

Strasbourg, 20 December 2022

C198-COP(2022)10

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)

14th meeting, Strasbourg, 15-16 November 2022

MEETING REPORT

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

SUMMARY 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 fourteenth meeting in Strasbourg, from 15 to 16 November 2022, 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 (Tuesday, 15 November 2022)

Item 1. Opening of the meeting and adoption of the Agenda

After the opening of the meeting by the Chair, one adjustment was made to the Agenda to add an item concerning the presentation by Council of Europe expert, Mr. Walter Quiryen on asset management at the start of the second day of the Plenary meeting.

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 made an opening statement, outlining recent actions of the Council of Europe with regard to the Russian Federation, and noting the importance of the issues on the Agenda, including the horizontal review on asset management, and interpretation of Article 10 on corporate liability. He emphasised the importance of the Joint Session between COP and the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC) to discuss the feasibility of preparing an additional protocol to the Warsaw Convention.

Item 3. Communication by the President

The President informed the Conference on recent engagements between the COP and the Financial Action Task Force (FATF) and within the Council of Europe. The President welcomed Morocco as a new member of the COP and expressed his hope that the delegation of Morocco will participate in future meetings. He also welcomed the ratification of the Convention by Estonia, entering into force on 1 January 2023.

Item 4. Communication by the Executive Secretary

The Executive Secretary informed the Conference in relation to the work of the Secretariat, including the state of affairs regarding staffing and budget. He made a call to delegations for any voluntary contributions.

Item 5. Participation of the Russian Federation in the Conference of the Parties to CETS 198 and procedural modalities related thereto

The President introduced the item, which was included in the agenda following an invitation by the Committee of Ministers of the Council of Europe directed to each body representing all the Parties of an open convention of the Council of Europe to which the Russian Federation remains a Party, including the Conference of the Parties to CETS 198 to decide on the modalities of participation of the Russian Federation in the respective body. The President highlighted the fact,

that the COP is the first open convention body taking a decision following the call of the Committee of Ministers.

The Conference first discussed whether the continuing functioning of the Conference, in particular, bearing in mind the functions entrusted to it, requires adjusting the modalities of participation of the Russian Federation in the Conference, in accordance with the Rules of Procedure, amended as needed. Ukraine and the United Kingdom emphasised the need to limit the participation of the Russian Federation in the COP. Belgium and the Russian Federation voiced a number of procedural and substantive concerns with the proposal. The Russian Federation referred to the note verbale it submitted to the Council of Europe on the withdrawal from the Organisation. Slovakia, Sweden and Portugal took the floor to suggest postponing the voting process to the afternoon to ensure more time for internal discussion. The Netherlands, Ukraine, Poland and Moldova took the floor suggesting to proceed with the vote.

The President proceeded with the vote on the question “*Does your delegation agree to consider the participation modalities of the Russian Federation in the work of the COP?*”. The Executive Secretary informed that quorum (minimum of 19 delegations) was reached, and voting could proceed on the basis of Article 18.4 of the Rules of Procedure (decisions to be adopted by 2/3 majority of the votes cast).

Voting results: out of the total 38 eligible votes, 24 votes were cast, 22 State Parties voted “yes” (91.6%), 2 State Parties voted “no” (8.4%). There were 4 abstentions, which do not count as votes cast, in accordance with Article 18.6 of the Rules of Procedure. The required threshold of 2/3 was reached, and the vote was carried.

The Conference subsequently discussed draft procedural amendments to Rules 2 and 3 of the Rules of Procedure, as proposed in the document C198-COP(2022)4, outlining procedural limitations on the participation of a State that has ceased to be a member of the Organisation in the context of the procedure envisaged in Article 8 of the Statute of the Council of Europe, for a serious violation of Article 3 of the Statute.

The Russian Federation stated its concerns with the proposed restrictions and suggested an amendment to Rule 2, envisaging the possibility to introduce restrictions for a Party that has ceased to be a member of the CoE based on provisions of Article 7 of the Statute of the Council of Europe. The Secretariat clarified that Article 7 ensures the right of every member State to voluntarily withdraw from the CoE, so a reference to Article 7 would not be appropriate, irrespective of the differing interpretations between the Council of Europe and the Russian Federation on the legal modalities related to the withdrawal of the Russian Federation from the Council of Europe. Portugal, Ukraine, the United Kingdom and the Scientific Expert intervened against the proposal to include a reference to Article 7 of the Statute of the Council of Europe in Rule 2. Belgium voiced its concerns with the proposed amendments to Rule 2. Based on a proposal of the United Kingdom, the draft text was further amended to restrict the right of a State Party to stand for elections. A number of minor technical amendments were made to the draft text.

The Executive Secretary took the floor by stating that the quorum of 19 delegations to start the vote is reached and that the second question will be: “Does the Plenary agree to the amendments of the Rule of Procedure as proposed in the document C198-COP(2022)4_RF and with the amendments made during the discussion”. After the vote the Executive Secretary announced that twenty-one votes were in favour and two votes against, which made a total of twenty-three votes cast and therefore the 2/3 majority to carry the vote has been reached.

The President proceeded with the vote on the question *“Does your delegation agree to the amendments to the Rules of Procedure as proposed in document C198-COP(2022)4?”*. The Executive Secretary informed that quorum (minimum of 19 delegations) was reached, and voting could proceed on the basis of Article 18.4 of the Rules of Procedure (decisions to be adopted by 2/3 majority of the votes cast).

Voting results: out of the total 38 eligible votes, 23 votes were cast, 21 State Parties voted “yes” (87.5%), 2 State Parties voted “no” (12.5%). There were 4 abstentions, which do not count as votes cast, in accordance with Article 18.6 of the Rules of Procedure. The required threshold of 2/3 was reached, and the vote was carried. The amendments to Rules 2 and 3 of the Rules of the Procedure were adopted by the Conference.

At the request of the Russian Federation the Secretariat clarified that the reimbursement of expenses for member States as well as non-member States of the Council of Europe is carried out in accordance with the provisions of Rule 1.3 within the limits of the CoE budgetary appropriations.

The Conference subsequently discussed the application of the amended Rules of Procedure to the Russian Federation, and in particular the restrictions envisaged by Rule 2 ad modified by the Conference. The Chair tabled the proposal of the Bureau to apply all restrictions envisaged by Rule 2.2, paragraphs a), b) and c), and to limit the participation of the Russian Federation in the meetings of the Conference to on-line attendance only.

Ukraine insisted twice to limit the participation of the Russian Federation in the meetings of the Conference to the on-line attendance with the right to take the floor only to express its comments exclusively on the monitoring of the Russian Federation’s own compliance with the obligations under the Convention; the members of the C198-COP did not support the suggestion and it was not put to voting.

The President proceeded with the vote on the question *“Does your delegation agree to apply restrictions on the participation of the Russian Federation in the C198-COP, as proposed by the Bureau?”*. The Executive Secretary informed that quorum (minimum of 19 delegations) was reached, and voting could proceed on the basis of Article 18.4 of the Rules of Procedure (decisions to be adopted by 2/3 majority of the votes cast).

Voting results: out of the total 38 eligible votes, 23 votes were cast, 21 State Parties voted “yes” (87.5%), 2 State Parties voted “no” (12.5%). There were 5 abstentions, which do not count as votes cast, in accordance with Article 18.6 of the Rules of Procedure. The required threshold of 2/3 was reached, and the vote was carried. The restrictions envisaged by Rule 2.2, paragraphs a), b) and c) were applied with regard to the Russian Federation, and its participation in the work of the Conference was limited to on-line attendance only.

The President invited the delegation of the Russian Federation to leave the room and follow the rest of the Conference remotely.

Item 6. Presentation of the transversal thematic monitoring of the implementation of the Convention by the States Parties: Article 6

The rapporteurs for the Thematic Horizontal Report on Article 6 of the Convention - Ms. Claudia Elion (the Netherlands) and Mr Mehman Aliyev (Azerbaijan) presented the key findings of the Report.

Lithuania explained national procedures for asset management and provided some examples on early (pre-trial) sale of property to prevent loss of value. Lithuania stated that they do not have a specific asset management office but disagreed with the finding of the report that the country doesn't have clear procedures for asset management. The Rapporteur underlined that the report never stated that there are no procedures in place, still it evaluates that the procedures submitted by the countries fit with the expectations. The Deputy Executive Secretary added that the reference in the report to "some procedures" is exactly referring to the procedures cited by Lithuania. Nevertheless, the Deputy Executive Secretary explained that these procedures are very complex, fragmented and include many different bodies, which may lead to a lack of coordination and centralization of the asset management system. He pointed out that in general, the Lithuanian legal system established a general framework for asset management, however some procedures, as, for example, the management of complex assets, are not yet present. The President concluded that Lithuania will be able to provide further provisions on asset management procedures in the context of the follow-up report process.

Austria highlighted the fact that case studies, if provided by countries which successfully apply Article 6, would be very helpful to understand how an effective asset management exactly looks like. The Deputy Executive Secretary further elaborated on this point and explained that the Secretariat is considering to propose to the States Parties which are found to have an effective asset management system to present the cases during the next plenary meeting.

Romania noted a material error on relevant article numbering in paragraph 4 of the country review. Romania stated that some cases that prove effective implementation of Article 6, including the seizure and management of cryptocurrencies and high value assets, were submitted week before the plenary. Romania asked if after the presentation of the cases, that will take place as a part of the agenda item 12 ('Cases of practical implementation of the Convention'), the effectiveness part of the report could be exceptionally amplified. The rapporteurs and the Deputy Executive Secretary expressed their consent with this proposal and agreed to reconsider the effectiveness part on Romania after the presentation is held next day.

The Scientific Expert underlined an issue on the interpretation of Article 6 and its relation to Articles 3, 4 and 5. He stated that Article 6 is making a cross-reference to articles 3, 4 and 5, meaning that the property, which has to be properly managed, needs to be confiscated according to Article 3, 4 and 5. He also highlighted that talking about cascading effect of Articles 3, 4 and 5, as it currently stands in the report, would impact compliance of Article 6 and would not only look at the management of the asset. Deputy Executive Secretary stated that in this matter there is no right or wrong approach since and that this is an interpretational issue. He explained that the Secretariat and the rapporteurs took a view that there cannot be good asset management system if there are no assets confiscated in line with articles 3, 4, 5. In addition, the report doesn't assess compliance with Articles 3, 4 and 5 and for that purpose the findings of MONEYVAL and FATF reports are used.

The Chair clarified that, according to this interpretation, theoretically it would not be sufficient if a country has an asset management system able to cover all asset which are seized, if the legislation is still not in line with the obligations of Articles 3, 4 and 5.

Slovakia took the floor by proposing to postpone the issue and come back with a more complex analysis or an interpretative note. The rapporteurs explained that an interpretative note wouldn't be necessary, since this is not a substantial issue and doesn't play a role in the results of the report itself. Furthermore, there will be time to discuss in more depth the relations between Article 6 and Articles 3, 4, and 5 during the next days and especially in the Joint Session. The Deputy Executive Secretary underlined that the results of this report do not call for a formal follow up

procedure, since none of the countries is considered as non-compliant. He also highlighted how the linkages and references to Articles 3, 4 and 5 were useful to assess the systems from more general perspective. The President concluded that since there are no objections to the interpretation provided by the rapporteurs and the Secretariat, the discussion could proceed.

Slovakia pointed out that paragraph five of their country specific report states that there are rules in respect to managing assets that are necessary for evidentiary purposes but on the other hand paragraph seven states that there are concerns regarding the management of assets that could serve as evidence. The rapporteurs and the Secretariat proposed to discuss the issue bilaterally with the Slovak delegation during the break to make sure that the text is correctly reflecting the situation in Slovakia.

The Russian Federation referred to the report where it says that in Russia there is no centralized office for seized and confiscated assets but in fact there is the Federal Property Management Agency. Rapporteurs answered that according to Article 6 only a centralized office for seized and frozen assets is relevant and the Federal Property Agency manages confiscated assets only. It was then suggested to delete the second half of the sentence and state that in Russia there is no centralized office for seized assets.

Türkiye requested clarification on the part of the report which invites the country to consider expanding the regulation to include more procedures for specific asset management. Rapporteurs explained that the report is recommending the inclusion of procedures for asset management related to the offences that are mentioned in Article 3 – the offences listed in the Appendix of the Convention.

After a brief discussion the President suggested to delete the last phrase and just leave the previous sentence which says that Türkiye is recommended to undertake legislative measures to allow the management of seized assets deriving from all offences listed in the Appendix of the Convention.

Item 7. Amendments to the 2018, 2019, 2020 and 2021 thematic monitoring reports following the ratification by Austria

In line with the Rules of Procedure and reporting requirements for new State Parties, the Secretariat carried out and presented the analysis of Austria's compliance with the provisions of the Convention which were subject to Thematic Monitoring Reports since 2018.

The Austrian delegation intervened in relation to Articles 7(2c), 19(1) and 14. The Deputy Executive Secretary acknowledged the information received regarding Article 14. Regarding Article 7 (2c), the Deputy Executive Secretary highlighted that the Austrian legislation is not in line with the requirements. Additionally, the lack of available case law prevented the Secretariat from concluding on its effectiveness. The Deputy Executive Secretary invited Austria to provide additional information in the follow-up procedure.

Regarding to Articles 7 (2c) and 19 (1), an amendment to the conclusion was agreed upon by the Plenary stating that it remained unclear whether the Austrian authorities have the possibility to monitor banking operations in line with Articles 7(2c) and 19(1). It was therefore recommended that the country adopt legislative or other measures enabling competent authorities to monitor banking operations during a specific period of time and to communicate the results upon requests from other States Parties. As for Article 14, the Plenary amended the analysis to reflect that the Austrian FIU had the power to suspend domestic transactions for a six-month period, despite the lack of practical examples.

Day 2 (Wednesday, 16 November 2022)

Item 8. Presentation of the development of asset management guidelines by Mr. Walter Quiryen

Mr. Quiryen, prosecutor from Belgium and the Council of Europe expert presented a series of guidelines on asset management, to be published by the Council of Europe in January 2023. Mr. Quiryen described the key building blocks that are necessary for an effective asset management, such as promoting transparency and accountability of the activities of the Asset Management Office (hereafter: 'AMO'), guaranteeing sufficient human and material resources, leading an accountable database to track seized assets or to provide statistics and to regularly take part in the pre-seizure planning. Mr. Quiryen also underlined the importance of setting up partnerships between AMO and the private sector, since it is impossible to have all the required expertise in-house. Finally, Mr. Quiryen discussed the relevance of social re-use of confiscated assets, to send a message not only to criminals but also to a general public.

The Netherlands asked how Belgium deals with the appeals arriving during a pre seizure sale, since this could lead to further delays that could have a negative impact on asset and their management. Mr. Quiryen explained that the Belgian law allows the right to appeal only under certain conditions, in cases when assets are replaceable and their value can easily be determined. He also pointed out, that appeals are raised very rarely, mostly when the owner wants to challenge if the legal conditions are met. Nevertheless, in urgent cases the court can go ahead with the decision without waiting for the appeal procedure to be completed.

Italy pointed out that criminal organization use members or affiliates to re-purchase their own confiscated asset, meaning that the legislation should ban such possibilities and properly regulate assets' sale procedures.

Item 9. FATF project on amendments to Recs 4/38 in relation to measures 'to strengthen the toolkit available to law enforcement, asset recovery agencies and the criminal justice system more broadly to target criminal assets'

Mr Ken Menz, FATF Secretariat, presented the FATF work on asset recovery, including measures to develop the FATF Standards by integrating several provisions of the Warsaw Convention. He underlined that asset recovery is one of the strategic priorities of the new FATF President, given generally poor performance by the countries in this area. One part of the reform will therefore look at technical standards of asset recovery, concretely at Recommendation 4 and 38, by aiming at three main changes. The first will focus on provisional measures to improve the country's ability to rapidly pre-seize or freeze assets. The second, broader change, will be to target criminal assets by going beyond the traditional asset recovery and conviction framework, especially by looking at standards of proof for non-conviction based confiscation. The third and last change will focus on improving the informal cooperation through existing asset recovery networks. Looking to the future Mr. Menz stated that the full set of changes covering all the different areas, will be brought for consideration at the next FATF Plenary in February 2023.

The scientific expert recalled that the new EU-AML package contains provisions to enforce the postponement of transaction by especially giving to the FIU the power to cooperate with third countries on requests for postponing transactions. He asked if it is realistic to foresee the possibility to embed in the FATF Rec 29 the power of the FIU to postpone transactions, as an FATF standard. Mr. Menz stated that he doesn't see the consensus for such a standard and that most probably it will remain to the countries decision which authority to provide with such powers.

The Executive Secretary welcomed the efforts by the FATF and stated that the upcoming Joint Session with the PC-OC could lead to a decision to draft an additional protocol to the Warsaw Convention aiming at improving international cooperation in asset recovery.

Item 10. Parliamentary Assembly Recommendation 2229 (2022) “How to put confiscated criminal assets to good use?”

The President invited the Parties to discuss and then agree on the text of the response to the Parliamentary Assembly Recommendation 2229 (2022).

Sweden stated its view that in favour of a soft law instrument. The Executive Secretary clarified that the Joint Session will be the place where initial discussions on a possible instrument will take place. The Executive Secretary explained that the outcomes of the Joint Session will not be immediately binding, since a long discussion on the issue will follow.

Item 11. Follow up procedure – report on progress made by the States Parties in implementing Articles 11 and 25 (2 and 3) of the Convention

In line with the conclusions of the 13th COP plenary and in accordance with Rule 19bis (20) of the Rules of Procedure, the Secretariat carried out an analysis of inputs received from the States Parties selected for the follow-up on Articles 11 and 25 (2&3). The Deputy Executive Secretary presented the findings, stating that with regard to Article 11 progress was observed with Azerbaijan and United Kingdom where the legal framework and practice are now broadly compliant. By contrast, Montenegro, the Russian Federation, Serbia and Türkiye didn't report any significant progress since the Thematic Monitoring Report was adopted (2018). Regarding Article 25, general progress in EU jurisdictions was achieved through implementation EU-Regulation of 2018 Directive on Asset Recovery and Confiscation, which brought all States Parties which are EU member states to a satisfactory level of compliance with Article 25 (2&3) of the Warsaw Convention. It was also underlined that Belgium didn't provide any substantial input on Article 25 implementation, however, their EU membership and application of the afore-mentioned Regulation is taken into account and in that context, the follow-up report will be amended. No progress was observed in Armenia and Azerbaijan, whilst progress made by San Marino and North Macedonia concerns only paragraph 3 of Article 25.

Further to this analysis, the President proposed that consideration should be given to possible modalities of application of Rule 19bis (paragraph 25). The first measure includes writing a letter to the Head of Delegation and the country's Permanent Representation, pointing out the continuous failure by the jurisdiction to apply the provisions of the Convention. The President opened the discussion on other measures that could be taken into consideration.

Türkiye took the floor explaining that the report should be amended stating that Turkish legislation (i.e. Article 62 of the Penal Code) is in line with Article 11 of the Convention. Türkiye underlined that all convictions of foreign countries are considered when it comes to determining the penalty, no matter what specific crimes are referred to under Article 58 of the Turkish Penal Code. Consequently, all predicate offences, in the appendix of the Convention, are thus covered. The Deputy Executive Secretary highlighted that only information from 2018 on was taken into consideration and that no new developments with regard to Article 11 were observed in the country.

The President pointed out that this is more a substantial issue whether the COP in each follow-up process should be able to reconsider the results of the horizontal review. The Executive

Secretary noted the approach of other CoE monitoring bodies, such as MONEYVAL, whereby only factual mistakes may be corrected once the reports are adopted by the plenary. Slovakia supported this approach. Türkiye agreed with the proposal to have one more year to present its legal framework in relation to Article 11 of the Convention.

Armenia requested another year to present progress, as suggested in case of Türkiye. In Azerbaijan a draft law is in the pipeline and will be adopted next year. Türkiye took the floor by stating that they support the suggestion by Armenia. Slovakia proposed that the option could be combined: an additional one year time be given, with a letter to speed up the process. Serbia explained that the country is currently amending the Criminal Code and Criminal Procedure Code, therefore one year to enact the requested legal provisions would suffice and no letter to the authorities is thus needed.

The President summed up and concluded that one more year is granted to the countries to apply relevant provisions of Articles 11 and 25 (2 and 3). If the information provided in the next Conference plenary do not confirm that these articles are applied to a satisfactory level, a letter will be sent, noting that if the implementation is still not sufficient after one year, the country in question will face a high-level visit as per the Rule 19bis of the COP Rules of Procedure.

The Deputy Executive Secretary informed that the next follow-up cycle will be focused on Article 9 (3) and Article 14. In relation to Article 9 (3), the follow-up procedure will consist of an oral update by the delegations since this provision of the Convention contains the word 'may' when it comes to application of negligent money laundering. On the other hand, for Article 14 there is no such wording and its application is mandatory. Given the high compliance rate by the States Parties with regard to this article, only one country is under follow-up regarding this provision (the Russian Federation).

Item 12. Interpretative Note on Article 10 of the Convention

The Executive Secretary presented the Draft Interpretative Note to Article 10 of the Convention (Corporate liability).

Amendments proposed by Austria and Portugal were introduced into the text. The Portuguese Delegation provided comments that were further geared towards differentiating legal entities by their size. Portugal highlighted the importance to separate the realities of small and medium entities, since they are an important economic segment in the EU and cannot be treated in the same way as large companies.

The Scientific Expert clarified that the requirements made in the Interpretative Note are not mandatory, which is highlighted by the language used in the text. Some further adjustments were made to this effect in the text.

Item 13. Reservations and Declarations: Note on the applicable legal procedure for declarations and reservations

The Treaty Office presented the document, illustrating that the CoE follows the regime of Article 2 of the Vienna Convention when it comes to reservations, which foresees only to apply the reservations done at the time of signature or in the time of the ratification approval. The Treaty Office highlighted that so far late reservations have only been exceptions, since they could pose a threat for the legal certainty of the Treaty.

Azerbaijan highlighted that some countries don't withdraw their reservations even though they have implemented the provisions of the respective Articles of the Convention. In this light Azerbaijan proposed to establish a follow-up procedure on the declared reservations which also includes sending an annual letter to support and motivate the State Parties to reconsider their reservations. The Deputy Executive Secretary reminded that this initiative is not new and that it was reiterated in last year's meeting, leaving only a recommendation to countries to inform on voluntary basis on their withdrawal from reservations. The Deputy Executive Secretary proposed to the Conference to directly address countries that have made reservations but in fact apply the relevant provisions, which could be identified by going through the horizontal reviews. The Deputy Executive Secretary provided the example of Italy and the UK: both have a reservation on Article 3, but they were assessed as compliant regarding the implementation. Slovakia suggested to combine to this proposal with the sending of a targeted request to the State Party, asking if they would want to make changes to their reservations or declarations.

The President stated that the proposal, with the combinations of both suggestions made, will be applied.

Item 14. Cases of practical implementation of the Convention by State Parties

The President presented the countries that will have their cases presented, namely Croatia, Türkiye, Romania, France, Portugal, Georgia and Slovenia.

Croatia presented four practical cases that took place between 2016 and 2018. Croatia demonstrated how mutual legal assistance works in their legal system in practice and how international cooperation led in most of the cases to the execution of the request made, recognition of the confiscation order or confiscation of proceeds of crime (articles 15 and 33 of the Convention).

Türkiye presented a recent case (still ongoing) which concerns articles 4, 5, 9, 14 and 46 of the Convention – ML offence and crypto assets fraud.

Romania presented six cases some of which included the application of Article 6 of the Convention. The first case concerned a cooperation between the US and Romania, which led to a successful confiscation of proceeds of crime. The funds confiscated in the US were then shared with Romania. The second case also included the sharing of assets through an asset sharing agreement, in line with which Romania received 2/3 of the confiscated funds and Monaco the other 1/3. The third case submitted showed the public reuse of a confiscated office building worth €1 million deriving from a money laundering case, which is now under the administration of the Ministry of Justice. The fourth case described the recovery of more than \$1 million from the US in a tax evasion case, where the defendant laundered the funds through the US financial system. Another case focused on sale of a luxury car, that has been seized and put under custody. The last case emphasised an example of management and sale of cryptocurrencies. In 2020 the Romanian AMO organised the first two interlocutory sales of cryptocurrencies in a criminal case where fraud was the offence. Further to these cases, the Rapporteurs also concluded that Romania demonstrated that it applies Article 6 in practice.

Portugal presented a case of cooperation with the German FIU resulting in the successful seizure of assets. Georgia presented two cases involving suspicious transaction reports leading to asset freezes. France presented a case of laundering of virtual assets from 2021.

Slovenia presented their bilateral agreement on sharing of confiscated assets with Luxembourg. For specific individual cases on the basis of this agreement the assets confiscated by Luxembourg

are divided equally between the two State Parties. Luxembourg has accepted to share assets in line with the Convention, even though the country is not a State Party to it.

Further to the presentation of cases, the Deputy Executive Secretary reminded the plenary that all the cases, from 2018 onwards, are published on the restricted website of the COP.

After the presentations, the amendment to the reports of Slovakia and Romania were agreed and presented to the plenary. There were no objections to the proposal made and the report on Article 6 was considered as adopted.

Miscellaneous

The President read the draft list of the decisions. The list was amended and then approved by the COP.

The President explained that he cannot suggest an article for the next year's horizontal review, since it will very much depend on the outcome of the Joint Session discussions on 17 November. If the State Parties will decide that there is a need for an Additional Protocol to the Convention to be drafted, the burden of the Secretariat will increase enormously leaving no spare resources for a horizontal review.

The Deputy Executive Secretary raised the attention on the fact that Estonia and Morocco are going to be assessed next year on all the articles of the Convention which were subject to horizontal reviews since 2018. In addition, there will be a second round of follow-up on Article 11 and 25, as discussed. In other words, the monitoring activities will not stop even if the new horizontal review cycle is not launched in 2023.

The President stated that in general terms the horizontal review for the next year cannot be excluded yet. Moreover, he proposed that if the drafting of an Additional Protocol will be decided an intermediate on-line meeting/consultation with all COP States Parties could be organised.

Close of the meeting

The next (15th) plenary of the COP is planned for November 2023. Exact dates will be circulated to all delegations in due time.

The President thanked all the participants for taking part in the Plenary and their active engagement.

LIST OF DECISIONS C198-COP 14th PLENARY MEETING

(Strasbourg, 15-16 November 2022)

1. Adopted amendments to Rules 2 and 3 of its Rules of Procedure introducing measures to restrict the participation in its work of a State Party under certain conditions. The COP then decided to apply the restrictions envisaged under Rule 2, paragraph 2 (a-c) to the Russian Federation, and to limit their participation in the meetings of the Conference to on-line attendance only.
2. Approved the Thematic Monitoring Report on Article 6 as amended to include comments (on 'country specific' parts) made by the Slovak Republic, Romania, Türkiye, the Russian Federation and Georgia;
3. Adopted the amendments to the 2018-2021 Thematic Monitoring Reports to include the parts covering Austria, as amended in relation to the report on Article 14; took note of the fact that next year Morocco and Estonia will be subjects to the same monitoring procedure;
4. Took note of the presentation by Mr Walter Quiryne, prosecutor from Belgium and Council of Europe expert, on the asset management guidelines developed within the framework of the Council of Europe technical assistance activities. The COP also decided to publish the presentation on its restricted web page.
5. Took note of the presentation by the FATF Secretariat on the project aimed at amending Recommendations 4 and 38 of the FATF, in light of the possible introduction of some specific principles (e.g. Article 14 and 47(1)) of the Warsaw Convention in the global standards.
6. Approved the response by the Conference of the Parties to the Parliamentary Assembly Recommendation 2229 (2022) "How to put confiscated criminal assets to good use?"
7. Adopted the follow-up report on Articles 11 and 25, and decided to extend the deadline for countries which were not found sufficiently compliant - for both or for one of these articles - for one more year. Should insufficient progress be noted again at the next plenary meeting, the Conference would then send a letter to these States Parties Heads of Delegations and Permanent Representatives (Armenia, Azerbaijan, Montenegro, North Macedonia, Russian Federation, San Marino, Serbia, Türkiye) informing them that if they do not demonstrate sufficient progress within one year they will be subject to the application of Rule 19bis(25) *iii* ('*conducting a high level and/or technical on-site visit in the State Party concerned with a view of preparing a report on implementation of the relevant provisions of the Convention;*'). The COP also decided that for the next follow up cycle States Parties should report voluntarily with regard to the progress they made in relation to Article 9(3), whereas for Article 14, one State Party (Russian Federation) will report since the Thematic Monitoring Review found that only that Party was not compliant with this article's requirements.
8. Took note of the presentation by the Secretariat on the Interpretative Note on Article 10 of the Warsaw Convention and adopted its text following the amendments proposed by some States Parties (Portugal, Austria).
9. Took note of the presentations on practical cases of implementation of the Convention by Romania, Croatia, Georgia, Türkiye, Slovenia, France and Portugal;

10. Took note of the applicable legal procedures for declarations and reservations, as presented by the Treaty Office of the Council of Europe; decided to carry out a review of the existing thematic monitoring reports and, based on this review, encourage these States Parties which made declarations/reservations on articles which they actually apply in practice, to consider withdrawing the respective declarations/reservations. In addition, the COP Secretariat will send to all States Parties, which made declarations/reservations, a reminder prior to the next plenary meeting on any considerations with regard to their potential lifting.

11. Invited all COP delegations to take part in the Joint Session with the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC) which will be held on 17 November 2022, and contribute to the discussion on the need for the development of an additional Council of Europe instrument in the area of asset recovery;

12. Decided to hold its next meeting in Strasbourg in November 2023 [dates – to be confirmed].

OUTCOMES OF THE JOINT SESSION OF THE C198-COP AND PC-OC (Strasbourg, 17 November 2022)

The Joint session held 3 panel discussions on the topics of non-conviction based confiscation, the sharing, management and re-use of confiscated assets, as well as the seizure and confiscation of virtual currencies. The participants and panellists discussed and supported the key recommendations of the PC-OC “Study on the possible added value and feasibility of preparing a new binding instrument in the Council of Europe on international co-operation as regards the management, recovery and sharing of assets proceeding from crime” (PC-OC (2019) 04REV).

The Joint Session agreed that it would be expedient to take steps, along the lines proposed in the above Study, to initiate discussions for the preparation of a new binding Council of Europe instrument (in the form of a Protocol to the Warsaw Convention, *subject to separate signature and ratification process by interested Parties*) covering, for instance, the areas of asset recovery, sharing, and management. The initiative will be submitted for consideration to the Committee of Ministers.

AGENDA

ORDRE DU JOUR

Tuesday, 15 November 2022 (9:00 – 12:30; 14:00 – 17:30)	Mardi, 15 novembre 2022 (9h00 – 12h30; 14h00 – 17h30)
1. Adoption of the agenda	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	3. <i>Communication de la Présidence</i>
4. Communication by the Executive Secretary	4. <i>Communication du Secrétaire Exécutif</i>
5. Participation of the Russian Federation in the Conference of the Parties to CETS 198 and procedural modalities related thereto	5. <i>Participation de la Fédération de Russie à la Conférence des Parties à la STCE 198 et modalités de procédure y afférentes</i>
6. Presentation of the transversal thematic monitoring of the implementation of the Convention by the States Parties: Article 6 - <i>Presentation by the rapporteurs</i> - <i>Discussion with States Parties</i>	6. <i>Présentation du suivi thématique transversal de la mise en œuvre de la Convention par les Etats membres : Article 6</i> - <i>Présentation par le rapporteur</i> - <i>Discussion avec les Etats membres</i>
7. Amendments to the 2018, 2019, 2020 and 2021 thematic monitoring reports following the ratification by Austria	7. <i>Amendements aux rapports de suivi thématiques 2018, 2019, 2020 et 2021 suite à la ratification par l'Autriche</i>

Appendix II

Strasbourg, 16 November 2022

C198-COP(2022)LD1

STATE PARTIES			
PRESIDENT	Physical	Ioannis ANDROULAKIS	Assistant Professor of Criminal Law & Criminal Procedure, Athens, Greece
VICE-PRESIDENT	Physical	Oxana GISCA	Office of Prevention and Fight Against Money Laundering , Government of Republic of Moldova
ALBANIA	Physical	Diana Stillo SILA	Ministry of Justice, Head of International Treaties Sector
ARMENIA	Virtual	Ani VARDERESYAN	Expert, Center for Legislation Development and Legal Research Foundation, Ministry of Justice of the Republic of Armenia
	Physical	Aram KIRAKOSSIAN	BUREAU MEMBER Acting Head, International Relations Division, Financial Monitoring Center of the Central Bank of Armenia
	Physical	Aram ZAKARYAN	International Relations Expert, International Relations Division, Financial Monitoring Center of the Central Bank of Armenia
	Virtual	Sona MARGARYAN	International Relations Expert, International Relations Division, Financial Monitoring Center of the Central Bank of Armenia
AUSTRIA	Virtual	Wolfgang PEKEL	Deputy Head of Department, Federal Ministry of Justice, General Directorate for Criminal Law
AZERBAIJAN	Virtual	Zarifa HASANLI	Specialist at Legislation and Execution Division of Legal Department of Financial Monitoring Service of the Republic of Azerbaijan

	Physical	Azer ABBASOV	BUREAU MEMBER Director of Legal Department, Financial Monitoring Service
	Physical	Mehman ALIYEV	RAPPORTEUR Senior specialist at Risk assessment and methodology unit of Legal department of Financial Monitoring Service of the Republic of Azerbaijan
	Virtual	Samad SAMADOV	State Security Service of Azerbaijan
BELGIUM	Virtual	Jean Sébastien JAMART Chef de délégation	Attaché juridique, Service Public Fédéral Justice
BOSNIA AND HERZEGOVINA	Virtual	Haris VRANJ	State investigation and protection agency / Financial intelligence department (FIU BiH)
	Virtual	Sanela LATIĆ	Ministry of Justice of Bosnia and Herzegovina
BULGARIA	Physical	Tea PENEVA Head of Delegation	Chief expert, Cooperation in Criminal matters Department International legal cooperation and European affairs Directorate, Ministry of Justice of the republic of Bulgaria
CROATIA	Virtual	Željka KLJAKOVIC GASPIC	Ministry of Interior Republic of Croatia
	Virtual	Danka HRZINA	General State Attorney's Office of the Republic of Croatia
CYPRUS	Virtual	Antroniki ODYSSEOS	Counsel of the Republic of Cyprus
	Virtual	Maria KYRMIZI-ANTONIOU	Senior Counsel of the Republic
DENMARK	Physical	Lea ELKJAER TARPGARD	Head of Section, Ministry of Justice, Criminal Law Division
FRANCE	Virtual	Jordan ABEDI	Chef de délégation Magistrat, Bureau de la lutte contre la criminalité organisée, le terrorisme et le blanchiment, Direction des affaires criminelles et des grâces Ministère de la Justice

	Virtual	Charlotte PALMIERI	Rédactrice Mission GAFI, Direction des affaires criminelles et des grâces Ministère de la Justice
GEORGIA	Physical	Tamta KLIBADZE	Head of Secondary Unit at Methodology, International and Legal Department of Financial Monitoring Service of Georgia
	Virtual	Aleksandre MUKASASHVILI	Deputy head of Investigative Unit of the Prosecutor General of Georgia
GERMANY	Physical	Dr. Juergen MUELLER Head of delegation	Federal Ministry of Justice
	Physical	Ms Patricia KARLE	Federal Ministry of Justice
	Virtual	Fabian RIEGER	Policy Advisor Federal Ministry of Finance Germany
GREECE	Virtual	Katerina KOLIOKOSTA	Assistant financial crime prosecutor and deputy prosecutor at Athens First Instance Court
HUNGARY	Physical	Dr Attila SISÁK Head of Delegation	National Tax and Customs Administration, Directorate General of Criminal Affairs, Department for the Coordination of Criminal Affairs
	Virtual	Dr. András BUBRJÁK	Expert of National Tax and Customs Administration
	Virtual	Balázs BUSCH	Expert of Ministry of Justice prosecutor
ITALY	Virtual	Nicola PIACENTE	Chief Prosecutor Como, Designated by the Ministry of Justice Roma Italy
LITHUANIA	Physical	Anželika CHALECKIENE	Chief Investigator Money Laundering Prevention Board of the Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania
	Virtual	Jūratė RADISAUSKIENE	Prosecutor Criminal Prosecution Department, Prosecutor General's Office of the Republic of Lithuania

	Virtual	Martynas DOBROVOLSKIS	Advisor, Ministry of Justice Criminal justice Group
LATVIA	Physical	Dina SPŪLE Head of Delegation	Senior Risk Analyst, Strategic Analysis Division, FIU LATVIA
	Virtual	Alvīne PAŠTORE	Lawyer, Criminal Law Department, Ministry of Justice of Latvia
MALTA	Virtual	Jonathan PHYALL	Head – Legal Affairs Section Financial Intelligence Analysis Unit
	Virtual	Dejan DARMANIN Head of Delegation	Office of the Attorney General
	Physical	Lianne BONELLO	Police Inspector Anti-Money Laundering Squad, FCID
MONACO	Virtual	Olivier ZAMPHIROFF	Conseiller auprès de la Direction des Services Judiciaires
	Virtual	Alison GERARD	Chef de Section au sein du Département des Finances et de l'Économie
MONETNEGRO	Virtual	Ms Danijela MILICEVIC	Department for Financial Intelligence Affairs, Police Directorate
NETHERLANDS	Physical	Bert VENEMA Head of Delegation	Policy advisor, Ministry of Justice and Security
	Physical	Claudia ELION	BUREAU MEMBER RAPPORTEUR Policy advisor, Ministry of Justice and Security
	Virtual	Laura HOFMAN	Policy advisor, Ministry of Justice and Security
NORTH MACEDONIA	Virtual	Elena TASEVA	Junior Associate in Unit for International Legal Assistance in Civil Matters of the Ministry of Justice of North Macedonia
	Virtual	Lazar TASEV	Ministry of Justice of North Macedonia
REPUBLIC OF MOLDOVA	Physical	Andrian MUNTEANU	Deputy director of the Office for Prevention and Fight against Money Laundering
POLAND	Virtual	Jakub KALBARCZYK	Chief Specialist - Assistant Judge, Unit for European and International Criminal Law, Legislative Department of Criminal Law, Ministry of Justice

	Physical	Ewa SZWARSKA-ZABUSKA Head of Delegation	Chief Specialist Polish FIU, Ministry of Finance
	Virtual	Jacek ŁAZAROWICZ	Prosecutor of the Regional Prosecutor's Office, National Prosecutor's Office
PORTUGAL	Virtual	António PEDRO DA FONSECA DELICADO	Legal Advisor, Directorate General for Justice Policy, Ministry of Justice
	Virtual	Hélio Rigor RODRIGUES	Prosecutor of the Republic/Adviser to the General Prosecutor Office
	Virtual	António Manuel RODRIGUES CORREIA DE OLIVEIRA	Criminal Police / Coordinator of Criminal Investigation / Responsible at the Financial Information Unit (UIF)
	Virtual	Ana MARCOLINO	Director of the Portuguese Asset Management Office
	Virtual	João Arsénio DE OLIVEIRA	Police
	Virtual	Sara ALMEIDA	Police
ROMANIA	Virtual	Anca STROE	Head of Department, National Agency for the Management of Seized Assets
	Physical	Răzvan BOȘTINARU	Legal adviser with the statute of magistrates, Ministry of Justice, Romania
RUSSIAN FEDERATION	Physical	Alexey LYZHENKOV Head of Delegation	Deputy Director Department on the Issues of New Challenges and Threats, MFA Russia
	Virtual	Petr LITVISHKO	Deputy Director General Department of International Legal Cooperation? Head of Department of Legal Assistance Prosecutor General's Office of the Russian Federation
	Virtual	Vera IVANTSOVA	Third Secretary, Department on the Issues of New Challenges and Threats, MFA Russia Executive Secretary of the Russian Delegation
	Virtual	Mr Ilya SUBBOTIN	Minister-Counselor, Embassy of the Russian Federation in France
SAN MARINO	Virtual	Giorgia UGOLINI	Magistrate at the Court of the Republic of San Marino

SERBIA	Physical	Dragan MARINKOVIĆ	Assistant Director, Administration for the Prevention of Money Laundering, Ministry of Finance of the Republic of Serbia
	Virtual	Nikola NAUMOVSKI	Assistant Minister for MLA Ministry of Justice of the Republic of Serbia
SLOVAK REPUBLIC	Physical	Branislav BOHACIK Head of Delegation	Prosecutor, head of delegation General Prosecutor's Office of the Slovak Republic International Department
	Virtual	JUDr. Michaela KRUMPAL VIDOVENCOVA	Senior police officer, Financial Intelligence Unit of the Police Force
	Virtual	Radka MONCOĽOVÁ	European and Foreign Affairs Division Ministry of Justice of the Slovak Republic International Law Department
SLOVENIA	Physical	Branka GLOJNARIC	Secretary Office for Money Laundering Prevention of the Republic of Slovenia
	Virtual	Klemen PRINCES	Undersecretary Ministry of Justice
	Virtual	Petra RUPNIK	Secretary Office for Money Laundering Prevention
SWEDEN	Physical	Victor HENSJÖ Head of Delegation	Legal Adviser Ministry of Justice, Division for Criminal Law
SPAIN	Virtual	Conchita CORNEJO	Ministry of Economy (Treasury and Financial Policy General Secretariat) Area Coordinator
	Virtual	Miriam BAHAMONDE BLANCO	Prosecutor. Adviser of the Directorate General for International Legal Cooperation and Human Rights. Ministry of Justice.
TÜRKIYE	Physical	Özder KAR	Rapporteur Judge, Ministry of Justice of the Republic of Türkiye
	Virtual	Mehmet Onur YURDAKUL	Coordinator, Treasury and Finance Expert Financial Crimes Investigation Board Ministry of Treasury and Finance of the Republic of Türkiye

UKRAINE	Physical	Nataliia STRUK	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.
	Virtual	Iryna HLAHOLA	Head of the Data Registration Division of the Asset Management Department of the National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and other Crimes (Asset Recovery and Management Agency or ARMA).
	Virtual	Oleh BELISOV	Head of Unit for FIU Intelligence Financial Investigations of Division for Financial Investigations with Financial Intelligence Units of Financial Investigations Department of the State Financial Monitoring Service of Ukraine (the FIU of Ukraine).
UNITED KINGDOM	Virtual	Eldon WARD	Head of Money Laundering Policy, Home Office
	Virtual	Stephanie UKPELUKPE	Senior Policy Advisor, HM Treasury

OBSERVERS / OBSERVATEURS			
CZECH REPUBLIC	Virtual	Magdaléna PLEVOVA	Head of the International and Legal Unit Financial Analytical Office (FIU)
ESTONIA	Physical	Henrik MÄGI	Advisor of the Ministry of Finance
ANDORRA	Physical	Joan FORNER ROVIRA	Ambassadeur Extraordinaire et Plénipotentiaire, Représentant Permanent
FATF (Financial Action Task Force)	Physical	Ken MENZ	FATF Secretariat Policy Analyst
EAG Secretariat	Virtual	Nazerke ZHAMPEIIS	Administrator;

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

COUNCIL OF EUROPE INTERPRETERS / INTERPRÈTES CONSEIL DE L'EUROPE
Isabelle MARCHINI Clarissa WORDSALE

COUNCIL OF EUROPE SECRETARIAT / SECRÉTARIAT CONSEIL DE L'EUROPE	
Jan KLEIJSEN	Director of the Information Society and Action against Crime
Hanne JUNCHER	Head of Department Action against Economic Crime
Igor NEBYVAEV	Executive Secretary of C198-COP
Lado LALICIC	Deputy Secretary C198-COP
Lorena UNGUREANU	Project Officer
Danielida WEBER	Administrative Assistant to C198-COP
Narmin MURADOVA	Administrative Assistant