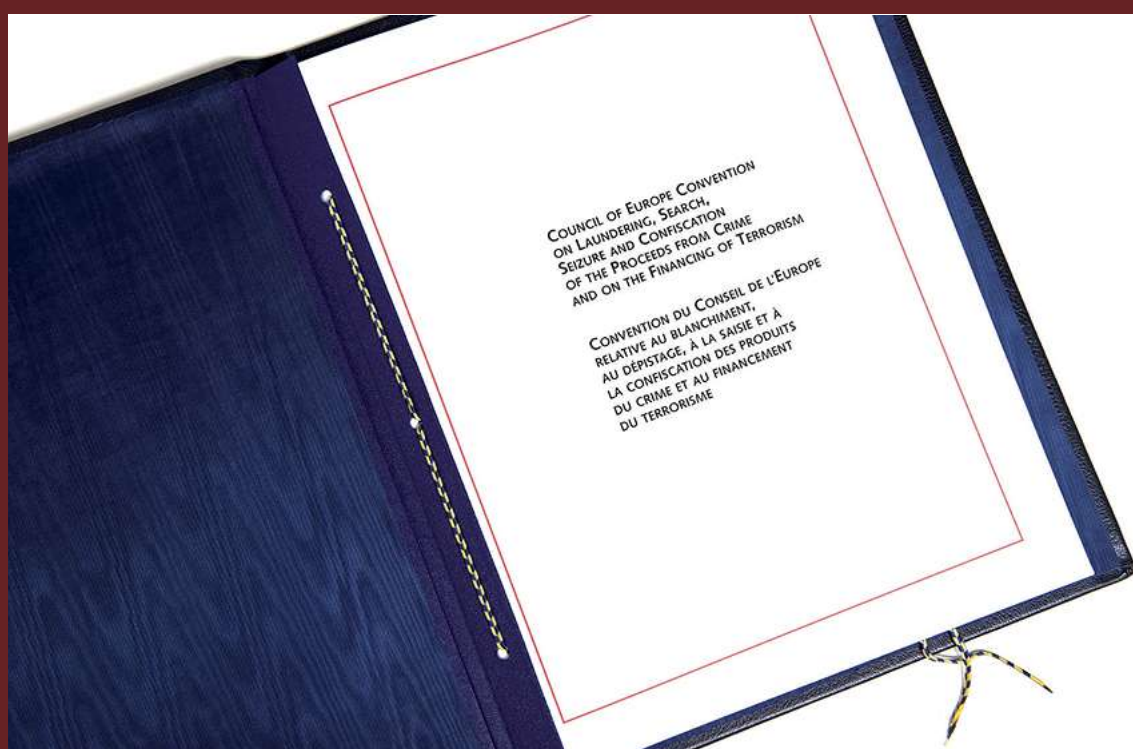


CONFERENCE OF THE PARTIES TO CETS No. 198



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

First activity report
covering the period 2009-2014

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

CONFERENCE OF THE PARTIES TO CETS No. 198

First activity report (2009-2014)

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on Laundering, Search, Seizure
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Premier rapport d'activité (2009-2014)*

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Preface

*Ms Eva Rossidou-Papakyriacou
President of the Conference of the Parties (2011-2015)*



It is a privilege for me to present the first activity report of the Conference of the Parties (COP) to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (the “Warsaw Convention”, CETS No. 198). This report covers the first years of our work as a new Council of Europe monitoring mechanism to combat money laundering and the financing of terrorism, set up specifically to monitor the implementation of the Warsaw Convention. The report outlines the monitoring work done so far and provides a brief horizontal review of compliance with the provisions which add value to the international standards we monitor.

The year 2015 has sadly been overshadowed by several terrible terrorist atrocities in Council of Europe member states and elsewhere, including the recent attacks in Paris in November. Combating the financing of terrorism, whether by the so-called Islamic State or other terrorist groups, is an important element in the fight against terrorism. Terrorist groups cannot function when deprived of their financial sources.

Another threat to the rule of law which the Warsaw Convention addresses is money laundering. It provides organised crime with its cash flow and investment capital, and the incentive to commit more proceeds-generating crime. The Council of Europe’s

action against money laundering is thus central to the fight against organised crime and complements the Organisation’s action against corruption, human trafficking and economic crime in general.

The Warsaw Convention was opened for signature in 2005 and came into force on 1 May 2008. It is the first comprehensive international treaty covering prevention and repression of money laundering and financing of terrorism as well as international cooperation in these areas. It is a key convention of the Council of Europe. The convention builds on the successful 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141, the Strasbourg Convention), which is a corner-stone of international standards in this area.

The COP was created as a monitoring mechanism under the Warsaw Convention in the awareness that all Council of Europe member states are already evaluated quite thoroughly in this area either by the Council of Europe’s Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) or the Financial Action Task Force (FATF). In order to avoid duplication with those mechanisms, the COP focuses solely on those parts of the convention that add value to the global standards. The monitoring is prepared by rapporteurs, drawing on MONEYVAL and FATF reports where necessary and without formal on-site visits. Wherever possible, however, we include issues relating to the COP in MONEYVAL on-site visits. Most recently we piloted similar collaboration with the FATF in the 2015 evaluation of Belgium, which is a state party to the Warsaw Convention.

Although the pace of ratification of this treaty was initially slow, it has steadily improved. At the end of 2015, the Warsaw Convention had 27 state parties and 12 signatures not followed by ratification, including the European Union. We urge all signatories and other Council of Europe member states which have not yet acceded to the Warsaw Convention to do so rapidly, as recommended by the Council of Europe’s Action Plan against Violent Extremism and Radicalisation leading to Terrorism, adopted by the Committee of Ministers on 19 May 2015.

A minimalist revision of the convention was undertaken in respect of the categories of offences to which money laundering should apply and which are listed as an appendix to the convention. This was necessary to reflect the new FATF requirement that a range of tax crimes should always be in the lists of categories of offences which should be predicate offences to money laundering. These amendments entered into force, through the so-called "fast track procedure", in October 2015. A more general review of the convention's provisions will be undertaken when more Council of Europe member states have ratified the convention.

Given the threats posed by international terrorism and organised crime, we remain even more determined to fulfil the following statutory aim: "a well-functioning system of international co-operation also must be established". But to achieve this goal, the COP urgently needs more personnel in its secretariat. Being a part of the MONEYVAL secretariat,

it can only dedicate part of its time to the Warsaw Convention, and needs staff reinforcements to drive forward this critical work in the years to come.

Having chaired the COP in the past four years, I am handing the presidency of this committee over to Mr Branislav Bohacik, Head of the Delegation of the Slovak Republic to the COP, who was elected Chair of the Conference at its 7th meeting in November 2015. Having worked with him as a very knowledgeable and committed vice-chair for a number of years, I am very pleased about his election, and I wish him all the best for his presidency.

The COP, through monitoring, training and awareness-raising, will continue to require states parties to use the provisions of the convention more regularly in the way that they were intended: to deliver better results in the investigation, prosecution and conviction of serious money laundering and terrorist financing cases, and related confiscations.

Executive summary

1. This is the first activity report of the Conference of the Parties (COP) to 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, the “Warsaw Convention”) since its inception and thus covers the work carried out from 2009 to 2014.

2. The Warsaw Convention, which came into force on 1 May 2008, is the first comprehensive anti-money laundering treaty covering prevention and repression of money laundering and the financing of terrorism as well as international co-operation. It is a key convention of the Council of Europe as it is specifically designed to assist in the investigation, prosecution and conviction of serious money laundering cases, and to enhance national capacities to fight terrorist financing. The convention reinforces current international standards, *inter alia*, by setting high requirements with respect to freezing, seizure and confiscation measures, the management of frozen and seized property, the possibility to take into account international recidivism when determining the penalty, as well as in a number of other areas. The COP’s action against money laundering is central to the fight against organised crime and complements the Council of Europe’s action against corruption, human trafficking and economic crime in general.

3. The monitoring procedure under the Warsaw Convention was designed so as not to duplicate the work of MONEYVAL or the FATF; it therefore focuses on those parts of the convention that strengthen global standards. These include, but are not limited to, the provisions on the prosecution of third-party (or stand-alone) money laundering; confiscation (including on reverse burden of proof after conviction); investigative powers, including measures to access banking information for domestic investigations and for the purposes of international co-operation; preventive measures, and the roles and responsibilities of financial intelligence units; and the principles for international co-operation between financial intelligence units.¹

4. Since it was first convened in 2009, the COP has adopted seven country reports and, after instituting a follow-up mechanism in 2012, two follow-up reports.

The findings of the early follow-up reports are encouraging and highlight states parties’ willingness to meet the standards of the convention. It is positive that two thirds of the ratifying states now accept the principle of reverse burden of proof for confiscation purposes in serious cases after a defendant is convicted. Overall, most states parties have, or consider that they have, legal systems which can accommodate most of the convention’s provisions, subject to the permitted reservations and declarations. That said, not all states are using the new tools provided by the convention sufficiently to achieve the better results the drafters envisaged in the investigation, prosecution and conviction of serious money laundering cases and the implementation of effective deterrent confiscation orders.

5. A number of measures have been taken to develop and sharpen COP reports. The COP now benefits from MONEYVAL processes wherever this is possible by raising COP issues in MONEYVAL onsite visits. This method of collaboration with MONEYVAL has also been piloted with the FATF in the case of Belgium in 2014 and 2015 and it is anticipated that these arrangements will become formalised shortly.

6. The COP has held three training seminars for future COP rapporteurs, most recently in July 2015, and a successful awareness-raising conference in 2013 in Armenia. The Armenia conference also addressed the challenges encountered by states in the implementation process and provided a platform to exchange experiences, network and promote effective international co-operation on the issues covered by the convention.

7. The COP will now compile a compendium of judgments implementing the convention’s provisions as well as instances of co-operation between parties on the basis of the Warsaw Convention, with a view to identifying issues which affect its implementation. A draft questionnaire/survey on the implementation of the convention is under preparation. It will also cover the difficulties countries face when implementing the provisions for which they have entered reservations. It is expected that a number of issues will be identified for further priority analysis, on a horizontal basis, by all states parties.

1. All of these provisions also apply to the financing of terrorism.

8. More horizontal reviews of implementation issues will be conducted in future alongside the cycle of individual country reports in order to ensure greater flexibility in responding to areas which may be more problematic for states.

9. The Warsaw Convention currently has 27 states parties.² It is time now for all Council of Europe member states and the European Union to ratify this convention, not only for its strategic role in countering money laundering, but also because of its importance today, especially in the fight against terrorism and the Council of Europe's Action Plan on the Fight against Violent Extremism and Radicalisation leading to Terrorism.

10. In order for the COP to effectively fulfil its important mandate, its secretariat should be properly resourced with at least one dedicated administrator working full time on COP issues within the MONEYVAL secretariat.

11. Further to the adoption of the FATF revised recommendations in February 2012, a minimalist revision of the convention was undertaken in respect of the required categories of predicate offences in the appendix to the convention. A more general review of the convention's provisions will be undertaken when a critical mass of Council of Europe member states has ratified the existing convention.

INTRODUCTION AND BACKGROUND

12. Money laundering directly threatens the rule of law. It provides organised crime with its cash flow and investment capital, and the incentive to commit more proceeds-generating crime. The Council of Europe's action against money laundering is thus central to the fight against organised crime and complements the Council of Europe's action against corruption, human trafficking and economic crime in general. Those who commit these offences all have one thing in common: they want to make a profit. Council of Europe action in this area aims to take the profit out of crime, to protect the international financial system and to protect our citizens against those who finance terrorism. This work, on the monitoring side, is conducted through two complementary mechanisms: MONEYVAL, which reports directly to the Committee of Ministers, and the COP to 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).

13. The Council of Europe was the first international organisation to address the importance of taking measures to combat the threats posed by money laundering for democracy and the rule of

2. France ratified the Warsaw Convention as the 27th state party on 8 December 2015.

law.³ The Council of Europe's engagement with this issue led to the negotiation and adoption, in 1990, of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141, the "Strasbourg Convention") and, in 2005, building on the Strasbourg Convention, the adoption of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198, the "Warsaw Convention").

14. The Warsaw Convention, which came into force on 1 May 2008, is the first comprehensive anti-money laundering treaty covering the prevention and repression of money laundering and the financing of terrorism, as well as international co-operation. It is therefore a key convention of the Council of Europe which needs to be ratified by all member states as it is specifically designed to enhance national capacities to fight money laundering and the financing of terrorism more effectively.

15. More specifically, this instrument:

- ▶ provides states with a clearer legal basis to prosecute third-party (or stand-alone) money laundering more successfully;
- ▶ equips states parties with stronger confiscation tools to deprive offenders of criminal proceeds, including measures for the management of seized or frozen assets;
- ▶ provides important investigative powers, including comprehensive measures to access banking information for domestic investigations and for the purposes of international co-operation;
- ▶ covers preventive measures, and the roles and responsibilities of financial intelligence units and the principles for international co-operation between financial intelligence units;
- ▶ requires states parties to take measures to permit urgent action to suspend or withhold consent to a transaction going ahead in order to analyse the transaction and confirm suspicion;
- ▶ applies all its provisions, including investigative powers, to financing of terrorism;
- ▶ requires that all the domestic investigative powers to access banking information under the convention should also be available for international co-operation purposes.

16. The Warsaw Convention, unlike the Strasbourg Convention, provides for a monitoring mechanism through a COP to ensure that its provisions are properly implemented.

3. Recommendation No. R (80) 10 on measures against the transfer and safekeeping of funds of criminal origin, adopted by the Committee of Ministers of the Council of Europe on 27 June 1980.

The convention

Origins

17. As noted, Recommendation No. R (80) 10 of the Committee of Ministers on measures against the transfer and safekeeping of funds of criminal origin paved the way for future international standards on money laundering.

18. The 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (the Strasbourg Convention), sought to facilitate international co-operation and mutual legal assistance in investigating crime and tracking down, seizing and confiscating the proceeds thereof. The Strasbourg Convention provides a full set of rules covering all stages of the procedure, from the first investigation to the imposition and enforcement of confiscation measures. It also allows for flexible but effective mechanisms of international co-operation in order to deprive criminals of the instruments and fruits of their illegal activities and provides a wide basis for the criminalisation of money laundering, through the introduction of an “all crimes” approach to money laundering criminalisation.

19. The Strasbourg Convention is ratified by all the Council of Europe member states and by Australia. Its ratification has been part of the European *acquis* for applicant members to the European Union. Notwithstanding the recognition which the Strasbourg Convention received, it did not address a number of issues, including measures related to the prevention of money laundering. By the end of the 1990s, it was recognised, by experts in MONEYVAL and beyond, that the Strasbourg Convention needed to be updated to reflect new developments, as well as the rapidly evolving international standards in this area (in the European Union, United Nations and the FATF) and the experience gained in the context of mutual evaluations by the FATF and MONEYVAL. The clear link between financing of terrorism and money laundering was recognised by the Committee of Ministers in 2001, when it extended MONEYVAL’s mandate to the financing of terrorism. The Strasbourg Convention therefore needed to be expanded to address the fight against terrorism financing. Furthermore, when the Strasbourg Convention was negotiated, Financial Intelligence Units (FIUs) were not a part of the anti-money laundering structures in Council of Europe member states. FIUs developed rapidly in the 1990s and, by the end of that decade, there was pressure to anchor their critical role and responsibilities in an international treaty.

20. For these reasons, in 2003, the European Committee on Crime Problems (CDPC) entrusted the Committee of Experts on the revision of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (PC-RM) to draft a protocol to the Strasbourg Convention. The PC-RM developed a text which both added to and modified provisions of the convention. Owing to the extent of the modifications envisaged and the enlargement of the scope of the treaty to include issues concerning the financing of terrorism, it was decided that this text should be a separate convention, rather than a protocol to the Strasbourg Convention. The convention was adopted by the Committee of Ministers on 3 May 2005 as CETS No. 198 and came into force on 1 May 2008.

21. In 2012, as part of the reform process of the Council of Europe, the Secretary General took stock of the Council of Europe’s conventions in a critical review of their relevance, with a view to providing the basis for decisions on follow-up, including measures to increase the visibility and the number of parties to relevant conventions. The report by the Secretary General on the review of Council of Europe conventions,⁴ issued in 2012, identifies the Warsaw Convention as a “key”⁵ Council of Europe convention.

Content

The Warsaw Convention builds on the successes of the Strasbourg Convention, thereby reinforcing the international anti-money laundering and combating the financing of terrorism (AML/CFT) standards as they stood after the adoption of the 2003 FATF recommendations. Even after the adoption of the revised FATF standards of 2012, the convention remains ahead of current international AML/CFT standards in several respects.

4. SG/Inf(2012)12, 16 May 2012.

5. For the purpose of this report it has been considered that key conventions are those identified as “core” treaties in Parliamentary Assembly of the Council of Europe (PACE) Resolution 1732 (2010) on reinforcing the effectiveness of Council of Europe treaty law and qualified as “important” by the Committee of Ministers in its reply to Parliamentary Assembly of the Council of Europe (PACE) Recommendation 1920 (2010) on the same topic, as well as those considered as key by steering committees during consultations prior to the elaboration of the report. The Warsaw Convention has been listed under Group 2 – “Conventions with fewer ratifications but considered as key”.

Overview of areas in which the Warsaw Convention has strengthened current international standards

Criminalisation of money laundering

- ▶ The predicate offences to money laundering have, as a minimum, to include the categories of offence found in the appendix to the convention, which puts the FATF requirements on this issue into an international legal treaty.
- ▶ It clarifies (and puts into a legally binding instrument) that a prior or simultaneous conviction for the predicate offence is not required.
- ▶ It allows for lesser levels of mental element (*mens rea*) for suspected money laundering.
- ▶ It clarifies that prosecutors do not have to establish a particular underlying predicate offence on a specific time and date in a prosecution for autonomous money laundering. This is important when seeking to prosecute stand-alone money laundering offences by those who launder on behalf of organised criminals and on behalf of other third parties.

Corporate liability

- ▶ Some form of liability for money laundering (whether criminal, administrative or civil) is now a mandatory requirement if committed for the benefit of the legal person by any natural person, acting either individually or as part of an organ of that legal person, who has a leading position within the legal person. The leading position can be assumed to exist in three alternative situations.
- ▶ The convention expressly covers the legal person's liability for money laundering in cases where lack of supervision or control of the natural person (referred to above) has made it possible to commit the offence.

International recidivism

- ▶ The convention requires the state to ensure that there is the possibility, when determining the penalty, to take into account final decisions taken in another state party against a natural or legal person.

Confiscation

- ▶ A new concept of "laundered property" has been introduced, in order to ensure that confiscation of the property involved in an autonomous money laundering offence is possible.
- ▶ Confiscation must be available for money laundering and offences contained in the appendix to the convention.
- ▶ Mandatory confiscation for some major proceeds-generating offences is contemplated.
- ▶ Reverse burden of proof is made possible for confiscation purposes. After a conviction for a serious offence, offenders are required to demonstrate the origin of alleged proceeds or other property liable to confiscation (to the extent that such a requirement is consistent with domestic law principles).
- ▶ There is a requirement to properly manage frozen or seized property.
- ▶ There is a requirement that priority consideration be given to returning assets, where requested, and concluding agreements in this respect.

Investigative powers or techniques

The provisions of the convention require that:

- ▶ courts/other competent authorities are empowered to order that bank, financial or commercial records to be available so that freezing, seizure and confiscation is possible;
- ▶ states should ensure that their competent authorities have the power to determine whether a natural/legal person holds an account and to obtain the details;
- ▶ states should ensure that their competent authorities have the power to obtain "historical" banking information;
- ▶ competent authorities have the power to conduct prospective monitoring of accounts;
- ▶ states should ensure that their competent authorities consider extending these powers to non-banking financial institutions.

International co-operation

States are required to:

- ▶ co-operate to the widest extent possible where assistance is requested in respect of non-conviction-based confiscation orders;
- ▶ provide international assistance in respect of requests for information on whether subjects of criminal investigations abroad hold or control accounts in the requested state party;
- ▶ provide international assistance in respect of requests for historical information on banking transactions in the requested party (may be extended to non-bank financial institutions);
- ▶ provide international assistance in relation to requests for prospective monitoring of banking transactions in the requested party (may be extended to non-bank financial institutions);
- ▶ provide for the possibility of direct communication prior to a formal request being sent.

International co-operation between financial intelligence units

- ▶ The convention includes detailed provisions on FIU co-operation, which is not subject to the same formalities as judicial co-operation.

Postponement of suspicious domestic transactions

- ▶ The convention requires states parties to take measures to permit urgent action in appropriate cases to suspend or withhold consent to a transaction going ahead in order to analyse the transaction and confirm the suspicion.

Postponement of suspicious transactions on request from a foreign financial intelligence unit

- ▶ States parties are required to adopt measures to permit urgent action to be initiated by a financial intelligence unit, at the request of a foreign financial intelligence unit, to suspend or withhold consent to a transaction going ahead.

Refusal and postponement of co-operation

- ▶ Provision is made to prevent the refusal of international judicial co-operation on grounds that the request relates to a political offence or to a fiscal offence when the request relates to financing of terrorism.
- ▶ Provision is made to prevent refusal of international co-operation by states which do not recognise self-laundering domestically on the grounds that, in the internal law of the requesting party, the subject is the author of both the predicate offence and the money laundering offence.

23. The convention benefits from the experience derived in the course of MONEYVAL's first two rounds and, as noted, provides for a monitoring mechanism, the COP, to ensure that its provisions are properly implemented.

Mandate and activities of the COP

24. Article 48 of the convention provides that the COP shall:

- a. monitor the proper implementation of the convention by the parties;
- b. at the request of a party, express an opinion on any question concerning the interpretation and application of the convention.

25. In order to fulfil its mandate, the COP adopted its rules of procedure at its first meeting in 2009. These have been supplemented by specific procedures regarding the operation of the COP in respect of its

responsibilities for the settlement of disputes between parties regarding the interpretation and application of the convention, as well as with respect to the formation and operation of any evaluation teams that may be required by the COP under Rule 19 of the rules of procedure. Both of these procedures were adopted at its second meeting in 2010. The COP has met in Strasbourg at least once a year since its inception.

26. Parties' implementation of the convention is firstly assessed against all the selected requirements of the convention and then, under a follow-up procedure, periodically re-assessed on their implementation of the identified deficiencies, taking into account the changes introduced since the last assessment and developing practice.

27. To assist the information-gathering process, template questionnaires on the implementation of the convention by a party and related follow-up measures have been adopted by the COP.

28. The monitoring procedure under the convention has been designed so as not to duplicate the work of MONEYVAL or the FATF; it therefore focuses on those parts of the convention that reinforce global standards. A draft report is prepared by the secretariat in conjunction with three rapporteurs (on legal aspects, the FIUs and international co-operation), based on the replies of the authorities to a detailed questionnaire. The draft report constitutes a “desk review” of the position of the party concerned, thus, in principle, does not entail an onsite visit. Finalised MONEYVAL and FATF reports are drawn upon where necessary.

29. If the COP decides that there are significant concerns about the quality of the information provided in the draft report, or about the implementation of the convention’s provisions by the party concerned and that it requires further information in the discharge of its functions, it liaises with the state party, taking advantage, if so required, of the procedure and mechanism of MONEYVAL. The party concerned reports back to the COP which will decide whether or not to carry out a more in-depth assessment of the position of the party, including through an onsite visit by the evaluation team.

30. Further to a revision of its rules of procedure⁶ in 2012, the COP has instituted a follow-up mechanism, based on the replies provided by the authorities to a questionnaire 18 months after the adoption of the COP’s report. The secretariat, assisted by a country rapporteur, prepares a written analysis of the progress made by the assessed party to meet the identified deficiencies and submits it to the COP for discussion.

31. In order to promote the convention and familiarise experts with its provisions, the COP also organises training seminars, conferences and other awareness-raising activities.

Members, participants and observers

Members

32. According to Rule 1 of the rules of procedure, the members of the COP are representatives of the member states and entities that are parties to the convention⁷ and other states that have acceded to the convention.⁸ Participation in the Warsaw Convention and the conference is not exclusively limited to member states of the Council of Europe, the non-member states which have participated in its elaboration and the European Union. Since its entry into force in 2008, the convention has been also open for accession by other non-member states, provided that they have been formally invited to accede by the Committee of Ministers of the Council of Europe.

6. See paragraphs 30 to 36 of Rule 19.

7. See Article 49, paragraph 1, of the convention.

8. See Article 50.

33. The convention is now in force in the following 26 countries:

Parties to the convention	
Albania	Netherlands
Armenia	Poland
Belgium	Portugal
Bosnia and Herzegovina	Romania
Bulgaria	San Marino
Croatia	Serbia
Cyprus	Slovak Republic
Georgia	Slovenia
Hungary	Spain
Latvia	Sweden
Malta	“The former Yugoslav Republic of Macedonia”
Republic of Moldova	Ukraine
Montenegro	United Kingdom

Signatories

34. The following 12 countries/international organisations have signed but not ratified the convention:

Signatories	
Austria	Greece
Denmark	Iceland
Estonia	Italy
European Union	Luxembourg
Finland	Russian Federation
France	Turkey

35. The European Union became a signatory to the Warsaw Convention on 2 April 2009. A number of issues require clarification before ratification is possible, including voting rights and the areas in which the EU would have exclusive competence to act on behalf of its member states.

Participants

Participants in the COP shall be representatives of:

- ▶ states and entities referred to in Article 49, paragraph 1, of the convention which have signed but not yet ratified the convention;
- ▶ states or entities which have ratified or acceded to the convention but in respect of which it has not yet come into force;
- ▶ other member states of the Council of Europe;
- ▶ states having observer status with the Council of Europe;
- ▶ the Committee of Ministers of the Council of Europe;

- ▶ the Parliamentary Assembly of the Council of Europe;
- ▶ the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL);
- ▶ the European Committee on Crime Problems (CDPC);
- ▶ the Group of States against Corruption (GRECO);
- ▶ the FATF; and
- ▶ the Eurasian Group (EAG).

37. Participants in the COP do not have the right to vote.

Observers

38. The COP or its bureau may, on a permanent or ad hoc basis, authorise international governmental organisations, including the United Nations, the Organisation for Security and Co-operation in Europe (OSCE), the International Monetary Fund, the World Bank, the Egmont Group and Interpol, to send representatives to its meetings as observers without the right to vote, or defrayal of their expenses.

Accession of states which are not members of the Council of Europe

39. The convention is also open for accession by non-member states which have not participated in its elaboration, provided that they have been formally invited to accede by the Committee of Ministers of the Council of Europe. In principle, the Committee of Ministers may take the initiative of inviting a non-member state to accede to a specific convention. It is nevertheless customary for the non-member state to request accession in a letter addressed to the Secretary General of the Council of Europe. Before taking a decision in respect of a request for accession to a Council of Europe convention, the Committee of Ministers consults member states and states not members of the Council of Europe which are parties to the convention in question. The decision on whether or not to issue an invitation has to be unanimously agreed by those Council of Europe member states which are parties to the convention. Then, an invitation to accede to the convention is notified to the state concerned by the Secretariat General.

40. In November 2012, the Committee of Ministers invited Morocco to accede to the Warsaw Convention. Morocco has accepted this invitation and is in the process of evaluating the implications of ratification.

Governance

41. According to Rules 3 and 4 of the rules of procedure, the COP elects from among its parties, for a two-year mandate, a president and vice-president, as

well as three other members, for a term of office of one year, who together constitute the bureau. The bureau assists the president and ensures the preparation of meetings and continuity between meetings. The current bureau (elected in October 2014) is composed as follows:

COP Bureau in 2014/2015 ⁹	
President	Mrs Eva Rossidou-Papakyriacou (Cyprus)
Vice-president	Mr Branislav Bohacik (Slovak Republic)
Bureau members	Mr Vitaliy Beregivskiy (Ukraine) Ms Donatella Frendo Dimech (Malta) Mr Sorin Tanase (Romania)

42. Previous elected bureau members included representatives from Armenia, the Republic of Moldova, Romania and Ukraine.

43. According to Rule 5, the COP is assisted by a secretariat provided by the Council of Europe. John Ringguth, Executive Secretary to MONEYVAL, has also undertaken the role of Executive Secretary of the COP since its first meeting in 2009.

Scientific experts

44. During its 2010 meeting, the COP discussed the need for the appointment of at least one scientific expert. Under Rule 12, the COP invited the Executive Secretary to commission the services of one or more scientific experts.

45. The function of the scientific experts is to provide neutral, experienced opinions where necessary and to assist the chair and secretariat in ensuring the consistency of the COP's outputs. This includes fulfilling a quality control function for draft mutual evaluation reports, attending COP meetings and enriching debates with their experience and knowledge.

46. Mr Paolo Costanzo (Italy) was appointed as scientific expert to the COP in 2012.

Gender balance

47. The COP, conscious of the importance of ensuring a gender balance within its committee and in line with the Council of Europe's Strategy on Gender Equality

9. Note that the COP elected, at its 7th meeting (5-6 November 2015), a new Bureau which is composed as follows: Mr Branislav Bohacik (President, Slovak Republic), Mr Jean-Sébastien Jamart (Vice-President, Belgium), Mr Besnik Muci (Albania, Bureau member), Ms Ani Melkonyan (Armenia, Bureau member) and Mr Sorin Tanase (Romania, Bureau member).

2014-2017,¹⁰ had 31 female delegates, out of a total of 55 delegates in the COP plenary meeting in 2014. A gender rapporteur has not so far been appointed but the next COP plenary will consider this issue.¹¹

MONITORING OF THE IMPLEMENTATION OF THE CONVENTION BY THE CONFERENCE OF THE PARTIES

Assessments and follow-up reports

48. The COP decided that the order of assessments would primarily follow the order of the date of ratification, and where several countries have ratified the convention on the same day, they would be assessed in alphabetical order. A provisional calendar of assessments has been agreed, which provides the dates of the assessments of all parties. The calendar also takes into account the dates of assessment scheduled by MONEVAL and the FATF (see Appendix 2).

49. Since its inception, the COP has adopted seven country reports and two follow-up reports as follows¹²:

	COP Assessments	COP Follow-up Report
2011	Albania	
2012	Romania	
2013	Croatia Poland	Albania
2014	Malta Republic of Moldova Montenegro	Romania

10. The Council of Europe Strategy on Gender Equality 2014-2017 was adopted in November 2013 by the Committee of Ministers. The overall goal of the strategy is to achieve the advancement and empowerment of women and, hence, the effective realisation of gender equality in Council of Europe member states. To this end, the strategy promotes a holistic and integrated approach to gender equality and provides policy guidance and support to Council of Europe member states, as well as internal institutional bodies and mechanisms to tackle old and new challenges in implementing standards in the area of gender equality. Co-operation and synergies were reinforced with the various steering committees and monitoring mechanisms to ensure an integrated approach and introduce a gender equality perspective in all policies and at all levels. Gender Equality Rapporteurs (GERs) have been appointed in all steering committees, other institutional bodies and in some of the monitoring mechanisms.

11. Note that the COP appointed, at its 7th meeting (5-6 November 2015), Ms Liljana Kaci (Albania) as gender rapporteur for the COP.

12. Note that, at its 7th meeting (5-6 November 2015), the COP adopted the assessment report on Bosnia and Herzegovina.

Dual COP evaluations with MONEVAL or FATF

50. In order to address member states' concern that co-ordination and co-operation of monitoring bodies should be strengthened wherever possible, and to enhance its evaluations, the COP examined the feasibility of making greater use of MONEVAL and FATF procedures to clarify issues related to the Warsaw Convention.

51. In 2012, the COP and MONEVAL agreed to pilot new procedures whereby the COP could benefit from MONEVAL processes. Under this procedure, whenever possible, questions by the secretariat on the implementation of convention requirements have been raised during MONEVAL on-site visits so that this information can be used in COP reports.

52. The evaluations carried out in this way have proved to be successful thus far and the results encouraging both for MONEVAL, the COP and the countries evaluated. In addition to the added value brought to COP and MONEVAL reports, conducting the two processes in parallel has minimised the duplication of effort by the country and "monitoring fatigue".

53. A similar collaborative arrangement has been agreed with the FATF in order to raise issues on the implementation of convention requirements during FATF on-site visits in states which have ratified the Warsaw Convention. Subject to the agreement of the state concerned, it was agreed that a member of the COP secretariat would join the FATF delegation during the on-site visit and attend relevant meetings in order to address certain aspects specific to the Warsaw Convention. Belgium served as a pilot to test this co-operation and a member of the COP and MONEVAL secretariat participated in the 2014 FATF 4th round assessment in Belgium.¹³ The COP and the FATF agreed that following this evaluation visit, the two mechanisms would take stock of the experience and decide whether the scope and process for this co-operation should be detailed either in the respective rules of procedure of each monitoring body or otherwise through an exchange of letters.

Horizontal review of the provisions of the Warsaw Convention which strengthen the current international standards

54. This brief horizontal review takes into account the findings of the first country assessment reports¹⁴ and of the progress reports adopted by the COP. It provides a short overview of the assessed parties' state of compliance with those provisions of the

13. The FATF report was discussed and adopted in February 2015.

14. With the exception of the assessment report on Montenegro.

Warsaw Convention which strengthen the current international standards. The findings of the follow-up reports are encouraging and highlight states parties' willingness to meet the standards of the convention. Overall it appears that most states parties that have been assessed so far have (or consider that they have) legal systems which can accommodate most, but not all of the convention's provisions. It is also encouraging that some of the reservations originally entered are being reviewed or lifted, since discussions on reservations and declarations have become a regular item on COP agendas. That said, on the basis of the early reports adopted, it seems clear that not all states are using the new tools provided by the convention sufficiently to achieve the better results which the drafters had envisaged.

55. With regard to the convention's provisions on the **criminalisation of money laundering**, the COP welcomed the fact that three out of six states parties have explicitly provided for the lesser levels of mental elements of either suspicion, negligence or both as permitted by Article 9, paragraph 3, of the convention. With the exception of one country, all the categories of offences included in the appendix to the convention were considered to be predicate offences to money laundering (Article 9, paragraph 4). In four out of six assessed states prior or simultaneous conviction for the predicate offence was not a prerequisite for a conviction for money laundering under the law in accordance with Article 9, paragraph 5, of the convention. A recommendation on this issue to Romania was made in the first report, and compliance with this recommendation was demonstrated in the follow-up report by reference to a recent decision of the Court of Cassation of Romania on this point. It is to be noted, however, that at least with respect to three states, the understanding by prosecutors and judges of the important principle underlying Article 9, paragraph 5, remains yet to be demonstrated or confirmed by judicial practice. In relation to Article 9, paragraph 6, providing that a prosecutor in a money laundering prosecution does not have to establish a particular predicate offence on a particular date, half of the assessed states now comply with this important standard. It is very encouraging that in two out of three of these states compliance was achieved and noted in the context of the follow-up report further to a recommendation made in the first assessment report. In the remaining states, however, inability to define a particular predicate offence is still a cause for the termination of many money laundering proceedings and the need for prosecutorial guidance and/or training in this respect was noted. It is also necessary for more countries to challenge their courts with such cases with reference to the convention's provision on this issue.

56. All assessed states provided under their laws some form of **corporate liability in relation to**

money laundering, in compliance with Article 10, paragraphs 1 and 2, of the convention. However, in almost all cases, the effective implementation of this provision was questioned due the absence or low number of investigations, indictments and convictions. Recommendations to issue guidance to prosecutors and the judiciary on how to use corporate liability mechanisms were therefore issued in almost all reports.

57. Regarding Article 11 on **international recidivism**, with the exception of one country, all assessed parties were in a position to take into account final decisions taken by another party in relation to offences established in accordance with the Warsaw Convention.

58. Turning to the important provisions on **confiscation** (Article 3), almost all of the country reports identified shortcomings with respect to the effectiveness of the seizure and confiscation regimes, which clearly remained underused. Likewise, almost all countries were advised to improve the recording of statistics in order to demonstrate their effectiveness in this area more clearly. Furthermore, the breadth of the confiscation provisions was not always fully in line with the scope of Article 3, paragraph 1. Notably, instrumentalities used or intended for use to commit a criminal offence appear not to be liable to confiscation in three out of six countries; instrumentalities belonging to third persons are beyond the scope of confiscation in two countries; likewise, confiscation of the laundered property (when money laundering is prosecuted as a stand-alone offence) was not clearly provided for in two countries.

59. One of the areas which was contentious at the drafting of the convention was the inclusion of a provision, now reflected in Article 3, paragraph 4, requiring that after conviction, it be permissible, for a serious offence or offences, for the burden of proof to be reversed in order to require offenders to demonstrate the origin of alleged proceeds or other property liable to confiscation (to the extent that such a requirement is consistent with the principles of its domestic law). The obligation in the convention is in mandatory terms, but a declaration is allowed under Article 53, paragraph 4. In reviews of the declarations made under the convention, which are regularly conducted in COP meetings, it has been noted that two thirds of the ratifying states now accept the principle of reverse burdens of proof for confiscation purposes in serious cases after a conviction. This approach, which is in line with the case law of the European Court of Human Rights,¹⁵ is also very positive from the effectiveness of implementation of confiscation regimes if the profitability of crime is to be reduced. Article 3, paragraph 4, should be used more regularly.

15. *Phillips v. the United Kingdom*, No. 41087/98, 5 July 2001.

60. With the exception of one country, all assessed parties had a general legal framework in place or had taken a number of measures for the **management of frozen or seized property**. In all cases, however, further implementation measures and guidance as to how different types of property should be managed were needed in order to avoid their deterioration of these tools.

61. As concerns **investigative powers and techniques**, only the reports on Malta and Poland indicated that the legislation was broadly in line with the requirements of Article 7. In both of these cases, however, it did not appear that the powers provided for in the convention were being used regularly in investigations of proceeds-generating crimes. In four out of six assessed states, the reports found that no legislative or other measures were in place to enable the monitoring during a specified period of banking operations. However, this deficiency was found to have been remedied both by Albania and Romania at the time of their follow-up reports. Three countries were found not to have transposed the prohibition of “tipping off” bank customers or third parties. Two countries were found to be deficient in relation to Article 7, paragraph 1, on access to information, although this deficiency was found to have been remedied by Romania at the time of its follow-up report.

62. On **international co-operation** under Article 23, paragraph 5, of the convention, in five out of six countries it was either unclear whether it was possible or not, under domestic legislation, to execute measures equivalent to confiscation leading to the deprivation of property, in cases where there were not any criminal sanctions (this deficiency was remedied by Romania at the time of its follow-up report). In Croatia, although legislation does not prevent the country from enforcing non-conviction based confiscation, there was no evidence of effective implementation. As concerns Article 25, paragraphs 2 and 3, no country was found to have entered into agreements or arrangements on asset sharing, though this deficiency was found to have been remedied by Romania at the time of its follow-up report. Albania, the Republic of Moldova and Romania (at the time of its follow-up report) were found to be in a position under their law to return confiscated property to the requesting party, for compensation to the victims or return it to its lawful owner.

63. As concerns **investigative assistance**, most countries' legal frameworks provide for the possibility to answer requests for information on bank accounts as per Article 17 of the convention. Of the countries evaluated so far, only Romania's legal framework did not entirely comply with the standard as it imposes

conditions not provided for by the convention in the context of European co-operation. All countries were found to comply with Article 18 on requests for information on banking transactions. As for Article 19 on requests for the monitoring of banking transactions, three countries were found not to comply entirely with the standard. Poland did not have provisions to ensure that monitoring of banking transactions is possible at the request of a party; Albania did not provide for such monitoring for all predicate offences – only in relation to money laundering/financing of terrorism, whereas in Malta a request from a foreign authority for a monitoring order to be issued in the context of a predicate offence would be more restricted than a similar request in the case of a money laundering offence.

64. With the exception of the Republic of Moldova, all countries provided for the possibility of **direct communication** either under their laws or by matter of practice. In all these cases, the COP found that Article 34 was effectively applied.

65. As for **international co-operation between FIUs**, for three states the rules and manner in which their FIUs operate were found to be in line with the requirements of Article 46. Gaps in the implementation of Article 46 were identified in respect of Albania, the Republic of Moldova and Poland, particularly with regard to paragraphs 6 and 12 (respectively on refusal to divulge information and feedback on the use of the information transmitted), but also, for Albania and Poland, with respect to paragraphs 8 and 9 (on restrictions on the use of information and use of transmitted information for criminal investigations).

66. All states under review were found by the COP to comply with the requirements under Article 14 on the **postponement of domestic suspicious transactions**. In four out of six countries, the postponement was limited to cases where a suspicious transaction report has been submitted.

67. The **postponement of transactions on behalf of foreign FIUs** (under Article 47 of the Warsaw Convention) is provided for by the law in all states under review, with the exception of Albania and Malta (at the time of the assessment).

68. As concerns **refusal and postponement of co-operation** as provided for under Article 28, it appeared that all countries would grant international co-operation in cases of self-laundering offences, as well as cases of terrorist financing which also involve fiscal or political offences. However, this was not provided *expressis verbis* in the legislation of three countries, thus recommendations were made to these countries to provide meaningful statistics on the practice of international co-operation in these areas.

TRAINING AND AWARENESS-RAISING ACTIVITIES

Training of rapporteurs

69. To ensure the quality and consistency of its assessments, the Secretariat of the COP organises on a biennial basis training workshops for selected experts from states parties, so that they can act as rapporteurs for the COP assessments. These training events are essential in order to enable the COP to adequately fulfil its mandate under Article 48 of the Warsaw Convention. The active participation of all states parties to the process guarantees the mutuality of the assessment procedure. Thus for each training event, all states parties are invited to nominate experts for inclusion in a selection pool, covering each one of the three areas which are evaluated by the COP, namely (1) legal requirements of the convention; (2) international judicial co-operation issues; (3) functioning of FIUs.

70. During the training programme, rapporteurs are familiarised with the relevant provisions of the convention, the process and procedures of the COP and their role and contribution to the assessment process. Training consists of both theoretical modules and practical exercises, so that rapporteurs can test their understanding and knowledge of the aspects covered in the context of an assessment by the COP and be faced with issues and challenges arising in this process. On the last day of the training session, they are required to present their preliminary findings on the implementation of the convention by a fictitious state party and exchange views on a number of legal and practical issues arising in this context.

Dates	COP training sessions	Trained rapporteurs
16-17 June 2010	First session	20 rapporteurs: Albania (1), Armenia (1), Croatia (2), Cyprus (1), Hungary (1), Latvia (1), Malta (2), Republic of Moldova (2), Poland (1), Portugal (1), Romania (1), Serbia (2), Slovak Republic (1), Slovenia (1), Spain (1), "the former Yugoslav Republic of Macedonia" (1)

3-4 October 2013	Second session	20 rapporteurs: Albania (2), Armenia (3), Bosnia and Herzegovina (1), Cyprus (1), Croatia (1), Hungary (1), Republic of Moldova (2), Poland (1), Portugal (1), Romania (2), San Marino (1), Serbia (1), Slovenia (1), "the former Yugoslav Republic of Macedonia" (1), Ukraine (1)
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71. As noted above, unfortunately not all states parties have yet nominated national experts to be trained as rapporteurs for the COP. The COP has thus sometimes suffered from a shortage of available experts, notably in the area of judicial co-operation.

72. At its sixth meeting, the COP decided that a training of rapporteurs would be held in 2015. This training took place in Strasbourg from 15 to 16 July.

Awareness-raising activities

73. Representatives of the COP presidency, the Executive Secretary and other members of the Council of Europe Secretariat have participated in numerous events addressing various aspects of the convention and its added value, including:

- ▶ April 2009: Sub-Committee on Home Affairs of the Select Committee on the European Union of the House of Lords (UK) inquiry into EU and international co-operation to counter money laundering and the financing of terrorism (United Kingdom);
- ▶ June 2009: 10th Eurasian Group Plenary meeting and consultations with parliamentarians (Russian Federation);
- ▶ November 2009: Expert meeting on confiscation and asset recovery (European Commission, Brussels, Belgium);
- ▶ March 2010: Fourth meeting of the EU Informal Asset Recovery Platform (Brussels, Belgium);
- ▶ December 2010: Council of Europe Conference on Prevention of Terrorism: Prevention tools, legal instruments and their implementation (Istanbul, Turkey);
- ▶ September 2012: 20th OSCE Economic and Environmental Forum (Prague, Czech Republic);
- ▶ October 2012: High Level Conference on Asset Recovery (Cyprus);

- ▶ November 2012: Special Committee on Organised Crime, Corruption and Money Laundering (CRIM) (European Parliament, Brussels);
- ▶ July 2014: Council of Europe Conventions Information Seminar (Jerusalem, Israel);
- ▶ November 2014: PC-OC special session on international co-operation as regards the seizure and confiscation of proceeds of crime, including the management of confiscated goods and asset sharing (Strasbourg, Council of Europe).

74. From 30 September to 2 October 2013, the COP organised for the first time in Dilijan, in co-operation with the Armenian authorities, a specific awareness-raising conference on the Warsaw Convention – From Signature to Ratification, Implementation and Enforcement: Meeting the Challenges. The objectives of the awareness-raising conference were threefold: to raise awareness among relevant practitioners of the provisions of the convention and its added value and encourage states to sign and ratify this instrument; to hold an informed discussion about the actions required and related challenges in the implementation process; and to exchange experiences, network and promote effective international co-operation on the issues covered by the convention. Some 17 participants from 11 states and one international organisation attended this event: five signatories to the convention and six non-signatories, including four states that are not members of the Council of Europe (Israel, Kazakhstan, Morocco and Tajikistan) were represented. The Secretariat of the COP received both orally and in writing very positive feedback from the participants and the speakers, who indicated that the conference went far beyond their expectations. The excellent presentations provided by the speakers on various aspects of the convention, and the valuable insights from states parties' experiences in implementing the convention's provisions were key to achieving the objectives set for this event. During the conference, the secretariat received information indicating that the ratification process was well advanced in the Russian Federation and well under way in Estonia and in some other signatory countries. Furthermore, very encouraging signals indicating a strong interest in signing and/or ratifying the convention were provided by non-signatory states such as Israel, Monaco and Kazakhstan and by signatories such as Italy. Sincere thanks go out to the Armenian authorities for hosting this successful event.

RECENT DEVELOPMENTS

Review of the convention following the revision of the FATF recommendations

75. Further to the adoption of the FATF revised set of recommendations in February 2012, the scientific expert to the COP prepared an analysis on the

possible implications of the revised standards for the convention. In the light of this analysis, the COP instructed the secretariat to assess the possibility of initiating a "fast track" amendment procedure¹⁶ under Article 54, paragraph 6, of the convention in respect of the categories of predicate offences contained in the appendix to the convention, in order to bring them into line with the revised FATF recommendations; and Article 13 of the convention in relation to preventive measures. The secretariat was also to consider whether any other inconsistencies between the convention and the revised FATF recommendations should be considered under the general amendment procedure at this time.

76. The analysis highlighted the need to introduce smuggling (understood as including offences related to excise duties and taxes) and tax crimes under the categories of offences contained in the appendix to the convention through the fast track procedure, in order to bring the convention in line with evolving FATF standards. It also concluded that there was no immediate need to amend Article 13 of the convention and that, although international co-operation provisions under the convention presented inconsistencies with the revised FATF recommendations, the time was not right to consider a more general review of the convention's provisions, at least until a critical mass of Council of Europe member states had ratified the existing convention, and the outcome of negotiations at the European Union level.

77. The COP decided to undertake a minimalist revision of the convention, making use of the "fast track" amendment procedure under Article 54, paragraph 6, which was inserted by the drafters anticipating that there could be a need to amend the categories of predicate offences in the appendix to the convention quickly to keep in step with evolving FATF and other international standards.

78. The Government of Cyprus transmitted to the Secretary General of the Council of Europe, by a letter dated 2 July 2014, a proposition for amending the list of designated categories of offences constituting the convention's appendix. None of the states parties has objected to the amendment of the appendix as proposed by Cyprus.

79. These amendments were notified to all contracting and signatory states on 24 October 2014 and were expected to come into force on 24 October 2015, by application of Article 54 of the convention. In

16. Article 54 of the Warsaw Convention contains a simplified ("fast track") amendment procedure, in order to take into account the fact that Article 13 of the convention refers to existing international standards (the FATF recommendations) which may evolve with time and that the convention contains an appendix with a list of categories of offences which is textually taken from the glossary to the FATF recommendations which may also evolve with time.

future meetings, the COP can consider whether it wishes to propose an amendment along the lines of the provision in Article 18, paragraph 22¹⁷ of the United Nations Convention against Transnational Organized Crime (Palermo Convention) with regard to the fiscal excuse, under the lengthier amendment procedure in Article 54, paragraphs 1 to 5, of the Warsaw Convention,¹⁸ or wait until it is timely to consider a wider review of the convention through an amending protocol.

Compendium of judgments and survey on the implementation of the convention

80. The COP has decided to invite all parties to provide to the secretariat details of judgments implementing the convention's provisions as well as cases of co-operation between parties on the basis of the Warsaw Convention, with a view to preparing a compendium and to more closely identifying issues which affect the implementation of the convention. Moreover, it is intended that the next COP meeting should consider circulation of a draft questionnaire/survey on the implementation of the convention, which is under preparation. This questionnaire is expected to identify a number of issues for further priority analysis on a horizontal basis by all states parties. This will include the difficulties countries face when implementing the provisions for which they have entered reservations. It is anticipated that more horizontal reviews of implementation issues will be conducted alongside the cycle of individual country reports in future.

Review of declarations and reservations

81. The convention allows states to make declarations and reservations in respect of a series of substantive provisions. The number of countries which have made use of reservations (as opposed to declarations) is rather low. Some six countries have not made any declaration or reservation in respect of its substantive provisions: Albania, Belgium, Bosnia and Herzegovina, Montenegro, Serbia and Spain. San Marino removed and changed a number of its reservations and declarations in 2013. At its fifth meeting, the COP invited all parties to review their reservations and declarations in order to remove those that are no longer necessary. To this end, the COP decided to broaden the planned survey on the implementation of the convention in order to include questions on the difficulties the countries

17. This provides that: "States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters."

18. The timescale for an outcome under this procedure is much less certain and it may well be better, at the appropriate time, to consider a wider review of the convention with a view to an amending protocol.

face when implementing the provisions in respect of which they have entered reservations. The questionnaire shall also include questions with regard to several articles, which were defined as key to the added value of the convention: reverse burden of proof for confiscation (Article 3, paragraph 4); monitoring of bank accounts (Article 7, paragraph 2); conviction for money laundering without establishing precisely the predicate offence (Article 9, paragraph 6); postponement of transactions at the request of a party (Article 47); and provision of information by the requested FIU without a formal request (Article 46, paragraph 5).

RESOURCES

82. The workload for the COP is handled by one of the two teams of the MONEYVAL secretariat. In practice no administrator in that team has the possibility to work full time on COP issues. Priority has to be afforded to MONEYVAL's intensive programme of monitoring and follow-up, given its high international profile (and its own resourcing problems). The lack of a dedicated administrator for the COP has not been a significant problem while the number of states parties remains low. It will become a real issue when the majority of Council of Europe member states joins this convention, as is anticipated. In this context it is noted that the Secretary General has recently written to those states that have not yet signed or ratified this convention encouraging them to do so rapidly in the context of the importance of this convention in the fight against terrorism and the Council of Europe's work on extremism and radicalisation. It is considered therefore that the convention should have at least one dedicated administrator assigned, who has had experience of MONEYVAL evaluations, so that all the necessary linkages with the MONEYVAL process and the global standards which MONEYVAL evaluates can be made in COP work.

WAY FORWARD AND CONCLUSIONS

83. The Warsaw Convention is a key convention containing important provisions for fighting money laundering more effectively and combating the financing of terrorism. In particular its investigative provisions (which need to be available both domestically and for international co-operation) are critical for successful money laundering investigations, prosecutions and convictions and the achievement of deterrent confiscation orders, and in the fight against financing of terrorism. All Council of Europe member states that have not done so should ratify this convention quickly. We also look forward to the European Union's ratification now that work on the 4th EU Directive has been completed.

84. From the limited number of assessments concluded so far it is clear that most countries are

largely incorporating the convention's provisions into their legal frameworks or else generally consider that their systems can accommodate its provisions. Nevertheless, more work needs to be done to ensure that the convention's provisions are used effectively in the way that they were intended – to assist in the investigation, prosecution and conviction of serious money laundering cases, particularly those third parties who launder on behalf of others (including organised crime) and in obtaining serious deterrent confiscation orders, using the provisions of Article 3.

85. The COP is seeking to sharpen its reports wherever possible by inclusion of COP issues in MONEYVAL on-site visits and it is hoped that the collaboration with the FATF in their evaluations of states parties

described in this report will be formalised after the success of the Belgian pilot of these arrangements in 2014-2015.

86. With more ratifications of the convention, the profile of the COP monitoring mechanism should rise considerably. More resources are needed for the COP to ensure that:

- ▶ its evaluation cycle can be speeded up;
- ▶ greater priority is given to horizontal assessments of all states parties' implementation of key issues in the convention and areas which may be problematic for states;
- ▶ full consideration of necessary amendments to the convention which cannot be achieved through the fast track procedures.

Eva Rossidou-Papakyriacou

President of the Conference of the Parties to the Warsaw Convention

John Ringguth

Executive Secretary to the Conference of the Parties to the Warsaw Convention and MONEYVAL

July 2015

APPENDIX

SIGNATURES AND RATIFICATIONS OF THE WARSAW CONVENTION (CETS No. 198)

Opening for signature

Place: Warsaw
Date: 16/05/2005

Entry into force

Conditions: 6 ratifications
including at least 4 member states
Date: 1/5/2008

Status as of: 30/03/2016

Member states of the Council of Europe

States	Signature	Ratification	Entry into force
Albania	22/12/2005	6/2/2007	1/5/2008
Andorra			
Armenia	17/11/2005	2/6/2008	1/10/2008
Austria	16/5/2005		
Azerbaijan			
Belgium	16/5/2005	17/9/2009	1/1/2010
Bosnia and Herzegovina	19/1/2006	11/1/2008	1/5/2008
Bulgaria	22/11/2006	25/2/2013	1/6/2013
Croatia	29/4/2008	10/10/2008	1/2/2009
Cyprus	16/5/2005	27/3/2009	1/7/2009
Czech Republic			
Denmark	28/9/2012		
Estonia	7/3/2013		
Finland	16/12/2005		
France	23/3/2011	8/12/2015	1/4/2016
Georgia	25/3/2013	10/1/2014	1/5/2014
Germany	28/1/2016		
Greece	12/10/2006		
Hungary	14/4/2009	14/4/2009	1/8/2009
Iceland	16/5/2005		
Ireland			
Italy	8/6/2005		
Latvia	19/5/2006	25/2/2010	1/6/2010
Liechtenstein			
Lithuania	28/10/2015		
Luxembourg	16/5/2005		
Malta	16/5/2005	30/1/2008	1/5/2008

States	Signature	Ratification	Entry into force
Moldova	16/5/2005	18/9/2007	1/5/2008
Monaco			
Montenegro	16/5/2005	20/10/2008	1/2/2009
Netherlands	17/11/2005	13/8/2008	1/12/2008
Norway			
Poland	16/5/2005	8/8/2007	1/5/2008
Portugal	16/5/2005	22/4/2010	1/8/2010
Romania	16/5/2005	21/2/2007	1/5/2008
Russia	26/1/2009		
San Marino	14/11/2006	27/7/2010	1/11/2010
Serbia	16/5/2005	14/4/2009	1/8/2009
Slovakia	12/11/2007	16/9/2008	1/1/2009
Slovenia	28/3/2007	26/4/2010	1/8/2010
Spain	20/2/2009	26/3/2010	1/7/2010
Sweden	16/5/2005	23/6/2014	1/10/2014
Switzerland			
“The former Yugoslav Republic of Macedonia”	17/11/2005	27/5/2009	1/9/2009
Turkey	28/3/2007		
Ukraine	29/11/2005	2/2/2011	1/6/2011
United Kingdom	29/9/2014	27/4/2015	1/8/2015

Non-member states of the Council of Europe

States	Signature	Ratification	Entry into force
Canada			
Holy See			
Japan			
Mexico			
Morocco			
United States of America			

International organisations

	Signature	Ratification	Entry into force
European Union	2/4/2009		

Total number of signatures not followed by ratifications:	12
Total number of ratifications/accessions:	27

Source: Council of Europe Treaty Office at <http://conventions.coe.int>

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) is the first international treaty covering both aspects of prevention and control of money laundering and the financing of terrorism. Its provisions are a sound basis for international co-operation and mutual assistance in investigating crime and tracking down, seizing and confiscating the proceeds thereof. The Conference of the Parties to CETS No. 198 is the convention-based mechanism responsible for monitoring the proper implementation of the convention by its parties, and for expressing any opinion concerning the interpretation and application of the convention.

www.coe.int

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law.

The European Court of Human Rights oversees the implementation of the Convention in the member states.