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CONSEIL DE L'EUROPE

Strasbourg, 19 December 2014

**MONEYVAL(2014)46**

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

**MONEYVAL**

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**46<sup>th</sup> PLENARY MEETING  
Strasbourg, 8-12 December 2014**

**MEETING REPORT**

**MEMORANDUM**

**Prepared by the MONEYVAL Secretariat**

## EXECUTIVE SUMMARY

During the 46<sup>th</sup> plenary meeting, held in Strasbourg from 8 – 12 December 2014, the MONEYVAL Committee:

- Heard an intervention of Mr Roger Wilkins, President of FATF;
- Discussed and adopted the draft 4th round mutual evaluation report on Azerbaijan;
- Took note of the expedited follow-up report on Israel, the fifth follow-up report on Albania and the regular follow-up reports on Moldova and Slovakia;
- Decided to maintain Bosnia and Herzegovina under step 3 of its Compliance Enhancing Procedures and decided to issue a revised public statement calling upon States and territories evaluated by MONEYVAL and other countries to advise their financial institutions to pay special attention by applying enhanced due diligence measures to transactions with persons and financial institutions from or in Bosnia and Herzegovina, in order to address the money laundering and financing of terrorism risks.
- Revised its rules of procedure regarding the implementation of voluntary tax compliance programmes and AML/CFT requirements by states and territories evaluated by MONEYVAL;
- Revised its rules of procedure applicable to the 4<sup>th</sup> evaluation round , including aspects related to follow-up and transition from the 4<sup>th</sup> round to the 5<sup>th</sup> round
- Adopted its Rules of procedure for the 5<sup>th</sup> round of evaluations; Discussed the draft timetable for MONEYVAL's evaluations in the 5th round;
- Heard a report on actions taken by MONEYVAL States and territories on the implementation of financial sanctions provided for in UNSCR 2170(2014) and EU Regulation No. 914/2014, regarding persons designated as affiliated Islamic State;
- Took note of the information provided by the European Commission on how the EU has responded to European Court of Justice jurisprudence on implementation of financial sanctions under UNSCRs 1267 and 1373;
- Heard a presentation by the European Commission on Directive 2014/92;
- Heard a presentation from the World Bank on the subject of de-risking;
- Discussed various aspects involving Voluntary Tax Compliance schemes in San Marino and Malta; Heard an update on the status of work on typologies in MONEYVAL and other forums;
- Took note of developments in relation to the status of signatures and ratifications of the Council of Europe Convention on Laundering, Search, Seizure and confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS198);
- Heard information on AML/CFT initiatives in other fora;

The Committee of Experts on the evaluation of anti-money laundering measures and the financing of terrorism (MONEYVAL) held its 46<sup>th</sup> plenary meeting from **8-12 December 2014** in Strasbourg under the chairmanship of Dr Anton Bartolo (Malta).

## Day 1: Monday 8 December 2014

### Agenda item 1 – Adoption of the Agenda

1. The agenda was adopted, as set out in the annex.

### Agenda item 2 – Information from the Chairman

#### 2.1 Chairman's correspondence

3. The Plenary was informed about the correspondence with Lithuania, Moldova, Slovakia, Georgia, Latvia, Cyprus, Czech Republic, Hungary and "the former Yugoslav Republic of Macedonia". The 45<sup>th</sup> Plenary had maintained Lithuania at step 1 of the Compliance Enhancing Procedures (CEPs) and the country is due to report at the Plenary in April 2015 under the CEPs, as well as to present an interim report. Moldova was reminded that it is due to present a follow-up report during this plenary meeting. The Plenary confirmed its decision to postpone the presentation of a follow-up report in respect of Slovakia to this plenary meeting. Both Georgia and the Czech Republic are required to present an interim report in April 2015, and Latvia in September 2015. Cyprus was notified of the Plenary decision regarding the progress made in respect of the recommendations contained in the 2013 Special Assessment and of any outstanding actions. (VTC) programmes, Hungary was invited to continue updating the Plenary about its Voluntary Tax Compliance (VTC) scheme in the tour de table procedure, and to inform the Secretariat immediately should any changes be made to the scheme. Following a change in its legislation, "the former Yugoslav Republic of Macedonia" was requested to provide details on the amendments to its Constitution regarding the establishment of an international financial zone and report on this matter at the current plenary meeting.

#### 2.2 Participation in Heads of Monitoring Mechanism meeting with Secretary General

4. Information was provided to the Plenary about the participation of the Chairman and the Executive Secretary at the Heads of Monitoring Mechanism meeting with the Secretary General of the Council of Europe, the items discussed and their implications for the work of MONEYVAL were addressed.

### Agenda item 3 – Information from the Secretariat

#### 3.1 Calendar of activities 2015

5. The Executive Secretary reported on the outcome of the in-country training for the 5<sup>th</sup> round evaluation of Serbia, as well as the 4<sup>th</sup> round visits to Guernsey and to Bosnia and Herzegovina had taken place. The Plenary further took note of the foreseen calendar of activities for 2015, which had been circulated in advance.

#### 3.2 MONEYVAL evaluator training

6. The Plenary took note of the MONEYVAL evaluator training for the 5<sup>th</sup> round of assessments, which took place in Strasbourg from 3-7 November 2014 and in which 28 experts from 21 countries and the World Bank participated. The Plenary was informed about the upcoming training seminar which will take place in Armenia in March 2015. Delegations were invited to nominate suitable candidates for this training seminar with substantial practical experience on AML/CFT aspects.

#### 3.3 Reports on Secretariat attendance in other fora

7. The Executive Secretary reported about his attendance at the EIB Compliance Summit in September 2014, which focused on the assessment of country risk, and stressed that multilateral bodies (such as international banks and funds) regularly take into consideration MONEYVAL evaluation reports when considering their interaction with MONEYVAL member states.

**Agenda item 4 – Report on attendance by Mr Nicola Muccioli (San Marino) at EAG 10th anniversary plenary**

8. Mr Nicola Muccioli reported to the Plenary on his participation in the EAG Plenary, which took place from 10 to 14 November 2014 in Tajikistan. The Russian Federation emphasised the importance of interaction and co-operation between the various FSRBs and together with the EAG Secretariat thanked Mr Muccioli for attending the meeting on behalf of MONEYVAL.

**Agenda item 5 – Report on actions taken by MONEYVAL States and territories on the implementation of financial sanctions provided for in UNSCR 2170(2014) and EU Regulation No. 914/2014, regarding persons designated as affiliated Islamic State**

9. The Chairman acknowledged the receipt of a large number of responses from delegations and referred the Plenary to the report circulated in advance, which provides a comprehensive overview of the actions taken by MONEYVAL states and territories in this matter. Delegations which had not yet contributed to this paper were invited to do so.
10. Bulgaria intervened on the implementation of the UNSCR 2170(2014) and EU Regulation No. 914/2014, regarding persons designated as affiliated to so-called Islamic State. The Russian Federation welcomed the US initiative to conduct a project in order to identify and understand the ISIL financing, confirmed their readiness to participate in the project and called on all MONEYVAL members and other FSRBs to participate in the strategic discussion in the forthcoming FATF plenary. The United States highlighted that the future plenaries would benefit if countries would provide updates on the sources of funding. The FATF affirmed the importance of this issue and informed the Plenary about a public statement issued by the FATF on the threat presented by ISIL; and the undertaking of a short-term typologies project on this issue, the results of which should be published in February 2015. The scientific expert on legal aspects, Prof. Gilmore, underlined the importance of including this issue as a regular agenda item. He invited MONEYVAL countries to review whether there are national cases for nominations for designations in respect of nationals leaving MONEYVAL jurisdictions to fight abroad, as well as the extent to which the countries are in a position to meet the new Security Council injunctions in relation to the prohibition of the paying of ransom payments. The Parliamentary Assembly representative stressed the importance from the political point of view to see which countries are compliant and which countries are tacitly supporting or not interrupting business with ISIL. The Executive Secretary encouraged the delegations to contribute to the FATF project as it was presented to the Plenary. The Chairman confirmed that this item would continue to be discussed regularly at the Plenary meetings in the future, and that delegations should report to the next plenary specifically on whether they have made nominations to the 1267 Committee in respect of foreign fighters and the extent to which MONEYVAL jurisdictions are in a position to implement that part of UNSCR 2170 (2014) which calls on member states to prevent terrorists from benefiting from ransom payments.

**Agenda items 6 and 28– Compliance Enhancing Procedures - Bosnia and Herzegovina and next steps**

**6.1 Action taken by MONEYVAL States and territories under the revised Public Statement of 19 September 2014**

16. The Plenary took note of the document outlining the actions undertaken by MONEYVAL states and territories in respect of the public statement on Bosnia and Herzegovina adopted at the 44<sup>th</sup> Plenary meeting and published on the 1<sup>st</sup> of June 2014. The Executive Secretary invited the delegations which have not yet provided information in respect of the measures taken to do so shortly.

**6.2 Report from Bosnia and Herzegovina under step 3 of the Compliance Enhancing Procedures**

17. The delegation of Bosnia and Herzegovina thanked the evaluation team for their efforts during the on-site visit and gave an overview of the progress made since the 45<sup>th</sup> Plenary

meeting particularly work carried out on the by-laws implementing the new AML/CFT Law, the commencement of duties of the supervisory authorities designated under the new AML/CFT Law, as well as the increase of staffing resources in the FIU.

### 6.3 Report on the key findings of the 4th round on-site mission by MONEYVAL

18. The Executive Secretary informed the Plenary about the on-site visit to Bosnia and Herzegovina which took place from 19 to 29 November 2014 and thanked the BIH authorities for their support and efforts put into the organisation of the evaluation. The Secretariat summarised the outcomes of the on-site visit as generally positive, pointing out however that a number of issues still need to be addressed, related to compliance with the standards and their effective implementation.
19. France thanked the Secretariat for the comprehensive presentation and welcomed the progress achieved by Bosnia and Herzegovina. It stressed that MONEYVAL should nevertheless ensure that further steps will be taken by Bosnia and Herzegovina, in particular with regard to SR.II and the application of preventive measures by DNFBPs. Austria requested clarifications with regard to the measures undertaken in order to remedy the risk posed by the physical cross-border transportation of currency. The BiH delegation informed the Plenary that a working group on the implementation of SR.IX is currently being set up, with a view to enhance the control of cash at the borders. A similar working group has been proposed for the purposes of implementing SR.III. The USA asked for the timeline for the adoption of the amendments to the Criminal Code. The BiH delegation clarified that this was likely to be addressed after the new Parliament was convened. The Russian Federation acknowledged the progress achieved by Bosnia and Herzegovina and stressed that MONEYVAL should ensure that Bosnia and Herzegovina continues to make progress on the remaining deficiencies.

### 6.4 Bureau proposal on next steps

20. The Plenary examined the Bureau's proposal to maintain BIH under the present step and to issue a revised public statement. The Bureau considered also that, in the absence of meaningful progress by the next plenary meeting on amendments to the Criminal Code (in particular with respect to Financing of Terrorism), it would have no option but to recommend moving to step 4, which requires MONEYVAL to refer BIH to the Financial Action Task Force's International Co-operation Review Group (ICRG).
105. Austria, France, USA, San Marino and Germany expressed their concerns as regards the outstanding deficiencies in relation to the criminalisation of FT in the context of the country risk. The Bosnia and Herzegovina delegation expressed their commitment to do their utmost to take action on the identified deficiencies.

#### *Decisions taken:*

105. MONEYVAL agreed that Bosnia and Herzegovina should for the time being remain subject to measures under Step 3 of its Compliance Enhancing Procedures and that a letter should be sent to the Government to clarify MONEYVAL's concerns and position. BIH shall be expected to report back in April 2015. At that meeting, the status of progress will be examined and if appropriate, MONEYVAL would be considering moving to the next step of the CEPs.
106. MONEYVAL decided also to issue an updated public statement which calls upon States and territories evaluated by MONEYVAL and other countries to advise their financial institutions to pay special attention by applying enhanced due diligence measures to transactions with persons and financial institutions from or in Bosnia and Herzegovina, in order to address the money laundering and financing of terrorism risks.

### Agenda item 7 – FSRB follow up and transition to the next round: MONEYVAL proposals

21. The Secretariat presented a comprehensive document setting out proposals for follow-up in the transition between the 4<sup>th</sup> and 5<sup>th</sup> round, which take into account the FATF Common Principles for FSRBs follow up, agreed in October 2014, a The proposals set out in this paper also include amendments to the current rules of procedure regarding follow-up.

22. The USA emphasised the importance for countries to have sufficient time to prepare for the evaluation in the 5<sup>th</sup> round of assessments. The FATF drew to the attention of the Plenary the fact that within the FATF the period for transition has been set for 6 months. Given the particular nature of MONEYVAL 4<sup>th</sup> round of assessments, the FATF did not object to this special regime in MONEYVAL, but had some reservations about the possible effect this could have on other FSRBs.
23. San Marino supported the adoption of the proposed measures, underlying the added value of the one year timeframe. Hungary, Monaco, Russian Federation and Liechtenstein also expressed their support. Ukraine agreed to the transitional measures to be applied in respect of its progress report.

#### *Decisions taken*

24. MONEYVAL agreed upon the transitional measures and changes to the procedures as follows:
- Exiting regular follow up should occur no later than 5 years after the adoption of the 4<sup>th</sup> round MER. In duly justified cases, and subject to a Plenary decision to that effect, reporting under follow-up, including enhanced follow-up as result of unsatisfactory progress as a result of 4<sup>th</sup> round follow-up processes, may be discontinued upon commencement of the 5<sup>th</sup> round process (i.e. within one year of a 5<sup>th</sup> round onsite visit), provided that increased scrutiny of the evaluation team is directed during the evaluation to those areas where serious deficiencies remain from the 4<sup>th</sup> round.
  - Biennial updates would also be discontinued within one year before a 5<sup>th</sup> round onsite visit.
  - Ukraine would remain subject to the third round follow-up procedures and should submit a 3<sup>rd</sup> round progress report for examination by MONEYVAL in September 2015. This report would be subject to a desk-based analysis by the Secretariat of the core Recommendations and would also include an analysis of compliance with Recommendation 3, notably the issues which were highlighted in the context of the NC/PC process. Should these deficiencies remain unaddressed, enhanced scrutiny would be given to the relevant issues in the course of the 5<sup>th</sup> round assessment.

#### **Agenda item 8 – Adoption of Rules of Procedure for MONEYVAL’s 5th round**

25. The Secretariat presented the changes made to the draft text of the Rules of Procedure, following comments received from several delegations (Andorra, Armenia, Romania, FATF Secretariat and IMF). The FATF had endorsed the draft rules at its meeting in October 2014.
26. Andorra requested further clarifications in respect of the status of translations of the evaluation reports of the assessed country. The Secretariat indicated that translations certified by the government would be published on the MONEYVAL website.

#### *Decision taken*

27. The Plenary adopted its Rules of Procedure for the 5<sup>th</sup> round.

#### **Agenda item 9 – Adoption of revised rules on the implementation of voluntary tax compliance programmes and AML/CFT requirements by States and Territories evaluated**

28. The Secretariat introduced the draft revised VTC rules and informed the Plenary that no further comments had been received on the text. The VTC rules were endorsed by the FATF at its meeting in October 2014.

#### *Decision taken*

29. MONEYVAL adopted the revised VTC rules of procedure without further amendments.

#### **Agenda item 10 – Review Groups for the 5th round**

30. The Secretariat drew the attention of delegations to the annex document to the Rules of Procedure, which describes the responsibilities of the review groups, and emphasised in this context the important role of reviewers in the new round of evaluations. Delegations were reminded that they should respond to the call for reviewers and nominate qualified experts.

**Agenda item 11.1 – Information from the European Union, European Commission (to include discussions on how EU has responded to European Court of Justice jurisprudence on implementation of financial sanctions under UNSCRs 1267 and 1373)**

31. The representative of the European Commission presented to the Plenary the EU framework for the implementation of the UN sanctions regime and the understanding of the EU of the evolving jurisprudence of the CJEU. He emphasised that the EU is fully committed to the FATF standards and the UN resolutions and that the line of the jurisprudence of the CJEU is to ensure a balance between the fight against terrorism and the protection of the right of defence. In particular, the case of Kadi II clarifies that the European Union has the responsibility to ensure that any listing it makes is duly substantiated. The competent EU authority must therefore: (a) provide a statement of reasons to the listed person that is sufficiently detailed immediately after the person has been listed and (b) ensure that the listing decision is taken on the basis of reasons that are well founded. Thus, the procedural obligations articulated in Kadi apply at two stages: (i) when the EU lists the person - a statement of reasons must be provided, and; (ii) when the listed person applies for judicial review of the listing - the listing decision must be verified to the court's satisfaction. The Court provides a degree of flexibility on the nature and extent of the information that may be required for listing purposes. The level of sufficiency and adequacy of the information also depends on the objectives of the sanctions regime and the listing criteria. In the case of Anboubba, for example, the Court accepted a listing on the basis of a presumption. Whereas in Kala Naft, the Court found that publicly available information could, in some cases, be sufficient for listing purposes. The Court has also found that if, at the very least, one of the reasons mentioned in the summary provided by the UN Sanctions Committee is sufficiently detailed, substantiated and constitutes in itself sufficient basis to support that decision, the fact that the same cannot be said of other reasons cannot justify the annulment of that decision.
32. The scientific expert requested further clarifications as to the existing delay in practice between the listings at the UN and EU levels. The European Commission stressed the enhanced cooperation in place with UN member countries, and confirmed that there remains a delay of 5 days between the listing at the level of the UN and the subsequent listing at EU level. The scientific expert responded that given the fact that the majority of EU member states fully rely on the EU listing system, this issue should be addressed with the view to reaching a solution to this problem. The USA supported the opinion of the scientific expert and insisted on handling this issue as a matter of urgency. The FATF informed the Plenary that there have been discussions as to whether the issue of the delay should be considered as a technical or effectiveness deficiency for the purposes of the evaluation reports and it has been agreed that given that SR.III is a key recommendation, this issue should be considered as a technical matter.

**Agenda item 12 - Information on AML/CFT initiatives in other fora**

33. **Egmont Group** - The Egmont Group representative informed the Plenary about its forthcoming meeting of Regional groups' representatives in Berlin in January 2015.
34. **Eurasian Group on Combating Money Laundering and Terrorist Financing (EAG)** - The EAG Secretariat informed the Plenary about a joint workshop organised in October 2014 by the EAG, OSCE and UNODC on cross-border cooperation against money laundering and corruption. The Plenary further took note of the outcomes of the EAG Plenary, where a new Chairman and Executive Secretary were appointed. The next plenary meeting will take place in May 2015. Regarding future projects, several national risk assessment workshops are planned, as well as a joint typologies project with MENAFATF.
35. **FATF** - The FATF informed the Plenary of the outcomes of the FATF Plenary in October 2014, where the first two 4th round evaluation reports were adopted (Spain and Norway), stressing in particular the debate about benchmarking and weighting the importance of the different criteria

and core issues. The FATF also drew to the attention of the Plenary the public statement issued by the FATF in respect of ISIL and a public statement on de-risking. In addition, Malaysia was granted observer status within the policy of expansion.

36. **GIFCS** - The GIFCS reported about the attendance of its representatives at other fora and its cooperation with the G20. Furthermore, the Plenary was familiarised with the new GIFCS Standard on the Regulation of Trust and Corporate Service Providers, which was issued in October 2014. The representative of the GIFCS presented to the Plenary the requirements of the Standard, in particular the ones related to supervision, transparency and beneficial ownership identification and the implication of the Standards on AML/CFT matters. GIFCS has further organised a workshop on conducting national risk assessments and has foreseen to organise a second one in the future, as well as it is currently preparing a statement on asset recovery.
37. **UNODC** - UNODC is currently undertaking a research project on the economics of smuggling of drugs through the Balkan route, in particular regarding the costs at different stages and the related financial flows; this report should be finalised and published in 2015. The UNODC further initiated a number of electronic training courses, which are available on its website.
38. **World Bank** -The World Bank informed the Plenary about the national risk assessments it is conducting at the moment. The World Bank reported that it has revised its NRA tools and methods and will be applying this revised version as of year 2015. In addition, it has undertaken activities in respect of the fight against corruption, especially with regard to establishing systems for asset declarations, and informed the Plenary that technical assistance has been provided in this respect to several MONEYVAL countries.

#### **Agenda item 13 - Council of Europe Convention on the Manipulation of Sports Competitions**

39. The Plenary heard a presentation by the Executive Secretary of the Enlarged Partial Agreement on Sport on the Council of Europe Convention on the Manipulation of Sports Competitions (CETS no.215). The Convention was opened for signature by the member States of the Council of Europe, the European Union and the non-member States which participated in its drafting or enjoy observer status with the Council of Europe on 18 September 2014. Fifty countries have been involved in the drafting of this Convention, as well as representatives of international organisations. The following requirements of the Convention were briefly presented to the Plenary: the setting up of preventative measures by countries such as obligations for betting operators, obligations related to exchange of information, setting up national platforms, imposing sanctions, etc. The Convention's implementation will be monitored through a specific follow-up committee. The entry in to force of the Convention is subject to 5 ratifications - currently there are 17 signatures. The Russian Federation stressed the importance of this Convention and urged countries to accede to it.

### **Day 2: Tuesday 9 December 2014**

#### **Agenda item 14 – Intervention of Mr Roger Wilkins AO, President of FATF**

35. Mr Roger Wilkins AO, President of FATF congratulated MONEYVAL for its outstanding work and stated that MONEYVAL has a formidable reputation for “top-notch” evaluations.
36. During his intervention he recalled that FATF and MONEYVAL, together with their member States and territories, all contribute through their work in this area to the integrity of the overall global financial system. He also underlined the major challenges brought by technology to the new economy and that the globalisation of the financial system could not be well understood without recognizing the ever-growing role that technology plays in it. He also stated that, given its paramount importance, both FATF and MONEYVAL, along with all their constituent States and territories, should actively use technology to implement their procedures and raise their standards. The FATF President also stressed the importance of global co-operation in order to identify common loopholes that could be used to damage countries' economies and financial integrity. Mr. Wilkins also emphasised the great importance of getting national risk assessments right. These are necessary if countries are to construct sound foundations for national AML/CFT



strategies and policies to prevent money laundering - rather than simply to solve the problems that successful laundering creates. He also underlined the importance of closer partnerships with the private sector and the need for more exchange of information between the public and private sectors on AML/CFT issues. He encouraged delegations to seek new ways of achieving such dialogue in their jurisdictions.

#### **Agenda item 15 – First 4<sup>th</sup> round expedited follow up report on Israel**

35. The Plenary examined Israel's first 4<sup>th</sup> round expedited follow up report. Israel has been made subject to expedited follow-up procedures, given MONEYVAL's serious concerns over the failure by Israel to apply the AML/CFT regime to the DNFBP sector, which represents a significant risk. Following the adoption of the MER at its 43<sup>rd</sup> Plenary meeting in December 2013, MONEYVAL had decided that Israel should report back in December 2014 on progress in applying the AML/CFT regime to all categories of DNFBP. The Plenary had also noted a number of deficiencies in applying the AML/CFT regime to money service bureaux.
36. The Secretariat presented its analysis stating that the Order on Dealers in Precious Stones has gone a considerable way to bringing an important sector of the Israeli economy into the AML/CFT regime. However, concerns remain about the exemptions from customer due diligence and the fact that the reporting requirement will not come into effect until September 2016. Although amendments to the AML/CFT Law have been adopted for lawyers and accountants and the relevant Order has been adopted, there remained significant concerns over the failure to introduce reporting requirements for lawyers and accountants. While the new Order on Money Service Providers contains a number of improvements showing that Israel is making progress, several deficiencies remain unaddressed in relation to exemptions from CDD requirements and domestic wire transfers. The Israeli authorities had not introduced and brought into force the relevant requirements for real estate agents, dealers in precious metals, trust and company service providers and other independent legal professionals. It remains a significant deficiency that the real estate sector is not subject to CDD and reporting obligations although this could be mitigated by the fact that lawyers are involved in all real estate transactions. The analysis recommended that the Israeli authorities should take prompt action in order to extend the AML/CFT preventive measures to all DNFBPs as well as set forth obligations on internal controls, internal audit, screening procedures and on-going training on AML/CFT issues. The absence of AML/CFT requirements for these categories of DNFBPs implies a lack of any monitoring, supervising or any other enforcement system.
37. Israel gave an overview of progress achieved and the developments concerning the application of AML/CFT regime on DNFBPs and money service providers. Namely the Law and the Order were enacted, that applied the AML/CFT obligations on dealers in precious stones, lawyers and accountants. It was also emphasised that although the legislation is still not in effect it will contribute to the enforcement of the AML regime. It was also stressed that although no reporting obligations are imposed on lawyers and accountants it is considered that the ethical rule, that prohibits lawyers from performing a transaction when they estimate that there is a high risk of ML/TF, is effective and reasonable. With regard to money service providers a new order was enacted to amend the deficiencies as highlighted in the MER. Additionally, the Israeli enforcement and prosecution authorities have further enhanced their proactive approach with significant results in the investigation and prosecution of ML related to money service providers.
38. Armenia, San Marino and Cyprus noted the considerable steps undertaken by Israel to improve the AML/CFT regime in the DNFBPs sector and asked for clarifications on the issues relating to the grace period applied for the coming into force of the Order. Andorra and Croatia asked for clarification on the possibilities of conducting supervision. France noted that the steps made are remarkable and underlined some remaining questions.

#### *Decision taken:*

39. The Plenary acknowledged the progress made by Israel. Israel was encouraged to continue its efforts aimed at addressing the remaining deficiencies and was invited to report back in December 2015.

#### **Agenda item 16 – Fourth round 5<sup>th</sup> follow up report on Albania**

40. The plenary examined the follow-up report submitted by Albania. The Committee agreed that Albania had made real progress and had taken positive action to remedy significant deficiencies including in respect of certain aspects of effectiveness. However, the report did not enable the

plenary to substantiate that Albania has achieved a sufficient level of improvement with all the core and key recommendations, as required under the procedures.

41. MONEYVAL decided that Albania would be given additional time (at the latest by the end of 2015) to demonstrate that it has taken action to improve its level of compliance on all core and key recommendations and to meet the requirements for exit from MONEYVAL's regular follow up process.

*Decision taken*

42. MONEYVAL decided that Albania would be given additional time in order to be able to demonstrate that it has taken action to improve the level of compliance with all core and key recommendations, the expectation being that Albania should be in a position to exit regular follow-up at the latest by the end of 2015. Albania was invited to report back in September 2015.

**Agenda item 17 – Financial Inclusion issues: Presentation by the European Commission on Directive 2014/92**

35. The European Commission representative informed the Plenary about the Directive 2014/94, concerning the access to payment services, which will be applicable to all European countries in 2016. The Directive will benefit all European citizens, by ensuring that: access to bank accounts is guaranteed without any discrimination based on issues related to residence or permanent address; banks must be transparent about the services they provide; and where accounts are refused, banks must give clear grounds for the decision. The purpose of these measures is to improve financial inclusion. The Executive Secretary stressed the importance of this Directive and remembered that its impact will affect all MONEYVAL'S EU Member States.

**Agenda item 18 – First 4th round regular follow up report on the Republic of Moldova (IT)**

36. The Republic of Moldova's 4th round evaluation report was adopted in December 2012. As a result, Moldova was placed in regular follow-up, requiring it to report back two years after the evaluation. At this stage the Republic of Moldova has not requested to be considered for removal from regular follow-up. The Secretariat presented to the Plenary its analysis which concluded that that one of the key-core recommendations rated PC or NC in the 4th round report was sufficiently addressed (R3) while the rest still have pending deficiencies.

*Decision taken*

37. The Plenary considered that the Republic of Moldova is making satisfactory progress but that it is too early to consider its removal from the regular follow-up process. The Republic of Moldova was requested to provide a progress report at the 49th plenary in December 2015, so that the Plenary can assess whether progress on the deficiencies has been made, especially through the adoption of the amendments to the AML/CFT Law and other relevant acts mentioned as drafts.

**38. Agenda items 19, 24 and 25 – Continuation of the discussion on the FATF Effectiveness Methodology – Immediate Outcomes 1, 2, 5, 8 and 11**

40. The Plenary heard several presentations from the secretariat, scientific experts and delegations on the FATF methodology and requirements under Immediate Outcomes 1, 2, 5, 8 and 11, with a focus on aspects to be considered when demonstrating effectiveness in the context of an evaluation process. Due to the time constraints the Plenary decided to postpone the discussion of Immediate outcomes 4, 9 and 10. The presentations will be made available on MONEYVAL's restricted website.

Items 20 and 21 – Discussion on the draft 4<sup>th</sup> round mutual evaluation report on Azerbaijan

39. The Plenary examined the draft 4<sup>th</sup> round evaluation report on Azerbaijan. The Secretariat introduced the evaluation team, acknowledged the progress made by Azerbaijan since the 3<sup>rd</sup> round evaluation and provided an overview of the main findings of the report. The changes made to the report as a result of issues raised by the ad hoc review group (Latvia) and the scientific experts during the pre-meeting with the Azerbaijan authorities were presented. The intervener countries were Moldova (legal aspects), Malta (financial aspects) and Lithuania (law enforcement aspects).

*Important issues raised:*

40. **Criminalisation of Money Laundering (R.1)** Azerbaijan clarified that the purposive element (“for the purpose *not to* conceal or disguise the illicit origin of the funds”) for acquisition, possession and use of property does not amount to a deficiency and requested that the relevant bullet point in the rating box be removed. Azerbaijan explained that the purposive element in the negative was added in order to distinguish the requirements under Article 193 and those under Article 194 and to highlight that, indeed, no purposive element is required for acquisition, use or possession. The legal evaluator stated that it was not clear that acquisition, possession or use for all purposes would be criminalised and that “not to conceal” seemed like an additional purposive element. She added that there was no case law which demonstrated that the correct interpretation has been applied. Azerbaijan replied that there have been 13 convictions in relation to Article 194 (on acquisition, possession and use of property). Georgia, Moldova and the Russian Federation supported the position of Azerbaijan stating that their impression was that the legislator intended to exclude any specific purpose. The FATF indicated that on this issue it was divided as the presence of the purposive element implicated that the prosecutor would need to prove a purpose, yet the absence of case law on this element of the Article could be interpreted both ways. The Plenary noted afterwards that the correct translation of Article 194 was “acquisition, possession or use *without* the purpose to conceal or disguise the illicit origin of the funds” and agreed to reflect this in the report. The evaluator proposed to keep the issue on lack of clarity on this point in the analysis and to remove the bullet point from the rating box while retaining the recommendation. The Plenary endorsed the proposal. In relation to the effectiveness factor concerning the lack of certainty from prosecuting authorities as to whether a conviction for a predicate offence is a prerequisite to obtaining a conviction for money laundering, Azerbaijan noted that 13 ML cases had been investigated; all were for self-laundering, prosecuted together with the predicate offense; and none were instituted on the basis of a conviction. The evaluator recalled that while the judges met on-site were clear that a conviction was not necessary, the Prosecutor’s office appeared hesitant on this subject. Prof Gilmore and the Executive Secretary stated that if there is uncertainty amongst prosecutors, then it is unlikely that cases would be pursued by the prosecutor’s office. The Plenary decided that the deficiency factor would be retained. The Rating for R.1 remained unchanged.
41. **Mental Element and Criminal Liability (R2)** – As concerns the bullet point in the rating box noting that the principle that criminal intent, knowledge or purpose can be inferred from objective factual circumstances is not fully tested in practice, Azerbaijan stated that intent and knowledge also have to be proved in cases of self-laundering. It added that judges routinely refer to factual and circumstantial elements; that no civil law country has specific provisions on objective circumstantial facts; and that they have clear provision on the free evaluation of evidence. Azerbaijan also stated that the absence of stand-alone ML cases should not appear twice in the report as deficiencies under two different bullets. The evaluator stated that this point was raised in the third report and on site and that they were not given any evidence that this is something that operates in practice. Georgia indicated that in their legal system there is no explicit provision that intent should be inferred from objective factual circumstances of the case, but this happens in practice. Moldova noted that the relevant bullet point should go under “effectiveness”. Cyprus objected that Article 6 of the 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime does include an explicit reference to the above-mentioned principle under its paragraph 2c and that it considers it as an additional

element of the ML offence, therefore it might not be correct to include this point under effectiveness. The Russian Federation, Estonia and the Executive Secretary agreed that the issue should be considered under effectiveness issues.

42. **Criminalisation of Terrorist Financing (SR.II)** –Azerbaijan considered that it is not required under the FATF standards to define “terrorist and “terrorist organization” and that this should not be raised as a deficiency factor. Russia supported this interpretation as well as the deletion of the factor underlying the rating. The Plenary agreed to delete the factor. As concerns the deficiency related to evidential difficulties in proving TF, Azerbaijan informed the Plenary that they have had two successful prosecutions in 2011 and 2013. The evaluators agreed to remove the deficiency in the rating box. . Subsequently, Azerbaijan requested the Plenary to reconsider the rating currently PC and the Plenary agreed to upgrade it to LC
43. **Confiscation and Provisional Measures (R3)** – Azerbaijan highlighted that further to the pre-meeting there was only one technical issue in the rating box. Furthermore, as concerns the bullet point under effectiveness, Azerbaijan confirmed that statistics on confiscation in relation to predicate offences were provided and that they were only asked at a later stage to break down the data on confiscation in value confiscation, third party etc. As a result they invited the Plenary to upgrade the rating to LC and remove the bullets on effectiveness. France did not support the proposal, stating that the shortcomings relating to effectiveness were important. Moldova argued that the fact that there are some confiscations would justify the upgrade. The Scientific Expert expressed the opinion that the number of confiscations is limited when compared with the predicate offences reported. Liechtenstein supported the position of France and added that countries should provide information in time and demonstrate effectiveness. The evaluator expressed her view in support of maintaining the PC rating. The rating remained unchanged.
60. **Mutual legal assistance in the area of confiscation (R.38):** The scientific expert Prof. Gilmore raised a concern that, further to the removal of the third bullet point on effectiveness the two remaining bullet points (on possible difficulties in respect of indirect proceeds and third party may impact on ability to assist; and no formal arrangements for co-ordinating seizure and confiscation actions) would warrant an upgrade to an LC rating. The Guernsey , WB, and the FATE supported this proposal. The latter added that these two bullet points should be placed under the effectiveness heading. Cyprus raised the concern that the absence of statistics provided and the need of consistency with other reports might not justify the upgrade. The Secretariat clarified that a new paragraph had been added stating that Azerbaijan had not received or made any MLA request in the area of confiscation and that it would be unfair to penalize Azerbaijan for lack of effectiveness on this basis. The Plenary agreed to raise the rating to LC and to place the remaining bullet points under effectiveness.
61. **International conventions (R.35)** – the FATF raised the concern that the discussions held by the Plenary on SR.II, namely on the partial implementation of the TF Convention as far as the offences included in the annex are concerned, has a cascading effect on R. 35 and on SRI. The Secretariat acknowledged that indeed this aspect had been overlooked. The Plenary agreed to add a rating point concerning the lack of implementation of the offences included in the annex of the TF Convention both in relation to R.35 and SRI.
41. **Wire transfers (SR. VII):** Azerbaijan proposed to up-grade the rating for SR. VII to largely compliant pointing out that the ML/TF risk of wire transfers is very low due to the fact that there are only a small number of financial institutions in Azerbaijan that perform cross-border activities and that they are mostly represented by subsidiaries of large foreign financial institutions. The MONEYVAL Secretariat stated that the major concern remains with regard to Azerpost as it fulfils an important role in the wire transfer sector yet the supervision regime of Azerpost was not fully developed at the time of the on-site visit. Andorra asked a question on the level of effectiveness of supervision over financial institutions and identified deficiencies in respect to requirements under SR. VII. Azerbaijan repeated that the level of wire transfer activities is very low. The scientific expert on financial aspects agreed with the view of the MONEYVAL Secretariat and stated that if the potential risk with regard to TF is high then the volume of wire transfers does not really matter. The evaluation team clarified that in fact Azerpost has many branches all over the country which perform different types of financial services and over a 4-year period there had been no on-site AML/CFT inspections nor supervision conducted and no

information was received from Azerpost by the Azerbaijan FIU. Austria supported the evaluation team and the scientific expert. Since Azerbaijan's proposal was not supported by delegations the rating remained at PC.

42. **Politically exposed persons (Rec. 6):** Liechtenstein queried whether the provision under Azerbaijani AML law for PEPs is too general, not reflecting the specific risks that PEPs pose and proposed to rethink the rating. The evaluators explained that PEPs are well covered by the existing legislation. Austria supported Liechtenstein's concern with regard to PEPs. Azerbaijan pointed out that its AML requirements on PEPs went beyond the FATF standards and that all foreign customers are subject to enhanced CDD requirements. FATF commented that the current wording of the bullet point under the effectiveness issue is very general and proposed to make the wording of the deficiency more specific. It stated that in 100% of case studies involving PEPs which were previously analysed PEPs were behind the corporate structure. The MONEYVAL Secretariat agreed that the current wording of the bullet point should be reviewed. Georgia supported Azerbaijan's position. The scientific expert on financial aspects raised a concern that financial institutions in Azerbaijan could establish business relationships with foreign legal persons without identification of beneficial owner and hence without identification of a possible PEP. He proposed to make an additional bullet point on this issue under the Rec. 5 rating box. The MONEYVAL Secretariat proposed to reword paragraph 525 of the draft MER. Azerbaijan replied that the country is not a financial centre and the PEPs risk is very low while it is often difficult to identify PEP with regard to foreign legal persons and legal structures and many countries face the same problem. France underlined the importance of beneficial ownership requirements and stated that all countries should strongly comply with them. It was therefore agreed to change the language of the bullet point under Rec. 6 without changing the rating.
43. **Customer due diligence (Rec. 5):** The US proposed that the third bullet point concerning verification of the identity of life insurance beneficiaries should be deleted as this did not relate to a specific essential criteria. The MONEYVAL Secretariat explained that this related to an interpretive note and as such still formed Part of the Recommendations. It was agreed that the bullet point should remain.
44. A concern was raised by the US with regard to the AML law provision which allowed financial institutions to identify the beneficial owner after the establishment of a business relationship with a client. The evaluators explained that they shared the same concern. The financial scientific expert supported this concern saying that this provision could allow clients to open and then close accounts without providing beneficial ownership information. FATF pointed out that the effectiveness bullet point in fact encompassed two criteria under Rec. 5 and that it should be split into two separate effectiveness bullet points, one on establishment of business relationship and another one on beneficial ownership. The MONEYVAL Secretariat agreed with this proposal. Austria indicated that paragraph 525 of the draft MER was missing the element of the FATF Methodology namely control and ownership structure and proposed to reflect this in the draft MER and respective effectiveness bullet point.
45. Albania raised a question on whether the deficiency concerning beneficial owner identification relates to one particular bank or to all financial institutions. Azerbaijan replied that only one bank faced difficulties in identifying beneficial owners. The MONEYVAL Secretariat replied that deficiencies identified in one financial institution were taken to be representative and should be extrapolated across the whole financial sector. FATF raised a question on whether it is possible for financial institutions to deliberately operate below a quarterly turnover of 50,000<sup>1</sup> Manats in order to be exempted from the CDD requirements. Azerbaijan responded that it is not possible due to licencing and registration requirements. The MONEYVAL Secretariat confirmed that all financial institutions in Azerbaijan had a quarterly turnover of greater than 50,000 Manats. Liechtenstein stressed its concerns in respect to exemption for financial institutions with low turnover to comply with CDD requirements and proposed to downgrade the rating to partially complaint. The evaluation team confirmed its readiness to downgrade the rating. Azerbaijan challenged this proposal. Austria supported the proposal of Liechtenstein. Since no other delegation supported the Azerbaijani position, the rating was downgraded to PC.

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<sup>1</sup> Approximately Euro 50,000

46. Austria asked a question on the existence of numbered accounts. The evaluation team clarified that the Azerbaijan authorities have all necessary powers to access numbered accounts and that proper supervision is conducted and that no anonymous accounts exist. The MONEYVAL Secretariat stressed that the FATF standards allow numbered accounts to exist. Austria inquired on the existence of any legal provision in Azerbaijani legislation that covers numbered accounts. Azerbaijan pointed out to Article 9.16 of AML law that deals with this issue. The MONEYVAL Secretariat proposed to amend the relevant paragraph in the draft MER report to reflect that numbered accounts are indeed covered by respective legal provisions.
47. **Suspicious transactions reporting (Rec. 13):** FATF proposed to change the wording of the two bullet points in order to specify the reasons for the low number of STRs (such as lack of guidance and typologies) and to avoid excessive reporting requirement. The financial scientific expert inquired on the meaning of the phrase “on a test of suspicion” with regard to transaction reporting and proposed to change the wording. The evaluation team clarified that there are different types of STRs reported by financial institutions. It was agreed to clarify the wording of the deficiencies in respect of both issues.
48. **The FIU (Rec. 26):** Lithuania intervened with a question on the lack of safeguards for removing the FIU management from office – a bullet point which was placed in the rating box under technical compliance. The evaluation team supported this concern. In response to this question the World Bank commented that this requirement goes beyond the FATF standards and does not constitute a deficiency. Azerbaijan and Estonia agreed with the World Bank’s opinion. The law enforcement scientific expert and Estonia inquired on existing safeguards to prevent senior management from abuse. Azerbaijan replied that any person is protected by the constitution and can defend his/her rights in court. Liechtenstein proposed to delete this bullet point from the rating box as it was not related to the technical issue and this was supported by the FATF and Latvia. It was therefore agreed to delete this bullet point.
49. The World Bank also proposed to delete the second bullet point under technical issues as it goes beyond the FATF standards. This was supported by Albania, Hungary, Bosnia and Herzegovina and the Slovak Republic. The World Bank also proposed to delete the bullet point on effectiveness under Rec. 26 or to put it under Rec. 27. Azerbaijan supported this proposal. The evaluation team and the Secretariat stressed the need to leave this factor underlying the deficiency. It was therefore agreed to delete the two factors underlying the rating under technical issues, to clarify in the text of the draft MER the effectiveness concerns and to leave the factor underlying effectiveness concerns in the rating box. This impacted also on the relevant factors underlying the rating under technical issues in the rating boxes of Rec. 40 and SR. V.
50. **Cross Border declaration and disclosure (SR. IX):** Azerbaijan challenged the second bullet point in the rating box of Rec. IX stating that customs has the right to stop or restrain the movement of currency. The evaluation team clarified that Azerbaijan had the same deficiency under the third round MER and no changes to improve this deficiency have been made since that time. It was therefore agreed to retain the second bullet point.
51. **Statistics (Rec.32):** Azerbaijan challenged the second bullet point saying that all statistics have been provided. The MONEYVAL Secretariat stressed that it is still a deficiency as some statistics were only provided at the start of the plenary week. The Secretariat however said that it agreed to delete the third bullet point on mutual legal assistance. Cyprus agreed with the Secretariat and pointed out that previous reports followed the same approach in respect to statistics and that the decision should be consistent with other reports. Liechtenstein emphasised that statistics should not just exist but should also be used by relevant competent authorities. It was therefore agreed to slightly change the first bullet point and to delete the third bullet point.
52. **Law enforcement authorities (Rec. 27):** Cyprus raised a question on clarification in respect to dissemination powers of the GPO, Ministry of National Security and police authorities. The MONEYVAL Secretariat stressed that the situation when GPO receives cases from FIU and makes decisions on dissemination is the normal practice but the police authorities appeared to be lacking financial intelligence information. The evaluation team clarified the legal basis for

dissemination of FIU information with regard to GPO and Ministry of National Security and said that the police could do more if they had better access to financial information. Based on that Cyprus suggested redrafting paragraph 345 which was agreed by the Secretariat.

53. The law enforcement scientific expert raised a serious concern on the fifth bullet point saying this could overstep the existing law and proposed to remove it. Azerbaijan supported the scientific expert's concern. The World Bank agreed with scientific expert saying the bullet point goes beyond FATF standards. Russia and Estonia also supported the World Bank and scientific expert. Latvia intervened saying it previously had the same system but had to change it and start to disseminate cases directly to police. Liechtenstein proposed to delete the fifth bullet point under Rec. 27 and add a bullet point on the lack of cooperation between GPO and police under Rec. 31. This proposal was agreed.

*Decision taken:*

54. 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 SR.II (upgraded from PC to LC), R.5 (downgraded from LC to PC) and R.38 (from PC to LC). The Plenary adopted the executive summary and the 4<sup>th</sup> round mutual evaluation report on Azerbaijan, 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.
55. The Plenary decided to place Azerbaijan under the regular follow-up and to report back two years after the adoption of the report. However, taken into account the deficiencies underlying Recommendations 1, 5 and Special Recommendation III the Plenary decided to request Azerbaijan to provide an interim report on the actions it has taken to address these deficiencies in December 2015.

**Agenda item 22- Council of Europe Convention on Laundering, Search, Seizure and confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS198)**

56. The Chair of the Conference of the Parties (COP) Eva Papakyriacou recalled the added value of the Convention to international anti-money laundering and countering the financing of terrorism standards. She informed the Plenary that recently the Convention has been amended to include tax crimes in the annex of predicate offenses, in order to echo the FATF approach. The Executive Secretary of the COP and Moneyval added that a new approach has been pioneered in relation to COP assessments. Notably, during a Moneyval or an FATF on-site visit delegations have also looked at CETS related issues. The Executive Secretary informed the Plenary that 25 countries have ratified the Convention; the United Kingdom has signed the instrument in September 2014 and should proceed to ratify it soon. Given that several countries, including members of Moneyval and FATF have not signed and/or ratified CETS No 198, the Chair and the Executive Secretary asked that they inform the Plenary of any problems they might have encountered in signing or ratifying this instrument.
57. The representatives of the States present in the Plenary provided the following update: Andorra has neither signed nor ratified CETS No 198 and there is no formal agreement in relation to the timeline for signature. Austria has signed the Convention and has not ratified it. There are no specific problems hindering ratification and the process is on its way. The delegation will inform in written form the Secretariat in due course. Azerbaijan has neither signed nor ratified CETS No. 198 and stated that they are looking into it. The Czech Republic has neither signed nor ratified the Convention; the discussions are on-going. Estonia signed the Convention on 7 March 2013. In 2015 they plan to amend the AML law in line with the 4<sup>th</sup> EU Directive and in that context they will take the ratification of the Convention forward. Estonia clarified that there are no major legal obstacles to ratification. France signed the Convention in March 2011 and indicated that there were no major legal obstacles for ratification. Liechtenstein has not signed CETS No. 198 as they are prioritizing the 4<sup>th</sup> EU Directive. Lithuania has prepared the documents to sign the convention and plans to proceed with signature and ratification soon. Monaco has identified two possible obstacles to signature and ratification, including in rem confiscation; it plans to address these issues and to be in a position to sign and ratify the

Convention by the end of 2015. The Russian Federation signed the convention in 2009, it has requested a clarification to the CoE Treaty office on the interpretation of Article 10 and 53 of the Convention and is now in the process of preparing the draft law necessary to proceed with signature and ratification; it will be submitted to the Parliament most likely in the first half of 2015. Guernsey, Jersey and the Isle of Man informed the Plenary that the normal procedure is for the UK to sign and ratify the Convention and then extend its application to the Crown Dependencies. They are working on a self-assessment with a view of having the ratification of CETS No 198 by the UK extended to them. San Marino, having ratified the convention, testified to the importance of the postponement of transactions as per the provisions of CETS No 198, exercised in conjunction with the monitoring of bank accounts. The Chair of Moneyval requested that the States provide written information to the Secretariat in the next few weeks on the State of ratification of CETS No 198.

#### **Day 4: Thursday 11 December 2014**

##### **Agenda item 23 - Third 4th round regular follow up report on Slovakia**

87. The Secretariat presented its analysis on the Slovak Republic's third follow-up report. With regard to criminalization of ML and TF and in relation to confiscation, the Secretariat stressed that Slovakia has taken steps to remedy the identified deficiencies; however several significant technical deficiencies still remain in the draft texts of the Criminal Code. As for the effectiveness of the implementation of seizure/freezing measures and forfeiture although provisional measures have been applied there are no cases of final confiscations in ML related cases.
88. With regard to the financial section of the report, the technical deficiencies identified have not been addressed as the authorities are awaiting the final text of the 4<sup>th</sup> Directive before amending the AML Law. With the aim to raise the effectiveness in the implementation of ML requirements by the reporting entities, further awareness-raising has been conducted. With regard to the reporting regime, the number of cases disseminated by the FIU to the law enforcement agencies seems satisfactory. Although a number of FIU dissemination-based ML prosecutions have been conducted, it seems there are no ML indictments and convictions based on the FIU disclosures. Concerns raised under the 4<sup>th</sup> round MER remained valid as the FIU does not concentrate sufficiently on ML and TF, which should be the main focus, but rather on all criminal offences equally.
89. The Secretariat advised the Slovak authorities to reconsider the drafts where appropriate before finalisation in the context of the technical assistance requested by Slovakia from the Council of Europe.

##### **Decision taken**

90. Considering that the 5<sup>th</sup> round evaluation of Slovakia is scheduled in 2017, the Plenary decided that Slovakia should submit a further follow-up report at the 48<sup>th</sup> Plenary meeting in September 2015 and encouraged Slovakia to seek removal from the follow-up process in 2015.

##### **Agenda item 26 – Information on AML/CFT initiatives in MONEYVAL states and territories (tour de table)**

94. Due to time constraints the Plenary decided to postpone the discussion of this item.

#### **Day 5: Friday 12 December 2014**

##### **Agenda item 29 – 4<sup>th</sup> round of regular follow-up report on Malta**

107. The follow-up report on Malta emphasised the steps taken in respect of the core and key Recommendations rated PC in the 4<sup>th</sup> round MER. In particular, even though the risk assessment had not changed since the 44<sup>th</sup> Plenary, the number of convictions for ML cases had increased during 2014, along with the number of STRs received by the FIU. A major



improvement was reported regarding the new bill on law n. 66/2014, which will amend both AML legislation and the Criminal Code and should become law in the early 2015.

108. The Committee agreed that the progress appeared to have been made on effective implementation of Recommendation 13 and Special Recommendation IV.

*Decision taken*

109. Following the Plenary discussion, Malta was invited to seek removal from regular follow-up in April 2015 or shortly after.

### **Agenda item 30 – Voluntary Tax Compliance Scheme**

#### **30.1 Malta**

The Plenary received an update on the developments regarding Malta's VTC programme. Malta provided information demonstrating that since the 45<sup>th</sup> Plenary, effective measures have been undertaken to implement MONEYVAL's recommendations. As the VTC scheme in Malta had been extended by 2 months, the plenary decided to continue monitoring Malta's VTC scheme.

110. The Plenary granted Malta two months of extension of the scheme.

*Decision taken*

111. MONEYVAL decided to continue monitoring Malta's VTC programme and requested Malta to provide a full report on the outcome of the Voluntary Tax Compliance Scheme to the next plenary.

#### **30.2 San Marino**

115. The Plenary reviewed the information provided by the Sammarinese authorities under MONEYVAL's procedures and AML/CFT requirements as well as the analysis undertaken by the MONEYVAL secretariat. It has concluded that the VTC programme is consistent with the four basic principles set out in the procedure and does not appear to have any negative impact on the implementation of AML/CTF measures in San Marino.

*Decision taken*

118. The Plenary decided that no further measure shall be taken under the procedures at this point. Should there be any future developments, or new elements added to the programme, San Marino would be required to provide updated information to MONEYVAL. In line with MONEYVAL's publication policy, the adopted report would be made available on the restricted part of MONEYVAL's website.

### **Agenda item 31 – Typologies work**

119. The project leaders and Professor Michel Levi presented a report to the Plenary on the project "Laundering the proceeds of organised crime".

120. The Secretariat thanked the delegations, core-group of experts and the external experts for their contribution to the survey and provided an overview on the development of the project. The Estonian delegation intervened emphasising the importance of the report in the context of ML investigations/prosecutions and confiscation of OC and raised the issue of FIU's involvement in the process. Other comments were made by the WB and Austria, mainly underlining the complexity of the matter under research and the relevance of the report in the AML context and work. Liechtenstein suggested to provide more time for delegations to comments on the report and to adopt the final version of the typologies report in the April Plenary.

*Decision taken:*

121. The typologies report on "Laundering the proceeds of organised crime" will be disseminated to all delegations for eventual further comments and the report will be presented in the April Plenary for adoption.

### **Agenda item 32 – Discussion on implementation of AML/CTF standards and issues related to de-risking.**

- 122 The World Bank gave a presentation to the Plenary on the subject of de-risking. The WB explained that the term “de-risking” refers to any instances in which banks have adopted increasingly stringent financial crime-related policies to reduce their exposure to potential money laundering, terrorist financing, corruption and sanctions risk. The WB explained that they are still in the early phase of the discussion on de-risking and that it is focussing on the areas most affected, which are largely emerging economies. There has been an impact on remittances from charities to less economically developed countries, and countries such as Ukraine and Azerbaijan have also been affected. One area highlighted was the effect of new regulation on trading services. There has been a good international response to the issue, and the G20 is conducting a survey. The World Bank proposed three ways to address the problems which stem from de-risking. Firstly, the risk-based approach needs to be clarified for banks so that they can adopt a correct approach, and this should be done by the next mutual evaluation round. Secondly, more research needs to be done and empirical data must be used to evaluate the de-risking approach. Thirdly, national authorities need to provide guidance to financial institutions.
- 123 Poland highlighted some of the problems that de-risking may cause and pointed out that risks are mostly local, so banks everywhere cannot adopt the same approach. It was their view that the rules of the free market should be allowed to work without too much intervention or regulation. Liechtenstein called for international organisations to adopt a consistent position on the level of regulation of AML/CTF required. Countries need clear guidance on how to deal with these issues, because the real victims are often poor countries and charities. Bulgaria observed that their central bank had taken certain measures such as monitoring certain categories and focusing on non-profit organisations, they suggested that specific criteria need to be adopted along with guidance from banks. The FATF explained that they were undertaking several projects to provide guidance, based on information gathered through research. The USA noted that there is some experience of de-risking in US banks, and stated that they continue to follow this phenomenon. The United Kingdom commented on the success/failure of the risk based approach. Certain banks are simplifying their business models due to worries over reputation. However, avoidance of risks is not necessarily evidence of a good risk-based approach, and guidance should be given to banks on the correct approach.
- 124 The Secretariat echoed the view of the FATF. Each individual country should be considered with its own specific characteristics.

#### **Decision taken:**

- 125 It was agreed that this issues should be reconsidered in future plenary meetings.

### **Agenda item 33 – Ad Hoc Review Group of Experts and interveners for the 45th Plenary**

- 126 The Plenary took note of the delegation acting as Ad Hoc Review Group for the draft mutual evaluation report on Guernsey and Montenegro, and interveners and rapporteurs for the next plenary meeting.

### **Agenda item 34 – Future representation in FATF meetings**

- 127 The discussion of this item was postponed.

### **Agenda item 35 – Financing and staffing**

- 128 The Executive Secretary of MONEYVAL expressed his gratitude for the outstanding work carried out by three members of the Secretariat who would be leaving MONEYVAL before the next Plenary meeting.
- 129 Mr. Ringguth thanked Mr Ticaou for his precious help and excellent work made for MONEYVAL, congratulated Mrs. Gheribi for her promotion, stressing how her organisational skills have been of crucial help to the Committee and, lastly, emphasized Mr. Baker’s formidable professionalism and his great work as team leader at MONEYVAL.

### **Agenda item 36 – Miscellaneous**

- 130 No issues were raised under this item.

## APPENDIX I

**Day 1: Monday 8 December 2014 / 1<sup>er</sup> jour : lundi 8 décembre 2014**

### Morning 9h30 / matin 9h30

**Opening of the Plenary Meeting at 9h30 by Jan Kleijssen, Director of Information Society and Action against Crime / Ouverture de la réunion plénière à 9h30 par Jan Kleijssen, Directeur de la Direction de la société de l'information et de la lutte contre la criminalité**

1. **Adoption of the Agenda / Adoption de l'ordre du jour**
2. **Information from the Chairman / Informations communiquées par le Président**
  - 2.1 **Chairman's correspondence / Correspondance du Président**
  - 2.2 **Participation in Heads of Monitoring Mechanism meeting with Secretary General / Participation à la réunion des Présidents des Mécanismes de monitoring avec le Secrétaire Général**
3. **Information from the Secretariat / Informations communiquées par le Secrétariat**
  - 3.1 **Calendar of activities 2015 / Calendrier des activités en 2015**
  - 3.2 **MONEYVAL evaluator training / Séminaire de formation des évaluateurs de MONEYVAL**
  - 3.3 **Reports on Secretariat attendance in other fora / Rapports du Secrétariat sur sa participation aux réunions d'autres institutions**
4. **Report on attendance by Mr Nicola Muccioli (San Marino) at EAG 10th anniversary plenary / Information sur la participation de M. Nicola Muccioli (Saint Marin) à la plénière du 10ème anniversaire de l'EAG**
5. **Report on actions taken by MONEYVAL States and territories on the implementation of financial sanctions provided for in UNSCR 2170(2014) and EU Regulation No. 914/2014, regarding persons designated as affiliated to Islamic State / Rapport sur les actions prises par les Etats et territoires de MONEYVAL sur l'application des sanctions financières prévues dans la Résolution RESNU 2170(2014) et le Règlement No. 914/2014, en ce qui concerne les personnes désignées comme étant affiliées à l'Etat islamique**
6. **Compliance Enhancing Procedures - Bosnia and Herzegovina / Procédures de conformité renforcée - Bosnie-Herzégovine**
  - 6.1 **Action taken by MONEYVAL States and territories under the revised Public Statement of 19 September 2014 / Action prise par les Etats et territoires de MONEYVAL au titre de la déclaration publique révisée du 19 septembre 2014**
  - 6.2 **Report from Bosnia and Herzegovina under step 3 of the Compliance Enhancing Procedures / Rapport de la Bosnie-Herzégovine au titre de l'étape 3 des Procédures de conformité renforcée**
  - 6.3 **Report from evaluation team on key findings of the November 2014 4th round onsite mission by MONEYVAL / Rapport de l'équipe d'évaluation sur les principales conclusions de la 4ème Visite sur place de MONEYVAL en novembre 2014**
  - 6.4 **Discussion, as necessary, on further action to be taken under MONEYVAL CEPs**

*/ Discussion, le cas échéant, relative aux actions futures dans le cadre des procédures de conformité renforcée de MONEYVAL*

7. **FSRB follow up transition to the next round / MONEYVAL proposal / Suivi des ORTG et transition pour le prochain cycle/ propositions de MONEYVAL**
8. **Adoption of Rules of Procedure for MONEYVAL's 5<sup>th</sup> round / Adoption des règles de procédure pour le 5<sup>ème</sup> cycle de MONEYVAL**
9. **Adoption of revised VTC rules / Adoption des règles révisées du système de régularisation fiscale volontaire**
10. **Review Groups for the 5<sup>th</sup> round / Groupe d'examen pour le 5<sup>ème</sup> cycle**

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

**11. Information from the European Union / Information de l'Union européenne**

- 11.1 **European Commission (to include discussions on how EU has responded to European Court of Justice jurisprudence on implementation of financial sanctions under UNSCRs 1267 and 1373) / Commission européenne (discussions sur la façon dont l'UE a réagi à la jurisprudence de la Cour européenne de Justice sur l'application des sanctions financières dans le cadre des RCSONU 1267 et 1373)**
- 11.2 **Secretariat General of the Council of the European Union / Secrétariat Général du Conseil de l'Union européenne**

**12. Information on AML/CFT initiatives in other fora / Informations sur les initiatives LAB/CFT d'autres institutions**

- 12.1 **Council of Europe Development Bank / Banque de Développement du Conseil de l'Europe**
- 12.2 **EBRD / BERD**
- 12.3 **Egmont Group / Groupe Egmont**
- 12.4 **Eurasian Group on Combating Money Laundering and Terrorist Financing (EAG) / Groupe Eurasie sur le blanchiment d'argent et le financement du terrorisme (EAG)**
- 12.5 **FATF / GAFI**
- 12.6 **GIFCS (to include presentation of new GIFCS Standard on the Regulation of Trust and Corporate Service Providers) / GSCFI (y compris la présentation du nouveau Standard des Prestataires de Services aux Sociétés et aux Fiducies sur le règlement des trusts et des fournisseurs de services aux entreprises)**
- 12.7 **IMF / FMI**
- 12.8 **OSCE**
- 12.9 **UNODC**
- 12.10 **World Bank / Banque Mondiale**

**13. Council of Europe Convention on the Manipulation of Sports Competitions / Convention du Conseil de l'Europe sur la manipulation des compétitions sportives**

<http://conventions.coe.int/Treaty/EN/Treaties/Html/215.htm>

<http://conventions.coe.int/Treaty/FR/Treaties/Html/215.htm>

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

**Day 2: Tuesday 9 December 2014 / 2<sup>ème</sup> jour : mardi 9 décembre 2014**

**Morning 9h30 / matin 9h30**

14. **Intervention of Mr Roger Wilkins AO, President of FATF / Intervention de M. Roger Wilkins AO, Président du GAFI**
15. **First 4<sup>th</sup> round expedited follow up report of Israel / Premier rapport de suivi accéléré du 4<sup>ème</sup> cycle d'Israël**
16. **4<sup>th</sup> round 5<sup>th</sup> follow up report on Albania / Cinquième rapport de suivi intermédiaire du 4<sup>ème</sup> cycle de l'Albanie**
17. **Financial Inclusion issues: Presentation by the European Commission on Directive 2014/92 (access to payment services) / L'inclusion financière: présentation de la Commission Européenne de la Directive 2014/92 (l'accès aux comptes de paiement)**

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

18. **First 4<sup>th</sup> round regular follow up report on the Republic of Moldova / Rapport de suivi régulier du 4<sup>ème</sup> cycle de la République de Moldova**
19. **Continuation of the Seminar on the FATF Effectiveness Methodology – Immediate Outcomes 5 and 8 / Suite du séminaire sur la Méthodologie d'efficacité du GAFI – Résultats Immédiat 5 et 8**

**Day 3: Wednesday 10 December 2014 / 3<sup>ème</sup> jour : mercredi 10 décembre 2014**

**Morning 9h30 / matin 9h30**

20. **Discussion on the draft 4<sup>th</sup> round Mutual Evaluation Report on Azerbaijan / Discussion du projet de rapport d'évaluation mutuelle du 4<sup>e</sup> cycle de l'Azerbaïdjan**

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

21. **Continuation of the discussion on the draft 4<sup>th</sup> round Mutual Evaluation Report on Azerbaijan / Suite de la discussion du projet de rapport d'évaluation mutuelle du 4<sup>e</sup> cycle de l'Azerbaïdjan**
22. **Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS198) / 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)**
  - 22.1 **Presentation by the Chair and Executive Secretary of the Conference of the Parties to CETS198 (to include a tour de table of those MONEYVAL States and Observer States which have not signed, or, if signed, have not ratified the Warsaw Convention on progress towards joining CETS198). [The UK Crown Dependencies of Guernsey, Jersey and the Isle of Man may also intervene on progress domestically on this issue in so far as they are able to do so] / Présentation du Président et Secrétaire Exécutif de la Conférence Des Parties à STCE No.198 (y compris un tour de table des Etats de MONEYVAL et des Observateurs qui n'ont pas encore signé, ou, quand ils l'ont fait, n'ont pas encore ratifié la Convention de Varsovie sur les progrès vers l'adhésion à STCE No.198. [Les dépendances de la Couronne du Royaume-Uni de Guernesey, Jersey et l'île de Man peuvent également intervenir sur les**

*progrès réalisés au niveau national sur cette question dans la mesure où ils sont en mesure de le faire].*

**Day 4: Thursday 11 December 2014 / 4<sup>ème</sup> jour : jeudi 11 décembre 2014**

**Morning 9h30 / matin 9h30**

**23. Third 4th round regular follow up report on Slovakia / Troisième rapport de suivi régulier du 4ème cycle de la République slovaque**

**24. Continuation of the Seminar on the FATF Effectiveness Methodology / Suite du séminaire sur la Méthodologie d'efficacité du GAFI**

**24.1 Immediate Outcome 1 / Résultat immédiat 1**

**24.2 Immediate Outcome 2 / Résultat immédiat 2**

**24.3 Immediate Outcome 4 / Résultat immédiat 4**

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

**25. Continuation of the Seminar on the FATF Effectiveness Methodology / Suite du séminaire sur la Méthodologie d'efficacité du GAFI**

**25.1 Immediate Outcome 9 / Résultat immédiat 9**

**25.2 Immediate Outcome 10 / Résultat immédiat 10**

**25.3 Immediate Outcome 11 / Résultat immédiat 11**

**26. Information on AML/CFT initiatives in MONEYVAL states and territories (tour de table) / Informations sur les initiatives LAB/CFT dans les États et territoires de MONEYVAL (tour de table)**

**26.1 Hungary update on Voluntary Tax Compliance Scheme / Hongrie – Etat des lieux sur le système de régularisation fiscale volontaire**

**Day 5: Friday 12 December 2014 / 5<sup>ème</sup> jour : vendredi 12 décembre 2014**

**Morning 9h30 / matin 9h30**

**27. Continuation of the Seminar on the FATF Effectiveness Methodology – as required / Suite du séminaire sur la Méthodologie d'efficacité du GAFI – si nécessaire**

**28. Further discussion (if required) on next steps under Compliance Enhancing Procedures – Bosnia and Herzegovina / Discussion (si nécessaire) sur les étapes suivantes dans le cadre des Procédures de conformité renforcée – Bosnie-Herzégovine**

**29. Third 4th round regular follow up report on Malta / Troisième rapport de suivi régulier du 4ème cycle de Malte**

**30. Voluntary Tax Compliance Schemes / Systèmes de régularisation fiscale volontaire**

**30.1 Malta / Malte**

**30.2 San Marino / Saint-Marin**

**31. Typologies work / Travaux sur les typologies**

- 31.1 Discussion and adoption of draft report on money laundering by organised crime / *Discussion et adoption du projet de rapport sur le blanchiment de capitaux par le crime organisé***  
**Presentation by project leaders/ *Présentation par les chefs de projets***  
**Discussion / *discussion***
- 31.2 Future typologies work / *Travaux futurs sur les typologies***
- 31.3 Typologies work in other fora / *Travaux sur les typologies dans d'autres institutions***
- 32. Discussion on implementation of AML/CFT standards and issues related to de-risking / *Discussions sur la mise en œuvre des normes LAB/CFT et les aspects relatifs à la diminution des risques***  
<http://star.worldbank.org/star/content/get-your-risks-right-do-not-de-risk>
- 33. Ad Hoc Review Group of Experts for the next plenary and intervenors for next plenary / *Groupe d'examen ad hoc d'experts pour la prochaine réunion plénière et les intervenants pour la prochaine réunion plénière***
- 34. Future representation in FATF meetings / *Représentations futures dans les réunions du GAFI***
- 35. Financing and staffing / *Financement et questions de personnel***
- 36. Miscellaneous / *Divers***

**Appendix II:**

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 12 December 2014

MONEYVAL46(2014)LIST1

**COMMITTEE OF EXPERTS ON THE EVALUATION  
OF ANTI-MONEY LAUNDERING MEASURES  
AND THE FINANCING OF TERRORISM /**

*COMITÉ D'EXPERTS SUR L'ÉVALUATION  
DES MESURES DE LUTTE CONTRE LE BLANCHIMENT DES  
CAPITAUX ET LE FINANCEMENT DU TERRORISME*

**MONEYVAL**

**46<sup>th</sup> PLENARY MEETING / 46<sup>e</sup> RÉUNION PLÉNIÈRE**

*8 – 12 December / 8 - 12 décembre 2014*

PALAIS DE L'EUROPE  
ROOM 1 / SALLE 1

**LIST OF PARTICIPANTS /  
*LISTE DES PARTICIPANTS***



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*Apologised*

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**GUERNSEY CROWN DEPENDENCY OF THE UNITED KINGDOM**

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