given the fundamental importance of the issue raised. It was therefore decided to carry out further research and discuss the matter at the May 2021 extraordinary plenary.
48. Further requests by other delegations (Croatia, Georgia, Italy, Latvia) for amendments in parts which cover the analysis of their legislation and practice with regard to Art.3(4) were inserted in the report although its adoption is yet to take place.
49. The report will be re-discussed with a view to adopt it in May 2021.

Item 8. Case of Phillips v. the United Kingdom, Presentation by the ECtHR

50. Ms Pamela McCormick (ECtHR) presented the case, which was decided in July 2001 and adopted by majority decision with 2 dissenting votes. This case was referred in the Explanatory report of the Warsaw Convention, in the parts covering Art.3(4).
51. In the case of Phillips v. the United Kingdom of 5 July 2001, the ECtHR “*considers that, in addition to being specifically mentioned in Article 6§2, a person’s right in a criminal case to be presumed innocent and to require the prosecution to bear the onus of proving the allegations against him/her forms part of the general notion of a fair hearing under Article 6 §1. This right is not, however, absolute since presumptions of fact or of law operate in every criminal-law system and are not prohibited in principle by the Convention, as long as States remain within certain limits, taking into account the importance of what is at stake and maintaining the rights of the defense.*” In the Phillips case the statutory assumption was not applied in order to facilitate finding the offender guilty of a drug trafficking offence, but to enable the court to assess the amount at which a confiscation order should be properly fixed after a drug trafficking conviction. The ECtHR held that the use of statutory assumptions with proper safeguards (which it found to be in place), in such circumstances, did not violate the ECHR or Protocol No.1 to it.
52. The representative of the ECtHR pointed out that currently there are still some cases pending on the question whether or not confiscation can be exercised up to the full amount even if it is not proven that the full amount originates from one or more illicit proceeds.
53. The Plenary took note on the presentation of Ms McCormick. There were no questions or comments raised on the issue.

Item 9. Review of the Rules of Procedure

54. Further to what had been sent to the Parties prior to the plenary meeting (i.e. revised Rules of Procedure which, inter alia, streamline follow up procedures), several other interventions were made to respond to some challenges such as having virtual plenaries and election of Bureau members in times when specific circumstances occur (such as COVID-19 pandemic). The plenary also agreed to include in the RoP that the Conference should hold one physical plenary meeting per year (Rule 7, paragraph 1).
55. The extension of the term of office of the Bureau members due to exceptional circumstances, as decided by the Plenary, was inserted into the text under Rule 4, para 3.
56. Rule 12 para 3, which regulates the use of information technologies, was amended and a new sentence was inserted, reading: “*Throughout all the activities carried out for the purposes of the conference information technology should be used as appropriate under the circumstances.*” Correspondingly former regulations on information technologies under Rules 7, 8 and 9 were deleted.
57. Given the situation with the UK with regard to 2020 thematic monitoring reports, Rule 19bis, para 10, was amended and now also refers to a situation when not only insufficient but also no information is provided by a State Party.
58. The follow-up procedure was further streamlined - a new text was formulated in Rule 19bis, para 20, providing - *inter alia* – for the follow-up procedure upon decision of the Plenary if the State Party specifically asks for it.
59. Changes are now included in Rule 19bis, paragraph 25 which concerns the follow up process. The new wording introduces the situation where (i) a repeated failure to implement a provision of the Convention which was a subject to thematic monitoring, and (ii) a failure to return the completed questionnaire, may trigger several measures to be undertaken by the Conference. These include (i) a letter to the Head of Delegation and the Permanent Representative of the Party; if that step does not bring results then (ii) the Secretary General of the Council of Europe is invited to write a letter to the competent Minister of the State Party. Further to this (iii) a high-level mission and/or technical on-site visit in the State Party concerned may take place with a view to preparing a report on implementation of the relevant provisions of the Convention. Ultimately (iv) a public statement on Party’s failure to implement the Convention may be issued on the website of the Conference of the Parties.
60. Following to the adoption of these amendments, the Plenary agreed that the President of the COP should address the letter to the UK Head of Delegation and the Permanent Representation of the country to the Council of Europe, as foreseen by the revised Rules.

Miscellaneous

61. The President announced that two State Parties had already proposed candidates for the rapporteurs for the next year thematic horizontal review on Art. 10 (1 and 2) of the Convention. The plenary confirmed that Mr. Johnathan Phyll (Malta) and Ms. Hasmik Musikjan (Armenia) should act as rapporteurs for next year’s thematic horizontal review.

62. The request of Slovakia to continue with a work already initiated on virtual assets was also approved – the draft questionnaire on virtual assets, which was planned to be discussed at the 12th plenary, will be circulated immediately for comments to delegations on format and content of the questionnaire. The finalisation of the questionnaire is thus scheduled for extraordinary Plenary session in May 2021.
63. The list of decisions was distributed to the delegations and no Parties disagreed with its content.
64. An extraordinary plenary meeting will be held indicatively in May 2021, the next regular meeting is planned for October 2021.

Closure of the meeting

The President thanked all the participants for taking part and their active engagement in difficult times and closed the meeting.

AGENDA / ORDRE DU JOUR

Tuesday, 27 October 2020 (9h30-12h; 14h-16h)	<i>Mardi, 27 octobre 2020 (9h30-12h; 14h-16h)</i>
1. Adoption of the agenda	<i>Adoption de l'ordre du jour</i>
2. Statement by Mr Gianluca Esposito, Head of Action against Crime Department (to be confirmed)	<i>Intervention par M Gianluca Esposito, Chef de Service de la lutte contre la criminalité (à confirmer)</i>
3. Communication by the President	<i>Communication de la Présidence</i>
4. Communication by the Executive Secretary	<i>Communication du Secrétaire Exécutif</i>
5. Presentation of the transversal thematic monitoring of the implementation of the Convention by the States Parties: Article 7(2c) / 19(1) <ul style="list-style-type: none"> - <i>Presentation by the rapporteur</i> - <i>Discussion with States Parties</i> C198-COP(2020)1prov2 Art7-2&19-1	<i>Présentation du suivi thématique transversal de la mise en œuvre de la Convention par les Etats membres : Article 7(2c) / 19(1)</i> <ul style="list-style-type: none"> - <i>Présentation par le rapporteur</i> - <i>Discussion avec Etats membres</i>
6. Amendments to the 2018 and 2019 thematic monitoring reports following the ratification by Monaco and inputs received by the Russian Federation <ul style="list-style-type: none"> - <i>Presentation by the Secretariat</i> - <i>Discussion with States Parties</i> C198-COP(2018)1rev-HR-I Art11 C198-COP(2018)1rev-HR-II Art25 C198-COP(2019)1rev-HR-I Art9-3 C198-COP(2019)1rev-HR-I Art14	<i>Amendements aux rapports de suivi thématiques 2018 et 2019 suite à la ratification par Monaco et contributions reçues par la Fédération de Russie</i> <ul style="list-style-type: none"> - <i>Présentation par le Secrétariat</i> - <i>Discussion avec les États membres</i>

Wednesday, 28 October 2020 (9h30-12h; 14h-16h)	Mercredi, 28 octobre 2020 (9h30-12h; 14h-16h)
<p>7. Presentation of the transversal thematic monitoring of the implementation of the Convention by the States Parties: Article 3(4)</p> <ul style="list-style-type: none"> - <i>Presentation by the rapporteur</i> - <i>Discussion with States Parties</i> <p>C198-COP(2020)2prov2 Art3-4</p>	<p>Présentation du suivi thématique transversal de la mise en œuvre de la Convention par les Etats membres : Article 3(4)</p> <ul style="list-style-type: none"> - <i>Présentation par le rapporteur</i> - <i>Discussion avec les Etats membres</i>
<p>8. Review of the Rules of Procedure C198-COP(2009)1prov5prov</p>	<p>Examen des Règles de Procédure</p>
<p>9. Case of Phillips v. the United Kingdom</p> <ul style="list-style-type: none"> - <i>Presentation by the ECHR</i> <p>ECHR document</p>	<p>L'affaire Phillips c. Royaume-Uni</p> <ul style="list-style-type: none"> - <i>Présentation par le CEDH</i> <p>CEDH document</p>
<p>10. Close of the meeting 16.00</p>	<p>Fin de la réunion 16h00</p>

« Silence Procedure » Documents / Documents sous « procédure de silence »:

C198-COP(2018)1rev-HR-I Art11 (BG)

C198-COP(2018)1rev-HR-II Art25 (SE)

C198-COP(2019)1rev-HR-I Art9-3 (HR)

C198-COP(2020)6 – note for silence procedure consultation (English only)

C198-COP(2020)4rev – Updated Reservations and Declarations review (English only)

Note: Les documents qui ne sont pas signalés par « (English only) » existent également en français.

Appendix II

Strasbourg, 29 October 2020

C198-COP(2020)LP1
Original English

LIST OF DECISIONS

The Conference of the Parties (COP) to the Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS no. 198, hereafter: 'the Convention') held its twelfth meeting in Strasbourg, from 27 to 28 October 2020, under the Chairmanship of its President Mr Ioannis Androulakis (Greece). The COP took the following decisions:

1. Extended the term of office for Bureau members Ms Oxana Gisca (Republic of Moldova), Ms Ani Goyunyan (Armenia) and Mr Alexander Mangion (Malta) until October 2021 due to exceptional circumstances;
2. Approved the scope of the next Thematic monitoring review to be carried out with regard to Article 10 "Corporate liability", paragraphs (1) and (2);
3. Approved the following rapporteurs for the Thematic monitoring review on Article 10, paragraphs (1) and (2): Ms Hasmik Musikyan (Armenia) and Dr Jonathan Phyll (Malta);
4. Confirmed the adoption, through the "silence" procedure, the changes made to the Declaration and Reservation document as well as approved the analyses made with regard to the selected follow up procedure for Bulgaria (on Art.11), Sweden (Art.25(2 and3)) and Croatia (Art.9(3));
5. Approved and adopted the Thematic monitoring report of the implementation of the Convention by the States Parties on Articles 7(2c) / 19(1), taking into account the changes made to the text of the Report in the course of the Plenary meeting;
6. Approved amendments to the 2018 and 2019 Thematic monitoring reports following the ratification by Monaco (review of Articles 11, 25 (2) and (3), 9(3) and 14) and inputs received by the Russian Federation (review of Articles 9(3) and 14);
7. Postponed the adoption of the Thematic monitoring report of the implementation of the Convention by the States Parties on Article 3(4) pending clarifications to be adopted by the COP with regard to the Interpretative Note on Article 3(4);
8. Decided to hold an extraordinary Plenary in the 2nd quarter of 2021 to develop and agree on clarifications to the Interpretative Note on Article 3(4) and other Interpretative Notes as based on suggestions from delegations (e.g. Article 9(3));
9. Heard a presentation from and had an exchange of views with Ms Pamela Mc Cormick from the European Court of Human Rights on case Phillips vs UK and other relevant jurisprudence which discusses the reversal of burden of proof in the confiscation proceedings.

10. Adopted amendments to the Rules of Procedure taking into account the changes made in the course of the Plenary meeting;
11. Accepted the proposal from the Russian Federation to carry out a follow-up procedure on Articles 11 and 25 paragraphs (2) and (3) with regard to the Russian Federation to be presented and discussed at the next regular Plenary meeting of the COP in October 2021;
12. Due to the failure of the United Kingdom to return a completed template for the Thematic monitoring reviews for Articles 7(2c) / 19(1) and 3(4) the COP invited the President of the COP to write a letter to the Head of Delegation and Permanent Representative of the United Kingdom to the Council of Europe;
13. Decided to distribute the Questionnaire on virtual assets and invite State Parties to provide comments on its content (deadline to be specified by the Secretariat). The Questionnaire will be further discussed during the extraordinary plenary meeting scheduled for the 2nd quarter of 2021;
14. Decided to hold its next meeting in Strasbourg on the last week of October 2021 [dates – to be confirmed].

Appendix III**List of Participants****C198-COP 12 – PRESENCE and REMOTE PARTICIPATION**

Mr Ioannis ANDROULAKIS Greece (presence)	PRESIDENT Assistant Professor of Criminal Law & Criminal Procedure Athens, Greece
Ms Ana BOSKOVIC Montenegro (presence)	VICE-PRESIDENT (RAPPOREUR) Deputy Basic State Prosecutor Basic State Prosecutor's Office
Ms Ani GOYUNYAN Armenia (remote)	BUREAU MEMBER Head, International Relations Division, Financial Monitoring Center of the Central Bank of Armenia
Dr. Alexander MANGION Malta - presence	BUREAU MEMBER (RAPPOREUR) Head of Legal Affairs Financial Intelligence Analysis Unit
Mrs Oxana GISCA Republic of Moldova (presence)	BUREAU MEMBER Head of division Supervision and Compliance Office for Prevention and Fight against Money Laundering, Government of Republic of Moldova
STATE PARTIES / ETATS PARTIES	
Mr Arens CELA Albania	Chief of monitoring General Prosecutor Office
Mr Elvis KOÇI Albania	General Director General Directorate for Prevention of Money Laundering
Ms Diana Stillo SILA Albania	Head of International Treaties and Judicial Cooperation Section MoJ
Ms Miliana MUÇA Albania	Judge of Tirana Special Court for Anti-Corruption and Organised Crimes (First Instance)
Ms Ani VARDERESYAN Armenia	Expert, Center for Legislation Development and Legal Research Foundation, Ministry of Justice of the Republic of Armenia
Ms Hasmik MUSIKJAN Armenia	Financial Monitoring Center of Armenia

Mr Azer ABBASOV Azerbaijan	Head of legal department/FIU
Ms Nargiz PASHAYEVA Azerbaijan	Adviser/The Ministry of Justice
M. Jean- Sébastien JAMART Belgique	Attaché juridique Service public fédéral Justice, Direction générale de la Législation Services des infractions et des procédures pénales particulières
Ms Sanela LATIC Bosnia and Herzegovina	Member of BiH Delegation/Ministry of justice of Bosnia and Herzegovina
Mr Haris VRANJ Bosnia and Herzegovina	Member of BiH Delegation/State investigation and protection agency of Bosnia and Herzegovina
Ms Cvetelina STOYANOVA Bulgaria	Head of Department in FID-SANS (Bulgarian FIU)
Ms Tea PENEVA Bulgaria	Senior expert in Ministry of Justice
Ms Danka HRZINA Croatia	Deputy Municipal State Attorney in Zagreb Seconded at the General State Attorneys of the Republic of Croatia
Ms Željka KLJAKOVIC GASPIC Croatia	Ministry of The Interior General Police Directorate , Criminal Police Directorate National Police Office for Suppression of Corruption and Organized Crime, Economic Crime and Corruption Service
Ms Antroniki ODYSSEOS Cyprus	Antroniki Odysseos Counsel of the Republic of Cyprus Unit for Combating Money Laundering (MOKAS) – FIU Cyprus
Ms Kati TEE Estonia	Lawyer Ministry of Finance (Estonia)
Mme Elodie LANDAT France	Ministère de la Justice Adjointe au chef du bureau de lutte contre la criminalité organisée Direction des affaires criminelles et des grâces
Mme Celine BOZZONI France	Ministère de la Justice Direction des affaires criminelles et des grâces
Ms Tamta KLIBADZE Georgia	Methodology, International Relations and Legal Department Head of secondary unit Financial Monitoring Service of Georgia
Mr Giorgi METREVELI Georgia	Investigator of Extraordinary Cases The General Prosecutor's Office of Georgia

Dr. Juergen MUELLER Germany	Federal Ministry of Justice and for Consumer Protection Germany, Head of delegation
Aydin Sabri Germany	Federal Ministry of Justice and for Consumer Protection Germany, administrative assistant
Mme Argyro ELEFThERiADOU Greece	Head of Directorate of Legislative Work International Legal Relations and International Judicial Cooperation of the Hellenic Ministry of Justice
Mr Attila SISÁK dr. Hungary	Head of delegation
Mr Mark MESZARICS Hungary	Assistant of the HOD
Mr Nicola PIACENTE Italy	Chief Prosecutor Como, Designated by the Ministry of Justice Roma Italy
Ms Dina SPULE Latvia	Deputy Director, Criminal Law Department, Ministry of Justice of Latvia
Mr Dainis VĒBERS Latvia	Senior Risk Analyst, Strategic Analysis Division, Financial Intelligence Unit of Latvia
Mr Vytautas KUKAITIS Lithuania	Prosecutor of the Department of Prosecution, Prosecutor General's Office of the Republic of Lithuania
Mr Edmundas JANKŪNAS Lithuania	Head of Money Laundering Prevention Board, Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania (Lithuanian FIU)
Ms Julita JAGLA Lithuania	Head of Compliance Division, Money Laundering Prevention Board, Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania (Lithuanian FIU)
Ms Jūratė RADIŠAUSKIENĖ Lithuania	Prosecutor of the Department of Prosecution, Prosecutor General's Office of the Republic of Lithuania
Ms Cinzia AZZOPARDI ALAMANGO Malta	Lawyer Office of the Attorney General (Head of Delegation)
Mr Jonathan PHYALL Malta	Head – Legal Affairs Financial Intelligence Analysis Unit
M. Robert GELLI	Secrétaire d'Etat à la Justice, Directeur, Direction des services Judiciaires de la Principauté de Monaco

M. Pierre-Erige CIAUDO Monaco	Administrateur, Direction des Services Judiciaires de la Principauté de Monaco
M. Jean-Marc GUALANDI Monaco	Conseiller Technique, Service d'Information et de Contrôle sur les Circuits Financiers (SICCFIN)
Mr Drazen BURIC Montenegro	State Prosecutor Supreme State Prosecutor's Office
Ms Danijela MILICEVIC Montenegro	Advisor, Police Administration Directorate for suppression of money laundering and financing of terrorism
Ms Claudia ELION The Netherlands	Head of Delegation Policy Advisor Ministry of Justice and Security the Netherlands
Ms Nadie PAULISSEN The Netherlands	Trainee, Ministry of Justice and Security the Netherlands
Mrs Marija GJORGEVA North Macedonia	Public Prosecutor Basic Public Prosecutor's Office for Prosecuting Organised Crime and Corruption
Mrs Iskra DAMCHEVSKA North Macedonia	Head of Department Ministry of Finance Financial Intelligence Office
Ms Ewa SZWARSKA-ZABUSKA Poland	RAPPORTEUR Chief Specialist Polish FIU
Mr Jan WISNIEWSKI Poland	Chief Specialist, Prosecutor
Mr Andrian MUNTEANU Republic of Moldova	Deputy Director
Mr Eduard VARZARI Republic of Moldova	Deputy Anti-Corruption Prosecutor Anticorruption Prosecutor's Office
Mr Răzvan BOȘTINARU Romania	Legal counsellor
Ms Natalia KHADIKOVA Russian Federation	Federal Financial Monitoring Service / Senior expert
Mr Alexey LYZHENKOV Russian Federation	Head of Delegation Deputy Director, Department on the Issues of New Challenges and Threats, MFA Russia

Mr Petr LITVISHKO Russian Federation	Deputy Director General Department of International Legal Cooperation Head of Department of Legal Assistance, Prosecutor General's Office of the Russian Federation
Mme Giorgia UGOLINI San Marino	Procuratore del Fisco
Ms Aurora FILIPPI San Marino	Uditore Commissariale
Mr Dragan MARINKOVIC Serbia	Assistant Director, Administration for the Prevention of Money Laundering (FIU), Ministry of Finance, Serbia
Mr Nikola NAUMOVSKI Serbia	Independent Advisor, Ministry of Justice
Mr Branislav BOHACIK Slovakia	Prosecutor General Prosecutor's Office of the Slovak Republic International Department
Mr Andrej KISPAL Slovakia	Ministry of Interior of the Slovak Republic, FIU
Ms Branka Glojnarich Slovenia	Secretary Office for Money Laundering Prevention of the Republic of Slovenia
Mr Klemen Princes Slovenia	Undersecretary Ministry of Justice Slovenia
Mr Victor HENSJO Sweden	Rättssakkunnig Justitiedepartementet Stockholm
Ms María Concepción CORNEJO Spain	Area Coordinator General Directorate of the Treasury and Financial Policy MINISTRY OF ECONOMY
Mr Mustafa Necmeddin OZTOP Turkey	Head of Department/Republic of Turkey Ministry of Justice Directorate General Foreign Relations & EU Affairs
Mr Kadir GÜLER Turkey	Treasury and Finance Expert Financial Crimes Investigations Board (MASAK), Turkish FIU
Ms Nataliia STRUK Ukraine	Chief Specialist of the Division for Transfer of the Sentenced Persons and Execution of Judgments of the International Legal Assistance Department of the International Law Directorate of the Ministry of Justice of Ukraine

Mr Oleh BELISOV Ukraine	Chief Specialist of the Unit for Joint Financial Investigations of the Division for Cooperation with the Financial Intelligence Units of the Department for Financial Investigation of the State Financial Monitoring Service of Ukraine
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OBSERVERS	
Mr Matěj BEJDAK Czech Republic	Lawyer; Financial Analytical Office of the Czech Republic
Mr Shuji YOSHIDA Japan	Consul, Consulate-General of Japan in Strasbourg
Mr Dmitry PUTYATIN EAG	EAG Secretariat Administrator

SCIENTIFIC EXPERT	
Mr Paolo COSTANZO Italy	Head Analysis and Institutional Relations Directorate Financial Intelligence Unit, Banca d'Italia

COUNCIL OF EUROPE	
Ms Pamela McCORMICK	European Court of Human Rights
DIRECTORATE GENERAL OF HUMAN RIGHTS AND RULE OF LAW / DIRECTION GÉNÉRALE DROITS DE L'HOMME ET ETAT DE DROIT (DGI)	
Mr Igor NEBYVAEV	Executive Secretary to MONEYVAL and C198-COP Information Society and Action against Crime Directorate
Mr Lado LALICIC – apologized	Head of Unit, Administrator / Administrateur

Mr Uwe WIXFORTH	Administrator / Administrateur
Mr Alexey SAMARIN	Administrator / Administrateur
Mme Danielida WEBER	Administrative Assistant to the C198-COP/ Assistante Administrative de la C198-COP
Mme Irma DZANKOVIC-ARSLAN	Administrative Assistant / Assistante Administrative
Mr Hasan DOYDUK	Administrative Assistant / Assistante Administrative
Mme Odile GEBHARTH	Administrative Assistant / Assistante Administrative
Mme Sylvie BOUX Mme Christine TRAPP	Interpreters - COE Interpretation Service
