

Strasbourg, 29 January 2021

C198-COP(2021)11

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)**

13th meeting, Strasbourg, 17-18 November 2021

MEETING REPORT

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

SUMMARY ACCOUNT OF THE PROCEEDINGS

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 thirteenth meeting in Strasbourg, from 17 to 18 November 2021, 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 this report.

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

Day 1 (Wednesday, 17 November 2021)

Opening of the Meeting

The President opened the meeting and welcomed the participants. All State Parties to the Convention were present virtually due to the Covid-19 pandemic situation.

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 form.

Item 1. Adoption of the Agenda

The agenda was adopted with the proposed changes. Changes included introduction of the discussion of reservations and declarations to the Convention, given the fact that some issues were raised by a State Party. In this regard, the agenda for the second day of the plenary was supplemented with an additional item.

Item 2. Statement by Mr Jan Kleijssen, Director of the Information Society and Action against Crime

Mr Jan Kleijssen, Director of Information Society and Action against Crime welcomed all delegations and emphasised the importance of recent exchange of views that COP President had with the Committee of Ministers in May 2021. This was another strong confirmation of importance of the COP work. It also showed strong commitment by the Deputies to follow up on COP's monitoring activities and other achievements.

Mr Kleijssen highlighted that work done by the COP on corporate liability is particularly important, given that corporate liability and proper framework for sanctions against legal entities involved in money laundering (ML) is a crucial aspect to end impunity and to make the possibility of ML via corporate structures less attractive to criminals.

Mr Kleijssen reported on the ongoing work carried out by the Committee of Experts on Cooperation of European Conventions under the Committee of Crime Problems on the question of cross border assets recovery. Mr Kleijssen also emphasised the importance of the COP's engagement with the FATF, and reminded the delegates that the Council of Europe (CoE) requested an observer status with the FATF.

Mr Kleijssen also discussed issues related to the Octopus Conference on cybercrime, which was held in parallel with the COP. He noted that the work of the Octopus Conference is relevant to the COP for instance on issues of cryptocurrencies, artificial intelligence, terrorism, corruption, and

other crimes, which are carried out increasingly through computer networks.

Mr Kleijssen also informed the COP that the agreement on the 2nd additional protocol to the Budapest Convention (CETS No. 185) had been achieved and this protocol will now facilitate evidence gathering by law enforcement authorities when investigating cybercrime.

Item 3. Communication by the President

The President reported on the communications with the FATF with regard to the COP initiative to support changes to the FATF Standards on asset recovery and, in particular, to introduce postponement of suspicious transactions as a part of global standards. He also welcomed the proposed amendments to the FATF Methodology in this regard. Considering the fact that key decisions on that issue were postponed until February 2022, the President underlined the importance of active participation and support which could be provided by the COP delegations which are also members of the FATF. Such support would be crucial for the success of this initiative.

Item 4. Communication by the Executive Secretary

The Executive Secretary provided further details on the outcomes of recent FATF Plenary discussions on the issue of introduction of postponement of suspicious transactions, and possible changes to the FATF Standards and effectiveness Methodology. He noted that in May 2021, during its extraordinary meeting, the COP adopted a decision to support the revision of the FATF Standards through a joint initiative with the COP delegations which are also represented in the FATF. Delegations were thus invited to engage further with domestic authorities in order to facilitate these discussions and eventual changes to the FATF Standards.

The Executive Secretary informed the COP about changes in the COP Secretariat. Former Bureau members Ms Ani Goyunyan and Ms Ana Boscovic joined the Secretariat as a secondees from Armenia and Montenegro. Mr Daniil Burda also joined the Secretariat as a secondee from the Russian Federation and Ms Narmin Muradova joined the Secretariat as a new administrative assistant. COP Secretariat staff still continue to be extensively engaged with MONEYVAL, whilst the COP issues are considered as high-priority. He thanked the delegations of Armenia, Montenegro and the Russian Federation for the secondments.

The Executive Secretary further informed about the status of recent developments with regard to Council of Europe's observer status with the FATF. The decision was taken by the Committee of Ministers on 20 October 2021 and the Secretary General was asked to send a letter of interest to the FATF for a permanent observer seat for the Council of Europe. That would enable various bodies of the Council of Europe (apart from MONEYVAL) to join the FATF meetings and contribute as observers, including the COP. The decision for granting an observer status shall be considered during the FATF Plenary meeting in February 2022.

The Executive Secretary also informed about the close cooperation and engagement of the Secretariat members in the work related to cybercrime as well as the Convention 108 and crypto currency issues. He also informed the plenary on a recent initiative to hold a joint conference with the PC-OC on asset recovery. The Secretary to PC-OC, Ms Anita Van de Kar, then took the floor and informed the COP of the topics proposed for discussion during this special session, which include: non-conviction based confiscation; compensation for victims and return of stolen assets to the victims; recovery of crypto currencies; freezing of evidence on assets versus seizure of proceeds of crime; asset sharing; and asset recovery from legal entities. The Executive Secretary

clarified that the proposed joint session of the COP and the PC-OC is intended to be an exchange of views modelled on a panel discussion, rather than a decision-making meeting. He also encouraged interested delegations to take part in the joint session and represent the COP therein.

Slovakia supported the initiative to hold the joint session.

With regard to the silent procedure, the Executive Secretary confirmed that the Selected Follow up procedure on Art. 11 and 25 (2 and 3) for the Russian Federation resulted in changes of these reports. No objections were received by delegations.

Item 5. Presentation of the transversal thematic monitoring of the implementation of the Convention by the State Parties: Art. 10 (1 and 2)

The rapporteurs, Ms Hasmik Musikyan (Armenia) and Mr Jonathan Phyll (Malta) introduced the report. Ms Musikyan discussed the general part, putting emphasis on added value which Art. 10 (1 and 2) brings in combating ML/FT, whilst Mr Jonathan Phyll discussed the report's findings in terms of States Parties compliance with Art.10 requirements. The summary provided by the rapporteurs also included key findings (e.g., to what extent and in which ways different States Parties implemented Article 10) as well as recommendations on how the systems should be improved.

Following the introductory remarks by the rapporteurs, the President invited State Parties to provide their views and comments to the draft report. He urged the delegations to refrain from providing any new information on the legislation which was not provided before the meeting.

Romania asked for the floor and noted that the report doesn't correctly reflect their compliance with Art. 10(1) - Criminal Code, which entered into force in 2014 and provides for corporate liability. Thus, some changes with regard to specific articles of the Code were suggested to be amended in the report. On the other hand, Romania asked the COP to ensure consistency of its report with the findings of the 2012 GRECO evaluation report on Romania, given that corporate liability provisions (i.e., Article 18) in the Criminal Law Convention on Corruption are similar to those of Art.10 of the Warsaw Convention. The GRECO report stated that Romania brought its national legislation in line with the relevant provisions (i.e., Article 18) of the Criminal Law Convention on Corruption and the COP should not have a contradictory statement in its report. Furthermore, the OECD report on Liability of Legal Persons for Corruption in Eastern Europe and Central Asia (2015), considered Romania 'as the only ACN country *where the corporate liability doctrine has been developed in the light of the organisational approach.*' The Romanian delegation also emphasised that case law had been developed since 2006 and it explicitly provided for the effective implementation of the provisions of Art. 10(2) of the Convention. Moreover, national legislation provides for the development and adoption of a Code of Ethics by every legal entity established in the country.

The rapporteurs and the Secretariat took the floor and proposed amendments to address the concerns expressed by Romania. Whilst the explicit provisions in the Criminal Code and AML/CFT legislation were not deemed sufficient to fully cover the requirements of Art.10(2), the OECD analysis of the doctrine applied in Romania, which would hold legal persons liable in cases of lack of supervision, was also considered. A conclusion was reached that this doctrine and its application complies, to a large extent, with the provisions of Art. 10(2) of the Convention. At the same time, the rapporteurs agreed with the view of the COP Scientific expert that codes of ethics cannot be considered in the same way as compliance programmes. Given that the doctrine may

change through time, the recommendation to Romania to align its legislation with Art.10(2) was kept in the report.

Malta took the floor and supported the conclusions of the rapporteurs regarding Romania. Maltese delegation proposed minor changes to the report paragraphs on Romania, which were then accepted and reflected under Art.10(2).

The President thanked both Romania and the rapporteurs for the very extensive discussion and constructive approach. Romania agreed with the proposed text and recommendations.

Italy argued that the analysis on its effective implementation of Art. 10(2) was not accurate. The Italian delegation submitted two decisions of the Italian Supreme Court on Art.10(2) issues - one of the decisions refers to cases of corruption and ML and the other one deals with money laundering (in particular, self-laundering). At the same time Italy asked how many cases should be presented to prove the effective implementation of the relevant articles of the Convention. The Secretariat confirmed that it received two cases, however the report referred to one case only as for the other one additional clarifications were needed.

The rapporteurs and the Secretariat raised an issue with respect to the compliance programmes introduced in Italy and whether and to what extent the application of such compliance programmes can be considered as a mitigating circumstance to criminal liability for legal entities.

Italy clarified that according to Art. 6 of the applicable Legislative Decree, the burden of proof falls on the legal entity to prove that, before a crime was committed, the managing body implemented a compliance programme to prevent crimes being committed by the legal entity itself. At the same time, the legal entity has to prove that the compliance programme is kept up to date and that the entity's autonomous unit is in charge of implementing the programme. The decision of the Supreme Court provides for cases of lack of independence of the supervisory body of the legal entity, whereby the legal entity was then found guilty. Italy also noted that in cases where natural persons commit a crime by circumventing the compliance programmes of the legal entity, then the legal entity would not be held liable. However, the burden of proof falls on the legal entity - if it fails to prove that it was an act of a particular individual, the legal entity would be considered liable. Taking into account this reasoning the Italian delegation believes that Italy fully implemented Art 10 (2).

The Executive Secretary noted that the wording of the Convention - "lack of supervision or control by a natural person" refers, de facto, to compliance programmes as a mitigating circumstance. He also noted that there is an evolution of international law, e.g. Council of Europe Conventions, OECD Anti-Bribery Convention, etc. – their interpretation had been further developed and the presence of compliance programmes gain relevance in this regard. In other words, supervision and control are executed through the effective application of compliance programmes.

The Russian Federation raised issues regarding the general part of the report. The delegates argued that the statement that Russia did not implement the provisions of Art. 10 is not accurate. In this regard the Russian Federation emphasised that the provisions of its Administrative Code (Art 15.27 (4)) introduced corporate liability. At the same time, the Criminal Code of the Russian Federation provides for liability of beneficial owners of legal entities depending on their involvement in criminal activities, including ML. The Russian delegation suggested that the legislation of the Russian Federation partly meets the requirements of the Convention (i.e., Art. 10). The referred provisions provide for liability for lack of compliance to report ML or TF crime.

The rapporteurs noted that the legislation of the Russian Federation envisages administrative liability for legal entities, however the law explicitly states that the liability only concerns the cases where AML/CFT law was breached and there were no specific requirements in the Administrative Code to implement the provisions of Art. 10 (1) and (2). The rapporteurs noted that Art. 15.27 envisages only some elements of liability for legal entities when financial operations and transactions are carried out in the interest of that entity. Those transactions would need to include assets obtained through criminal activities. Taking into account that some form of legal liability exists in the legislation, the rapporteurs proposed to adjust para 7 of the general part of the report stating that Russia should further develop its legislation. The COP scientific expert noted that it's important to clarify that liability exists only in cases where there is a violation of AML/CFT law, thus the understanding is that the liability is limited to AML/CFT obliged entities and not to all legal entities.

The President suggested an amendment to paragraph 24 of the report which would read that the State Party implemented the provisions of Art. 10 (2) to a "very limited extent". This proposal was approved by the plenary.

North Macedonia generally agreed with the findings of the report. However, they argued that the conclusions of the specific part of the report were not accurate. Provisions of its Criminal Code state that when a ML offence is committed by a responsible person in a legal entity in favour or on its behalf, no additional conditions need to be met. In cases when an employee or representative of a legal entity commits a ML offence, the legal entity is also held liable if a significant amount of property is gained. The legal entity is also liable when there was a failure in supervision of the managing body or of the supervisory body and, in these circumstances, the liability is conditioned on the amount gained or damage caused.

The rapporteurs noted that the wording used in the conclusion also refers to the analysis regarding the implementation of Art. 10(1) of the Convention, where certain elements of the Convention are still missing in the national legislation. However, the rapporteurs did not oppose to change the wording for the conclusions regarding Art. 10(2). North Macedonia agreed with the proposed changes and the report was amended accordingly.

Turkey argued that the statement made in the conclusion that its legislation imposed limitations due to the fact that the cancelation of license is possible only if there was a previous conviction against a natural person is not accurate. The Turkish delegation noted that the cancelation of license is an additional measure that can be applied only under specific circumstances. The main sanction applied to legal entities is confiscation. Turkey also raised an issue regarding the analysis of persons having a leading position in a legal entity. In this regard, Turkey noted that the term "body or representative" appears broad enough. The term 'representative' used in the Turkish legislation covers the element provided in subparagraph "a" of Art. 10(1) while the term "body" covers subparagraphs "b" and "c" of the same article. Turkey referred to Art. 60.1 of its Criminal Code which covers all persons who are able to take decisions, take actions and execute control over the legal entity. Turkey also referred to different court decisions on this matter. Another concern was raised with regard to the analysis provided in para 4 of the country specific report on the application of administrative fines when the person acts as an instigator. Turkey noted that Art. 14.1 of the Law on Misdemeanours provides for the liability of the accessory, instigator and assisting person. The delegation also touched upon the issue of the liability of legal entities for offences committed due to the lack of supervision or control – in their view the only condition that is required for the application of confiscation measures is that the offence is committed for the benefit of the legal entity. Facts on whether the offence was committed

intentionally or due to the lack of supervision do not have any effect. There is no obstacle to the application of confiscation measures for the offence committed due to the lack of supervision.

The rapporteurs noted that the issue of instigation is in line with Art. 10(1) of the Convention taking into account provisions of the Law on Misdemeanours as well as the General part of the Criminal Code. The text of the analysis was amended accordingly. The rapporteurs, however, disagreed with Turkey that there is no need for a conviction against the natural person for measures regarding the cancelation of licence to be applied. Turkey itself in its initial submission referred to that as an important preventative measure. With regard to the application of Art. 10(2), no cases were provided to confirm the statement made by the delegation, and the rapporteurs could not agree to change the initial analysis. Whilst some parts (as discussed above) of the analysis and recommendations were amended, the conclusion remained the same. Turkey agreed with the proposed changes in the report.

Slovenia argued that the conclusions part of its country specific analysis, i.e., the analysis of Art. 10(2) contradicted the general conclusions part. The Secretariat noted that it was a technical mistake. The report was amended accordingly.

Monaco stated that their national legislation covers corporate liability - all situations where the managing body or representative of the legal entity are engaged are included in the legislation. The Monegasque delegation further advised that the recommendation included in the country specific part of the report (i.e., to provide guidance on the definition of the term "representative") would not have a significant effect, because the judiciary already has a very broad interpretation of this term. Monaco also emphasised that, with regard to ML, there is a special Law No. 1.362 as of August 2009, which exclusively deals with combating ML, corruption and terrorism. The Law provides for the responsibility of legal persons when there is a lack of supervision or control, when the offence is committed by a person who can represent the legal person or by a person who carries out supervision. In their view, that fully reflects the provisions of Art. 10(1). Regarding the issue of the coverage of instigators, Art. 42 of the Criminal Code states that those who provoked an offence or have given instructions for the offence or facilitated the commission of the offence would be deemed as instigators. In this regard the Monegasque delegation proposed to amend paragraph 2 of their country specific analysis.

The President noted that the first and second issues raised by Monaco were rather technical, since the English version of the report already encompassed the observations raised by Monaco whereas the French translation omitted to reflect these changes. The President also asked the Monegasque delegation whether the article Monaco referred to applies to all legal entities or only to AML/CFT obliged persons. Monaco responded that Article 67.2 applies to all bodies and all persons concerned with certain obligations. The President then invited the rapporteurs to comment on this issue. The rapporteurs noted that the relevant provisions of the Criminal Code comply with Art 10(1) of the Convention. However, when it comes to Art.10(2), the legislation presented by Monaco provides only for specific requirements to the AML/CFT obliged entities, whereas the requirements under Art. 10(2) are much wider.

The President reminded that the existence of a relevant provision that pertains to obliged entities and their failure to uphold the obligations in respect to the implementation of the AML/CFT requirements is not the same as having an obligation to cover ML offences committed for the benefit of legal entities due to the lack of supervision by persons having a leading position therein. These are two different obligations, whereby the one may only fall to a limited extent under the other. In other words, these two obligations do not coincide.

Portugal made comments regarding both the general and country specific parts of the report. The Portuguese delegation noted that the general part stated that countries may demonstrate effective implementation either through relevant statistics or case law. In this respect, Portugal provided a case example and also the recent statistics on the convictions against legal persons for ML. Statistics should supplement the analysis on the effective implementation of the provisions of the Convention. The request to include Portugal among the States Parties which effectively apply Art.10(1 and 2) of the Convention was accepted and amendments were made accordingly.

Hungary agreed, in general, with the analysis, noting that the rapporteurs deemed that the provisions of the Convention were effectively implemented in that State Party. However, an issue was raised regarding the conclusions, where it was stated that the Hungarian regulations have some deficiencies regarding the implementation of Art. 10. The delegation noted that their system of legal persons liability had not been contested by MONEYVAL, OECD or any other international body. They all acknowledged that the Hungarian system is based on the derivative liability of legal persons. Therefore, Hungary suggested to amend the conclusions by deleting the notion that there are limitations in the Hungarian legislation. Consequently, the country specific part of the report was amended.

Croatia disagreed with the conclusions regarding the definition of “responsible persons” and the way this has been included in their legislation. The report noted that Croatia introduced two out of three categories of responsible persons through its Criminal Code and the Law on the Responsibility of Legal Persons for Criminal Offences (LRLP). The latter introduced the liability of natural persons who manage the affairs of the legal entity. Such persons do not need to have a leading position in the entity. Croatia is of the view that these provisions are broader than the provisions established by Art. 10 of the Convention. Furthermore, Croatia made clarifications on the issue of the responsibility of persons having supervisory or control powers in the legal entity - Art. 20 of the Criminal Code establishes the liability of persons having supervisory or control powers in the legal entity. They can be held liable if they fail to prevent such an offence being committed. When an offence is committed by a natural person who is subordinated to a natural person who exercises supervisory or control functions, then that person is held liable as well. Croatia also advised that provisions of the Criminal Code and LRLP are applied simultaneously.

The rapporteurs noted that Art. 10(2) of the Convention requires to establish the liability for failure of supervision whilst the provision of the Criminal Code quoted by Croatia is not referring to that. In addition, there have been no legislative changes in this regard since the last assessment by the COP, thus the analysis on Art.10(2) should remain the same. At the same time, it was concluded that the requirements of Art 10(1) are fulfilled by Croatia and the conclusions part was amended accordingly.

The Netherlands commented the analysis of its implementation of Art 10 (2) of the Convention where the Netherlands were recommended to align their legislation with the requirements of this article. The Netherlands informed the COP that there is a binding jurisprudence developed in the country which confirms that Art. 10(2) is applied in practice. The delegation did not see added value in further legislative measures, emphasising that developed jurisprudence and effective application of corporate liability shows that the country does not need additional measures.

The rapporteurs responded that the reasoning for having such a recommendation was based on the articulation used in Dutch jurisprudence which confirms that corporate criminal liability can exist when the behaviour was under the control of, accepted or deemed to have been accepted, or failed to have been prevented by a company. In their view, the Convention is more specific in

this regard establishing that the lack of supervision also calls for holding legal persons liable. Consequently, the conclusion was kept.

Bulgaria took the floor and provided comments related to Art. 10(2) of the Convention. The delegation suggested to adjust the recommendations and give more flexibility to the country on how it will bring its legislation in compliance with the provisions of Art. 10(1). Regarding Art. 10(2) Bulgaria noted that, as long as there is a natural person that committed an ML offence on behalf of a legal entity, the corporate liability regime would be applied. The rapporteurs responded that the provision which states that the offence is committed by “an employee to whom the legal person has assigned a certain task, when the crime was committed during or in connection with the performance of such task” is not sufficient to cover the Art.10(2) requirements. Moreover, Bulgaria did not provide cases to confirm such a broad interpretation of the relevant provisions. Without any jurisprudence behind it, the rapporteurs could not reach a conclusion that relevant principles are properly applied in practice.

There were no other requests for the floor. No party objected to the adoption of the report. The President then concluded that the report is adopted by the plenary, as amended during the discussion.

The President also suggested, taking into account the discussion held on Art.10 (1 and 2), that there is a need for further clarifications on the provisions of Art. 10. The President proposed to the COP to take the decision to develop and adopt interpretive notes on this article at the next plenary meeting. The suggestion was unanimously supported by all States Parties.

Item 6. Implementation of p.1.5 of the Council of Europe Counterterrorism Strategy “Financing of Terrorism”

Ms Jelena Jolic reported on the ongoing work carried out by the joint expert group composed of the representatives of the CDTC, COP and MONEYVAL. The group is assigned to review Council of Europe Standards on countering the financing of terrorism. Ms Jolic noted that developments, at the moment, are mostly procedural. The joint group was set up and its terms of reference were approved by all relevant committees. The first meeting of experts took place in September 2021. The experts currently analyse information and documents prepared by the Secretariats of CDTC, COP and MONEYVAL. The first draft report is expected to be presented in early 2022. The draft report would entail the analysis of any identified shortcomings, gaps or overlaps or any conflicts in different standards. The experts are also expected to provide recommendations for amending Council of Europe legal instruments, if needed.

Item 7. Operational challenges with Asset Recovery: Measures to Enhance Global Effectiveness

Mr Neil Everitt (FATF Secretariat) presented the outcomes of the asset recovery components of mutual evaluation reports from across the global network. He also presented the scope of the FATF project on Asset Recovery completed by the FATF in June 2021, its findings and future steps.

The objectives and scope of the Project was to draw on the practical experience of key stakeholders to identify the underlying challenges affecting asset recovery and to evaluate what is needed to overcome those challenges. Phase 1 of the report identified broad challenges for asset recovery (i.e. practical challenges in cross-border cases). Phase 2 of the report included

key findings and recommendations on how to overcome challenges which countries face. The need to prioritize asset recovery in the actions taken by law enforcement authorities was emphasised throughout the report. Tracing of assets is considered as an important issue given the ease with which criminals move assets from one jurisdiction to another.

Mr Everitt also informed the COP that discussions of the next steps regarding this project were held within the FATF in October 2021 and there were 3 workstreams on further actions: (i) revision of the Immediate outcome 8 of the FATF Methodology covered within the FATF Strategic Review Group; (ii) potential revisions to the FATF Recommendations 4 and 38; and (iii) consideration to extend the FATF/FSRBs framework of cooperation with CARIN and ARIN networks.

The Plenary took note on the presentation of Mr Everitt. The President opened the floor for the State Parties to raise any questions or comments.

The Netherlands posed the question on whether the best practices are considered in the report, since it would be beneficial to see concrete operational examples (i.e. intelligence tools, information sharing tools) of the actions taken in the area of asset recovery. Mr Everitt replied that the report includes examples which were also used as a basis for the analysis.

The Executive Secretary thanked Mr Everitt for the presentation and asked him to clarify whether there were any concrete plans at the FATF level how to develop its relationship with asset recovery bodies, as the COP and other bodies of the Council of Europe may wish to be engaged in this process as well. Mr Everitt clarified that this would be further discussed during the FATF plenary meeting in February 2022. The Concept Note for the revision of Rec. 4 and 38 will also be discussed in February 2022. With regard to strengthening the relations of the FATF/FSRBs with CARIN and ARIN networks, Mr Everitt noted that project team is being formed and delegations are welcome to participate in its work. The FATF will keep its partners, including MONEYVAL and COP, informed on these developments.

Day 2 (Thursday, 18 November 2021)

Item 1. Elections for COP President, Vice-President and Bureau members

The Executive Secretary noted that the terms of the President, Vice-President and Bureau members of the COP were extended until October 2021 due to exceptional circumstances. In accordance with Rule 3 and 4 of the Rules of Procedure, the COP has to take a decision to approve the candidates for the 2 years term without alternative vote, since the Secretariat received only one candidate per position. The Executive Secretary also noted that candidates' CVs were circulated prior to the meeting.

The candidates for the positions were as follows: for the President of the COP - Mr Ioannis Androulakis (Greece), for Vice-President – Ms Oxana Gisca (Republic of Moldova), and for Bureau members – Ms Claudia Elion (the Netherlands), Mr Aram Kirakossian (Armenia) and Azer Abbasov (Azerbaijan). All candidacies were approved unanimously.

Item 2. Reservations and Declarations

The Secretariat informed the COP that it received inputs from Hungary, Denmark, Austria and Ukraine on declarations and reservations. The document has been circulated before the plenary through the silent procedure. The Secretariat also asked the Ukrainian delegation to formally notify the changes in their declarations and reservations to the Council of Europe Treaty Office.

The Secretariat informed the COP that the Ukrainian delegation suggested changes in the document to include a comment on their declaration on the territorial application of the Convention.

The President opened the floor for the comments. The Ukrainian delegation suggested a short text to be added in the document on its declaration on the territorial application of the Convention. Latvia supported their proposal.

A representative of the Council of Europe Treaty Office (Ms Ana Gomez) informed the COP that a general declaration was made by Ukraine in 2015 for a range of Conventions, including CETS 198.

The President introduced the text as adjusted by the Secretariat, which was then agreed by the Ukrainian delegation.

The Russian Federation opposed the declaration of Ukraine on the territorial application of the Convention and requested that its statement be reflected in the meeting report. The President of the COP agreed that the statement by the Russian Federation shall be included in the meeting report of the Plenary. The following reflects the content of the statement by the Russian Federation: *The Russian Federation delegation stated that it reaffirms its constant commitment to respect and faithfully implement universal principles and norms of international law. The Russian Federation also emphasised that it cannot accept and cannot take into consideration the notification by Ukraine with regard to “separate districts of Donetsk and Luhansk regions”. This notification cannot justify nonfulfillment by Ukraine of its obligations, ignorance of humanitarian considerations, rejection of or evasion from necessary measures to settle the issues directly affecting local citizens, their rights and freedoms, guaranteed by international law. Declaration of independence of the Republic of Crimea and its voluntary accession to the Russian Federation is a result of direct and free expression of the will of the people of Crimea fully in line with democratic principles. This Declaration is a legal form of their right to self-determination. The Russian Federation rejects any attempts to question the current status of the Republic of Crimea and the city of Sevastopol as an integral part of the Russian Federation, and their territories constitute an inalienable part of the territory of the Russian Federation, which extends its full sovereignty over these territories. The Russian Federation confirms its commitment to fulfil its international obligations with regard to that part of its territory.*

The Ukrainian delegation then took the floor and made a statement that the referendum held in the Autonomous republic of Crimea and the city of Sebastopol was not valid for them, since it was not authorised by Ukraine. They also referred to the UN General Assembly resolution of 2014 (68/262) On the Territorial Integrity of Ukraine, which states that the presence of Russian troops in Crimea contradicts the national sovereignty, political independence and integrity of Ukraine, and undermines the safety and stability of neighbouring countries and the European region; therefore all states and international organisations are called not to recognise any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol on the basis of the above-mentioned referendum and to refrain from any action or dealing that might be interpreted as recognizing any such altered status.

The Russian Federation stated for the record that the UN General Assembly resolution to which the Ukrainian delegation was referring was supported by a limited number of the UN member states.

Ukraine noted that all the commentaries and suggestions to the text of the document made by its delegation are made on the basis of the valid declaration of Ukraine which is published on the official Council of Europe website. No further changes were made in the document on this matter.

The President then invited Ms Ana Gomez from the Council of Europe Treaty Office to comment on the objection made by Austria with respect to the timing of some reservations made by Monaco in October 2020. This set of reservations made by Monaco were sent to the permanent representations of COP States Parties on 23 October 2020. The Parties to the Convention had therefore one year following the Notification by the Secretariat General (Treaty Office) to oppose or object to the belated reservations, which would prevent their entry into force until the opposing/objecting Party(ies) rescinded their opposition/objection. On 14 October 2021, the Permanent Representation of Austria informed the Treaty Office that their authorities intended to oppose the belated reservations made by Monaco. As per the Treaty Office official procedure, the opposition is registered as of 14 October 2021 and then notified to all Parties.

Monaco then provided in-depth information about the nature of reservations made in respect of articles 17, 18, 7, 19, 9, 24, 31 and 42 of the Convention.

The Executive Secretary stated that the Treaty Office is the central office of the Council of Europe in charge of reservations and declarations to all Council of Europe conventions. It circulates any reservations made after the accession to all other parties. Members of the Council of Europe have one year to provide any objections that they may have. He also noted that one objection is sufficient to block such reservations. In case of Monaco, which made its reservations on 23 October 2020, there was one objection made by Austria, thus those reservations had not entered into force.

The Executive Secretary underlined that reservations made by Monaco referred to the articles of the Convention which were subject to COP monitoring, and that for some of these articles Monaco was not found compliant.

Austria stated that they still oppose Monaco's reservation, mostly for procedural reasons.

Monaco argued that while Article 53 of the Convention does not explicitly provide for the possibility of making reservations after signature or ratification, this is understood as usual practice when it comes to international Conventions. Monaco referred to point 2.3 and 2.3.1 of the UN Practical Guide on reservations and declarations (2011), which states that reservations and declarations cannot be formulated, unless the treaty otherwise provides, or none of the other contracting States and contracting organizations opposes the late formulation of the reservation. In this regard the Monegasque delegation noted that the possibility to make late reservations remains open. It was also noted that there is an existing practice to make late reservations within the UN as well as the Council of Europe. Monaco also noted that before submitting reservations, the country contacted the Council of Europe Treaty Office and considered the ways how to proceed with the reservations in question. On the issue of objections, Monaco referred to point 2.6.9 of the Practical Guide on reservations and declarations (2011) citing that objections should be reasoned and precise.

The representative of the Council of Europe Treaty Office noted that the State Party opposing to the late reservations doesn't need to go into the substance and reasons for its opposition. In case of Austria's objections, there were references to the text of the Convention, so the reasoning was valid to block the reservations.

The Russian Federation asked for the floor and referred to the Vienna Convention of the Law of Treaties (1969) which provides for the State to decide on which article, when and where to provide interpretation, disclose amendment, etc. The Russian delegation proposed to obtain a legal opinion by the Council of Europe on this topic.

The President stated that practice of making reservations and declarations at later stages should be strongly discouraged. Reservations and declarations should be made at the time when the country accedes to the Convention and not subsequently to accommodate findings, remarks or obligations imposed to it during the monitoring stage. The President also noted that the COP has the policy of encouraging countries to review and revoke their reservations and declarations when they are no longer necessary or redundant given the developments in the national legislation. He supported the suggestion of the Russian delegation to consult with the Treaty Office of the Council of Europe in order to provide the COP an authoritative written legal opinion on this matter.

Austria agreed with the view of the President regarding legal certainty. The Austrian delegation also noted that, in their opinion, the Convention principles should prevail over Guidelines. Austria also underlined that for the reasons of legal certainty late reservations should be discouraged.

The Scientific Expert asked whether or not late reservations are permitted when they might be necessary. However, it was clear from the explanation from the Treaty Office that late-stage reservations are possible to the extent that they are not objected. Late reservations and declarations shall be an exception. The scientific expert also suggested that the Secretariat should notify the COP State Parties when such late declarations or reservations are submitted. In these circumstances information would be shared in a transparent manner.

The President suggested to take a decision to discourage late reservations and declarations. Another action proposed was to request State Parties when they intend to make reservations or declarations to submit that information to the COP and to explain underlying reasons.

The Executive Secretary noted that the COP Secretariat would consult with other relevant bodies within the Council of Europe to be informed when declarations and reservations are submitted.

Monaco agreed with the proposal to request a legal opinion by the Council of Europe. Monaco also noted that with late reservations they were not intending to circumvent or escape “non-compliant” conclusions made in the relevant COP reports.

The Russian Federation requested the floor and argued that, in line with Art. 53 and 54 of the Convention, it would be difficult for it to take any decision proposed by the President before obtaining a clear legal opinion from the Council of Europe on that issue. In addition, the Russian delegation also requested the view of Council of Europe on how the concerns raised correspond with the Vienna Convention on the Law of Treaties. In their view, the proposal made by the President goes into an interpretation of the provisions of the Convention which may bring a risk of not following the language of the Convention itself.

The President underlined that the COP should take a decision that it should be informed of the intention of the State Party to make reservations and declarations. He also noted that there was no intention to interpret the Convention and highlighted that it is an issue of practical functioning of the COP. The proposal to ask the States Parties to inform the COP when they intend to make late reservations is a matter of procedural convenience.

The representative of the Treaty Office responded to the observations of the Russian Federation that where the Convention names the Secretary General as a recipient of communications (i.e. declarations, reservations, denunciations etc.) this means the whole Secretariat of the Council of Europe. She also noted that the Treaty Office is a representative of the Secretary General on the issues of receiving such reservations. The Treaty Office supports the intention of the COP to deal with late reservations. The representative of the Treaty Office also noted that the Committee of Legal Advisers on Public International Law is another Council of Europe entity where issues of late reservations are flagged and discussed. The Monaco case was also discussed by this Committee in September 2021.

The Slovakian delegation supported the intervention and proposal made by the President. However, the Slovakian delegation suggested that the COP Bureau could be engaged in this work and proposed to adjust its Rules of Procedure to facilitate notifications to the COP when a State Party intends to submit late reservations.

The Russian Federation opposed the proposal made by Slovakia and insisted that there is a need to follow the provisions of the Convention related to the notification to the Secretary General of the Council of Europe.

The President proposed to the plenary to encourage State Parties to avoid late declarations and reservations and to request a legal opinion from the Treaty Office. Furthermore, there would be a decision that the COP Secretariat liaises internally with the Treaty Office in order to receive timely information on the issues related to the declarations and reservations. There would also be a decision to recommend to State Parties to inform (on a voluntary basis) on an intention to submit reservations and declarations after depositing the instruments of ratification; the Secretariat should also inform States Parties of any observations made by the membership on such reservations and declarations. There were no objections to issue such a recommendation to the States Parties.

Declarations and reservations made by Monaco in October 2020 to which Austria opposed, are not valid.

Item 3. Amendments to the 2018, 2019 and 2020/2021 thematic monitoring reports following the ratification by Lithuania and inputs received by the UK

The Secretariat informed the plenary that all the inputs requested from the UK and Lithuania were received on time. It was also noted that the reports on these countries were circulated separately from the original horizontal reviews as a matter of practicality.

The UK legislation was found compliant with regard to both articles under scrutiny – 7(2c)/19(1) and 3(4). The Proceeds of Crime Act (POCA) specifically provides for the opportunity to monitor banking operations and bank accounts. This is a special investigative mean as per the UK criminal procedure legislation regime. Sections 370 and 371 of the POCA clearly provide for such a possibility covering requirements of Art.7(2c). Furthermore, there is a possibility to provide mutual legal assistance upon request for execution of this special investigative mean. The POCA provides for such opportunities at the UK level as well as at the level of England, Scotland, Wales and Northern Ireland. Consequently, Art.19(1) is applied properly in the UK legislation.

With regard to Art. 3(4) of the Convention, POCA Section 6 provides the basis and general terms for confiscation. Section 75 provides for extended confiscation – a framework through which a reversal of burden of proof is possible – whereby the defendant should be able to account for the

lawful origin of the assets concerned. These sections set up a basis for proper application of the Art. 3 (4) in the UK.

Given that the UK practice appears to be a prominent one in applying Art.3(4), the Secretariat also proposed to enrich the Annex of the Interpretative note to Art. 3 (4) of the Convention with this case example and other good practices. In view of that, the Secretariat also encouraged the UK to consider a revision to the declaration made in respect to Art. 3 (4).

The UK delegation thanked the Secretariat for the analysis and stated that there were no comments or observations to the report.

The President supported the proposal to enrich the Interpretive Note to Art. 3(4) with the good practices of the UK and put forward this proposal to the plenary. There were no objections to it.

The Secretariat also presented the analysis of the thematic monitoring report following the ratification of the Convention by Lithuania. In this regard, the Secretariat noted that Lithuania was found compliant with Articles 25 and 11 of the Convention. For both articles EU legislation played a significant role, however Lithuania managed to demonstrate that it can go even beyond the EU legal framework and can have asset sharing agreements with non-EU member states as well. As for Art. 11 of the Convention, Lithuanian legislation envisages aggravated circumstances when the crime was committed by a repeat offender. Repeated offence refers to a situation when a perpetrator has already been convicted for intentional crime(s). As for the implementation of Art 25 there is possibility for giving priority consideration to returning the property to the legitimate owner, however the language of the national legislation slightly differs from the language of the Convention.

Regarding Art. 14 the Secretariat noted that Lithuanian legislation envisages the possibility to suspend suspicious transactions which may last up to 10 days. This provision is considered to be even broader than in many other jurisdictions which were found compliant with this particular article.

Article 3 (4) is also implemented by Lithuania and there is a clear provision in the Criminal Code which states that if the offender fails, in the course of criminal proceedings, to provide proof of the legitimacy of the acquisition of property, the burden of proof is shifted to the offender. For the practical application of the article, the Secretariat consulted the MONEYVAL MER of Lithuania from 2018, which found this element of the confiscation regime to be applied to a very limited extent.

Regarding Articles 9(3), 7 (2c) and 19 (1) of the Convention, the Secretariat noted that none of the legal provisions presented by Lithuania seemed relevant for the application of these articles. As regards Art.9(3), ML is an intentional crime in Lithuania. Arguments that were put forward by the authorities stating that intent and knowledge may be inferred from objective, factual circumstances, could not be accepted as this cannot be interpreted as a "lesser mental element" since it still requires the awareness of the perpetrator with regard to the origin of assets (see also the Interpretative Note on Article 9(3)). Therefore, the conclusion is that Lithuania is not compliant with the provisions of the Art. 9 (3) of the Convention.

Article 7 (2c) and the possibility to monitor banking operations and banking accounts are not provided for in Lithuanian legislation. These shortcomings have a cascading effect on the implementation of Art. 19 (1), which is also not applied in Lithuania.

The Lithuanian delegation thanked the Secretariat for the analysis and provided further clarifications regarding Art. 3 (4) – the delegation stated that extended confiscation was one of their priorities and that additional information on multiple trainings and case studies was sent to the Secretariat before the plenary meeting.

Regarding Art. 7 (2c) Lithuania stated that its national legislation allows competent authorities to monitor banking operations and bank accounts. The delegation stated that, in line with the national legislation, all crimes listed in the Annex to the Convention are covered by this special investigative measure, which is applied upon decision of the court. Additional information on this topic as well as legal provisions regarding the issue were submitted to the Secretariat during the plenary week.

The President noted that this additional information was provided by Lithuania at a very late stage thus making it impossible for the Secretariat to take it into account and adjust the report. The President suggested that the report would be adopted as it is and that the selected follow up procedure can be applied to update the reports at the next plenary.

Lithuania had no objections to the proposal made by the President and the plenary agreed to it.

Item 4. Follow up procedure – proposal for the follow up process

The Secretariat presented the document proposing the way forward with regard to the follow up procedure. The Executive Secretary informed the COP that next year State parties which failed to implement the articles subject to the 1st thematic monitoring review (i.e., Art. 11 and 25) will be required to report on progress made. By contrast, countries which were found compliant or partially compliant would not be subject to the follow up procedure. In line with this approach, 6 States Parties are proposed for follow up procedure on Article 11 and 10 States Parties for Article 25. The Secretariat will prepare the questionnaires and will circulate them to the Parties concerned. The timeframe for reporting back is set to 6 months upon the circulation of the questionnaires.

The President reiterated that the follow up procedure is a very important part of the monitoring mechanism established by the COP.

There were no questions or comments raised on the issue. The proposal was thus approved by the plenary.

Item 5. Analysis on the responses received to the Questionnaire on Virtual Assets

The rapporteur for this COP activity, Mr Branislav Bohacik, presented the key findings of the analysis on responses received to the Questionnaire on Virtual Assets. His presentation mostly focused on general findings related to the regulatory framework (i.e. definition of virtual assets (VAs), virtual assets service providers (VASPs) and wallet service providers), seizure and confiscation of virtual assets as well as on non-conviction based confiscation, international cooperation in this area, and criminalisation of any unlawful action which includes virtual assets. He underlined that the States Parties provided high quality information in their responses to the questionnaire, including cases of confiscation of virtual assets.

Responses were received from 26 State Parties. 7 State Parties submitted their responses prior to the official approval of the Questionnaire, meaning that these States Parties have not

responded to questions 6 and 8. The rapporteur also provided his views on future action, as well as midterm actions with regard to the finalisation of the report.

The President and the Secretariat commended the commitment of the States Parties to participate in this exercise. Mr Bohacik's presentation will be circulated and made available on the COP restricted website. The President suggested to extend the deadline for providing answers to the Questionnaire up to February 2022 in order to incorporate late answers into the final report. The President also encouraged the State Parties which have not submitted their responses to do so. He also suggested that Mr Branislav Bohacik present the report and share the relevant findings during the joint session of the COP and PC-OC.

Item 6. Cases of practical implementation of the Convention by the States Parties

The Secretariat informed the COP that for this agenda item 3 State Parties (France, San Marino and Portugal) submitted relevant cases of practical implementation of the Convention. These cases will be published on the COP restricted website. The President invited the State Parties to present their cases to the plenary.

The delegation of San Marino (Mr Nicola Muccioli) presented a case of ML, where the FIU triggered an investigation. Mr Muccioli gave a brief overview of the case, where the FIU dissemination was made in 2017, whilst the indictment was brought before the court in 2019, with the final conviction being achieved in 2020. The proceeds confiscated were estimated at 1.5 million Euros. Predicate offences were aggravated fraud and embezzlement. The illicit funds were generated from pension schemes in different European jurisdictions. Mr Muccioli pointed out that this particular case was brought to the attention of the COP, because it concerns ML offences with a role of the FIU in the investigation, analysis and cooperation with foreign counterparts, including the use of its power to monitor accounts. The confiscation aspect of this case is also relevant for the COP.

The Austrian delegation raised the question whether the request sent by the San Marino was based on the provisions of the Warsaw Convention only or the country used other instruments for multilateral cooperation. Mr Muccioli was not sure if other legal instruments were used and promised to check that with other competent authorities and then inform Austria on that.

The Portuguese delegation presented a case which was triggered by the suspicious transaction reported by a bank to the FIU. The bank informed the FIU of 4 million Euros worth of suspicious transactions. The bank conducted a risk analysis, which raised doubts on the origin of the funds. The FIU submitted its analysis to the prosecutor, who then ordered the freezing of the funds. Responsible individuals were identified, and the investigation is still on-going.

The French delegation informed the COP that, between 2016 and 2020, 139 companies were convicted for ML. The French delegation presented a case where a national supervisory authority received anonymous letters, which provided information that a Swiss bank subsidiary in France carried out suspicious transactions. As a result, a cross-border investigation of the Swiss bank and its French subsidiary was launched. These entities were then prosecuted and convicted to a fine of 3.2 million Euros for aggravated ML, fraud and tax evasion.

Another case presented by the French delegation was related to ML, where corruption in a third jurisdiction was a predicate offence. Bribes were laundered in France. French and Swiss authorities led this investigation jointly. Companies which were involved in ML through buying real

estate admitted their guilt and the property was then confiscated. The assets were returned to the countries that suffered financial loss due to these activities.

Item 7. On the procedure for accession of non-member states

The Executive Secretary informed the COP on the issue of accession to the Convention of non-member states. The Executive Secretary specified that there is a special practice which exists in the Council of Europe, namely for the Convention on Cybercrime, which has a large number of non-member States which successfully acceded to that Convention. According to this practice, the Committee to the Cybercrime Convention issues its recommendation to the Committee of Ministers concerning the accession of a non-member state. In view of that, he suggested that the COP should be consulted in a similar manner, so that it could make a recommendation to the Committee of Ministers on cases when non-member states request accession to the Convention.

The Russian Federation supported the proposal made by the Executive Secretary.

The Vice-President (Ms Oxana Gisca) also supported the proposal made by the Secretariat, emphasizing that it is a very valid point for the COP to consider facilitation of non-member states accession to the Convention. She also noted that all the States Parties aim at preventing and fighting money laundering using the tools and mechanisms provided by the Convention.

There were no objections to the proposal made by the Executive Secretary, and it was accepted by the COP.

Miscellaneous

The President also informed the plenary on the discussions held by Bureau concerning the articles suggested for the 2022 horizontal review. The Secretariat further elaborated the proposal made by the Bureau to review the application of Art. 6 of the Convention ('Management of frozen or seized property') in the next thematic review. However, the Secretariat suggested that if State Parties consider this issue insufficient, Art. 23 (5) might be also added for the next thematic review.

State Parties were then invited to comment on this proposal.

Several State Parties (Romania, Italy) voted in favour of having thematic monitoring review of the Art. 6 as a standalone issue. Consequently, the COP agreed to have Art. 6 for the next thematic monitoring review. The President invited delegations to put forward their candidacies for rapporteurs who would, together with the Secretariat, prepare the draft report.

The list of decisions was then distributed to the delegations.

The Russian Federation raised an issue regarding the language of items 1 and 7 of the list of the decisions. They also asked to add to the list a new item 14 related to the adoption of the report on the Selected follow up procedure on Art.11 and Art.25 (2 and 3) for the Russian Federation. The text was then adjusted to reflect this intervention.

The Executive Secretary also informed the COP that the Council of Europe launched the evaluation of the Council of Europe monitoring mechanisms and that the Questionnaire on the performance of the COP was circulated to all delegations. He invited delegations to respond to the Questionnaire.

Closure of the meeting

The next (14th) plenary of the COP is planned for November 2022. Exact dates will be circulated to all delegations in due time.

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

AGENDA / ORDRE DU JOUR

Wednesday, 17 November 2021 (9:00 – 12:30; 14:00 – 17:30)	<i>Mercredi, 17 novembre 2021</i> (9h00 – 12h30; 14h00 – 17h30)
1. Adoption of the agenda C198-COP(2021)OJ2prov2 (EN/FR)	1. <i>Adoption de l'ordre du jour</i>
2. Statement by Mr Jan Kleijssen, Director of the Information Society and Action against Crime	2. <i>Intervention de M. Jan Kleijssen, Directeur de la société de l'information et de la lutte contre la criminalité</i>
3. Communication by the President C198-COP13(2021)INF-3 (EN only)	3. <i>Communication de la Présidence</i>
4. Communication by the Executive Secretary	4. <i>Communication du Secrétaire Exécutif</i>
5. Presentation of the transversal thematic monitoring of the implementation of the Convention by the States Parties: Article 10 (1 and 2) - <i>Presentation by the rapporteurs</i> - <i>Discussion with States Parties</i> C198-COP(2021)6prov (EN and FR)	5. <i>Présentation du suivi thématique transversal de la mise en œuvre de la Convention par les Etats membres : Article 10(1 et 2)</i> - <i>Présentation par le rapporteur</i> - <i>Discussion avec les Etats membres</i>
6. Implementation of p.1.5 of the Council of Europe Counterterrorism Strategy “Financing of Terrorism” - <i>Briefing by the Council of Europe Committee on Counterterrorism (CDCT)</i>	6. <i>Mandat pour la mise en œuvre de p.1.5 du Conseil de l'Europe Stratégie antiterroriste « financement du terrorisme »</i> - <i>Briefing du Comité du sur la lutte contre le terrorisme (CDCT)</i>
7. Operational Challenges with Asset Recovery: Measures to Enhance Global Effectiveness - <i>Presentation by the FATF Secretariat</i> FATF-RTMG document	7. <i>Défis opérationnels liés au recouvrement d'avoirs : mesures visant à améliorer l'efficacité mondiale</i> - <i>Présentation par le Secrétariat du GAFI</i>
Thursday, 18 November 2021 (9:00 – 12:30; 14:00 – 17:30)	<i>Jeudi, 18 novembre 2021</i> (9h00 – 12h30; 14h00 – 17h30)
1. Elections for COP President, Vice-President and Bureau members C198-COP13(2021)INF2-1 (EN and FR)	2. <i>Élections de Président, Vice-président et Membres du Bureau de la COP</i>

<p>3. Reservations and Declarations</p> <ul style="list-style-type: none"> - <i>Presentation by the Secretariat</i> - <i>Discussion with States Parties</i> <p>C198-COP(2021)8 (EN only)</p>	<p>2. Réserves et Déclarations</p> <ul style="list-style-type: none"> - <i>Présentation par le Secrétariat</i> - <i>Discussion avec les Etats parties</i>
<p>3. Amendments to the 2018, 2019 and 2020/2021 thematic monitoring reports following the ratification by Lithuania and inputs received by the United Kingdom</p> <ul style="list-style-type: none"> - <i>Presentation by the Secretariat</i> - <i>Discussion with States Parties</i> <p>Extracts of Reports concerning LT and UK (EN and FR)</p>	<p>3. Amendements aux Rapports de suivi thématique de 2018, 2019 et 2020/2021 suite à la ratification par Lituanie et les contributions par le Royaume Uni</p> <ul style="list-style-type: none"> - <i>Présentation par le Secrétariat</i> - <i>Discussion avec les Etats parties</i>
<p>4. Follow up procedure – proposal for the follow up process</p> <ul style="list-style-type: none"> - <i>Presentation by the Secretariat</i> <p>C198-COP(2021)9 (EN and FR)</p>	<p>4. Procédure de suivi – proposition de processus de suivi</p> <ul style="list-style-type: none"> - <i>Présentation par le Secrétariat</i>
<p>5. Analysis on the responses received to the Questionnaire on Virtual Assets</p> <ul style="list-style-type: none"> - <i>Presentation by the rapporteur, Mr Branislav Bohacik</i> <p>C198-COP(2021)7 (EN only)</p>	<p>5. Etude des réponses aux Questionnaire sur les actifs virtuels</p> <ul style="list-style-type: none"> - <i>Présentation par le rapporteur, M. Branislav Bohacik</i>
<p>6. Cases of practical implementation of the Convention by State Parties</p> <ul style="list-style-type: none"> - <i>Tour de table</i> <p>Template for delegations (EN/FR)</p>	<p>6. Cas d'application pratique de la Convention par les États membres</p> <ul style="list-style-type: none"> - <i>Tour de table</i>
<p>7. On the procedure for accession of non-member states</p>	<p>7. Procédure d'adhésion des Etats non-membres</p>
<p>Close of the meeting 17.30</p>	<p><i>Fin de la réunion</i> 17h30</p>

SILENCE PROCEDURE ITEM / POINT RELATIF A LA PROCEDURE SILENCIEUSE

Selected follow up procedure on Art.11 and Art.25 (2 and 3) for the Russian Federation; Procédure de suivi sélectionnée concernant l'article 11 et l'article 25 (2 et 3) pour la Fédération de Russie

[2 Extracts of HR Reports concerning the Russian Federation \(EN and FR\)](#)

Appendix II

Strasbourg, 18 November 2021

C198-COP(2021)LD2

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 thirteenth meeting in Strasbourg, from 17 to 18 November 2021, under the Chairmanship of its President Mr Ioannis Androulakis (Greece). The COP took the following decisions:

1. Encouraged State Parties to contact their national delegations in the FATF to facilitate the discussions on changes to the FATF Standard on Asset Recovery in line with the provisions of the Convention;
2. Approved the organisation of a Joint Session with the PC-OC on asset recovery in April – May 2022;
3. Approved the Thematic Monitoring Report on Article 10;
4. Decided to develop the Interpretative Note for Article 10(2), and enrich the Interpretative Note for Article 3(4) with examples of good practices;
5. Took into account presentations by the CDCT and FATF Secretariat;
6. Elected the President, Vice-President and Bureau members for the next term;
7. Decided for Reservations and Declarations:
 - a. To request the Council of Europe Secretariat to provide a note on the applicable legal procedure for declarations and reservations;
 - b. To recommend to State Parties to inform (on a voluntary basis) on an intention to submit reservations and declarations after depositing the instruments of ratification; the Secretariat should also inform States Parties of any observations made by the membership on such reservations and declarations;
 - c. That late reservations and declarations are preferably to be avoided;
 - d. To adopt changes in the Reservations and Declarations document with regard to Ukraine (Articles 46(13) and 47 and general notification on territorial application of the Convention) and Austria, Denmark and Hungary (Art.46(13)).
8. Adopted amendments to the 2018-2021 thematic monitoring reports by Lithuania and UK and approved selected follow up procedure for Lithuania for Articles 7(2c) and 3(4);

9. Adopted the proposal for the follow-up procedure for Articles 11 and 25;
10. Heard the presentation on the virtual assets confiscation in light of the Convention's provision resulting from the questionnaire distributed in early 2021 and decided to present the outcomes of this research at the Joint Session and discuss further steps with regard to this exercise;
11. Heard the presentations on practical cases on implementation of the Convention by Portugal, San Marino and France;
12. Invited the Council of Europe Committee of Ministers to take a decision to consult the C198-COP whenever a Council of Europe non-member-state asks to be invited to accede to the CETS198;
13. Agreed on the subject of the next Thematic Monitoring Review – namely Article 6 of the Convention;
14. Approved revisions to the Thematic Monitoring Reports on Articles 11 and 25 (2 and 3) adopted through the silence procedure, resulting from the selected follow up procedure for the Russian Federation

C198-COP 13 – 17-18/11/2021- PARTICIPATION

STATE PARTIES / ETATS PARTIES	
Ioannis ANDROULAKIS Greece	PRESIDENT Assistant Professor of Criminal Law & Criminal Procedure Athens, Greece
Dr Alexander MANGION Matla	BUREAU MEMBER Financial Intelligence Analysis Unit of Malta
Oxana GISCA Republic of Moldova	BUREAU MEMBER Head of division Supervision and Compliance Office for Prevention and Fight against Money Laundering, Government of Republic of Moldova
Diana Stillo SILA Albania	Ministry of Justice Head of International Treaties Sector
Elvis KOÇI Albania	General Directorate for the Prevention of Money Laundering General Director
Aram KIRAKOSSIAN Armenia	Acting Head, International Relations Division, Financial Monitoring Center of the Central Bank of Armenia
Ani VARDERESYAN Armenia	Expert, Center for Legislation Development and Legal Research Foundation, Ministry of Justice of the Republic of Armenia
Hasmik MUSIKYAN Rapporteur Armenia	Legal adviser-Coordinator, Financial Monitoring Center, Central Bank of Armenia
Katharina STEININGER Austria	Judge, seconded to the Department of Criminal Law at the Austrian Federal Ministry of Justice
Lara STOCK Austria	Austrian Federal Ministry for European and International Affairs
Aygun BASHIROVA Azerbaijan	Head of the Administrative and Military Normative Acts Unit to the General Department of the Legislation of the Ministry of Justice of the Republic of Azerbaijan
Mehman ALIYEV Azerbaijan	Senior specialist at Risk assessment and methodology unit of Legal department of Financial Monitoring Service of the Republic of Azerbaijan
Jean Sébastien JAMART Chef de Délégation Belgique	Attaché juridique, Service Public Fédéral Justice

Haris VRANJ Bosnia and Herzegovina	State investigation and protection agency / Financial intelligence department (FIU BiH)
Sanela LATIĆ Bosnia and Herzegovina	Ministry of Justice of Bosnia and Herzegovina
Cvetelina STOYANOVA Co-Head of delegation Bulgaria	Acting Director of FID-SANS (Bulgarian FIU)
Irena BORISOVA Bulgaria	State expert in the « International legal cooperation and European affairs” Directorate, Ministry of Justice of the Republic of Bulgaria
Tea PENEVA Co-Head of delegation Bulgaria	Chief expert in the « International legal cooperation and European affairs” Directorate, Ministry of Justice of the Republic of Bulgaria
Danka HRZINA Croatia	Deputy Municipal State Attorney in Zagreb Seconded at the General State Attorneys of the Republic of Croatia
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
Antroniki ODYSSEOS Cyprus	Counsel of the Republic of Cyprus
Maria KYRMIZI Cyprus	Senior Counsel of the Republic of Cyprus
Margaux GUILLMOT Chef de délégation France	Magistrate Bureau de la lutte contre la criminalité organisée, le terrorisme et le blanchiment, Direction des affaires criminelles et des grâces – Ministère de la justice
Fanny HUBOUX France	Magistrate, cheffe de la mission GAFI (Ministère de la Justice - DACG)
Tamta KLIBADZE Georgia	Head of Secondary Unit at Methodology, International Relations and Legal Department, Financial Monitoring Service of Georgia
Giorgi METREVELI Georgia	Investigator of Extraordinary Cases The General Prosecutor’s Office of Georgia
Charalampos KOTOULOPOULOS Greece	Judge at Athens Court of First Instance Greece
Antonios PAPAMATTHAIYOU Greece	Prosecutor at Corinth Court of First Instance, Greece

Efstathios TSIRMPAS Greece	Hellenic FIU, Director
Dr. Juergen MUELLER Head of delegation Germany	Federal Ministry of Justice and Consumer Protection, Germany
dr Attila SISÁK Hungary	Head of Delegation
Mark MESZARICS Hungary	Assistant of the Head of Delegation
dr Ágnes KORMÁNYOS Hungary	Expert
Nicola PIACENTE Italy	Chief Prosecutor Como Designated by the Ministry of Justice Roma Italy
Jūratė RADISAUSKIENE Lithuania	Prosecutor of the Criminal Prosecution Department of the Prosecutor General's Office of the Republic of Lithuania
Julita JAGLA Lithuania	Head of Compliance Division of the Money Laundering Prevention Board Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania
Aleksejs LOSKUTOVS Head of Delegation Latvia	Head of Strategic Analysis Division, Financial Intelligence Unit of Latvia
Maija BIDINA Latvia	Lawyer, Ministry of Justice of Latvia
Jonathan PHYALL Rapporteur Head of Delegation Malta	Head – Legal Affairs Section Financial Intelligence Analysis Unit
Cinzia AZZOPARDI ALAMANGO Malta	Office of the Attorney General - Lawyer
Clara GALDIES Malta	Financial Intelligence Analysis Unit Senior Officer
Robert GELLI Chef de délégation Monaco	Secrétaire d'Etat à la Justice, Directeur/ Direction des Services Judiciaires
Pierre-Erige CIAUDO Monaco	Administrateur/ Direction des Services Judiciaires

Jean-Marc GUALANDI Monaco	Conseiller Technique/ SERVICE D'INFORMATION ET DE CONTROLE SUR LES CIRCUITS FINANCIERS (SICCFIN)
Sasa CADJENOVIC Montenegro	Special Prosecutor's Office Special Prosecutor
Danijela MILICEVIC Montenegro	Head of the Department for International Financial Intelligence Cooperation
Claudia ELION Head of Delegation Netherlands	Head of Delegation Policy advisor, Ministry of Justice and Security
Seda NUR ELIBOL Netherlands	Policy advisor, Ministry of Justice and Security
Suzana MIRCESKA North Macedonia	Public Prosecutor, Basic Public Prosecutor Office for Organized Crime and Corruption
Blazho TREDAFILOV Head of Delegation North Macedonia	Director, Financial Intelligence Office
Andrian MUNTEANU Republic of Moldova	Deputy director Office for prevention and fight against money laundering, Government of Republic of Moldova
Dumitru OBADA Republic of Moldova	Anticorruption Prosecution
Jakub KALBARCZYK Poland	Chief Specialist - Assistant Judge, Unit for European and International Criminal Law, Legislative Department of Criminal Law, Ministry of Justice
Ewa SZWARSKA-ZABUSKA Head of Delegation Poland	Chief Specialist FIU Poland
António Manuel RODRIGUES Correia de Oliveira Portugal	Polícia Judiciária/Criminal Police – Coordenador de Investigação Criminal/Coordinator of Criminal Investigation – Responsável na Unidade de Informação Financeira (UIF)/Responsible at the Financial Information Unit (UIF)
António Pedro da Fonseca DELICADO Head of Delegation Portugal	Jurista/Legal Adviser – Direção-Geral da Política de Justiça/Directorate General for Justice Policy
Hélio Rigor RODRIGUES Portugal	Advisor to the Attorney General's Office

Sorin TANASE Head of Delegation Romania	Deputy director, Department of Crime Prevention, Ministry of Justice,
Răzvan BOȘTINARU Romania	Legal adviser with the statute of magistrates, Ministry of Justice, Romania
Alexey LYZHENKOV Head of Delegation Russian Federation	Deputy Director Department on the Issues of New Challenges and Threats MFA Russia
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
Giorgia UGOLINI San Marino	Magistrate at the Court of the Republic of San Marino
Nicola MUCCIOLI San Marino	FIU San Marino
Alessandra TADDEI San Marino	Legal Expert –FIU San Marino
Nikola NAUMOVSKI Serbia	Assistant Minister, Ministry of Justice of the Republic of Serbia
Dragan MARINKOVIĆ Head of Delegation Serbia	Assistant Director, Administration for the Prevention of Money Laundering, Ministry of Finance of the Republic of Serbia
Branislav BOHACIK Head of Delegation Slovakia	Prosecutor, head of delegation General Prosecutor's Office of the Slovak Republic International Department
Lívia TYMKOVA Slovakia	Division for European and International Affairs, Ministry of Justice of the Slovak Republic
Andrej KIS PAL Slovakia	Head of International Cooperation Department Ministry of Interior of the Slovak Republic Police Force Presidium Financial Intelligence Unit
Branka GLOJNARIC Slovenia	Secretary Office for Money Laundering Prevention of the Republic of Slovenia
Klemen PRINCES Slovenia	Undersecretary Ministry of Justice
Victor HENSJÖ Head of Delegation Sweden	Head of the Swedish Delegation Legal Adviser Ministry of Justice - Division for Criminal Law

Conchita CORNEJO Spain	Ministry of Economy (Treasury and Financial Policy General Secretariat) Area Coordinator
Jose SANCHEZ-MILLAN Spain	Head of Service & Technical Expert Subdirección General de Cooperación Internacional contra el Terrorismo, las Drogas y la Delincuencia Organizada MFA – Spain
Kadir GÜLER Turkey	Expert, Financial Crimes Investigation Board (MASAK), Ministry of Treasury and Finance of the Republic of Turkey (Address: T.C. Hazine ve Maliye Bakanlığı, A-Blok, Çankaya, Ankara/Türkiye)
Muhammed KARACA Turkey	Rapporteur Judge/Ministry of Justice of Turkey
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
Valentyn SHEVCHUK Ukraine	Head of the Division of the Asset Recovery Department of the National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and Other Crimes
Oleh BELISOV Ukraine	Chief Specialist of the Unit for the FIU Intelligence Financial Investigations of the Division for Financial Investigations with the Financial Intelligence Units of the Financial Investigations Department of the State Financial Monitoring Service of Ukraine
Eldon WARD 2021 United Kingdom	Money Laundering Policy Lead, Home Office

OBSERVERS / OBSERVATEURS	
Isabel VILLANUEVA NAVAS Andorra	LEGAL DEPARTMENT, UIFAND (Andorran Financial Intelligence Unit)
Frank HAUN Liechtenstein	Deputy Prosecutor General Office of the Public Prosecutor, Liechtenstein
Kentaro SUZUKI	Consul, Consulat Général du Japon à Strasbourg
Titus CORLĂȚEAN	Member of Parliamentarian Assembly of the Council of Europe
Neil EVERITT	FATF Secretariat

SCIENTIFIC EXPERT / EXPERT SCIENTIFIQUE	
Paolo COSTANZO	Head of Analysis and Institutional Relations Directorate Financial Intelligence Unit, Banca d'Italia

INTERPRETERS	
Katia DI STEFANO Gillian WAKENHUT Corinne McGEORGE	Council of Europe Interpretation Department / Service d'interprétation du Conseil de l'Europe

DGI / C198-COP Secretariat	
Jan KLEIJSEN	Director of the Information Society and Action against Crime
Hanne JUNCHER	Head of Department Action against Crime
Igor NEBYVAEV	Executive Secretary of the C198-COP
Lado LALICIC	Head of Unit C198-COP
Ana BOSKOVIC	Administrator
Stela BUIUC	Administrator
Daniil BURDA	Administrator
Danielida WEBER	Administrative assistant to C198-COP
Narmin MURADOVA	Administrative assistant