



Strasbourg, 3 March 2013

**MONEYVAL(2012)23**

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

**40<sup>th</sup> PLENARY MEETING**

**Strasbourg, 3 - 7 December 2012**

**MEETING REPORT**

**MEMORANDUM**

**Prepared by the MONEYVAL Secretariat**

## EXECUTIVE SUMMARY

During the 40<sup>th</sup> plenary meeting, held in Strasbourg from 3-7 December 2012, the MONEYVAL Committee celebrated the 15<sup>th</sup> anniversary of its establishment and :

- welcomed the three Crown Dependencies of the UK: Guernsey, Jersey and Isle of Man
- welcomed the appointment of Mr Philipp Röser as a scientific expert on financial aspects to the Committee.
- examined and adopted the 4<sup>th</sup> round mutual evaluation report on the Republic of Moldova. Moldova was invited to provide a follow-up report under the regular follow-up procedures before December 2014.
- examined and adopted the 4<sup>th</sup> round mutual evaluation report on Lithuania. Given the significant deficiencies in the country's AML/CFT system which have persisted since the previous evaluation report of 2006, it decided to request Lithuania to submit its first follow-up report in March 2014 under the expedited procedure and to apply step (ii) of the Compliance Enhancing Procedures<sup>1</sup>
- examined and adopted the 2<sup>nd</sup> third round progress reports of Serbia, Armenia and Ukraine.
- examined and adopted the 3<sup>rd</sup> third round progress report on Montenegro and requested a further report to be submitted before December 2013.
- examined the reports of Albania and Bosnia and Herzegovina under Step (ii) and respectively Step (i) of the Compliance Enhancing Procedures and requested both countries to submit a further report in April 2013.
- examined measures taken by countries on identified important deficiencies as a result of the process regarding the state of compliance on all NC and PC ratings in the 3<sup>rd</sup> Round in respect of 3 countries (Croatia, Georgia, the Republic of Moldova, "the former Yugoslav Republic of Macedonia" and Ukraine) and requested them to report back before April 2013, except for Georgia and Ukraine which were invited to report back before September 2013.
- heard an update on current developments and status of work of the FATF, including the Europe/Eurasia Regional Review Group, and held an exchange of views on the proposed Methodology for assessing effectiveness in FATF's 4<sup>th</sup> round and MONEYVAL's 5<sup>th</sup> round.
- heard an update on ECHR jurisprudence and SR.III issues.
- heard information from the European Commission on the development of the 4<sup>th</sup> AML Directive and an update of AML/CFT initiatives in other forums.
- Discussed modifications to the Template Statistics for 4<sup>th</sup> round follow-up reports.
- held an exchange of views on the conduct of national risk assessment and the progress in MONEYVAL states since July 2012.
- heard an update on the status of work on typologies in MONEYVAL and in other forums;
- noted the invitation by EPAS to take part in the drafting of the Council of Europe Convention on combating match fixing and invited interested delegations to express their interest in participating.
- heard an update from Hungary on progress achieved since the 4<sup>th</sup> assessment visit and took note of the country's intention to seek removal from the regular follow-up process in April 2013.
- took note of developments in relation to signing and ratification of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198).

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<sup>1</sup> A graduated series of steps to be taken for failure to implement MONEYVAL reference documents

## **SUMMARY ACCOUNT OF THE MONEYVAL PROCEEDINGS**

1. The Committee of Experts on the evaluation of anti-money laundering measures and the financing of terrorism (MONEYVAL) held its 40<sup>th</sup> plenary meeting from 3 to 7 December 2012 in Strasbourg under the chairmanship of Mr. Vladimir NECHAEV (Russian Federation).

### **Items 1,2,3,4,5 - Opening of the Plenary Meeting, speeches by Mr. Thorbjørn Jagland, Mr. Claude Mignon, Mr. Bjørn S. Aamo and response by the Chairman**

2. The Chairman opened the 15<sup>th</sup> anniversary plenary meeting and welcomed delegates and guests. A part of the 15<sup>th</sup> anniversary session was open to the press.

3. In the opening session of the meeting, Mr. Thorbjørn Jagland, Secretary General of the Council of Europe, Secretary General Thorbjørn Jagland, highlighted that the establishment of MONEYVAL in 1997 was a crucial step forward in the fight against money laundering and that the anniversary is an opportunity to look forward in order to address new threats. "To effectively fight against money laundering and the financing of terrorism", he said, "states need to share common standards and principles, and know what to expect of each other." The Secretary General urged all states to ratify as soon as possible the Council of Europe conventions in this field: the Warsaw Convention of 2005 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, and the Convention on the Prevention of Terrorism. He also pointed out that whilst the world faces the financial and economic crisis, criminals try to exploit the weakest links, and that Council of Europe member States, and especially MONEYVAL's jurisdictions, cannot be their entry points. "Reliance on money of criminal origin to sustain an economy is not only wrong, it is shortsighted. It will inevitably undermine confidence in the financial system of the country, thus directly undermining its economic development", he added.

4. In his address to the members of MONEYVAL, Claude Mignon, President of PACE, underlined what PACE and national parliaments could do to support the Committee's action. "Clearly, when the implementation of MONEYVAL recommendations calls for changes in legislation, it is for national parliaments to pass new laws or amend existing ones. It is important, therefore, to ensure that parliamentarians are aware of MONEYVAL's reports and the recommendations made, and are conversant with the standards on which those evaluations are based," he said. He called for the systematic participation of a PACE representative in MONEYVAL meetings, a possibility that is already provided for in a statutory Resolution of the committee. The President believes that the key role here lies with the members of the national delegations to PACE, who should systematically inform the chairs of the relevant national parliamentary committees about reports in preparation and reports already published. "Consideration might be given to the possibility of holding parliamentary hearings attended by government officials and experts, including MONEYVAL experts, to present the evaluators' findings to parliamentarians. This would allow better expert input at the early stages of drafting bills and legislative proposals designed to remedy the shortcomings found by MONEYVAL in its reports," he said.

5. In his address, the FATF President Bjørn S. Aamo stressed the essential role that MONEYVAL plays in the global AML/CFT network. "The MONEYVAL mutual evaluation process and the overall high quality of MONEYVAL mutual evaluation reports have been crucial in helping to ensure consistent and accurate interpretation of the FATF standards in the European region, and they have also been an example for others", he said. The FATF president underlined that the work and experience of MONEYVAL have helped to strengthen the global AML/CFT network. He said that "MONEYVAL, through its hard work, has had an influence on how we as the global network ensure implementation of these standards by our member countries. In my view, the global AML/CFT network would not have been where it is

today if it were not for this contribution. I can only commend MONEYVAL for what it has achieved over the past 15 years and look forward to its continued success in the coming years as part of the global network.”

6.The Chairman thanked all the distinguished speakers for their remarks. He agreed with the PACE President’s intervention on the importance of creating synergies between monitoring mechanisms and the need to explore ways of developing even closer contacts with the Parliamentary Assembly. He expressed his satisfaction that the work of MONEYVAL was recognised by the Committee of Ministers, in 2010, by the elevation of the Committee to be a permanent, independent monitoring body of the Council of Europe reporting directly to them. He also stressed the importance of follow-up processes in MONEYVAL since its creation. He thanked the scientific experts and John Ringguth and his small but very efficient secretariat. The meeting continued in camera.

**Item 6,7,8 – Interventions by former Chairmen; Remarks from Mrs Eva Rossidou-Papakyriakou and Mr Christopher Burdick and Presentation by Mr. Herbert Zammit Laferla.**

7.The three former chairmen of MONEYVAL and other guests intervened in the second part of the anniversary session. Mr. Klaudijo Stroligo (former Head of the Slovenian FIU), Dr. Silvio Camilleri (Chief Justice, Malta) - read by Mr. Anton Bartolo (Vice Chairman)- and Dr. Vasil Kirov (former Head of the Bulgarian FIU) recalled their personal experiences of the Committee during their chairmanships and major achievements and developments. .

8.Ms Antigoni Hadjixenophontos read the statement of Mrs Eva Rossidou-Papakyriakou ( Head of the Cyprus Delegation and a founder member), who was absent due to Cyprus’ Presidency of the European Union, highlighting the current international importance of MONEYVAL and passing on her congratulations on the occasion of the 15<sup>th</sup> anniversary.

9.Mr. Christopher Burdick (Head of the United States Delegation) made a short intervention in which he acknowledged the important work of MONEYVAL and its cooperation with the FATF. He presented to the Secretariat a certificate of appreciation of MONEYVAL’s work on behalf of the United States Government.

10.Mr. Herbert Zammit Laferla (former scientific expert to MONEYVAL) in his presentation noted major steps in MONEYVAL’s development, particularly, the reviews of progress by countries at significant points. He noted the firm foundation for this in the first horizontal review prepared by Mr. Ringguth in 2002, which was built on in the second and third reviews. He outlined some of the major developments on preventative measures in 15 years but noted how much more work still needs to be done by law enforcement and prosecutors in achieving significant money laundering convictions and deterrent confiscation orders in MONEYVAL countries.

11.The Chairman concluded by summing up that, while MONEYVAL is a success story of the Council of Europe, more remains to be done. He noted that the new Methodology, which will be introduced in February 2013, will bring important challenges.

**Items 9 and 10 – Adoption of the Agenda and Information from the Chairman**

**Item 9: Adoption of the Agenda**

The agenda, as adopted by the Committee, is set out in Appendix I. The list of participants is set out in Appendix II.

Item 10: Information from the Chairman

Item 10.1: Welcome to Jersey, Crown Dependency of the UK, Guernsey, Crown Dependency of the UK, and Isle of Man, Crown Dependency of the UK.

12. The Chairman announced that the Committee of Ministers had granted the request of the UK for the Crown Dependencies of Guernsey, Jersey and Isle of Man to become subject to MONEYVAL's evaluation processes. He welcomed them to the Committee. All three Crown Dependencies' representatives expressed their appreciation and indicated the mutual benefits and expectations of their participation and co-operation with MONEYVAL.

Item 10.2: Chairman's Correspondence

13. The Chairman provided the Plenary with information on the correspondence with delegations currently under the NC/PC monitoring process.

14. The Chairman also provided information on correspondence he had had with the President of the Financial Action Task Force after the last plenary.

Item 11 - Information from the Secretariat

15. The Executive Secretary provided the Plenary with information as outlined below.

16. Mr. Philipp Röser was appointed by the Council of Europe as a financial scientific expert to the Committee.

17. The agenda of evaluations and meetings for 2013 was presented, together with the provisional calendar of the fourth round follow-up on-site visits to: Israel, Romania; "the former Yugoslav Republic of Macedonia", Liechtenstein, Estonia and possibly Russia.

18. The Secretariats of MONEYVAL and of the EAG presented the results of the MONEYVAL/EAG joint workshop on the 2012 FATF Recommendations, which took place in Strasbourg from 19<sup>th</sup> to 21<sup>st</sup> September 2012. EAG noted that the workshop contributed to closer cooperation between MONEYVAL and EAG.

19. The Secretariat also informed the plenary about the outcome of the participation of the MONEYVAL delegation to the FATF intersessional and plenary meetings. The WGEI intersessional meeting, which took place from 4<sup>th</sup> to 7<sup>th</sup> of September 2012 in Paris was attended by delegations from Liechtenstein, San Marino, the Republic of Moldova and the Secretariat. An update was provided on the status of on-going discussions of the new evaluation methodology. It was noted that the current proposals for the conduct of evaluations would require much more resources from the MONEYVAL Secretariat.

20. The Executive Secretary and other members of the Secretariat had participated in the following meetings since the last plenary:

- 20<sup>th</sup> OSCE Economic and Environmental Forum, Prague 12-14 September 2012.
- Cyprus high level meeting of the Asset Recovery Offices Platform (ARO), 22-24 October 2012.
- Special Meeting of the Counter-Terrorism Committee with Member States and relevant international and regional organizations on preventing and suppressing terrorist financing, 20<sup>th</sup> November, New York.
- Public hearing on anti-money laundering cooperation and confiscation organised by the European Parliament Special Committee on Organised Crime, Corruption and Money Laundering ( Brussels, Belgium 28 November 2012)

**Item 12 – Address by Mr. Bjørn S. Aamo, President of the FATF, on the programme for his FATF Presidency and exchange of views**

21. Mr. Aamo addressed the MONEYVAL Plenary, focusing on the main initiatives of the FATF programme for 2012-2013 under the Norwegian Presidency. While presenting the challenges brought by the new FATF standards and the next round of mutual evaluations, he was of the view that MONEYVAL's follow-up round would provide a strong foundation on which to base the implementation of the revised FATF Recommendations. Furthermore, he indicated that the FATF hoped to work with MONEYVAL and other FSRBs to develop a more common approach to assessment and follow-up procedures that will increase the comparability of evaluations and help to further strengthen the processes in the context of the global network. He stressed the need for continued dialogue and consultation with the private sector and representatives of civil society in the implementation of the revised FATF standards as well as the need to continue work on identifying and assessing new threats to financial integrity. Last, he informed the Plenary about the on-going FATF discussions on refining the internal working methods and structure as well as on the possible expansion of the FATF membership, the latter issue involving also further developments on the role that the FSRBs may play in the global network.

**Item 13 – ICRG Process update from the Co-chair of the Europe/Eurasia Regional Review Group (ERRG)**

Dr. Anton Bartolo, vice-chairman of MONEYVAL and co-chair of the EERG, (Malta) advised the Plenary on the outcomes of the discussions held during the ERRG meeting of 20 September 2012, where the reviews of Albania, Tajikistan, Kyrgyzstan and Turkey were examined.

**Item 14 – Information from the European Union**

**14.1 European Commission**

22. The European Commission representative congratulated MONEYVAL on its success over 15 years and indicated that its work and robust procedures are taken very seriously by the EU. He indicated that the European Commission has entered into inter-service consultation on the 4<sup>th</sup> AML/CFT Directive and that the draft text of the directive would be available before the next MONEYVAL plenary meeting.

**14.2 Secretariat General of the Council of the European Union**

23. The Secretariat of the Council of the European Union also congratulated MONEYVAL on its 15<sup>th</sup> anniversary. Recent developments the Council of the EU include the adoption of the final report of the Justice and Home Affairs (JHA) meeting on financial crime and financial investigations by the last JHA Council of Ministers meeting. There are three major conclusions of this report: (1) crime should not pay (a new freezing of assets and proceeds of crime Directive is being prepared), (2) Work is under way on central bank account registers, (3) greater sharing of operational results is required. A copy of the report would be disseminated to all MONEYVAL delegates by the Secretariat.

**Item 15 – EU Member States' common understanding on the procedure for the recognition of third country equivalence**

24. At the 37<sup>th</sup> plenary in December 2011, the Secretariat reported that the EU Committee on Money Laundering and Terrorist Financing had developed a set of criteria for the recognition

of 3rd countries equivalence under the Third Money Laundering Directive (2005/60/EU). The Secretariat assured members that assistance would be provided to assist applications with updated information on compliance with the criteria.

**Item 16 – 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)**

25. The Executive Secretary provided an update on the status of signatures and ratifications and outlined the steps that had been taken since the last plenary to make a better use of the resources of MONEYVAL for assessments of the Conference of the Parties. Issues related to the Convention had been raised during the recent on-site visit to Croatia by a Secretariat member. A similar arrangement is being sought with the FATF with possibly the participation of the MONEYVAL Secretariat to FATF on-site visits of members which are also State Parties to CETS no. 198. A positive response in principle was given to our proposal and the details would be considered as part of the process of developing FATF 4<sup>th</sup> round procedures in 2013. The Conference of Parties to CETS 198 will examine in June 2013 the reports of Croatia and Poland.

**Item 17 – Discussion of the 2<sup>nd</sup> 3rd round progress report on Serbia**

26. The Secretariat presented its analysis of the Progress report on the core Recommendations, which sets out the developments since the adoption of the first Progress report. The full progress report was subject to peer review by the plenary, assisted by the Rapporteur delegation (Holy See, including Vatican City State), which acknowledged the progress made by Serbia and raised a number of clarifications, together with one other delegation.

*Decision taken*

27. As a result of the discussions held in the context of the examination of this second progress report, the plenary was satisfied with the information provided and the progress being undertaken and thus approved the progress report and the analysis of the progress on the core Recommendations. Pursuant to Rule 41 of the Rules of procedure, the progress report will be subject to an update every two years between evaluation visits (i.e. December 2014), though the plenary may decide to fix an earlier date at which an update should be presented. The progress report is subject to automatic publication in accordance with the Rules of Procedure.

**Item 18 – Discussion of the 2<sup>nd</sup> 3rd round progress report on Armenia**

28. The Secretariat presented its analysis of the Progress report on the core Recommendations, which set out the developments since the adoption of the first Progress report. The full progress report was subject to peer review by the plenary, assisted by the Rapporteur country (Israel), which acknowledged the progress made by Armenia and raised a number of clarifications, together with others delegations, the financial scientific expert and the IMF.

*Decision taken*

29. As a result of the discussions held in the context of the examination of this second progress report, the plenary was satisfied with the information provided and the progress being undertaken and thus approved the progress report and the analysis of the progress on the core Recommendations. Pursuant to Rule 41 of the Rules of procedure, the progress report will be subject to an update every two years between evaluation visits (i.e. December 2014), though the plenary may decide to fix an earlier date at which an update should be

presented. The progress report is subject to automatic publication in accordance with the Rules of Procedure.

**Item 19 – Exchange of views on the proposed Methodology for assessing effectiveness in FATF’s 4<sup>th</sup> round and MONEYVAL’s 5<sup>th</sup> round**

30. A detailed and useful exchange of views took place at the plenary, to raise the awareness of the MONEYVAL delegations of the new effectiveness methodology. The MONEYVAL Secretariat was also seeking comments on the new methodology in advance of the inter-sessional meeting in Luxembourg the following week.

31. The Secretariat informed the plenary that with the introduction of the new FATF Recommendations, the 2004 Methodology would be replaced by a Methodology with 2 separate parts: one for technical compliance and one for effectiveness. Most of the effectiveness issues incorporated in the 2004 Methodology will be detached from the Technical Compliance Methodology and included in the new Effectiveness Methodology. As there were relatively few changes to the Technical Compliance Methodology, the exchange of views focused exclusively on the Effectiveness Methodology.

32. The Secretariat stressed that MONEYVAL has already placed emphasis on effectiveness in its 4<sup>th</sup> round of evaluations although in the context of the 2003/2004 methodologies. However, as a significant departure from past practice it is suggested that technical compliance be assessed by the secretariat as a desk-based exercise and that it will be for the evaluators to assess effectiveness following an on-site visit.

33. During discussions, the plenary mentioned that there could be situations where effectiveness could be achieved without full technical compliance. Therefore, this issue should be left to the discretion of individual evaluation teams. Furthermore, an assessment of effectiveness would be undertaken in all cases, irrespective of the level of technical compliance.

34. The Secretariat mentioned that in order to evaluate effectiveness, ratings would be introduced. Furthermore, it was stated that the Methodology will have a three tier structure: One High Level outcome, Three Intermediate Outcomes and Twelve Immediate Outcomes. The subsequent discussion focused on the Immediate Outcomes.

35. In the discussion, it was frequently mentioned that more underlying information, including statistics, will be required. Therefore, the Secretariat urged countries to check whether their current mechanisms for data collection are sufficient to provide the necessary information and data to demonstrate effectiveness in the next round of evaluations. Furthermore, it is important that the data collection of countries commences as soon as possible to ensure that there is sufficient comparative data available and that data collection mechanisms are developed and refined accordingly.

36. The Secretariat then gave a brief presentation of each of the Immediate Outcomes and a number of delegations also intervened on specific aspects. It was agreed that details of the presentations by the secretariat and delegations would be made available on the MONEYVAL secure website.

**Item 20 – Update on ECHR jurisprudence and SR III – Professor William Gilmore, Scientific expert for Legal issues**

37. The Scientific Expert on legal aspects, Prof. Bill Gilmore, presented an update on the recent developments in jurisprudence on SR.III in the European Court of Human Rights (ECHR).



38.The Scientific Expert opened his presentation by recalling the main judgments issued by the international courts or organisations (ECHR, ECJ, UNHRC) with relevance for the CFT regime, with a particular reference to the case Youssef Moustafa NADA v. Switzerland (application no. 10593/08 ECHR).

39.Prof. Gilmore provided the Plenary with an analysis of the main relevant aspects of the case in respect of AML/CFT regime.

40.After presenting, the background of the case and the main violations of human rights observed by the Grand Chamber (Art. 8 and Art. 13 of the Convention), Prof. Gilmore mentioned the most important conclusions that could be drawn from this judgment.

41.The Nada case (a case relating mostly to a travel ban imposed by the UN sanctioning regime and for this reason of limited direct relevance for MONEYVAL) is nonetheless an illustrative case for the situation where the state obligations derived from the Chapter VII based UNSC Resolutions coexist with the obligations derived from the member status of the European Convention of Human Rights.

42.The Scientific Expert drew the attention of the Plenary to paragraphs 196 and 197 of the judgment, which underline that in the light of the Convention's special character as a treaty for the collective enforcement of human rights and fundamental freedoms the Court has found that Switzerland could not validly confine itself to relying on the binding nature of Security Council Resolutions, but should have persuaded the Court that it had attempted to take all possible measures to adapt the sanctions regime to the applicant's individual situation. Switzerland failed to persuade the Court in this respect. It was said that the Swiss authorities did not sufficiently take into account the realities of the case, especially: the unique geographical situation of Campione d'Italia (the place where Mr. Nada was living when the travel ban was imposed); the considerable duration of the measures imposed; and the applicant's nationality, age and health.

43.The Scientific Expert mentioned that the Court's judgment is of particular relevance for MONEYVAL member states in respect of a few principles, which were articulated by the Court. The most relevant one as regards, more specifically, the question of the relationship between the Convention and Security Council resolutions is that in interpreting the UNSC Resolutions there must be a presumption that the Security Council does not intend to impose any obligation on Member States to breach fundamental principles of human rights. In the event of any ambiguity in terms of a Security Council Resolution, the Court (and consequently the countries when implementing their obligations) must therefore choose the interpretation which is most in harmony with the requirements of the Convention and which avoids any conflict of obligations. It is to be expected that clear and explicit language would be used if the Security Council intends States to take particular measures which would conflict with their obligations under international human rights law.

44.At the end of his analysis, the Scientific Expert underlined the special importance attached by the Court to the failure of the authorities to inform the Sanctions Committee, until 2 September 2009, of the conclusions of the investigation against the applicant (Mr. Nada), which had been discontinued well over four years before, on May 2005. The fact that the investigation against the applicant had been discontinued was of obvious importance to the prospect of the removal of the sanctions against him (the applicant's name was in fact deleted from the list on 23 September 2009, shortly after Switzerland sent to the Sanctions Committee a copy of the letter from the Federal Prosecutor's Office confirming that the judicial police investigations against Mr.Nada had not produced any indications or evidence to show that he had ties with persons or organisations associated with Osama bin Laden, al-

Qaeda or the Taliban). The failure to communicate this information in due time was the subject of specific criticism.

### **Item 21 – Information on AML/CFT initiatives in other forums**

45. Representatives of different organisations updated the plenary on the most recent AML/CFT initiatives implemented by their institutions.

#### **21.1 IMF**

46. The IMF representative reported that they were providing assistance to the Ministry of Finance of Armenia on aspects related to the supervision of casinos.

#### **21.2 GIFCS**

47. The GIFCS representative reported that the statement of best practice for supervision of trust and company service providers was currently being updated to bring it more closely to the FATF requirements.

#### **21.3 Eurasian Group on Combating Money Laundering and Terrorist Financing (EAG)**

48. The EAG representative indicated that EAG members took part in a CTED mission in October in Russia. Another mission took place in Kyrgyzstan. A workshop on national risk assessment took place during the EAG plenary in November in New Delhi.

#### **21.4 OSCE**

49. The OSCE representative reported that several meetings focusing on AML/CFT and corruption issues were held in Vienna, Dublin and Prague under the Irish Presidency. The main conclusions of these meetings are available on the OSCE website. The OSCE handbook on data collection was recently published and MONEYVAL was thanked for its assistance.

#### **21.5 FATF**

50. Detailed information on FATF developments was made available to all delegations in their report to MONEYVAL.

### **Items 22 and 23 - Discussion on the draft 4<sup>th</sup> round Mutual Evaluation Report on the Republic of Moldova**

51. The Plenary examined the draft 4<sup>th</sup> round evaluation report on the Republic of Moldova. The Secretariat introduced the evaluation team, explained the proposed changes to the report and highlighted the issues raised by the review group and scientific experts which have not been accepted by the evaluators during the pre-meeting with the Moldovan authorities and which require plenary resolution. The Secretariat briefly outlined details of the on-site visit, conducted from 20 to 26 November 2011.

52. “The former Yugoslav Republic of Macedonia” constituted the Ad-Hoc group. The intervener countries were: Azerbaijan (legal aspects), Andorra (law enforcement aspects) and Estonia (financial aspects).

53. The Chairman proceeded with the discussion on the draft report, with the interventions of delegations from Estonia, Liechtenstein, Andorra, Poland, Romania, Azerbaijan, Ukraine,

Albania, FATF, IMF, World Bank and scientific experts. Based on the outcome of the discussions, the following recommendations and issues were considered.

*Important issues raised*

**54.Criminalising money laundering (R.1):** There was a discussion on the meaning of the word “*achizitionarea*” in the legal text. The IMF expressed the opinion that the word should be considered as covering all forms of obtaining assets and therefore was in line with the requirements of the Vienna Convention. Evaluators and MONEYVAL Secretariat expressed their different view in that the word does not cover obtaining assets as a gift or donation. Several delegations supported the position that they faced similar translation issues and expressed sympathy for the proposal of IMF. As a result, the technical factor underlying the rating in the rating box was deleted and the rating of R.1 was up-graded to LC.

**55.Confiscation (R.3):** Several delegations and observers expressed various views in respect of the completeness of the seizure/confiscation provisions and procedures in place in the republic of Moldova. The evaluation team’s analysis on these aspects was confirmed.

**56.Secretcy Laws (R.4):** Several delegations expressed their opinion that the legal provision mentioned by the evaluation team as a possible shortcoming in the application of the requirements of Recommendation 4 did not impede the implementation of the AML/CFT requirements. There was consensus that the related factor underlying the rating should be deleted and the rating of R.4 was upgraded to C.

**57.Record keeping (R10):** The Polish delegation proposed to move the effectiveness factor underlying the rating under technical deficiencies. The evaluation team expressed their views that in fact, under the Moldovan legislation there is one designated “competent authority” empowered to require the prolongation of the record keeping but it would be more effective to have law enforcement too. Several delegations supported this proposal.. The rating remained unchanged (LC).

**58.Guidelines and feedback (R.25):** Several delegations proposed to amend the rating box by moving two effectiveness factors underlying the rating and merging two other factors. The evaluation team agreed with the proposal. This had no influence on the rating (PC).

**59.The Financial Intelligence Unit (R.26):** The scientific experts raised the issue of the independence of the FIU criticised by the evaluation team. Several delegations supported the proposal to delete the respective factor underlying the rating and to up-grade the rating to LC. The Plenary supported the modifications proposed.

**60.Law Enforcement Agencies (R.27):** The additional element relating to the ability to waive arrest was discussed. The proposal was to adopt a less formalistic approach, accepting that such measures are taken in practice in the Republic of Moldova. The evaluation team agreed and the factor underlying the rating in the rating box was deleted. There was no support for the proposal put forward by Moldova to up-grade the rating of R.27The rating remained unchanged (PC).

**61.Supervision (R.23):** The proposal made that the fraudulent take-over attempt on Moldovan banks in the summer of 2011 should be emphasised in respect of the effectiveness of the legal and regulatory framework to prevent criminals from holding or being the beneficial owner of a significant or controlling interest in a bank received support and the rating box was amended accordingly The changes did not impact on the rating of R. 23 (PC).

**62.Third party reliance and introducers (R9):** Various views were expressed about the rating. Some delegations expressed their views that a non-applicable rating would be more appropriate than a non-compliant rating . Scientific experts, observers (FATF) and evaluators considered that third party reliance did exist in the Republic of Moldova and that recent FATF reports adopted a stricter approach. The rating remained the same. (NC)

*Decisions taken*

63.As a result of the discussion, the Plenary decided to amend the draft report and the summary to reflect the clarifications raised by delegations and the amendments set out in the room document and modified the ratings of R.1 (upgraded from PC to LC), R4 (upgraded from LC to C) and R.26 (upgraded from PC to LC).

64.The Plenary adopted the executive summary and the 4<sup>th</sup> round assessment visit report on the Republic of Moldova, with the agreed amendments and subject to consequential editorial changes. The executive summary and report as adopted are subject to automatic publication in accordance with the revised Rules of Procedure.

65.Pursuant to Rule 48 of the revised Rules of Procedure, the Republic of Moldova was placed under the regular follow-up procedures. This process requires the country to provide, no later than two years after the adoption of the report (i.e. December 2014), information on the actions it has taken to address the factors/deficiencies underlying any of the 40+9 Recommendations that are rated PC or NC and encourages it to seek removal from the follow-up process within three years after the adoption of the 4<sup>th</sup> round MER or very soon thereafter.

**Item 24 - Discussion on measures taken by Republic of Moldova on identified important deficiencies as a result of the process regarding the state of compliance on all NC and PC ratings in the 3<sup>rd</sup> round mutual evaluation report and next steps**

66.The Secretariat introduced the analysis of the current situation in the Republic of Moldova in respect of the identified important deficiency related to R.17. It was noted that, due to structural changes in the country, no progress had been made by the Republic of Moldova on this matter.

*Decision taken*

67.The Plenary took note of the remaining deficiencies and invited Moldova to report back in April 2013.

**Item 25 - Template and statistics for 4th round follow-up report**

68.The MONEYVAL Secretariat introduced the template for 4th assessment visits follow-up reports which had been revised to take into account comments made during the 39<sup>th</sup> plenary meeting and to clarify certain issues, based also on subsequent written comments received from delegations. It was explained that it was recognised that all countries establish a framework for collection of data to measure performance of agencies and assess levels of risk and the template allowed for countries to use data collection which reflects local requirements rather than copy the format of the statistics template. The revised template reflected this and, in a number of cases, allowed for the substitution of domestic data collection formats rather than requiring a rigid adherence to the requirements of the template where compatible domestic statistics are available. It was also noted that the implementation of a national framework for collection of data may take time and that comparative data for earlier years may not be available. Guidance notes were set out in each section, clarifying the type of data required.

69. It was emphasised that this data was required for MONEYVAL's internal assessment of the jurisdiction under review. It was also clarified that the FATF designated categories of predicate offence had been adopted in order to ensure consistency within the report and that it was considered best to retain these categories where appropriate. These points were accepted.

70. Overall there was a debate concerning the table on Estimated Economic Cost of the Reported Criminal Offences which one delegation proposed to remove from the template. It was explained that the guidance notes now stated that where actual figures are collected and collated on reported crime these can be included and that it was also acceptable to include estimates of the cost of crime to the economy. The methodology for calculating the cost of crime should be stated at the foot of the table.

*Decision taken*

71. It was agreed that much more discretion would be given to countries on how to complete the section on cost of crime and that a revised wording and format would be prepared by the Secretariat, in consultation with interested delegations, and submitted to the Bureau.

**Items 26 and 27 – Discussion on the draft 4<sup>th</sup> round Mutual Evaluation Report on Lithuania**

72. The Plenary examined the draft 4<sup>th</sup> round evaluation report on Lithuania. The Secretariat introduced the evaluation team, explained the proposed changes to the report and highlighted the issues raised by the review group and scientific experts which have not been accepted by the evaluators during the pre-meeting with the Lithuanian authorities and which require plenary resolution. The Secretariat briefly outlined details of the on-site visit, conducted from 22 to 28 April 2012. The evaluators expressed gratitude for the level of support and cooperation extended by the Lithuanian authorities, and then presented an overview of their sectoral findings.

73. The Head of the Lithuanian delegation, Mr Liutauras Zygas, thanked the Secretariat and the evaluation team for the comprehensiveness of their work and the valuable comments made in this process. He provided an overview of the main developments since the 3<sup>rd</sup> round evaluation report adopted in November 2006 (including the lack of progress on such issues as the incrimination of money laundering and terrorist financing). He also pointed out that his delegation disagreed with the ratings of R.3 and R.40.

74. Albania constituted the Ad-Hoc group while the intervener countries were: Croatia (legal aspects), Czech Republic (financial aspects) and Georgia (law enforcement aspects).

*Important issues raised:*

**75. General introduction and background information on the crime situation in Lithuania:** the scientific expert on financial aspects (Mr Ilacqua) sought clarification of the reasons which had led the evaluation team to use a large quotation taken from media material as the sole background information on the crime situation in Lithuania; for it to be considered as official information in such circumstances, it should at least be endorsed by the authorities and this would need to be clearly stated. The Secretariat explained that the replies to the questionnaire contained no description and assessment of the situation in question, and that no consolidated information/analysis was available in the context of the visit. He explained that the article being a transcription of an interview with a renowned academic and crime problems expert from Lithuania, who seemed to have based his analysis on police reports, the evaluation team had considered the information to offer

sufficient guarantees of trustworthiness. Moreover, it had been discussed with the Lithuanian delegation in the first informal meeting and the latter had accepted/endorsed it, provided that a paragraph on the situation of corruption – which seemed to be based on insufficiently objective considerations – was to be replaced with information taken from official data and reports available.

**76.Incrimination of terrorist financing (SR.II):** The FATF Secretariat sought clarification as to the general construction of the incrimination and recalled that the Methodology made it clear that an incrimination of terrorist financing based solely on ancillary offences (aiding and abetting etc.) was not in conformity with the standards and would justify an NC rating. The Secretariat explained that Lithuania was relying, indeed, to a large extent – but not exclusively – on a combination of ancillary offences and article 250 of the Penal Code on acts of terrorism; since the element of financing is present to some extent in article 250 paragraph 5 (financing of a group or accomplices or organised group preparing an act provided for under article 250 PC), the team had felt that PC was more appropriate. Asked to indicate on which basis the (non-final) conviction for FT mentioned in the draft report had been pronounced, the Lithuanian delegation recalled that it had been article 250 paragraph 5 alone, and not a combination with an ancillary offence.

**77.Temporary measures (R.3):** there was a discussion, upon the initiative of the Lithuanian delegation, on the analysis of the situation in the country concerning the regime of temporary measures applicable under article 151 of the Criminal Procedure Code, as well as on the rating for this recommendation. The evaluation team considered that in the absence of other procedural elements for the imposition of temporary measures, those of article 151 paragraph 3 are the ones applicable. Therefore, it was felt that the systematic use of a search and/or the drafting of a protocol indicating the assets to be seized – in presence of the suspect – was a very formal way of applying temporary measures. The evaluators recalled that such measures may need to be applied rapidly and without the suspect's/accomplices knowledge (criterion 3.3), and they felt that this formal way of proceeding leaves ample room for the dissipation of assets before the seizure is ordered by the prosecutor and subsequently implemented. The Lithuanian delegation met with the evaluators and several participants in the margins of the plenary discussion. It was explained that, contrary to the assumption of the evaluators and despite the general architecture of article 151 of the Criminal Procedure Code, its paragraph 3 is not a mandatory step in the procedure for freezing/seizing any criminal assets; it is only a specific regime applicable to items seized during searches. They provided assurances that investigators can go directly and at any moment to a bank or to the person who has the custody of assets to enforce the prosecutor's order delivered in advance.

78.As for the issue of legal privilege of lawyers, the Lithuanian delegation also provided assurances that this privilege hinders the effective access to information only in the context of the preventive AML regime (for the subsequent analysis of reports), but not in the context of criminal investigations, for which no professional secrecy or privilege can be invoked by lawyers, apart from the information generally protected as regards the defence of a client.

79.The Lithuanian delegation also explained that the one-year time-limit for temporary measures in case of misdemeanours and less serious offences (there is no limit for serious and particularly serious offences) was not a real issue in practice since misdemeanours and less serious offences need to be investigated within one year. It was agreed to put less emphasis on this matter and following a proposal by Mr Gilmore (scientific expert for legal aspects) to keep it as a matter for a review aimed at identifying possible issues in practice, and subsequent remedial action to be taken in legislation.

80. Under these circumstances, the evaluation team supported and the plenary agreed to upgrade the rating of R.3 to LC.

**81. Monitoring of transactions (R.11):** following the initiative of the IMF representative, the plenary discussed the ambiguities reported by the evaluation team as regards the coverage of article 14 paragraph 4 of the Lithuanian AML Law. The evaluators had taken the view that the AML law did not address precisely enough all requirements of R.11 and that it should be made clear that subjected entities must keep written records of the findings when they are called upon to examine more closely “complex and unusually large transactions and all unusual patterns of transactions which have no apparent economic or visible lawful purpose”. The Lithuanian authorities assured that this was covered by the expression “must be substantiated by documents”. The plenary was satisfied by the explanations provided and decided to upgrade the rating for R.11 to C.

**82. UN Conventions and special resolutions (R.35 and SR.I):** there was a discussion about the actual consequences of various notable deficiencies identified in the report on CFT-related aspects (e.g. incrimination of terrorist financing under SR.II and freezing of terrorist assets under SR.III) as regards the level of implementation of the UN Conventions and special resolutions. During the discussion it was underlined that this was one of the very few exceptions to the principle of avoiding cascading effects between ratings. The evaluators eventually agreed with the proposal to reconsider and to downgrade the ratings for these two Recommendations from LC to PC.

**83. Other forms of international cooperation (R.40):** the plenary discussed some of the various underlying concerns about this Recommendation, as they appear(ed) in the rating box. The Lithuanian delegation stressed that the English translation of the AML Law, when referring to the FIU’s ability to exchange information with other state institutions, had been a source of misunderstanding and that a correct translation was “institutions of other states”, thus including supervisors which take the form of professional organisations or business associations (in the context of AML/CFT supervision) without being formally state institutions. Since these bodies are to be considered as “institutions of other states” there was no real issue in this area. The plenary also agreed with those delegations which had stressed that cooperation and information exchange with foreign counterparts was a “natural” prerogative of a supervisory entity and therefore, there was no need for making explicit provision to that effect in legislation or their statutory rules. Finally, the plenary considered that the fact that the FIU – which is responsible for DNFBP supervision – is not involved in practice in international cooperation for prudential purposes (although it has the power to do so) is not in itself a relevant matter from the perspective of R.40; at best, it would be an effectiveness issue. It was agreed to upgrade the rating to LC.

#### *Decisions taken*

84. As a result of the discussions, the plenary decided to amend the report to reflect the comments and clarifications raised by delegations, and in particular to modify the ratings of R.3 (upgraded from PC to LC), R. 11 (upgraded from LC to C), R.35 and SR.I (downgraded from LC to PC) and R.40 (upgraded from PC to LC).

85. The plenary adopted the draft report and the executive summary, subject to the amendments and consequential amendments required to the draft report and executive summary arising from the discussion.

86. It was concluded that overall, there had been a lack of progress since the 3<sup>rd</sup> round. Moreover, with the exception of R.10 (rated LC), all recommendations listed in paragraph 48

item a) of the Rules of Procedure are rated “PC”. MONEYVAL therefore decided to apply the mechanism of regular follow-up and to make use of the expedited and enhanced procedure.

87. The Head of the Lithuanian delegation regretted the long time span between the 3<sup>rd</sup> and the 4<sup>th</sup> evaluation rounds since this did not allow – in his opinion – for the timely follow-up on measures taken by a country and for the introduction in due course of possibly desirable readjustments. He also pointed out that the workload generated for the preparation of, and during the upcoming Lithuanian EU presidency (June-December 2013), will make it extremely difficult for his country to report back to MONEYVAL before the end of the said term.

88. The plenary took note of the above. Given these particular circumstances, the Chairman of MONEYVAL, under Step (ii) of the Compliance Enhancing Procedures<sup>2</sup>, will send a letter to the Secretary General of the Council of Europe, with a copy to the Head of Delegation of Lithuania, raising concerns about non-compliance by the country with the reference documents and inviting Lithuania to submit its first 4<sup>th</sup> round regular follow-up report in the first plenary of 2014.

### **Item 28 – Discussion of the 2<sup>nd</sup> 3rd round progress report on Ukraine**

89. The Secretariat presented its analysis of the Progress report on the core Recommendations, which set out the developments since the adoption of the first Progress report. The full progress report was subject to peer review by the plenary, assisted by the Rapporteur country (Hungary), which acknowledged the progress made by Ukraine and raised a number of clarifications, together with others delegations, the financial scientific expert and the IMF.

#### *Decision taken*

90. As a result of the discussions held in the context of the examination of this second progress report, the plenary was satisfied with the information provided and the progress being undertaken and thus approved the progress report and the analysis of the progress on the core Recommendations. Pursuant to Rule 41 of the Rules of procedure, the progress report will be subject to an update every two years between evaluation visits (i.e. December 2014), though the plenary may decide to fix an earlier date at which an update should be presented. The progress report is subject to automatic publication in accordance with the Rules of Procedure.

### **Item 29 – Further discussion of measures taken by Ukraine on identified important deficiencies as a result of the process regarding the state of compliance on all NC and PC ratings in the 3rd round mutual evaluation report and next steps**

91. The Plenary examined the report presented by Ukraine in respect of measures taken to address the identified important deficiencies (R.3 (Confiscation) and SR.IX (Cross border declaration or disclosure)) and the Secretariat analysis. As a result of the discussion, the Plenary considered that Ukraine had satisfactorily taken measures in order to rectify deficiencies related to the implementation of the requirements of SR.IX and noted the actions underway regarding the amendment of the Ukrainian criminal legislation.

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<sup>2</sup> Step (ii) envisages “the Chairman of MONEYVAL sending a letter with a copy to the Head of Delegation concerned to the Secretary General of the Council of Europe, drawing his/her attention to non-compliance by a MONEYVAL participating State with the reference documents.



*Decision taken*

92.The Plenary took note of the remaining deficiencies and invited Ukraine to report back in September 2013, with the understanding that the expectation would be that Ukraine would have adopted by then the draft legislation amending the confiscation provisions of the Criminal Code and of the Criminal Procedure Code (R. 3).

**Item 30 – Report of Bosnia and Herzegovina under Step (i) of the Compliance Enhancing Procedures and discussion of any next steps**

93.The Bosnian authorities were thanked by the MONEYVAL Secretariat for preparing the latest report on progress against the agreed action plan.

94.It was reported that the BiH authorities have made considerable progress in preparing draft amendments to the AML/CFT Law and Criminal Code. Subsequent to the 39th plenary meeting, the BiH authorities requested the assistance of the Council of Europe in reviewing the draft amendments to the AML/CFT Law and Criminal Code. It was anticipated that the Council of Europe would conclude its review and issue an opinion on the draft amendments to the Criminal Code by the end of 2012.

95.The BiH authorities had submitted drafts of the amended AML/CFT Law and proposed amendments to the BiH Criminal Code in relation to the criminal offences of money laundering, financing of terrorism and confiscation of property. Whereas the draft Law on Amendments of the Law on the Prevention of Money Laundering and Financing of Terrorist Activities (Draft AML/CFT Law) reflects many of the comments of the expert reviewer the amendments to the Criminal Code did not.

96.It was explained that the proposed amendments to the Criminal Code had not been considered in the analysis as they are likely to be subject to change following the Council of Europe's review. It was also the case that a number of other medium-term action points could not be met until the relevant amended laws are adopted. This included developing guidance and training as well as secondary legislation, such as amendments to the Book of Rules. Furthermore, once these laws are adopted at the level of BiH it will be necessary to make consequential amendments to the relevant laws in the Federation of Bosnia and Herzegovina (FBiH), Republic Srpska (RS) and Brcko District (BD). This will inevitably mean that certain other medium-term action points could not be considered at this stage.

97.The analysis did highlight some areas where certain matters had not been addressed. The BiH authorities confirmed that a number of these issues were still under consideration with regard to the draft AML Law and will be taken into consideration in the final draft of the amendments.

98.The Secretariat indicated that that, following clarification received from the Bosnian authorities relating to SR.III that paragraphs 57 and 71 would be amended to reflect the progress concerning the implementation of the requirements of SR.III.

99.Overall, the MONEYVAL Secretariat welcomed the progress achieved by the BiH authorities in respect of the short and medium-term action points. It was however noted that, due to inevitable delays in enacting the revised laws and consequential amendments to laws, guidance, procedures and trainings, very few of the medium-term action points have been fully met. The authorities were strongly encouraged to expedite the enactment of the draft laws; at the same time those outstanding issues as set out in the Secretariat analysis should be addressed promptly.

100.The Bosnian delegation gave a brief explanation of the changes that had been implemented and explained the process necessary to bring the relevant laws into force and effect.

*Decision taken*

101.The Plenary requested Bosnia and Herzegovina to submit a further report under step (i) of the Compliance Enhancing Procedures at its 41<sup>st</sup> plenary meeting.

**Item 31 – Exchange of views on the conduct of national risk assessment – Progress in MONEYVAL States since July 2012**

102.MONEYVAL began an exchange of views in July 2012 when the International Monetary Fund, the World Bank and a number of countries provided the Plenary with information related to their experiences on NRA. The exchange of views continued at this plenary meeting. Based on the replies sent by the countries to a questionnaire issued by the MONEYVAL Secretariat, the International Monetary Fund, the World Bank, the Organization for Security and Co-operation in Europe, EAG, and eleven countries were invited to provide presentations related with six main topics as follows:

- **Progress since July 2012** (IMF, WB, EAG)
  - Report on outcome of initiatives undertaken since MONEYVAL’s 39<sup>th</sup> Plenary in July 2012
- **Preliminary steps** (Azerbaijan, Hungary, and Latvia)
  - Establishing the scope of the project
  - Composition of task force
- **Methodology and Questionnaires** (Armenia, Croatia, Estonia)
  - Methodology adopted
  - Development and content of questionnaires
  - Scope of distribution of questionnaires
- **Data collection** (“The former Yugoslav Republic of Macedonia”, Poland, OSCE)
  - Data collection methodology
  - Use of web-based data collection
  - Data sources
- **Outputs** (Liechtenstein, Romania)
  - Expected outputs
  - Using the results of the risk assessment
- **Lessons learned** (Serbia, IMF, World Bank)
  - Lessons learned
  - Problems to avoid
  - What can be done better?

103.The presentations were followed by questions and a debate. It was agreed that, subject to the consent of the authors, the written presentations will be available on the restricted website.

**Item 32 - Information on AML/CFT initiatives in MONEYVAL countries (tour de table)**

104.This agenda item was postponed.

**Item 33 – Discussion of the further 3<sup>rd</sup> round progress report on Montenegro**

105.The Secretariat presented its analysis of the Progress report on the Core Recommendations. The full progress report was subject to peer review by the plenary,

assisted by the Rapporteur country (Slovakia), which acknowledged the progress made by Montenegro and raised a number of clarifications, together with other delegations.

#### *Decisions taken*

106. As a result of the discussions held in the context of the examination of the third progress report of Montenegro, the Plenary was satisfied with the information provided and the progress being undertaken and thus approved the progress report and the analysis of the progress on the core Recommendations with necessary amendments and applied Rule 41 of the Rules of procedure. Pursuant to Rule 41, the Plenary decided to fix an earlier date at which an update should be presented to MONEYVAL; in particular, Montenegro was invited to provide a further progress report in December 2013. The progress report is subject to automatic publication in accordance with the Rules of Procedure.

#### **Item 34 – Further discussion of measures taken by Georgia on identified important deficiencies as a result of the process regarding the state of compliance on all NC and PC ratings in the 3<sup>rd</sup> round mutual evaluation report and next steps.**

107. The Plenary examined the report presented by Georgia and the analysis of the Secretariat of the current situation and the steps taken to address the identified important deficiencies in respect of R.12 & 16 . The Secretariat informed the plenary that, considering the recent parliamentary elections and the recommendations of the 4<sup>th</sup> round MER, the Georgian authorities are planning to prepare a bill of amendments to the relevant legislative acts, including the CDD and STR requirements for lawyers. However, at the moment, no progress has been made to implement the necessary requirements for lawyers.

#### *Decision taken*

108. The Plenary took note of the remaining deficiencies and agreed with the proposal made by Georgia to invite the country to report back in September 2013 on progress made on the above-mentioned shortcomings.

#### **Item 35 - Further discussion of measures taken by Croatia on identified important deficiencies as a result of the process regarding the state of compliance on all NC and PC ratings in the 3<sup>rd</sup> round mutual evaluation report and next steps.**

109. The Plenary examined the report presented by Croatia and the analysis of the Secretariat in respect of measures taken by Croatia to address the remaining shortcomings related to SR.III. It was noted that the Croatian authorities have established clear and publicly known procedures and criteria for de-listing in respect of UN Resolution 1267. Nonetheless, a few technical deficiencies remained. These included *inter alia* the need to develop provisions in place to ensure that there are clear and publicly known procedures and criteria for unfreezing in respect of UNRES 1267 and de-listing and unfreezing in respect of UNRES 1373 in appropriate cases in a timely manner.

#### *Decision taken*

110. The Plenary took note of the remaining deficiencies and invite Croatia to report back in April 2013 on progress made on the above-mentioned shortcomings.

#### **Item 36 - Further discussion of measures taken by “the former Yugoslav Republic of Macedonia” on identified important deficiencies as a result of the process regarding the state of compliance on all NC and PC ratings in the 3<sup>rd</sup> round mutual evaluation report and next steps.**

111.The Plenary examined the report presented by “the former Yugoslav Republic of Macedonia” respect of measures taken to address the identified important deficiencies under SR.II (Criminalisation of the financing of terrorism) and the Secretariat analysis. It noted that progress appeared to come at slow pace and that the draft legislation which had been prepared did not appear to cover comprehensively the shortcomings identified previously.

*Decision taken*

112.There was no support to endorse the proposal made by the “the former Yugoslav Republic of Macedonia” to report back in September 2013. Consequently, the Plenary invited the country to report back in April 2013.

**Items 37 and 39 – Typology Work and information on typologies and projects in other forums**

113.**MONEYVAL’s typology work on Trade based money laundering in cash intensive economies and on Postponement of financial transactions and the monitoring of bank accounts:** the Plenary heard an update from one of the Project leaders and the MONEYVAL Secretariat. Core group meetings were held in Warsaw at the end of October (one for each project). The groups of experts met to discuss the draft reports prepared by the Project leaders and Secretariat. Preliminary conclusions were drawn. The core group distributed amongst their members further responsibilities to finalise the reports. It is expected that at least one of the typology projects will be presented for consideration at the plenary meeting in April 2013.

114.**FATF work on typologies:** The FATF Secretariat provided an update on the five on-going typology projects: (1) Money laundering and terrorist financing related to counterfeiting of currency (led by India), Terrorist financing in West Africa (joint project with GIABA), Money laundering and terrorist financing vulnerabilities of legal professionals (led by the Netherlands and the United Kingdom), Money laundering and terrorist financing through trade in diamonds and other precious stones (joint project led by the Egmont Group) and The role of hawala in money laundering and terrorist financing (led by the United States and the World Bank). It was mentioned that all projects are expected to be completed by June 2013.

115.**Eurasian Group on Combating Money Laundering and Terrorist Financing (EAG) work on typologies:** An EAG workshop on combating ML and Gains from Illegal Production and Distribution of Drugs is planned to take place in China starting the 10<sup>th</sup> of December 2012. A meeting on typologies took place in November during the EAG plenary. A typology project on preventing ML on security markets is currently led by India and future typology work on tax crime and money laundering is being considered to be led by Russia and Ukraine. Furthermore, typologies workshop is planned in March 2013 in Mongolia.

**Item 38 – Match fixing - Proposals for a Council of Europe Convention- The need to combat match-fixing**

116.The Executive Secretary of the Enlarged Partial Agreement on Sports (EPAS) informed the plenary of the recent initiative of EPAS. Following the adoption of Recommendation CM/Rec(2011)10 and the Conference of Ministers responsible for Sport (Belgrade, 15 March 2012), the Committee of Ministers had invited the EPAS Governing Board to launch the negotiation of a possible Council of Europe Convention against manipulation of sports results and notably match-fixing, and to involve relevant Council of Europe bodies and committees in this process, including MONEYVAL.

117.Following the Committee of Ministers decision a Drafting Group, considering a draft international convention to combat the manipulation of sports results, was established. This

Drafting Group will include experts from law enforcement, betting regulation and sport policy makers.

118. The Executive Secretary of EPAS also informed the plenary that, according to the time schedule, EPAS is planning to open the Convention for signature in 2014. The expectations of this Convention are:

- to enhance detection of the manipulation of sport results by the organised crime;
- to enhance coordination of public authorities related to sports;
- to enhance cooperation with the private sports movement and the private betting operators;
- to set up a monitoring mechanism on implementation of the Convention.

119. As a conclusion of his presentation, Mr Frossard underlined that EPAS is not limited to the issue of sports ethics, but is also concerned with the involvement of organised crime in sport activities.

#### *Decision taken*

120. The plenary endorsed the Chairman's proposal that the Secretariat should send all relevant documents to MONEYVAL delegations with a call for expressions of interest in contributing to the work of EPAS related to the drafting process of the Convention on match-fixing.

#### **Item 40 – Other information**

121. The Plenary heard a brief report from Hungary on progress achieved since the 4<sup>th</sup> assessment visit in January 2010. Hungary submitted information on steps that have been taken in form of an information note. Hungary mentioned that it needed more time to address the identified deficiencies and would look to present a full follow-up report seeking to come out of regular follow-up in 2013.

#### **Items 41 and 42 – Ad Hoc Review Group of Experts and Rapporteurs for the next plenary meeting**

122. The Ad Hoc Review Group on the report of Poland will be constituted by the Austrian delegation. Intervener countries on the report are: Latvia (legal aspects); Monaco (law enforcement aspects), Lithuania (financial aspects). No rapporteurs are appointed for the next plenary as no third round progress reports are being examined.

#### **Item 43 - Future representation in FATF meetings**

123. A call for expressions of interest for delegations willing to take part in the forthcoming FATF meetings was circulated.

#### **Item 44 – Financing and staffing**

124. The Executive Secretary informed the Committee that the Secretariat will be reinforced in 2013 with additional staff through an additional seconded official and two administrators.

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#### **Appendix I – Agenda (MONEYVAL-PLN40(2012)OJ3)**

Day 1: Monday 3 December 2012 / 1er jour : Lundi 3 décembre 2012

**Morning 9h30 - MONEYVAL 15<sup>th</sup> Anniversary session /**  
**matin 9h30 - Session solennelle à l'occasion du 15<sup>e</sup> anniversaire de MONEYVAL**

1. **Opening of the Plenary Meeting at 9h30 / Ouverture de la réunion plénière à 9h30**
2. **Intervention by Mr Thorbjørn Jagland, Secretary General of the Council of Europe on the occasion of the MONEYVAL 15<sup>th</sup> Anniversary / Intervention de M. Thorbjørn Jagland, Secrétaire Général du Conseil de l'Europe, à l'occasion du 15<sup>e</sup>me Anniversaire de MONEYVAL**
3. **Intervention by Mr Jean-Claude Mignon, President of the Parliamentary Assembly of the Council of Europe / Intervention de M. Jean-Claude Mignon, Président de l'Assemblée parlementaire du Conseil de l'Europe**
4. **Intervention by Mr. Bjørn S. Aamo, President of the FATF/ Intervention de M. Bjørn S. Aamo, Président du GAFI**
5. **Response by the Chairman of MONEYVAL / Réponse du Président de MONEYVAL**
6. **Interventions by the former Chairmen of MONEYVAL / Interventions des anciens Présidents de MONEYVAL:**
  - Mr Klaudijo Stroligo (World Bank – Former Head of Slovenia FIU) / *M. Klaudijo Stroligo (Banque Mondiale – Ancien Chef de la CRF en Slovénie)*
  - Mr Anton Bartolo (Vice-Chairman of MONEYVAL) on behalf of Mr Silvio Camilleri (Chief Justice, Malta) / *M. Anton Bartolo (Vice-Président de MONEYVAL) au nom de M. Silvio Camilleri (Président de la Cour Suprême, Malte)*
  - Mr Vasil Kirov (European Commission, Former Head of the Bulgarian FIU) / *M. Vasil Kirov (Commission Européenne, ancien Chef de la CRF en Bulgarie)*
7. **Remarks from / Interventions par :**
  - Mrs Eva Rossidou-Papakyriakou, Head of the Delegation of Cyprus / *Mme Eva Rossidou-Papakyriakou Chef de la délégation de Chypre*
  - Mr Christopher Burdick, Head of the Delegation of the United States / *M. Christopher Burdick / Chef de la délégation des Etats-Unis*
8. **Presentation by Mr Herbert Zammit Laferla (Former Scientific Expert / Présentation par M. Herbert Zammit Laferla (anciennement Expert scientifique)**

*(Coffee break / Pause-café)*

**9. Adoption of the Agenda / Adoption de l'ordre du jour**

**10. Information from the Chairman / Informations communiquées par le Président**

- 10.1 Welcome to Jersey, Crown Dependency of the UK, Guernsey, Crown Dependency of the UK, and Isle of Man, Crown Dependency of the UK / Bienvenue à Jersey, Dépendance de la Couronne du Royaume-Uni, Guernesey, Dépendance de la Couronne du Royaume-Uni et Ile de Man, Dépendance de la Couronne du Royaume-Uni**
- 10.2 Chairman's correspondence / Correspondance du Président**

**11. Information from the Secretariat / Informations communiquées par le Secrétariat**

- 11.1 Appointment of scientific expert / Nomination d'un expert scientifique**
- 11.2 Agenda of evaluations and meetings for 2013/ Calendrier des évaluations et réunions en 2013**
- 11.3 Information on MONEYVAL / EAG Workshop, Strasbourg 19-21.09.12 / Informations sur le séminaire MONEYVAL / EAG, Strasbourg 19-21.09.12**
- 11.4 Participation in FATF meetings / Participation aux réunions du GAFI**
- FATF WGEI Intersessional meeting, Paris 4-7 September 2012 / GAFI Réunion WGEI Intersessionnelle, Paris 4-7 septembre 2012
  - FATF Plenary, Paris 15-19 October 2012 / Réunion plénière du GAFI, Paris 15-19 octobre 2012
- 11.5 Participation in other forums / Participation à d'autres réunions**
- 20th OSCE Economic and Environmental Forum, Prague 12-14 September 2012 / 20ème Forum Economique et Environnemental, Prague 12-14 septembre 2012
  - Cyprus meeting of the Asset Recovery Offices Platform (ARO), 22-24 October 2012 / Plate-forme des Agences de recouvrement d'actifs criminels (ARO), Chypre 22-24 octobre 2012
  - Special meeting of the Counter-Terrorism Committee with Member States and relevant international and regional organizations on preventing and suppressing terrorist financing", United Nations, New York, 20 November 2012 / Réunion spéciale du Comité contre le terrorisme avec les Etats members et les organisations internationales et régionales pertinentes sur la prévention et la répression du financement du terrorisme, Nations Unies, New York, 20 novembre 2012
  - Meeting of the Special committee on organised crime, corruption and money laundering, European Parliament, Brussels, 28 November 2012 / Réunion de la Commission spéciale sur la criminalité organisée, la corruption et le blanchiment de capitaux, Parlement Européen, Bruxelles, 28 novembre 2012

**12. Address by Mr. Bjørn S. Aamo, President of the FATF, on the programme for his FATF Presidency and exchange of views / Message de M. Bjørn S. Aamo, Président du GAFI, concernant le programme du GAFI durant sa présidence et échange de vues**

**13. ICRG Process update from the Co-chair of the Europe/Eurasia Regional Review Group (ERRG) / ICRG Présentation des dernières évolutions par le Vice-Président du Groupe d'examen régional Europe /Eurasie (ERRG)**

**14. Information from the European Union / Informations de la part de l'Union Européenne**

- 14.1 European Commission / Commission européenne**

**14.2 Secretariat General of the Council of the European Union / Secrétariat Général du Conseil de l'Union européenne**

- 15. EU Member States' common understanding on the procedure for the recognition of third country equivalence / Mémoire commun des Etats membres de l'UE sur la procédure de reconnaissance de l'équivalence des pays tiers**
- 16. 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) / Informations sur la Convention du Conseil de l'Europe relative au blanchiment, au dépistage, à la saisie et à la confiscation des produits du crime et au financement du terrorisme (STCE no.198)**
- 17. Discussion of the 2<sup>nd</sup> 3rd round progress report on Serbia / Discussion du 2<sup>e</sup> rapport de progrès de 3<sup>e</sup> cycle de la Serbie**

**Afternoon 14h30 / après-midi 14h30**

- 18. Discussion of the 2<sup>nd</sup> 3rd round progress report on Armenia / Discussion du 2<sup>e</sup> rapport de progrès de 3<sup>e</sup> cycle de l'Arménie**
- 19. Exchange of views on the proposed Methodology for assessing effectiveness in FATF's 4<sup>th</sup> round and MONEYVAL's 5<sup>th</sup> round / Echange de vues sur la proposition de Méthodologie d'évaluation de l'efficacité dans le cadre du 4<sup>e</sup> cycle d'évaluation du GAFI et le 5<sup>e</sup> cycle d'évaluation du MONEYVAL**
- 20. Update on ECHR jurisprudence and SR III – Professor William Gilmore, Scientific expert for Legal issues / Mise à jour sur la jurisprudence de la CEDH et la RS III - Professeur William Gilmore, expert scientifique pour les questions juridiques**
- 21. Information on AML/CFT initiatives in other forums / Informations sur les initiatives LAB/CFT dans d'autres institutions**
- 21.1 IMF / FMI**
  - 21.2 World Bank / Banque Mondiale**
  - 21.3 EBRD / BERD**
  - 21.4 GIFCS / GSCFI**
  - 21.5 OSCE**
  - 21.6 Council of Europe Development Bank / CEB - Banque de Développement du Conseil de l'Europe**
  - 21.7 Eurasian Group on Combating Money Laundering and Terrorist Financing (EAG) / Groupe Eurasie sur le blanchiment de capitaux et le financement du terrorisme (EAG)**
  - 21.8 FATF / GAFI**

**Day 2: Tuesday 4 December 2012 / 2e jour : Mardi 4 décembre 2012**

**Morning 9h30 / matin 9h30**

- 22. Discussion on the draft 4<sup>th</sup> round Mutual Evaluation Report on Republic of Moldova / Discussion du projet de rapport de 4<sup>e</sup> cycle d'évaluation mutuelle sur la République de Moldova**



**Afternoon 14h30 / après-midi 14h30**

23. **Continuation of the discussion on the draft 4<sup>th</sup> round Mutual Evaluation Report on Republic of Moldova / Poursuite de la discussion du projet de rapport de 4<sup>e</sup> cycle d'évaluation mutuelle sur la République de Moldova**
24. **Further discussion of measures taken by Republic of Moldova on identified important deficiencies as a result of the process regarding the state of compliance on all NC and PC ratings in the 3rd round mutual evaluation report and next steps / Discussion sur les mesures prises par la République de Moldova sur les lacunes importantes identifiées dans le cadre du processus concernant l'état de conformité relatif aux notations NC et PC du rapport d'évaluation de 3e cycle et suite à donner**
25. **Template and statistics for 4th round follow-up reports / Format et statistiques concernant les rapports de progrès de 4<sup>e</sup> cycle**

**[ Bureau Meeting at the close of the afternoon's business / Réunion du Bureau à la clôture de la session de l'après-midi ]**

**Day 3: Wednesday 5 December 2012 / 3e jour : Mercredi 5 décembre 2012**

**Morning 9h30 / matin 9h30**

26. **Discussion on the draft 4<sup>th</sup> round Mutual Evaluation Report on Lithuania / Discussion du projet de rapport de 4<sup>e</sup> cycle d'évaluation mutuelle sur la Lituanie**

**Afternoon 14h30 / après-midi 14h30**

27. **Continuation of the discussion on the draft 4<sup>th</sup> round Mutual Evaluation Report on Lithuania / Poursuite de la discussion du projet de rapport de 4<sup>e</sup> cycle d'évaluation mutuelle sur la Lituanie**
- 28.

**Day 4: Thursday 6 December 2012 / 4e jour : Jeudi 6 décembre 2012**

**Morning 9h30 / matin 9h30**

29. **Discussion of the 2<sup>nd</sup> 3rd round progress report on Ukraine / Discussion du 2<sup>e</sup> rapport de progrès de 3<sup>e</sup> cycle de l'Ukraine**
30. **Further discussion of measures taken by Ukraine on identified important deficiencies as a result of the process regarding the state of compliance on all NC and PC ratings in the 3rd round mutual evaluation report and next steps / Discussion sur les mesures prises par l'Ukraine sur les lacunes importantes identifiées dans le cadre du processus concernant l'état de conformité relatif aux notations NC et PC du rapport d'évaluation de 3e cycle et suites à donner**
31. **Report of Bosnia and Herzegovina under Step (i) of the Compliance Enhancing Procedures and discussion of any next steps / Rapport de la Bosnie-Herzégovine au titre de l'étape (i) des procédures de conformité renforcée et suites à donner**

**Afternoon 14h30 / après-midi 14h30**

- 32. Exchange of views on the conduct of national risk assessment – Progress in MONEYVAL States since July 2012 / Echange de vues sur la conduite d'évaluations du risque nationales - Evolution dans les Etats MONEYVAL depuis juillet 2012**
- 33. Information on AML/CFT initiatives in MONEYVAL countries (tour de table) / Informations sur les initiatives LAB/CFT dans les pays membres de MONEYVAL (tour de table)**

**Day 5: Friday 7 December 2012 / 5e jour : Vendredi 7 décembre 2012**

**Morning 9h30 / matin 9h30**

- 34. Discussion of the further 3rd round progress report on Montenegro / Discussion du rapport de progrès complémentaire de 3e cycle du Monténégro**
- 35. Further discussion of measures taken by Georgia on identified important deficiencies as a result of the process regarding the state of compliance on all NC and PC ratings in the 3<sup>rd</sup> round mutual evaluation report and next steps / Discussion sur les mesures prises par la Géorgie sur les lacunes importantes identifiées dans le cadre du processus concernant l'état de conformité relatif aux notations NC et PC du rapport d'évaluation de 3e cycle et suite à donner**
- 36. Further discussion of measures taken by Croatia on identified important deficiencies as a result of the process regarding the state of compliance on all NC and PC ratings in the 3<sup>rd</sup> round mutual evaluation report and next steps / Discussion sur les mesures prises par la Croatie sur les lacunes importantes identifiées dans le cadre du processus concernant l'état de conformité relatif aux notations NC et PC du rapport d'évaluation de 3e cycle et suite à donner**
- 37. Further discussion of measures taken by « the former Yugoslav Republic of Macedonia » on identified important deficiencies as a result of the process regarding the state of compliance on all NC and PC ratings in the 3rd round mutual evaluation report and next steps / Discussion sur les mesures prises par « l'ex-République yougoslave de Macédoine » sur les lacunes importantes identifiées dans le cadre du processus concernant l'état de conformité relatif aux notations NC et PC du rapport d'évaluation de 3e cycle et suite à donner**
- 38. Typologies work / Travaux sur les typologies**
- 38.1 The use of internet gambling for ML and TF purposes / L'utilisation des jeux en ligne aux fins du BC et FT**
  - 38.2 Trade based money laundering in cash intensive economies – update / Le blanchiment d'argent fondé sur les transactions commerciales dans les économies fortement axées sur les paiements en espèces – mise à jour**
  - 37.2 Postponement of financial transactions and the monitoring of bank accounts – update / Le report des transactions financières et la surveillance des comptes bancaires – mise à jour**
- 39. Match fixing – Proposals for a Council of Europe Convention - "The need to combat match-fixing" / Trucage de matches - Propositions relatives à l'élaboration d'une Convention du Conseil de l'Europe sur « la nécessité de lutter contre le trucage de matches »**

**40. Information on typologies and projects in other forums/** *Information sur les typologies et projets dans d'autres organisations*

**Afternoon 14h30 / après-midi 14h30**

**41. Other information /** *Autres informations*

**42. Ad Hoc Review Group of Experts for the next plenary meeting /** *Groupe d'examen ad hoc d'experts pour la prochaine réunion plénière*

**43. Rapporteurs for April 2013 /** *Rapporteurs pour avril 2013*

**44. Future representation in FATF meetings /** *Représentations futures dans les réunions du GAFI*

**45. Financing and staffing /** *Financement et questions de personnel*

**46. Miscellaneous /** *Divers*

## Appendix II – List of participants

### Evaluated States and Jurisdictions / *États et juridictions évalués*

#### **ALBANIA / ALBANIE**

Ms Brikena KASMI *legal expert*

**HEAD OF DELEGATION**

Deputy Minister of Justice

Ms Denada KOÇIAJ *legal expert*

Ministry of Justice

Mr Agim MUSLIA *financial expert*

Director of Analysis and IT Dept (GDPML)

#### **ANDORRA / ANDORRE**

Mr Carles FIÑANA PIFARRÉ *legal expert*

**CHEF DE DELEGATION**

Directeur de l'Unité d'Intelligence Financière, Ministère de la Présidence

Mr Alfons ALBERCA

Procureur général

Mrs Tanjit SANDHU KAUR

Legal Adviser, Financial Intelligence Unit

#### **ARMENIA / ARMENIE**

Mr Artur GOYUNYAN *law enforcement expert*

Prosecutor, Department for Cases Investigated by National Security Bodies, Office of the Prosecutor General

Ms Astghik KARAMANUKYAN *legal expert*

Head, International Relations Department, Financial Monitoring Center, Central Bank of Armenia

Ms Hasmik MUSIKYAN *law enforcement expert*

Methodologist-Legal Advisor, Legal Compliance Department, Financial Monitoring Center, Central Bank of Armenia

#### **AUSTRIA / AUTRICHE**

Mr Gerhard GUNZ

Policy Advisor, Federal Ministry of Finance (MoF), Financial Markets and Financial Market Supervision

Mrs Karin ZARTL

**FATF EVALUATOR FOR MOLDOVA**

AML/CFT Expert, Financial Markets Authority (FMA), International Affairs and European Integration

## **AZERBAIJAN / AZERBAÏDJAN**

Mr Rufat ASLANLI

**HEAD OF DELEGATION**

Chairman of the State Committee for Securities

Mr Fuad ALIYEV

Head, International Cooperation Department, Financial Monitoring Service under the Central Bank

Mr Nurlan BABAYEV

Head of Legal and Methodology Unit of the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan

Mr Adishirin GASIMOV

Director, Financial Monitoring Service under the Central Bank

Mr Jeyhun SHADLINSKIY

Head, AML/CFT Department, Ministry of National Security

## **BOSNIA AND HERZEGOVINA / BOSNIE-HERZÉGOVINE**

Mr Borislav CVORO

**HEAD OF DELEGATION**

Team for Prevention and Investigation of Funding of Terrorist Activities, FID / SIPA

Mr Sanela LATIC

Head of Department for Cooperation with ILATIC International and Domestic Judicial Bodies, Ministry of Justice

Mr Samir OMERHODZIC *financial expert*

Director Insurance Agency

Mr Vlado JOVANIC

Chief of Professional Standards Unit of Ministry of Internal Affairs of Republic of Srpska

## **BULGARIA / BULGARIE**

Mr Evgeni EVGENIEV *financial expert*

**HEAD OF DELEGATION**

**LAW ENFORCEMENT EVALUATOR FOR LITHUANIA**

Head of International Information Exchange Sector, Financial Intelligence Unit,

Ms Irena BORISOVA-SERAFIMOVA

Ministry of Justice

Ms Maria IVANOVA

Expert in International Information Exchange, Financial Intelligence Directorate-SANS

Ms Sonia KLISSARSKA

Ministry of Interior, AFCOS

Mr Nedko KRUMOV *law enforcement expert*

**FINANCIAL EVALUATOR FOR MOLDOVA**

FID-SANS

## **CROATIA / CROATIE**

Mr Tomislav SERTIĆ

### **HEAD OF DELEGATION**

Head of Service for Prevention and Supervision of Reporting Entities, Anti-Money Laundering Office, Ministry of Finance

Ms Marcela KIR

Director, Foreign Exchange Policy Department, Croatian National Bank

Ms Sani LJUBIČIĆ

Deputy Director, Office for Suppression of Corruption and Organised Crime, State Attorney's Office

Mr Krešimir SIKAVICA

Head of Economic Crime and Corruption Service, Police National Office for Suppression of Corruption and Organised Crime, Ministry of the Interior

## **CYPRUS / CHYPRE**

Mrs Antigoni HADJIXENOPHONTOS

Mr Iacovos MICHAEL *law enforcement expert*

Mrs Maria THEMISTOCLEOUS *financial expert*

## **CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE**

Mr Jaromir NEUZIL *law enforcement expert*

### **HEAD OF DELEGATION**

Head of International Co-operation Department, Financial Analytical Unit  
Ministry of Finance

Mr René KURKA *financial expert*

Licensing and Enforcement Department, Czech National Bank

Mr Stanislav POTOČEK *legal expert*

Public Prosecutor, Supreme Public Prosecutor's Office

## **ESTONIA / ESTONIE**

Mr Raul VAHTRA

Chief Superintendent, Head of Financial Intelligence Unit, Central Criminal Police

Ms Tuuli PLOOM

Legal expert. Adviser, Penal Law and Procedure Division, Criminal Policy Department, Ministry of Justice of Estonia

Ms Kadri SIIBAK

Adviser, Entrepreneurship and Accounting Policy Department, Ministry of Finance

## **FRANCE**

Ms Élise CALAIS

Adjointe au Chef de bureau, Bureau de l'investissement, de la criminalité financière et des sanctions – MULTICOM3, Sous-direction de la politique commerciale et de l'investissement - Service des affaires multilatérales et du développement, Direction générale du Trésor, Ministère de l'Économie et des Finances

Mr Franck OEHLERT  
Legal expert, AML CFT and Internal control Law Division, Prudential Supervisory Authority  
**GEORGIA / GEORGIE**

Mr George TEVDORASHVILI *financial expert*  
**HEAD OF DELEGATION**  
Head of Methodology, International Cooperation and Legal Department, Financial Monitoring Service of Georgia

Mr Nikoloz CHINKORASHVILI *law enforcement expert*  
Head of the AML Unit, Office of the Prosecutor General of Georgia

Ms Tea ZARNADZE  
Senior Specialist of Methodology, International Cooperation and Legal Department, Financial Monitoring Service of Georgia

#### **HOLY SEE / SAINT SIEGE**

Msgr Carlo Alberto CAPELLA  
Secretariat of State, Section for the Relations with the States, Officer,  
**Delegation Point of Contact**

Mr René BRUELHART  
Director of Financial Intelligence Authority

Dr Tommaso DI RUZZA  
Legal Officer  
Financial Intelligence Authority  
**Holy See Delegation Relator**

#### **HUNGARY / HONGRIE**

Dr Zsófia PAPP *legal expert*  
**FINANCIAL EVALUATOR FOR LITHUANIA**  
Senior legal expert, Ministry for National Economy, Department for International Finance

Ms Renáta FEJES  
Senior Expert, economist, Department for International Finance, Ministry for National Economy

Mr Szilárd LAKATOS  
Deputy Head of Hungarian Financial Intelligence Unit, Central Office, National Tax and Customs Administration

Mr Lajos KORONA  
**LEGAL EVALUATOR FOR MOLDOVA**  
Public Prosecutor, Metropolitan Prosecutor's Office

Mr Árpád SZENTES *law enforcement expert*  
Head of International Department, Financial Intelligence Unit  
Central Office, National Tax and Customs Administration

#### **ISRAEL / ISRAËL**

Dr Shlomit WAGMAN  
General Counsel, Israel Money Laundering and Terror Financing Prohibition Authority (IMPA)

#### **LATVIA / LETTONIE**

Mr Viesturs BURKĀNS *law enforcement expert*  
**HEAD OF DELEGATION**

Head of the Office for Prevention of Money Laundering,  
Prosecutor General's Office

Ms Indra GRATKOVSKA  
Administrative and Criminal Justice Department under the  
Ministry of Justice

Ms Daina VASERMANE *financial expert*  
Head of Financial Integrity Division, Financial and Capital Market Commission

## LIECHTENSTEIN

Mr Daniel THELESKLAF  
**HEAD OF DELEGATION**  
Head FIU

Mr Frank HAUN  
Prosecutor, Public Prosecutor's Office

Mr Michael JEHLE  
Investigative Judge, First Instance Court

Mr Philipp RÖSER *financial expert*  
Executive Office, Legal/International Affairs

Mr Samuel ROTH  
Head of Department, Financial Intelligence Unit

Mr Amar SALIHODZIC  
Analyst, Financial Intelligence Unit

## LITHUANIA / LITUANIE

Mr Liutauras ZYGAS *financial expert*  
**HEAD OF DELEGATION**  
Chief Legal Adviser, Legal Division, Bank of Lithuania

Ms Kristina DEVIATNIKOVAITE *legal expert*  
Senior Expert, Administrative and Criminal Justice Department, Ministry of Justice

Ms Diana BUKANTAITE-KUTKEVICIENE *legal expert*  
Senior Expert, International Law Department, Ministry of Justice

Ms Daiva JASIULAITIENE *financial expert*  
Head of Division, Managements and Internal Control Division,  
Risk Restriction Supervision Department, Supervisory Authority, Bank of Lithuania

Mr Darius KARCINSKAS *law enforcement expert*  
Prosecutor General's Office of the Republic of Lithuania, Department of Criminal Prosecutions  
Prosecutor

Mr Igoris KRZECKOVSKIS *law enforcement expert*  
Head of Analysis and Prevention Board, Financial Crime Investigation Service under the  
Ministry of Interior

Mr Vilius PECKAITIS *law enforcement expert*  
Chief Investigator of the Analysis and Prevention Board, Money Laundering Prevention Division  
Financial Crime Investigation Service under the Ministry of Interior



Mr Egle RAMANAUSKIENE *law enforcement expert*  
Deputy head of Control Department

Mr Darius ZVIRONAS *law enforcement expert*  
Head of the Organized Activities Unit, Police Department under the Ministry of Interior, Criminal Police Board

#### **MALTA / MALTE**

Dr Anton BARTOLO *legal expert*  
**ACTING HEAD OF DELEGATION**  
Registrar of Companies and Director Corporate Services  
Malta Financial Services Authority (MFSA)

Mr Michael CASSAR *law enforcement expert*  
Assistant Commissioner of Police, Malta Police Force, Police General Headquarters

Ms Katia SATARIANO  
**FINANCIAL EVALUATOR FOR LITHUANIA**  
Compliance Officer, Financial Intelligence Analysis Unit

Mr Michael STELLINI  
**LAW ENFORCEMENT EVALUATOR FOR MOLDOVA**  
Senior Legal & International Relations Officer  
Financial Intelligence Analysis Unit (Malta)

Dr Manfred GALDES *law enforcement expert*  
Director, Financial Intelligence Analysis Unit

#### **REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA**

M. Viorel CHETRARU  
**HEAD OF DELEGATION**  
Général-majeur, Directeur du Centre National Anticorruption (CNA)

Ms Stela BUIUC *legal expert*  
Deputy Director, Center of Harmonization of the Legislation, Ministry of Justice

M. Andrei BURCIU  
Chef de la Section du Monitoring des activités de prévention et de la lutte contre le blanchiment de capitaux et du financement du terrorisme, Département de la Réglementation et de la surveillance bancaire, BNM

Mr Adrian CORCIMARI  
FIU Moldova

Mr Artur GHERMAN  
vice-president of National Commission of Financial Market

M. Ruslan GRATE  
Chef de la Direction Contrôle Bancaire et surveillance des activités de la prévention et de la lutte contre le blanchiment de capitaux et du financement du terrorisme, Département de la Réglementation et de la surveillance bancaire, BNM

Ms Elena PUI  
Director of Executive Unit of National Commission of Financial Market

Mr Veaceslav PALADI  
Deputy Chief of Foreign Affairs Direction of National Commission of Financial Market

Mme. Emma TĂBÎRȚĂ  
Vice-gouverneur de la Banque Nationale de la République de Moldova (BNM)

Mr Eduard VARZAR  
Anti-corruption Prosecutor's Office

#### **MONACO**

Mme Marie-Pascale BOISSON *legal / law enforcement*  
**HEAD OF DELEGATION**  
Directeur, Service d'Information et de Contrôle sur les Circuits Financiers (SICCFIN)

Mr Frederic COTTALORDA  
**FINANCIAL EVALUATOR FOR ANDORRA**  
Chef de Division, SICCFIN

M. Lionel ALBRAND  
SICCFIN

#### **MONTENEGRO**

Mr Vesko LEKIĆ *financial expert*  
**HEAD OF DELEGATION**  
Deputy Director, Administration for the Prevention of Money Laundering and Terrorist Financing

Miss Ana BOSKOVIC  
Prosecutors office

Mr Drazen BURIC *legal expert*  
Deputy of Special prosecutor

Mr Dalibor MEDOJEVIC *law enforcement*  
Head inspector, Police Administration,

Mr Pradrag MITROVIC  
Director, APMLTF

Mrs Hedija REDZEPAGIC  
Head of compliance Dept, Central bank

Mrs Ana SPAIC  
Central bank

#### **POLAND / POLOGNE**

Mrs Elzbieta FRANKOW-JASKIEWICZ *law enforcement expert*  
**HEAD OF DELEGATION**  
Ministry of Finance

Mr Jacek LAZAROWICZ *legal expert*  
Prosecutor, Ministry of Justice

Mr Radosław OBCZYNSKI *financial expert*

#### **ROMANIA / ROUMANIE**

Mr Alexandru CODESCU  
Director of Supervision and Control Directorate  
National Office for the Prevention and Control of Money Laundering (NOPCML)

Mr Constantin-Ilie APRODU  
Senior Member of the Board of the Office, representative of the Romanian Court of Accounts

Mrs Codruta-Diana DRAGUSELEA  
Prosecutor, General Prosecutor of Romania, General Prosecutor's Office, Directorate for Investigating Organised Crimes and Terrorism

Mr Sorin TANASE *legal expert*  
**LEGAL EVALUATOR FOR LITHUANIA**  
Legal Adviser, Unit for Crime Prevention and Cooperation with EU Asset Recovery Offices  
Ministry of Justice

Mr Gabriel-Adrian VARTIRES  
Senior Member of the Board of the Office, representative of the Ministry of Justice

#### **RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE**

Mr Vladimir NECHAEV  
**CHAIRMAN OF MONEYVAL / PRESIDENT DE MONEYVAL**  
Advisor, International Cooperation Department of the Government of the Russian Federation,

Ms Svetlana BOGDANOVA  
Central Bank

Mr Dmitry FEOKTISTOV  
Ministry of Foreign Affairs of the Russian Federation

Mr Kirill GROSHIKOV  
Legal Department, Rosfinmonitoring

Mr. Danil GUSEV  
International Cooperation Department, Rosfinmonitoring

Ms Nataliya LUKYANOVA  
Federal Financial Monitoring Service (Rosfinmonitoring)

Mr Alexey PETRENKO  
Rosfinmonitoring

Mr Anatoly PRIVALOV  
Rosfinmonitoring

Ms Yana PURESKINA  
Head of legal department, Federal Financial Markets Service

Mr Nikita TOKHONOV  
Deputy Head of Division, Ministry of Finance

#### **SAN MARINO / SAINT-MARIN**

Mr Nicola MUCCIOLI, *financial expert*  
**HEAD OF DELEGATION**  
Vice – Director of the Financial Intelligence Agency

Mr Paolo FRANCONI *law enforcement expert*  
Head of the Anti-Fraud Police Force, (Sector: Anti Fraud Police)

Mr Simon Luca MORSIANI *legal expert*  
Law Commissioner of the Single Court

Ms Giorgia UGOLINI, *legal expert*  
Financial Intelligence Agency

Mr Nicola VERONESI *legal expert*  
Director of the Financial Intelligence Agency, (Sector: Financial Intelligence Unit)

### **SERBIA / SERBIE**

Mr Aleksandar VUJICIC  
**HEAD OF DELEGATION**  
Director, Directorate for Prevention of Money Laundering, Ministry of Finance

Mr Dusan ALEKSIC  
senior supervisor, National Bank of Serbia

Ms Jadranka BOSNIĆ  
National Bank of Serbia

Mr Vladimir CEKLIC  
Head of Department, Seized/Confiscated Assets Management Directorate Ministry of Justice

Mr Vladimir DAVIDOVIC  
Head of Group for international judicial cooperation, Ministry of Justice

Ms Silvija DUVANCIC GUJANICIC  
Director in the National Bank of Serbia

Mr Zoran JAKOVLJEVIC  
Deputy Public Prosecutor, Public Prosecutor's Office in Novi Sad

Mr Milovan MILOVANOVIC  
Head of the Department for international cooperation and legal affairs, APML

Mrs Milunka MILANOVIC  
Ministry of Finance,

Ms Jelena PANTELIC  
Counselor in the Department for Money Laundering

Ms Biljana PAVLOVIC  
Director of Seized/Confiscated Assets Management Directorate, Ministry of Justice

Mr Mladen SPASIC, *law enforcement expert*  
Advisor to the Minister of Interior, Kabinet Ministra, Ministry of the Interior

### **SLOVAKIA / SLOVAQUIE**

Mrs Izabela FENDEKOVÁ *financial expert*  
**HEAD OF DELEGATION**  
Supervisor, Financial Market Supervision Division,  
Regulation and Financial Analysis Department, National Bank of Slovakia

Mr Andrej LAZAR *law enforcement expert*  
Head of International Co-operation Department, Financial Intelligence Unit

Mr Jozef SZABO *legal expert*  
Director of International Department, Prosecutor's General Office

## **SLOVENIA / SLOVÉNIE**

Ms Maja CVETKOVSKI *law enforcement expert*

### **HEAD OF DELEGATION**

Head of International Cooperation Service, Office for the Prevention of Money Laundering,  
Ministry of Finance of the Republic of Slovenia

Mr Simon GOLUB *law enforcement expert*

### **LAW ENFORCEMENT EVALUATOR FOR LATVIA**

Head of Financial Crime and Money Laundering Section, Criminal Police Directorate, Ministry of  
the Interior of the Republic of Slovenia

Ms Jelena MILOSEVIC *financial expert*

Inspector Advisor, Banking Supervision Department, Bank of Slovenia

## **"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA" / "L'EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE"**

Ms Iliina GAREVSKA  
Banking Association

Mr Vlatko GEORGIEVSKI  
Public Prosecutor Office

Ms Aneta GJORCHESKA  
Financial Intelligence Office

Mr Toni JANKOSKI  
Ministry of Interior

## **UKRAINE**

Mr Oleksiy FESHCHENKO *financial expert*

### **HEAD OF DELEGATION**

Deputy Head of the State Committee for Financial Monitoring of Ukraine,

Mrs Kateryna BUHAYETS *legal expert*

Head of International Co-operation Department, State Committee for Financial Monitoring

Mr Igor GAIEVSKYI

Head of Legal Department, the State Financial Monitoring Service of Ukraine

Ms Lada SMAKHTINA

Head of Department for Financial Monitoring, the National Bank of Ukraine

## **UNITED KINGDOM CROWN DEPENDENCIES**

### **GUERNSEY CROWN DEPENDENCY OF THE UK**

Ms Kate RABEY  
Legislative Counsel, Law Officers of the Crown

### **JERSEY CROWN DEPENDENCY OF THE UK**

Mr Andrew LE BRUN  
Director, Office of the Director General, Jersey Financial Services Commission

## **ISLE OF MAN CROWN DEPENDENCY OF THE UK**

Mr Paul HECKLES  
Head of Enforcement, Head of Authorisations  
Financial Supervision Commission

**Former Chairman of MONEYVAL /**  
*Ex-président du MONEYVAL*

Mr Vasil KIROV  
Head of Unit, Investigations and Operations I, External Aid, European Commission

**Council of Europe Observers /**  
*Etats observateurs auprès du Conseil de l'Europe*

## **JAPAN**

Apologised / Excusé

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## **MEXICO / MEXIQUE**

Mrs Lydia MADERO  
Observateur Permanent, Représentation du Mexique auprès du Conseil de l'Europe

Mme Andrea BARBOSA  
Attachée

## **UNITED STATES OF AMERICA / ETATS-UNIS D'AMERIQUE**

Mr Christopher BURDICK  
**HEAD OF DELEGATION**  
Policy Advisor, Office of Terrorist Financing and Financial Crimes

Ms Natalie VOZZA  
U.S. Department of the Treasury

**Other members of the FATF /**  
*Autres membres du GAFI*

## **GERMANY / ALLEMAGNE**

Mr Thomas MESSING  
Federal Financial Supervisory Authority

Ms Tatjana LEONHARDT  
Federal Financial Supervisory Authority

**Council of Europe bodies and mechanisms /**  
*Organes et mécanismes suivants du Conseil de l'Europe*

**PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE (PACE) /**  
**ASSEMBLEE PARLEMENTAIRE DU CONSEIL DE L'EUROPE**

Mr Jean-Claude MIGNON  
President of the Parliamentary Assembly of the Council of Europe

Ms Agnieszka SZKLANNA  
Secretariat of the Committee on Legal Affairs and Human Rights, Parliamentary Assembly

**COUNCIL OF EUROPE DEVELOPMENT BANK /**  
**CEB – BANQUE DE DÉVELOPPEMENT DU CONSEIL DE L'EUROPE**

Apologised / Excusé

**International organisations and bodies /**  
*Organisations et organismes internationaux*

**COUNCIL OF THE EUROPEAN UNION / CONSEIL DE L'UNION EUROPEENNE**

Mr Peter NATH  
National Expert, General Secretariat of the Council of the EU, DG H 2 B [Fundamental Rights and Judicial Cooperation in Criminal Matters]

**EUROPEAN COMMISSION / COMMISSION EUROPÉENNE**

Mr Ian MATTHEWS  
Policy Officer, European Commission, Directorate General Internal Market and Services  
Corporate Governance and Social Responsibility

**FINANCIAL ACTION TASK FORCE (FATF) /**  
**GROUPE D'ACTION FINANCIÈRE (GAFI)**

Mr Bjørn S. AAMO  
President of FATF

Mr Vincent SCHMOLL  
Administrateur Principal, FATF Secretariat,

**EURASIAN GROUP ON COMBATING MONEY LAUNDERING**  
**AND FINANCING OF TERRORISM (EAG)**

Mr Boris TOROPOV  
Executive Secretary, EAG Secretariat

Mr Andrey GASANOV  
Principal Administrator, EAG Secretariat

**INTERNATIONAL MONETARY FUND (IMF)**

Mr Giuseppe LOMBARDO  
Senior Counsel, Legal Department, International Monetary Fund

**UNITED NATIONS / NATIONS UNIES (UNODOC)  
&  
WORLD BANK / BANQUE MONDIALE**

Mr Klaudijo STROLIGO  
Senior Financial Sector Specialist and World Bank / UNODC AML/CFT Mentor for Central Asia,  
Financial Market Integrity, WORLD BANK

**GIFCS – GROUP OF INTERNATIONAL FINANCE CENTRE SUPERVISORS**

Mr Richard WALKER  
Director of Policy and International Affairs, Guernsey Financial Services Commission

**ORGANISATION FOR SECURITY AND CO-OPERATION IN EUROPE (OSCE)**

Mr Roel JANSSENS  
Economic Adviser, Economic Governance Unit, Office of the Co-ordinator of OSCE Economic  
and Environmental Activities, Organization for Security and Co-operation in Europe (OSCE)

Mr Christian LARSON  
Programme Officer/Economic Co-operation and Governance, Office of the Co-ordinator of  
OSCE Economic and Environmental Activities

**UNITED NATIONS COUNTER-TERRORISM EXECUTIVE DIRECTORATE (CTED)**

Apologised / Excusé

**Scientific Experts /  
Experts Scientifiques**

Professor William C. GILMORE  
Professor of International Criminal Law, Faculty of Law,  
University of Edinburgh

Mr Giovanni ILACQUA  
Director, Bank of Italy, Unita di Informazione Finanziaria, Head of International Co-operation

Mr Andrew STRIJKER  
Senior Coordinator Financial Markets Integrity, Financial Markets Policy Directorate  
Ministry of Finance

Mr Boudewijn VERHELST  
Deputy Director CTIF-CFI, Scientific Expert Law Enforcement, Attorney General

Mr Herbert ZAMMIT LAFERLA  
Former Scientific Expert to MONEYVAL



Mr Philipp BOILLAT  
Director General, Directorate General of Human Rights and Rule of Law – DGI  
Council of Europe

Mr Jan KLEIJSEN  
Director, Information Society and Action against Crime  
Directorate General of Human Rights and Rule of Law – DGI

Mr John RINGGUTH  
**EXECUTIVE SECRETARY TO MONEYVAL/ *SECÉTAIRE EXÉCUTIF DE MONEYVAL***  
Administrator, Directorate General of Human Rights and Rule of Law (DG-1)

Mr Stanislas FROSSARD, EPAS Executive Secretary / *Secrétaire exécutif de l'APES*

Ms Livia STOICA BECHT, Administrator, MONEYVAL, Directorate General of Human Rights and Rule of Law

Mr John BAKER, Administrator, MONEYVAL, Directorate General of Human Rights and Rule of Law

Mr Dmitry KOSTIN, Administrator, MONEYVAL, Directorate General of Human Rights and Rule of Law

Ms Cristina MARIN, Administrator, MONEYVAL, Directorate General of Human Rights and Rule of Law

Mr Fatih ONDER, Administrator, MONEYVAL, Directorate General of Human Rights and Rule of Law

Ms Irina TALIANU, Administrator, MONEYVAL, Directorate General of Human Rights and Rule of Law

Mr Daniel TICAU, Administrator, MONEYVAL, Directorate General of Human Rights and Rule of Law

Mrs Marie-Louise FORNES, Administrative Assistant

Mrs Catherine GHERIBI, Administrative Assistant

Mrs Danielida WEBER, Administrative Assistant to MONEYVAL Committee