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## CONFERENCE OF THE PARTIES

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

# Follow-up analysis of the Thematic Monitoring Review of the Conference of the Parties to CETS No. 198 on Article 7(2c) and 19(1)[1]

[1] Adopted by the Conference of the Parties to CETS No. 198 at their 17th meeting, Strasbourg, 4 - 5 November 2025.

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## INTRODUCTION

1. The Conference of the Parties (hereinafter: "the COP"), at its 9th meeting held in Strasbourg from 21 to 22 November 2017, decided to initiate the application of a horizontal thematic monitoring mechanism for an initial period of two years. The 11th meeting of the COP (held in October 2019) decided to prolong the application of a horizontal monitoring for the next five years (i.e. until 2024). Subsequently, at its 16th meeting (held in October 2024), the COP decided to extend, for another five years (i.e. until 2029) the application of rule 19bis of the Rules of Procedure, which serves as a basis to conduct horizontal reviews. Such review looks at the manner in which all States Parties implement selected provisions of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS no. 198, hereinafter: "the Warsaw Convention"). To that effect, the COP adopted a new Rule 19bis of the Rules of Procedures.

2. Further to this, the COP amended its Rules of Procedure with regard to the application of the follow-up process. To that end, Rule 19 bis(20) states that '*the Conference may decide that those Parties whose implementation of a certain provision of the Convention was not considered satisfactory report back on progress made within three years' time at the latest, taking into account the nature of the recommendations rendered in the thematic monitoring reports. State Parties which declared not to apply the Articles selected to be assessed through the thematic monitoring shall be exempted from the follow – up process on these Articles*.'

3. Consequently, at its 15th meeting, held in Strasbourg from 9-10 November 2023, the COP decided to launch a follow up procedure on the Thematic Monitoring Report on Article 7 (2c) and 19 (1) of the Convention. Subsequently, in 2024, the COP discussed and analysed the progress made by several State Parties in implementing selected articles of the Convention. The further outcomes of the follow up procedure are explained below.

## METHODOLOGY

4. The Conference of the Parties, at its 12th Plenary meeting (27-28 October 2020) discussed and adopted the thematic monitoring report on Articles 7(2c) and 19(1) of the Convention. The report was further amended following the inputs provided by the UK and Lithuania in 2021, the ratification by Estonia in 2023, Morocco in 2024, and following the Kingdom of Netherlands' acceptance of the Convention for Aruba.

5. The report on Article 7(2c) and 19(1) established the extent to which States Parties have legislative or other measures in place to provide the possibility for the monitoring of banking operations as an investigative technique, including in response to foreign requests. In fact, Article 7(2c) of the Convention provides for the power to conduct "prospective" monitoring of accounts. More specifically, it provides for "*monitoring, during a specified period, the banking operations that are being carried out through one or more identified accounts*". Additionally, Article 19(1) provides for the same measure as Article 7(2c), nonetheless, it requires the States Parties to apply the measure upon request of another State Party and communicate results thereof to the requesting Party.

6. Improvements in the implementation of Articled 7(2c) and 19(1) are expected in the coming years as a result of the transposition of Directive (EU) 2024/1640 (commonly referred to as the 6th Anti-Money Laundering Directive – AMLD6) by EU Member States assessed by the COP. Notably, Article 25 of the AMLD6 empowers Financial Intelligence Units (FIUs) to instruct obliged entities (e.g. banks) to monitor specific transactions or activities through one or more accounts associated with persons suspected of money laundering or terrorist

financing. This would allow FIUs to gather real-time or near-real-time information, enhancing early detection and response capacities. Furthermore, the directive foresees the application of this monitoring power in the context of cross-border cooperation, enabling an FIU to act upon a request from the FIU of another EU Member State – thereby contributing to the practical implementation of Articles 7(2c) and 19(1) of the Convention.

7. The Horizontal Review contains a number of general recommendations following the summary findings, as well as country-specific recommendations following the individual states' analysis.

8. The first follow-up report was adopted at the 16th meeting held in Strasbourg in October 2024, after the decision to launch a follow up procedure was taken at the 15th COP meeting the previous year. The report concluded that some progress has been made by the two out of the five assessed States Parties: one State Party (Monaco) introduced legislative amendments to effectively implement the requirements of Article 7(2c) and 19(1), and one other State Party's legislation (Lithuania) was reassessed, and the report concluded that it complies with both articles and allowed for financial operations to be monitored since 2014. Therefore, the COP, at its 16th plenary meeting, invited counties which have not met these requirements to report back in 2025.

9. This follow-up report therefore analyses the measures adopted by the following States Parties: (i), Denmark, France, and Spain since the adoption of the first follow-up report at the 16th Plenary meeting in October 2024, and (ii) Austria and Türkiye since the adoption of the thematic monitoring report in 2020. In other words, this report aims to assess the extent to which selected countries have introduced measures to implement the referred articles of the Convention and address country specific recommendations.

10. This analysis, however, does not evaluate the implementation of 'soft recommendations' which aim to better implement the articles concerned (e.g. maintaining statistics), or to enhance the application of the provisions concerned.

## ARTICLE 7(2C) AND 19(1)

11. The following general recommendations were made with regard to the implementation of Article 7(2c) in the 2020 report:

*"With the aim to promote a harmonised approach across the COP States Parties, it is recommended to consider the following actions depending on States Parties' level of application of Art.7(2c):*

*a) States Parties that declared/reserved the right not to, in full or in part, apply Art.7(2c), are invited to give proper consideration whether their declarations/reservations are still needed (Germany, Greece, Russian Federation, Slovak Republic).*

*b) States Parties that have not made declarations and which still do not have, at their disposal, a specific measure to monitor banking operations, are invited to adopt legislative or other measures to provide to their law enforcement and/or other competent authority, the possibility to monitor banking operations that are being carried out through one or more identified accounts during a specific period (Austria, Denmark, France, Lithuania, Monaco, Spain and Türkiye).*

*c) States Parties which introduced Art.7(2c) and consequently Art.19(1) through their legislation/jurisprudence, but still impose (or possibly impose) certain limitations in its applications, such as limiting it to ML/FT/or related predicate offences (Albania, Armenia, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Montenegro,* *Poland, San Marino) or towards which there still lacks certainty as to the scope of offences covered by the monitoring (Republic of Moldova, Ukraine), are invited to implement the specific recommended actions provided in the 'Country Review' chapter and thus take out the elements which restrict the application of Articles 7(2c) and 19(1).*

*In addition, and with the aim to improve the application of Articles 7(2c) and 19(1), States Parties are invited to consider to:*

*- Raise awareness/tailor and carry out specific training to their FIUs/law enforcement and judiciary on application of this instrument in practice and how it can bring valid evidence in ML/FT and other serious crimes investigations/prosecutions.*

*- Further develop the jurisprudence and share good practices among different competent authorities in the country.*

*- Regularly update the COP with cases of practical implementation of the Convention".*

12. The country specific analysis, which is provided below, aims to review any progress made in implementing country specific recommendations from the 2020 Report. Findings of the previous follow-up report were taken into account, however, this follow-up report is largely based on the responses to the follow-up questionnaire provided by the States Parties.

## Austria

13. During the 2020 Horizontal Review, rapporteurs noted that it was unclear whether Austrian authorities possessed the capacity to monitor banking operations in accordance with Articles 7(2c) and 19(1) of the Warsaw Convention. As a result, it was recommended that Austria adopt legislative or other measures to ensure full implementation of the Convention's requirements.

14. In their responses to the 2025 questionnaire, the Austrian authorities cited Sections 109 and 116 of the Code of Criminal Procedure (CCP), asserting that these articles have established a legal framework for the monitoring of banking transactions. Specifically, section 116 of the CCP, authorizes the prosecuting authority (art. 116(3)), with the Court's approval (s. 116(4)), to request information on "bank transactions" from credit and financial institutions. The decision must specify a period of time in the past or future (s. 116(5)). The law does not stipulate a maximum duration for monitoring. However, section 109 states that "disclosure of information about bank transactions" refers to the disclosure of "any related business transaction and other business transactions for a set period". The authorities indicated that LEA may obtain direct information on all transactions carried out in the future via a business relationship to which the information relates. According to section 116(1) the disclosure of information on bank transactions is permissible if it seems to be necessary to clarify a criminal act committed intentionally or a criminal act under the jurisdiction of the regional courts or to clarify the prerequisites for a seizure or confiscation order in proceedings because of a criminal act committed intentionally, for which the regional court would have jurisdiction in the main proceedings. The authorities confirmed that this article applies to all offences listed in the annex to the Convention.

15. Given the aforementioned, it was unclear whether the "banking transactions" and "business transaction" mentioned in this article include the banking operations that are being carried out through one or more identified accounts as required by Article 7(2c). Furthermore, even if disclosure can cover a future period, it is still not the same as a monitoring of banking operations that are being carried out through one of more identified accounts, but rather presents a measure/power of law enforcement authorities to request and obtain relevant documentation and information from the banks.

16. However, during the plenary, the authorities presented several practical cases on implementation of the afore-mentioned legislation. These practical cases demonstrated

that the Austria authorities do monitor bank accounts in serious crimes, as required by the Convention. In such cases, the bank is required by the PPO to report every transaction immediately to the LEAs in charge. For example, during a murder investigation, the PPO monitored the suspect's bank account for over a month, but no transactions revealed the suspect's whereabouts.

17. Regarding Article 19(1), the Federal Law on Extradition and Mutual Assistance in Criminal Matters (ARHG) establishes the legal basis for executing international requests in criminal matters (§50 ARGH).

18. Further to clarification made by the authorities, it could be concluded that Austria implements the requirements of Articles 7(2c) and 19(1) through its legal system. The country is encouraged to follow the development of case law related to ML, FT and the criminal offences listed in the Appendix of the Convention, in order to ensure practical implementation of these provisions.

## Denmark

19. In the context of the 2020 Horizontal Review and 2024 follow-up questionnaire, Denmark was recommended to aligns its legislation with Art.7(2c) and 19(1) requirements and include monitoring of banking operations.

20. In their response to the 2025 follow-up questionnaire, the authorities indicated that there have not been any developments in this area since the last questionnaire. As no legislative or other measures have been introduced, it can be concluded that Denmark has to make further progress to implement Articles 7(2c) and 19(1) of the Convention.

## France

21. In the context of the horizontal review and the first 2024 follow-up report, France had been recommended to amend its legislation and provide for the monitoring of banking operations, in accordance with Articles 7(2c) and 19(1).

22. In their responses to the 2025 Follow-Up Questionnaire, the French authorities indicated that the country has mechanisms enabling it to obtain the production of documents, including information or data related to banking operations held by financial institutions through the CRF's right of communication (Article L. 561-25 of the Monetary and Financial Code) or the general power of requisition of judicial authorities (Articles 60-1, 60-2, and 77-1-1, 81, 99-3, 151, and 152 of the Code of Criminal Procedure).

23. The authorities also advised that they have mechanisms to obtain real-time information on bank account holders through the Central Register of Bank Accounts (FICOBA). Investigating authorities can thus obtain, upon request, information (balance and transaction history) on operations carried out on bank accounts identified through FICOBA. These elements can be used as evidence in criminal investigations and allow for the seizure of assets. However, these measures primarily address the requirements of Article 7(2b) of the Convention, rather than those of Article 7(2c).

24. In addition to these, the authorities clarified that the transposition of Directive 2024/1640 (AMLD6) is underway. Article 25 of this directive provides for the possibility for FIUs, either on their own initiative or at the request of a counterpart unit, to instruct obliged entities (including banks) to monitor, for a specified period, all transactions and activities carried out by one or more accounts (whether bank accounts, payment accounts, or crypto-asset accounts) and to report the results of this monitoring. While the transposition of this text will, to a satisfactory extent, address the requirements of Article 7 (2 c) of the Convention,

the relevant legal provisions are still to be adopted and enforced and thus cannot be taken into account in the context of this report.

25. The authorities provided an example of an investigation in which the characterization of the offense was based on the examination of banking transactions. However, this example does not illustrate a case of monitoring banking operations within the meaning of Article 7(2c) of the Convention.

26. Regarding Article 19(1), the authorities recalled that all investigative tools provided for in the Code of Criminal Procedure (CPP) can be used in the execution of a MLA request. Similarly, the CRF can exercise all its prerogatives when responding to a request from a foreign CRF (notably its right of communication).

27. The authorities also mentioned Article 694-49 of the CPP, which transposes Article 28 of Directive 2014/41/EU on the European Investigation Order in criminal matters. This article provides that when a State requests the execution of an investigative measure requiring the obtaining of evidence in real time, continuously, and over a specified period, the practical arrangements for the measure are determined by mutual agreement between the magistrate handling the request and the competent authority of the requesting State. The article specifies that these provisions apply to the monitoring of banking operations.

28. However, the authorities did not indicate what these “practical arrangements” might be, nor did they provide concrete examples of the implementation of such a measure. Furthermore, these provisions only apply to EU Member States and not to all Parties to the Convention. In addition, Article 694-31 of the CPP provides that the magistrate may refuse to execute a European Investigation Order if the requested measure is not authorized under domestic law for the offense motivating the investigation decision. It follows that the identified limitations concerning Article 7(2c) have a cascading effect on Article 19(1). Consequently, France must still make progress in implementing Article 19(1) of the Convention.

## Spain

29. The 2020 Thematic Monitoring Review on Articles 7(2c) and 19, and its 2024 follow-up, concluded that Spain does not have explicit provisions in place enabling monitoring of banking operations as provided for in Article 7(2c). It was therefore recommended to consider introducing more explicit and detailed provisions on applying monitoring of banking operations and to ensure that the measure is applied to offences listed in the Appendix to the Convention.

30. The Spanish authorities, in their response to the 2025 questionnaire, confirmed that the current legislation still does not contain specific provisions on the monitoring of banking operations. However, the authorities indicated that several legals measures make it possible to obtain comprehensive information on any current account under investigation. Nevertheless, these measures reflect the requirement of Article 7(2b) rather than Article 7(2c).

31. The authorities also stated that this objective is achieved in practice through alert systems established by banking institutions which notify competent authorities of transactions conducted in accounts under investigation. However, this alert system is not relevant to the implementation of Article 7(2c), which refers to the continuous observation of banking transactions over a specific period as an investigative method.

32. In addition, in their responses to the questionnaire in relation to Article 19(1), the authorities indicated that they have implemented into national law the obligations under the EU

Protocol on Mutual Assistance in Criminal Matters (Art. 3, ‘requests for the monitoring of banking transaction’) and the European Investigation Order Directive (2014/41/EU). However, Article 219 of the Law 23/2014 (November 2020) provides an exception to this. It states that the competent authority for the execution of a European Investigation Order, in case the Order requires obtaining the evidence in real time, shall refuse the execution of the Order if the investigative measure would not be authorised in a similar domestic case. Indirectly, this provision confirm that Spain cannot execute the real time monitoring of banking operations as an investigative mean. As the law stipulates, absence of such investigative measure at the national level would also mean that it cannot be applied upon request by their foreign counterpart. In other words, Article 19(1) of the Warsaw Convention is also not implemented by Spain.

33. Consequently, it can be concluded that Spain has to make further progress to implement articles 7(2c) and 19 (1) of the Convention.

34. The country is therefore recommended to adopt legislative or other measures (i.e. developing case law) to enable the competent authorities to apply monitor banking operations during the specific period of time and to share the results upon requests from other States Parties.

## Türkiye

35. The 2020 Thematic Monitoring Review on Article 7(2c) concluded that Türkiye still needs to adopt legislative or other measures (i.e. to develop case law) to enable the competent authorities to monitor banking operations over a specified period of time.

36. In their responses to the 2025 questionnaire, Türkiye’s authorities provided numerous provisions from the criminal law and other legislation.

37. The Authorities indicated that the Criminal Procedure Law (CPL) n° 5271 (Article 161) empowers prosecutors to obtain information from natural and legal persons directly or through law enforcement units. They also indicated that the Prosecutors could use special investigation techniques to obtain relevant information on specific account’s activity or to monitor the account during a period of time (art. 135 to 140 CPL). However, no specific legislation or case law was provided to confirm that prosecutor can monitor bank accounts for a specific period of time.

38. Additionally, the authorities also referenced Law n° 5549 on Prevention of Laundering Proceeds of Crime (Article 7) and Regulation on Measures Regarding Prevention of ML and TF (Articles 31 and 32). These texts empower MASAK (the Financial Investigation Unit and supervisor) to request information and documents from public institutions/organisations, natural/legal persons and financial institutions (as part of their CDD obligations). Nevertheless, the legislation does not include explicit reference to monitoring banking operations during a specified period.

39. Since January 2017, a new data retrieval system has been set up by MASAK (Law n° 5549) through which banks directly report the daily transaction records, including owner of the accounts with IBAN codes, opening and closing dates of transactions. The received data are incorporated into the Integrated Financial Intelligence System (EMIS), which is the main analysis tool in MASAK. However, this measure do not correspond to the requirement of Article 7(2c) which requires “monitoring of banking operations” rather that collecting/seizing documents/date from a bank. The latter is a requirement of Article 7(2b) rather than of Article 7(2c).

40. With a view to enhancing asset recovery efforts and supporting the identification of criminal property, Türkiye implemented software for querying banking deposit/portfolio identification information through the National Judiciary Informatics System (UYAP) in 2025. This allows judges and public prosecutors to directly access personal banking information (including

TR ID No, Tax ID No, Name-Surname, Bank name, Branch name, IBAN / Account No, Account Type, Currency, Account Partnership Status, Account Partnership Percentage, Account Status, Date fields are included) and information on which bank(s) the person has an account with.

41. Regarding Article 19(1), the Law n°6706 on International Judicial Cooperation in Criminal Matters provides the legal basis for executing international requests over criminal law matters. According to Article 8: "Requests shall be executed in accordance with Turkish law". The authorities indicated that the FIU has a legal responsibility to exchange information with other FIUs. However, the limitations observed in the application of Article 7(2c) of the Warsaw Convention have a cascading effect here.

42. The country has not provided any specific cases or statistics to demonstrate that the monitoring of banking operations is applicable in practice.

43. It appears that Türkiye does not have explicit provisions in place on the monitoring on banking operations in accordance with Article 7(2c) and 19(1). The country is therefore recommended to adopt legislative or other measures (i.e. developing case law) to enable the competent authorities to apply monitor banking operations during the specific period of time and to share the results upon requests from other States Parties.

## OVERALL CONCLUSION ON ARTICLES 7(2C) AND 19(1)

44. Following the adoption of the Thematic Monitoring Report on Articles 7(2c) and 19(1), and the adoption of the 2024 follow-up report, one State Party (Austria) provided elements to demonstrate that it meets the requirements of these articles. None of the other States Parties (Denmark, France, Spain and Türkiye) have introduced legislative amendments to meet the requirements of Article 7(2c) and Article 19(1).

45. The plenary is, therefore, invited to adopt this follow up report and proceed with further procedures in relation to the countries which have not demonstrated the sufficient progress with regard to the articles concerned.