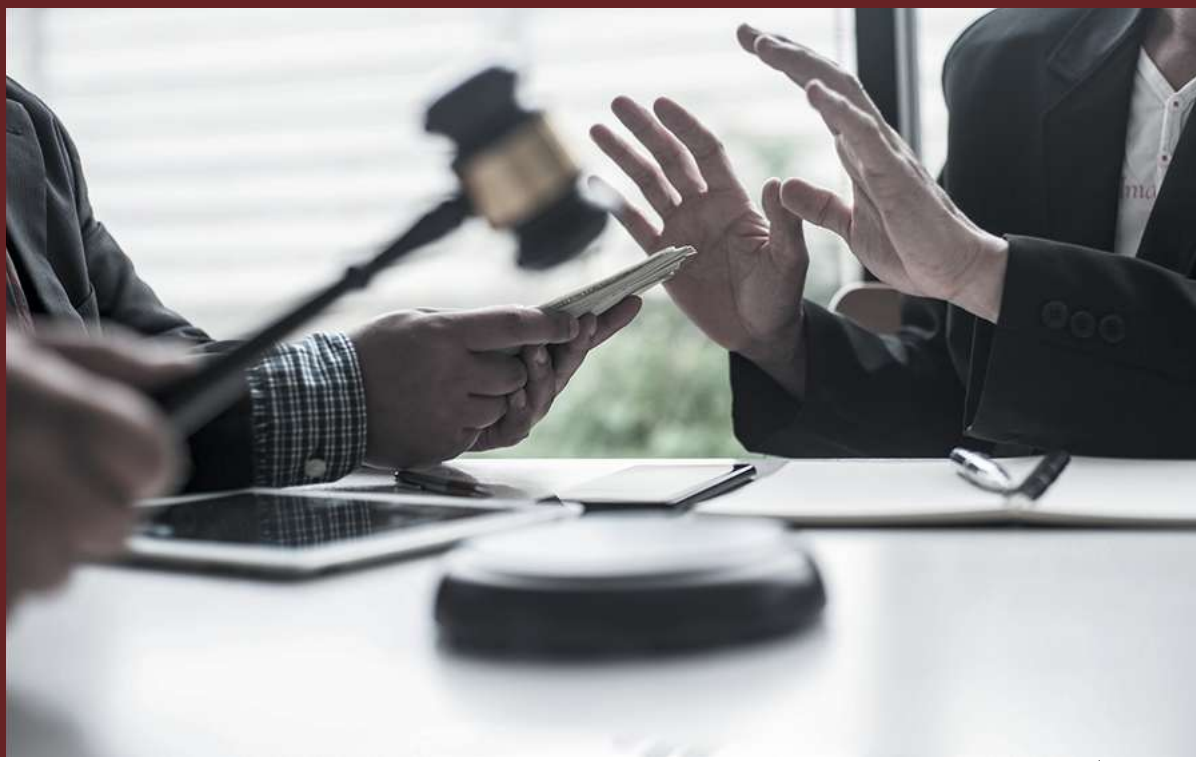
CONFERENCE OF THE PARTIES TO CETS No. 198



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

Third activity report

covering the period 2018-2020

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

CONFERENCE OF THE PARTIES TO CETS No. 198

Third activity report (2018-2020)

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

Council of Europe

French edition:
Conférence des parties à la STCE nº 198 – Troisième rapport d'activité (2018-2020)

Cover photo: Council of Europe

Cover and layout: Documents and Publications Production Department (SPDP), Council of Europe

Printed at the Council of Europe

Contents

List of abbreviations

AML	Anti-money laundering
CARIN	Camden Asset Recovery Inter-Agency Network (EU)
CDPC	European Committee on Crime Problems
CETS 141	1990 Council of Europe Convention on Laundering, Search Seizure and Confiscation of the Proceeds from Crime – the Strasbourg Convention
CETS 198	2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism – the Warsaw Convention
CFT	Countering the financing of terrorism
COP	Conference of the Parties to the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism – the Warsaw Convention (CETS 198)
EAG	Eurasian Group on Combating ML/TF
EU	European Union
FATF	Financial Action Task Force
FIU	Financial intelligence unit
FT	Financing of terrorism
GER	Gender Equality Rapporteur
GRECO	Group of States against Corruption
IMF	International Monetary Fund
LEAs	Law enforcement authorities
MER	Mutual evaluation report
ML	Money laundering
MLA	Mutual legal assistance
MONEYVAL	Committee of Experts on the Evaluation of Anti-Money Laundering measures and the Financing of Terrorism
NRA	National risk assessment
OSCE	Organisation for Security and Co-operation in Europe
PACE	Parliamentary Assembly of the Council of Europe
PC-RM	Committee of Experts on the revision of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime
RoP	Rules of Procedure
TF	Terrorist financing
UN	United Nations
UNODC	United Nations Office on Drugs and Crime

Introduction from the president

It is my honour to present this third 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), covering the period 2018-2020.

The Convention is the only internationally binding treaty specifically devoted to money laundering and the financing of terrorism and provides a unique monitoring mechanism operating through our Conference of the Parties (COP), to ensure that this treaty's provisions are being effectively implemented in all State Parties.

The COP focuses on those parts of the Convention that bring added value to the fight against money laundering and financing of terrorism. Due to the existence of a number of monitoring mechanisms, COP is particularly careful not to duplicate the work of bodies such as MONEYVAL, the Financial Action Task Force (FATF) and other global and regional bodies.

We are experiencing global challenges such as the COVID 19 pandemic, which generates new trends and methods used for money laundering and financing of terrorism and has a human rights dimension. It also affects our work at the organisational level. Despite the obstacles, our work has not been stopped. The COP adapted its working methods to the pandemic reality and managed to hold its 2020 plenary meeting in a hybrid manner for the first time in its history. Indeed, we have managed to produce horizontal thematic monitoring reviews, analysing the extent to which all States Parties have adopted measures to align their legislation with those provisions of the Convention.

As President of the Committee, I strongly support the revised monitoring methodology – a horizontal thematic monitoring review that is in force in COP since 2018. The background to this change (i.e. from country specific to horizontal reviews) was to optimise the evaluation cycle for all current 37 member States. Thus, implementing the new mechanism enables all member States to be assessed in parallel against the Convention provisions considered to be the most relevant vis-à-vis actual developments. So far, five horizontal assessment reports have been adopted and the discussion continued on the reversal of the burden of proof in confiscation matters which will be continued during 2021. We have also developed a follow-up process and defined measures for countries that fail to implement a provision of the Convention.

Apart from monitoring, the COP also facilitates the application of the Convention at the national level and has adopted interpretative notes for selected provisions. To further foster international co-operation, the Conference has developed a template for national procedures for mutual legal assistance and co-operation amongst financial intelligence units. The relevant information is made available to all States Parties through our restricted website. The COP also places great importance in applying synergies with the activities of various Council of Europe bodies, including MONEYVAL and the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC). In this context, I wish to underline the importance of the recent Joint Statement by the Presidents of COP and MONEYVAL on the "FinCEN Files" disclosure. The statement emphasises the added value of the Warsaw

Convention in the international fight against money laundering and calls on Council of Europe member States as well as non-European countries to sign ratify and effectively implement the Convention.

As COP President I focus on the achievement of an equitable balance between the overarching task of combating money laundering and terrorism financing and the parallel obligation of respecting the rights of the accused and of third parties. With this in mind, we are seeking to enhance our co-operation with the European Court of Human Rights. During the 2020 Plenary, a presentation was made by the Registry of the Court on the case of *Phillips v. the United Kingdom*. This case is the one of the most important Judgments of the Court on the issue of the reversal of the burden of proof for confiscation purposes.

Finally, one of our most important priorities is encouraging the accession to the Warsaw Convention of additional States, including non-member States of the Council of Europe. To that end, the COP has instructed our Secretariat to reach out to additional jurisdictions. So far, the Conference of the Parties has communicated with several non-members of the Council of Europe, either within the framework of the projects that the Council is implementing in these jurisdictions or through other fora or bilateral communications.

As President of the Committee I would further encourage and invite the Council of Europe member States that have not yet ratified the Convention – Estonia, Finland, Iceland, Liechtenstein and Luxembourg – or have not yet signed it – Czech Republic, Ireland, Andorra, Norway and Switzerland – to become part of our common efforts in the COP.

Mr Ioannis ANDROULAKIS,
President of the Conference of the Parties

Executive summary

This is the third 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 covers the work carried out from 2018 to 2020. It summarises the added value the Convention brings to the global AML/CFT standards and discusses its monitoring and other interventions and activities carried out during the reporting period. Moreover, the report seeks to address key matters concerning the procedures established and the Convention's direct or indirect impact on strengthening the capacities of States Parties in combating ML/TF and confiscating proceeds of crime.

The Warsaw Convention, which entered into force on 1 May 2008, is still the only comprehensive AML 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 by setting, *inter alia*, 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 penalties as well as in a number of other areas. It also provides a legal possibility to share confiscated assets between the co-operating State Parties. The action of the Conference of the Parties (COP) against money laundering is central to the fight against organised crime and complements the Council of Europe's action against organised crime, corruption, human trafficking, cybercrime and economic crime in general.

The monitoring procedure under the Warsaw Convention was designed so as not to duplicate the work of MONEYVAL or the FATF. It focuses on those parts of the Convention that strengthen global standards and brings added value to the fight against money laundering and financing of terrorism.

The Warsaw Convention currently has 37 State Parties. Since the publication of the second Activity Report, the Warsaw Convention has been ratified by the following States (in chronological order, indicating the date of ratification): Monaco (April 2019), Lithuania (April 2020) and Austria (July 2020). Liechtenstein signed the Convention in November 2018, but has not yet ratified it. Currently six States (as well as the European Union) that are signatories to the Warsaw Convention are awaiting its domestic ratification.

The number of ratifications of the Convention has grown significantly since the establishment of the COP in 2009. These figures have been encouraging and the provisions of the Convention are now implemented across Europe. However, this higher number has affected the overall duration of the monitoring cycle carried out through country to country review. In order to streamline the monitoring procedure, strengthen peer pressure through recommendations, and ensure that all State Parties are equally involved, changes have been made to the Rules of Procedure. In 2017, a decision was taken to suspend the country-by-country monitoring mechanism and to introduce transversal thematic monitoring for an initial period of two years. Considering the benefits of the implementation of this transversal monitoring mechanism, a further decision was taken to continue this procedure for another five years. In the period covered by this report, five thematic monitoring reports were adopted by the Conference. Their subjects, findings and recommended actions are elaborated on further in the relevant chapters of this report.

Further to this significant change in the monitoring methodology, the COP also amended its Rules of Procedure to better respond to the challenges posed by the follow-up process. The 2020 plenary provided an adequate solution to this issue and details are provided in this report.

Finally, the report also discusses co-operation that COP has established with other Council of Europe and non-Council of Europe bodies dealing with AML/CFT and combating of economic crime in general. The results and concrete developments produced throughout this co-operation are also addressed in this report.

Conference of the Parties activities 2018-2020

INTRODUCTION AND BACKGROUND

1. 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 organised crime, corruption, human trafficking, cybercrime 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 and to protect the international financial system. Another important aspect is to protect our citizens against those who finance terrorism. This work, on the monitoring side, is conducted through two complementary mechanisms. The first is the Committee of Experts on the Evaluation of Anti-Money Laundering measures and the Financing of Terrorism (MONEYVAL) which evaluates its members against the international standards set by the FATF. The second is the Conference of the Parties 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), which is the monitoring body of that Convention.

2. 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 law.[1] 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 (CETS 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 (the "Warsaw Convention").[2]

3. The Warsaw Convention, a key convention of the Council of Europe, 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.

4. More specifically, this instrument:

- provides States Parties 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, and provides legal basis for sharing of confiscated 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 them;
- 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 the financing of terrorism;
- requires that all domestic investigative powers to access banking information under the convention should also be available for international co-operation purposes.

1. 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.

2. Note that the Warsaw Convention, unlike the Strasbourg Convention, provides for a monitoring mechanism through the Conference of the Parties to ensure that its provisions are properly implemented.

MISSION AND WORKING FRAMEWORK

The Convention

Origins

5. The 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.

6. The 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of 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. Moreover, the Strasbourg Convention provides a wide basis for the criminalisation of money laundering, through the introduction of an "all crimes" approach to money laundering criminalisation.

7. The Strasbourg Convention is ratified by all the Council of Europe Member States and by Australia. The Convention's 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. However, 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.

8. 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 that 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 new "Warsaw Convention" was adopted by the Committee of Ministers on 3 May 2005 as CETS No. 198. It entered into force on 1 May 2008.

Content

9. 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.

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

Criminalisation of money laundering

- The predicate offences to money laundering have to, as a minimum, 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 by 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 are made available so that freezing, seizure and confiscation is possible;
- States Parties 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 Parties 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 Parties should ensure that their competent authorities consider extending these powers to non-banking financial institutions.

International co-operation

States parties 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 Parties 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.

Mandate of the Conference of the Parties

10. Article 48 of the Warsaw Convention provides that the Conference of the Parties 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.

11. In order to fulfil its mandate, the Conference of the Parties adopted Rules of Procedure at its first meeting in 2009. These have been supplemented by specific procedures regarding: (i) the operation of the Conference of the Parties in respect of its responsibilities for the settlement of disputes between Parties regarding the interpretation and application of the Convention; and (ii) the formation and operation of any evaluation teams that may be required by the Conference of the Parties under Rule 19 of the Rules of Procedure. Both of these procedures were adopted at the Conference's second meeting in 2010. The Conference of the Parties has met in Strasbourg at least once a year since its inception.

12. The Rules of Procedure were reviewed during the 2016 Plenary with regard to a number of issues. The Conference of the Parties agreed to double the term of office of the Bureau members from one to two years, which can be renewed once. The Conference of the Parties also agreed to introduce in the Rules of Procedure the possibility to apply a "silent procedure" for its decision-making process where decisions need to be taken in-between its annual Plenaries, when specific conditions are met. However, such procedure cannot be applied for the adoption of Conference of the Parties' assessment reports.

13. In November 2017, at its 9th meeting, the Conference of the Parties adopted amendments to the Rules of Procedure establishing a transversal thematic monitoring system. Mindful of an ever-growing evaluation cycle for an increasing number of State Parties, the Conference of the Parties considered ways to ensure that its monitoring puts a stronger focus on the added-value the Warsaw Convention brings to the international AML/CFT standards. At the same time, the Conference of Parties discussed ways how to better involve all State Parties on a regular basis. To that effect, it decided to introduce a transversal thematic monitoring for an initial period of two years.

14. Based on the benefits of the reports produced through the application of the newly introduced mechanism, in 2019 the COP decided to continue with transversal thematic monitoring for another five years. It also clarified a number of issues by amending Rules of Procedures, such as the follow up process and application of specific measures if a State Party repeatedly fails to implement the provisions of the Convention or fail to take part in the thematic monitoring. For the former, those Parties whose implementation of a certain provision of the Convention is not considered satisfactory need to report back on progress made within three years' time at the latest. The suggestion as to which States Parties should undergo the follow

up process is made by the Rapporteurs[3] in consultation with the COP Bureau. A follow-up procedure for a State Party could also be initiated at the request of that State Party.

15. The Conference has also established a clear mechanism with regard to those countries which have ratified the Convention after the thematic monitoring review mechanism was established (i.e. after 2018). Consequently, the Conference assesses States Parties which have acceded to the Convention after 2018 on all provisions already subject to horizontal monitoring since the horizontal review mechanism entered into force. In other words, those States Parties shall provide information on the application of the provisions of the Convention which were subject to horizontal monitoring since the moment this mechanism was established. The corresponding provision of the Rules of Procedure has already been applied in practice and the Conference found such mechanism to be effective.

Members, participants and observers

Members

16. According to Rule 1 of the Rules of Procedure, members of the Conference of the Parties are representatives of the States and entities that are Parties to the Convention[4] and of other States that have acceded to the Convention.[5] Participation in the Warsaw Convention and to the Conference is not limited to Member States of the Council of Europe, non-member States which have participated in its elaboration or to the European Union. Since its entry into force in 2008, the Convention has been also open for accession by other States, provided that they have been formally invited to accede by the Committee of Ministers of the Council of Europe.

17. The Convention is now in force in the following 37 countries (for the exact dates of signatures and ratifications, see Appendix I to this activity report):

Parties to the Warsaw Convention	
Albania	Armenia
Austria	Azerbaijan
Belgium	Bosnia & Herzegovina
Bulgaria	Croatia
Cyprus	Denmark
France	Georgia
Germany	Greece
Hungary	Italy
Latvia	Lithuania
Malta	Republic of Moldova
Monaco	Montenegro
The Netherlands	Poland
Portugal	Romania
Russian Federation	San Marino
Serbia	Slovak Republic
Slovenia	Spain
Sweden	"North Macedonia"
Turkey	Ukraine
United Kingdom[6]	

3. 'rapporteurs' are the experts/members of COP States Parties' delegations assigned to take part in the COP assessment process.
4. See Article 49, paragraph 1, of the convention.
5. See Article 50.

Signatories

18. The following six countries/international organisations have signed but not ratified the convention:

Signatories to the convention	
Estonia	European Union
Finland	Iceland
Luxembourg	Liechtenstein

19. 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

20. Participants in the Conference of the Parties are 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);

6. Extended to also include Jersey.

- the European Committee on Crime Problems (CDPC);
- the Group of States against Corruption (GRECO);
- the Financial Action Task Force (FATF); and
- the Eurasian Group (EAG).

21. Participants in the Conference of the Parties do not have the right to vote.

Observers

22. The Conference of the Parties 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

23. 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 that are not members of the Council of Europe but 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.

24. During the period under consideration in this activity report, the Council of Europe has reached out to a number of non-member States to ratify certain Council of Europe Conventions, including the Warsaw Convention. At its plenary meetings, the Conference has discussed invitations for accession to the Convention of States which are not members of the Council of Europe. To that effect, COP instructed the Secretariat to reach out to the jurisdictions which had expressed interest in joining the Warsaw Convention. So far, the Conference of the Parties has communicated with several non-members of the Council of Europe, either within the framework of large projects that the Council was implementing in these jurisdictions or thought other fora and bilateral communication. Despite these efforts, there has not yet been any signature and thus no ratification of the Convention by a non-member State.

Governance

25. The Conference of the Parties elects from among its members, for a two-year mandate, a President and Vice-President, as well as three other Bureau members. The Bureau assists the President in directing the work of the Conference and ensures the preparation of meetings. The current Bureau is composed as follows:

Conference of the Parties bureau in 2020	
President	Mr. Ioannis Androulakis (Greece)
Vice-president	Vacant[7]
Bureau members	Ms. Ani Goyunyan (Armenia) Ms Oxana Gisca (Republic of Moldova) Mr. Alexander Mangion (Malta)

26. Due to exceptional circumstances caused by the COVID 19 pandemic, the 2020 Plenary has decided to extend the term of office of the Bureau members for another year.

27. According to Rule 5 of the Rules of Procedure, the Conference of the Parties is assisted by a secretariat provided by the Council of Europe. Mr Igor Nebyvaev, Executive Secretary to MONEYVAL, has also undertaken the role of Executive Secretary of the Conference of the Parties since taking up his position in 2020. The Deputy Executive Secretary of the COP is Mr Lado Lalicic.

Scientific experts

28. The function of the scientific expert is to provide neutral, experienced opinions where necessary and to assist the chair and secretariat in ensuring the consistency of the Conference of the Parties' outputs. This includes fulfilling a quality control function for draft Assessment reports, attending Conference of the Parties' meetings and enriching debates with experience and knowledge.

29. Mr Paolo Costanzo (Italy) was appointed as scientific expert to the Conference of the Parties in 2012.

7. Ms Ana Boskovic who was elected Vice-president of the COP in 2019 has resigned in February 2021 due to her appointment as a seconded official in the MONEYVAL/COP secretariat. The elections for the new Vice-President will be held in October 2021 at the 13th plenary meeting of the Conference.

Gender balance

30. The Conference of the Parties, 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 2014-2017[8], ensures, throughout the scope of its activities, that gender balance principles are respected. The Conference of the Parties appointed at its 9th meeting (21-22 November 2017) Mr Jean-Sébastien Jamart (Belgium) as gender rapporteur for the Conference of the Parties.

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

Assessments and follow-up reports

31. During the period under review, five thematic monitoring reports and six follow up reports have been discussed and adopted. Whilst the former concerns only the application of a new monitoring mechanism, the latter includes two country reports.

	COP assessments	COP follow-up reports
2018	Horizontal Review (Article 11) Horizontal Review (Article 25 §2-3)	Malta Belgium
2019	Horizontal Review (Article 9(3)) Horizontal Review (Article 14)	Follow-up Report (Art. 11 and 25 §2-3)
2020	Horizontal Review (Article 7(2) and 19(1))	Selected follow up procedure for: - Bulgaria (Art.11) - Sweden (Art 25 (§2-3)) - Croatia (Art.9(3))

8. 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 empowering 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 as well as in some of the monitoring mechanisms.

Assessment reports adopted during the reporting period (in chronological order)

2018

Thematic monitoring review on Article 11

32. The first thematic monitoring report discussed and adopted by the COP plenary concerned implementation of the principles of international recidivism as provided in Article 11 of the Convention. Money laundering and terrorist financing are often carried out by transnationally acting groups or criminals who may have been previously tried and convicted in one (or more) other jurisdiction(s). At domestic level, many legal systems provide for a harsher penalty where someone has previous convictions. Article 11 discusses this issue from an international perspective i.e. sanctions in case of repeated criminal behaviour in at least two different jurisdictions. The article provides for the obligation upon State Parties to take additional measures on international recidivism related to offences established in accordance with the Convention.

33. The report found that Article 11 had been implemented by 33 State Parties. In 27 out of these 33 State Parties, competent authorities had an express power to take into account previous foreign decisions. However, in four States, domestic legislation only covered previous decisions taken by the domestic courts of other EU Member States. Seven other State Parties included in their legislation measures relating to their courts' obligation to assess all the circumstances affecting the severity of punishment, which includes the 'perpetrator's prior life'.

34. For the successful consideration of previous foreign decisions, the 33 States Parties which implemented Article 11, had, generally, a strong framework for data exchange and mutual legal assistance, through their accession to the Convention (CETS no. 198) or other international instruments.

35. On a less positive note, the report found that two States Parties had not adopted any legislative or other measures to grant powers to their authorities to take previous foreign decisions into account.

36. With regard to the effective implementation of this provision in States Parties, the report encountered difficulties in concluding whether and to what extent Article 11 had been applied in practice. Most of the State Parties which were found to be compliant did not maintain statistics on the matter or did not include cases in their response to the questionnaire. However, twelve States were able to demonstrate that they had applied Article 11 in practice. These States had supported their responses with either the number of data exchanges, the number of bilateral agreements for the exchange of criminal records or specific cases in which mutual legal assistance was requested.

C198-COP meeting 2018

37. Finally, the report provides a number of general and country specific recommendations. State Parties are requested to consider both the general and the country-specific recommendations when adopting legislative and other measures to further implement the provisions of Article 11 of the Convention.

Thematic monitoring review on Article 25 §2-3

38. Parallel with the discussion on Article 11, the 2018 plenary discussed Article 25 which addresses the issue of sharing of confiscated property among States Parties. In particular, Article 25 establishes 'priority consideration' for asset sharing for the purposes of victim compensation or return of property to the legitimate owners (paragraph 2), as well as 'special consideration' for the possibility of concluding arrangements or agreements with other States Parties so as to facilitate asset sharing (paragraph 3).

39. The effective implementation of Article 25, paragraphs 2 and 3 was assessed in this report through a combination of factors, such as examining the manner in which the provision was transposed into the respective legislative framework, as well as exploring case studies and related statistics.

40. Regarding the "priority consideration" for asset sharing, the report shows that the exact provisions transposing Article 25(2) into domestic law differed considerably among State Parties. Discussing the differences in application of this principle and inputs received, the report states that 25 State Parties had indicated that their authorities gave such priority consideration to sharing, whilst two State Parties have not transposed the provision into domestic legislation but argued that ratification of the Convention did create a legally-binding basis for all its provisions. Eight States Parties had not adopted such measures in their legislation.

41. The report acknowledges these facts and notes different approaches applied by different State Parties. It concludes that, overall, the provisions of Article 25(2) have been transposed into domestic law in a majority of the State Parties. However, these State Parties were often not in a position to demonstrate the effective implementation of Article 25(2) in practice. Many State Parties informed the COP that implementation could not be measured as no statistics were maintained on the topic, although the absence of statistics was in most cases not compensated by case studies. Some State Parties indicated they had not yet received any requests for sharing of confiscated property for the purposes of victim compensation or returning of such property to the legitimate owner; hence they were not in a position to demonstrate the application of

the provision in practice. Only twelve States provided a case example to demonstrate the effective implementation of the provision.

42. The variety of responses and approaches undertaken by different countries called for a number of general and country specific recommendations. These recommendations aim at aligning to the extent possible, legislation and practical implementation of paragraph 2 of Article 25. These, inter alia, include: (i) a need to ensure that the competent authorities are, to the extent permitted by domestic law, and if so requested, in a position to give priority consideration to returning confiscated property to the requesting party in order to compensate the victims or return such property to the legitimate owners; (ii) a need to modify domestic legislation and put in place appropriate legislative measures and an institutional framework to guarantee that this provision of the Convention can be effectively applied; and (iii) a need to introduce provisions in domestic legislation permitting priority consideration for returning the confiscated property to the requesting party for victim compensation and to the legitimate owner;

43. As regards paragraph 3 of Article 25, it is notable from the report that only nine out of 35 State Parties had legal or other arrangements in place specifically aimed at sharing confiscated property with other States Parties. Thirteen State Parties informed the COP that they had no such arrangements or agreements in place and on the basis of the Convention. Other States Parties did not clearly indicate whether their authorities had the capability to conclude agreements or arrangements on sharing confiscated property with other State Parties.

44. Whilst a number of State Parties provided for the possibility to conclude agreements or arrangements specifically devoted to asset sharing with other parties, this mostly occurred on a case-by-case or *ad-hoc* basis and not necessarily on the basis of Article 25(3). The case studies presented by the support this conclusion. Only five States reported about (on-going negotiations expected to result in) formal agreements with countries which are not State Parties to the Convention. However, they did not indicate whether such agreements were also being negotiated with COP State Parties. Most EU Member States mentioned their obligations with regard to the transposition of EU law into domestic legislation. Particularly relevant in this regard is Council Framework Decision 2006/783/JHA, which concerns the application of the principle of mutual recognition of confiscation orders. The scope of this Decision is limited to EU Member States only. In this regard, the Convention provides a possibility to EU Member States, which are at the same time States Parties to the Convention, to conclude asset sharing agreements or arrangements outside of the EU framework. Consequently, the report sets out a number of recommendations. These include: (i) to provide for the possibility to conclude agreements or arrangements on asset sharing specifically by introducing such provisions into domestic legislation; (ii) to negotiate and conclude asset sharing agreements, in accordance with domestic law or administrative procedures, either on a case-by-case or on a regular basis, with other COP States Parties; and (iii) to extend the possibility to conclude asset-sharing agreements (which may be limited to COP State Parties which are at the same time EU Member States) to all COP State Parties.

2019

Thematic monitoring review on Article 9(3)

45. Further to the decision of the 10th COP plenary to select negligent money laundering as an element of thematic monitoring, the assessment report on implementation of Article 9(3) was discussed and adopted in 2019. Proving the mental element of the money laundering offence can be challenging, as domestic courts often require a high level of knowledge as to the origin of the proceeds by the alleged launderers. Article 9(3) addresses the mens rea of the money laundering offence, in such cases where the offender acted negligently and/or when he/she suspected that property handled was the proceeds of crime. Therefore, Article 9(3) enables State Parties to establish a criminal offence, even when the highest level of knowledge of an offender is not proven. It needs, however, to be noted that the language of Article 9(3) ("may") is not mandatory. As a consequence, States Parties which have not yet (fully) integrated this provision into their domestic law are not failing to implement the Convention in this respect. Nevertheless, the COP has established in the past decade a clear practice to assess its State Parties against Article 9(3) and provide relevant recommendations thereof.

46. The report established the extent to which States Parties had adopted measures to provide for a laundering offence in the case where the offender: (a) suspected that the property was proceeds; and/or (b) ought to have assumed that the property was proceeds. The report observed that seven State Parties had criminalised both alternatives under Article 9(3), whilst fifteen State Parties had at least criminalised one of the two alternatives under Article 9(3) (with six State Parties having criminalised Alternative 1, and ten State Parties having criminalised Alternative 2), bringing the total number of States Parties having implemented the minimum requirement of this provision to twenty-two. The remaining eleven State Parties had not implemented either of the two alternatives under Article 9(3). The exclusion of this provision from the scope of their ML offences had their origin either in the wording of the applicable legislation, and/or was confirmed by domestic courts through jurisprudence.

C198-COP meeting 2019

47. Regarding effective implementation, out of those twenty-two State Parties which had implemented Article 9(3), only ten States provided relevant case law which further confirmed the application of this provision in practice. Three countries provided statistics on the number of cases where Article 9(3) was de facto applied.

48. The report opted for making recommendations in case elements of negligence and suspicion were absent, thus not requiring State Parties to have both elements in place but at least one (in line with the provision's wording 'either or both'), and, in case no case law or data were presented, to demonstrate the application of Article 9(3) in practice. Consequently, State Parties were recommended to consider adopting legislative or other measures to criminalise acts referred to in Article 9(1) of the Warsaw Convention, in either or both of the cases referred to in Article 9(3) where the offender suspects or ought to have assumed that property was proceeds.

Thematic monitoring review on Article 14

49. Article 14 addresses the power of the FIU or any other competent authority to order the postponement of suspicious transactions. In conjunction with Article 2 of the Warsaw Convention, the provision of Article 14 also applies when there is a suspicion that a transaction is related to terrorist financing. The report focused on the extent to which State Parties had adopted measures to permit urgent action to be taken by the FIU or any other competent authority in case of a suspicious transaction.

50. Analysis shows that all States Parties but one had adopted measures to permit urgent action to be taken in order to postpone a domestic suspicious transaction. In the large majority, FIUs had been empowered to take these measures. Only in three State Parties, the power of postponement was given to a different authority (namely the public prosecutor, the Criminal Court of Justice or the Minister of Treasury and Finance). In five countries not only the FIU, but also other competent authorities (i.e. law enforcement, board of the central bank, or security service) had gained such competences. Generally, the power to order the postponement of a transaction by the FIU is laid down in the applicable AML/CFT legislation, whereas for the other competent authorities, different laws are used.

51. The duration of the postponement order differs significantly between State Parties. In most cases, the order lasts between 24 and 72 hours, but some State Parties provide for considerably longer periods (e.g. 120 hours, or even periods from 15 days to 30 days). In many countries (in particular ones with shorter periods), the duration can be prolonged by order of a competent prosecutor or court and upon request by the FIU. In that case, the extension periods vary from several days to six months.

52. In order to analyse effectiveness in applying Article 14, the vast majority of State Parties included statistics and/or provided case studies. Some statistics presented were very detailed and included the value of postponed assets, the number of investigations opened, the number of orders based on foreign requests and other information. Other were rather basic, indicating only the number of measures taken during a given period of one or two years. Given the high rate of application of this Article by State Parties (all but one were found to be compliant) recommended actions, apart from those addressed to the State Party which still had to introduce Article 14 in its legislation, referred mostly to a need for better overview of whether, and to what extent, this article is effectively applied.

2020

Thematic monitoring review on Articles 7(2) and 19(1)

53. 2020 was significantly affected by the global pandemic. It also forced the COP to hold its plenary in a hybrid form and use video technology to enable all State Parties to participate. Article 7(2c) in conjunction with Article 19(1) was one of the selected topics for 2020 thematic monitoring reviews. The report therefore outlined the extent to which State Parties had legislative or other measures in place to provide the possibility for monitoring of banking operations as an investigative technique available to competent authorities (Article 7(2c)). In addition, the report sought to determine the extent to which State Parties could apply this measure upon the request of another State Party and then communicate the results to a requesting State Party (article 19(1)).

54. Four State Parties had reserved their right not to apply in whole Article 7 paragraph 2, sub-paragraph c). None of these Parties, undertook steps to include monitoring of banking operations as a specific investigative (or pre-investigative) means in their legislation.

55. Other than these States Parties (26 of them), five other countries (which made no reservation on application of Article 7(2c)- did not have sufficient legislative measures in place to implement Article 19(1).

56. Other State Parties implement, in general, the requirements of Art.7(2c) and 19(1). However, the scope of application of the relevant provisions differed significantly amongst them. Fourteen Parties fully applied Art.7(2c) and Art.19(1). Twelve other State Parties applied the afore-mentioned articles but their application raised some uncertainties or (possibly) imposed, certain limitations. Of those States Parties which had transposed Articles 7(2c) and 19(1) in their legislation, ten informed the COP on application of this principle either through statistics or case law.

57. With the aim of promoting a harmonised approach across State Parties, the report recommended that consideration be given to the following actions, depending on State Parties' level of application of Art.7(2c): (i) State Parties that had declared/reserved the right not to, in full or in part, apply Art.7(2c), were invited to give proper consideration as to whether their declarations/reservations were still needed; (ii) States Parties that had not made declarations and which still did not have at their disposal a specific measure to monitor banking operations, were invited to adopt legislative or other measures to provide to their law enforcement and/or other competent authority the possibility to monitor banking operations carried out through one or more identified accounts during a specific period; and (iii) States Parties which had introduced Art.7(2c) and consequently Art.19(1) through their legislation/jurisprudence, but still imposed (or possibly imposed) certain limitations in its applications, such as limiting it to ML/FT/or related predicate offences or towards which there still lacked certainty as to the scope of offences covered by the monitoring were invited to implement specific recommended actions provided in the 'country review' part of the report and thus take out elements which restrict the application of Articles 7(2c) and 19(1).

C198-COP meeting 2020

Thematic monitoring review on Article 3(4)

58. State Parties' level of implementation of paragraph 4 of Article 3 was also considered. This paragraph requires State Parties to adopt such legislative or other measures as may be necessary to require that, in respect of a serious offence as defined by national law, an offender demonstrates 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. Further to the presentation of the report and its findings to the plenary, the rapporteur referred to the relevant documents used in preparation of the analysis. These were the Interpretative Notes on Article 3(4) developed by the Conference in 2017, as well as the Explanatory Memorandum to the Convention, both giving further guidance and good practice on application of the reversed burden of proof in confiscation proceedings. This notwithstanding, one State Party pointed out that the approach undertaken by the rapporteur was not in line with the Explanatory Memorandum to the Convention. In their view, the approach undertaken was incorrect. The delegation referred to paragraph 71 of the Explanatory Memorandum and challenges related to the definition of a 'serious offence' in national laws. Whereas the rapporteur emphasised that both the Explanatory Memorandum (including its paragraph 310) and the Interpretative Notes were clear on this issue and that the approach undertaken was in line with these, the Conference could not reach an agreement on this matter. Given the fundamental importance of a proper interpretation of the Convention, the President suggested the postponement of the adoption of the report on Article 3(4) pending clarifications to be adopted by the COP with regard to the Interpretative Note on Article 3(4). The report will therefore be re-discussed with a view to its adoption in May 2021.

Follow-up reports

59. As already noted in previous chapters of this report, changes to the monitoring methodology also triggered adjustments in the follow-up process. To that end, the Rules of Procedure were amended twice during the period under review. The most recent change established that those Parties whose implementation of a certain provision of the Convention is not considered satisfactory - as per the relevant findings of the thematic monitoring -report back on progress made within three years of adoption of the report. State Parties which have declared (through declarations and reservations submitted when instruments of ratification are deposited), not to apply Articles selected to be assessed through thematic monitoring are exempted from the follow-up process on these Articles. In addition, a follow-up procedure for a State Party could also be decided by the Plenary at the request of that State Party. As a matter of fact, the latter provision has already been applied. In 2018 the follow up reports for Belgium and Malta included the assessment of all provisions of the Convention, whilst in 2020 the follow up reports by Croatia, Bulgaria and Sweden discussed only the specific articles of the Convention which had previously been subject to thematic monitoring. Before the follow up procedure was further streamlined in 2019 and 2020, the COP adopted a follow up report which assessed the level of implementation of recommended actions concerning the thematic monitoring reports on Articles 11 and 25 (2) and)3). Details of these are provided below.

2018

Follow up report by Belgium

60. The report outlines the measures adopted since the 2016 assessment report on Belgium, in particular improvements achieved through the adoption of new AML/CFT legislation and new procedural law in the field of confiscation. The report also observed that the recommendations concerning corporate liability (Article 10) and recidivism (Article 11) and criminalisation of money laundering had not been entirely implemented.

61. Overall, the Conference of the Parties was satisfied with the progress made by Belgium, as well as with the answers the country delegation provided during the Plenary meeting. The Conference of the Parties therefore adopted the follow-up report and the analysis of the Secretariat. Pursuant to the Rules of Procedure, these documents were published on the COP website.

Follow up report by Malta

62. Malta presented the relevant developments since the time of the adoption of its 2014 assessment report, in particular concerning the legislative changes undertaken in order to address the recommendations made. The delegation introduced amendments to the Prevention of Money Laundering Act (PMLA), particularly on the issue of attachment orders and corporate liability, as well as on training provided to law enforcement agencies and on the procedures for execution of foreign confiscation orders by the Attorney General's Office.

63. The report acknowledged these positive developments and commended the authorities for them. On a less positive note, the report also concluded that some deficiencies remained. No action had been taken on part of the recommendations on Article 10 (corporate liability) and on Article 34 (procedural and other rules) and on some recommendations regarding Articles 17 and 18 (investigative assistance, monitoring of transactions). Notwithstanding these deficiencies,

the Conference of the Parties decided to adopt the report by Malta and the analysis prepared by the Secretariat. Pursuant to the Rules of Procedure, the documents were published on the COP webpage.

2019

Follow-up analysis of the Thematic Monitoring Reviews on Articles 11 ("Previous Decisions") and 25 §2 - 3 ("Confiscated Property")

64. Following the adoption of the first thematic monitoring reports in 2018, the plenary decided to pursue with the follow reports on both Article 11 and Article 25 (2) and (3). This follow-up report analysed the measures adopted by the State Parties on the general recommendations and country-specific recommendations. With regard to Article 11, the report concluded that one year after the adoption of the thematic monitoring review, only seven State Parties were able to demonstrate progress and present concrete measures that they had applied. Similar conclusions concerning the application of Article 25 (2) and (3) were reached- eight State Parties were able to demonstrate country-individual progress and present concrete measures applied to address recommendations.

65. Ultimately, these results were one of the reasons for amending the follow-up procedure and subsequent changes in the Rules of Procedure in 2020, which extended the deadlines for implementation of recommended actions to three years.

2020

Selected follow up procedure for Bulgaria (Article 11), Sweden (Article 25 (2) and (3)) and Croatia on Article 9 (3)

66. As per specific request by these States Parties, the 11th plenary approved selected follow-up procedure under which the three jurisdictions would present progress in applying specific articles analysed in the thematic monitoring reports. Bulgaria provided additional information on principles embedded in its criminal legislation which further strengthen international recidivism (Article 11), whilst the same could be said about Sweden (Article 25 (2) and (3)) and Croatia (Article 9(3)). Consequently, the 12th plenary approved the analysis prepared by the Secretariat and the rapporteurs.

CONFERENCE OF THE PARTIES RAPPORTEURS

Role of rapporteurs

67. The Conference of the Parties assessment mechanism foresees a role for rapporteurs in the drafting and adoption of reports. Their roles are included in Rule 19bis and include participation in thematic monitoring reviews and in the follow-up analysis. The following rapporteurs and rapporteurs' countries have contributed to the assessment process since 2018, and the Conference of the Parties would like to warmly thank all of them for their involvement:

	Party assessed	Rapporteur (Country)
2018	Belgium (Follow-up report))	Armenian delegates to COP
	Poland (Follow-up report)	Portugal delegates to COP
	Horizontal Review (Article 11) (COP Assessment)	Mr Azer Abbasov (Azerbaijan)
	Horizontal Review (Article 25 §2-3) (COP Assessment)	Ms Ana Boskovic (Montenegro)
2019	Horizontal Review (Article 9(3)) (COP Assessment)	Ms Oxana Gisca (Republic of Moldova)
	Horizontal Review (Article 14) (COP Assessment)	Ms Ani Goyunyan (Armenia)
	Art. 11 and 25 §2-3 (Follow-up report)	This report was prepared by the COP Secretariat
2020	Horizontal Review (Article 7(2) and 19(1)) (COP Assessment)	Mrs Ewa Szwarska-Zabuska (Poland)
	Horizontal Review (Article 3(4)) (COP Assessment)	Ms Ana Boskovic (Montenegro)

OTHER ACTIVITIES

68. The Conference of the Parties Secretariat has undertaken efforts to increase the visibility of the Convention, as well as to gain better insights in the level of implementation of some of the Convention's provisions. The most recent and probably the most relevant action in this context derives from a permanent communication and co-operation with its sister body – MONEYVAL. On 23 September 2020, MONEYVAL and CoP published a joint statement made with regard to media reports on the FinCEN files disclosure[9]. The joint statement reiterates the importance of compliance with AML/CFT Standards and puts emphasis on the added value of Article 14 of the Warsaw Convention which refers to postponement of suspicious transactions. The joint statement was published on both COP198 and MONEYVAL websites.

69. COP constantly increases its visibility through participation and presentation of its activities in different fora. During the reporting period, several presentations were delivered at the FATF/MONEYVAL joint workshop for judges and prosecutors on ML/TF investigations and confiscation-related issues, and presentations on the added value of the Convention delivered in non-member States – Uzbekistan and Israel.

Other issues discussed at Plenary meetings of the Conference of the Parties

Cases of Practical Application of the Convention

70. Cases of practical implementation of the Convention by State Parties became a permanent agenda item in plenary meetings in 2017. The Secretariat developed a template for presentation of such cases in 2018 which has since been used by the Parties. All cases presented so far are also available through the COP restricted web page. These cases reflect practical application of those provisions of the Convention which discuss the money laundering offence as it is defined by Article 9 of the Convention, international recidivism (Article 11), cases of non-conviction based confiscation (Article 3(4)), as well as examples of urgent action by FIUs in cases of suspicious transactions (Article 14). Overall, developing case law on different Convention provisions is one of the ultimate goals of the COP and Parties are constantly reminded and encouraged to provide and present as many cases as possible.

Review of declarations and reservations

71. The Convention allows State Parties to make declarations and reservations in respect of a series of substantive provisions. Six countries have not made any declaration or reservation in respect of their substantive provisions: Albania, Belgium, Bosnia and Herzegovina, France, Montenegro and Serbia.

72. It is worth recalling that some State Parties have removed or changed a number of their reservations and declarations, which is very welcome. The Conference of the Parties regularly invites State Parties to review their reservations in order to remove those that are no longer necessary. In addition, separate document is prepared for each plenary in order to review the status of reservations and declarations in State Parties.

Other

73. At each Plenary meeting, the Conference of the Parties discusses topical issues in the AML/CFT field, hears presentations by, or exchanges views with, AML/CFT experts. Apart from the issues already covered elsewhere in this report, the Conference of the Parties discussed, amongst other matters:

- Current challenges in tracking the proceeds of crime in the field of virtual assets – presentation by Mr Dominik Helble, Cybercrime Investigations, State Criminal Police Office Baden-Wuerttemberg, Germany;
- Virtual assets: Investigative Challenges, Best Practice and Techniques - presentation by FATF Secretariat;
- Modalities of technical assistance available in the asset recovery area – presentation by Economic Crime and Cooperation Division of the Council of Europe;
- Reports and other activities concerning AML and confiscation of proceeds of crime - presentation by Secretariat of the Committee on Legal Affairs and Human Rights, Parliamentary Assembly of the Council of Europe;
- Possibility of preparing new biding document on international co-operation as regards management, recovery and sharing of proceeds of crime – PC-OC.

Website maintenance

74. In line with the revised Council of Europe online strategy to harmonise the online appearance of the organisation, the website of the Conference of the Parties is maintained regularly. The website is user-friendly and allows the Conference of the Parties to better communicate its activities. The website includes the basic documents underlying the Convention, including the Warsaw Declaration, the Action Plan and the Explanatory Report, as well as the Conference of the Parties Assessment and follow-up reports. It is updated regularly with news concerning the

9. https://en.wikipedia.org/wiki/FinCEN_Files

Convention. In such manner, visitors to the website can easily get an overview of the mandate and activities of the Conference of the Parties. The website can be visited at: https://www.coe.int/en/web/cop198/home.

75. In addition, a restricted website has been created to enable COP membership to access information which is not made public. The restricted web has already proven to be a helpful tool not only for assessment process purposes but also for information exchange and other tools which State Parties may use to foster their co-operation within the framework of the Warsaw Convention principles.

WAY FORWARD AND CONCLUSIONS

76. The Conference of the Parties to the CETS 198 continues to be an important monitoring mechanism devoted to strengthening the fight against money laundering and financing of terrorism. Since its establishment, several changes at organisational level have been made in order to manage regular monitoring of the implementation of the provisions of the Warsaw Convention as well as effective application in member States. Horizontal reviews and follow-up reports adopted in this period show that the Convention brings added value to State Parties and it is obvious that jurisdictions that apply the Convention have better results in the fight against money laundering and financing of terrorism generally. On the other hand, reviews show that further actions need to be undertaken so to give better results. In order to facilitate better implementation of certain provisions, COP will continue to develop interpretative notes which set out good practices and emphasise relevant case law. Finally, promotion of the Convention remains a priority, together with accession to the Warsaw Convention by member and non-member States of the Council of Europe.

APPENDIX

Signatures and ratifications of the Warsaw Convention

Opening for signature

Place : Warsaw
Date : 16/5/2005

Entry into force

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

Member states of the Council of Europe

	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
Albania	22/12/2005	6/2/2007	1/5/2008				X			
Andorra										
Armenia	17/11/2005	2/6/2008	1/10/2008			X	X			
Austria	16/5/2005	28/07/2020	1/11/2020			X	X			
Azerbaijan	7/11/2016	9/08/2017	1/12/2017		X	X	X			
Belgium	16/5/2005	17/9/2009	1/1/2010				X			
Bosnia and Herzegovina	19/1/2006	11/1/2008	1/5/2008				X			
Bulgaria	22/11/2006	25/2/2013	1/6/2013		X	X	X			
Croatia	29/4/2008	10/10/2008	1/2/2009			X	X			
Cyprus	16/5/2005	27/3/2009	1/7/2009			X	X			
Czech Republic										
Denmark	28/9/2012	12/02/2018	01/06/2018			X	X	X		
Estonia	7/3/2013									
Finland	16/12/2005									
France	23/3/2011	8/12/2015	1/4/2016				X			
Georgia	25/3/2013	10/1/2014	1/5/2014		X	X	X			
Germany	28/1/2016	20/6/2017	1/10/2017		X	X	X			
Greece	12/10/2006	7/11/2017	01/03/2018		X	X				
Hungary	14/4/2009	14/4/2009	1/8/2009		X	X	X			
Iceland	16/5/2005									
Ireland										
Italy	8/6/2005	21/2/2017	1/6/2017		X	X	X			
Latvia	19/5/2006	25/2/2010	1/6/2010			X	X			
Liechtenstein	26/11/2018									
Lithuania	28/10/2015	28/04/2020	01/08/2020		X	X	X			
Luxembourg	16/5/2005									
Malta	16/5/2005	30/1/2008	1/5/2008			X	X			
Moldova	16/5/2005	18/9/2007	1/5/2008		X	X	X	X		
Monaco	1/09/2017	23/04/2019	01/08/2019				X			
Montenegro	16/5/2005	20/10/2008	1/2/2009	55			X			
Netherlands	17/11/2005	13/8/2008	1/12/2008			X	X	X		
Norway										
North Macedonia	17/11/2005	27/5/2009	1/9/2009			X	X			
Poland	16/5/2005	8/8/2007	1/5/2008			X	X			
Portugal	16/5/2005	22/4/2010	1/8/2010			X	X			
Romania	16/5/2005	21/2/2007	1/5/2008			X	X			

	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
Russian Federation	26/1/2009	27/09/2017	1/01/2018		X	X	X			
San Marino	14/11/2006	27/7/2010	1/11/2010		X	X	X			
Serbia	16/5/2005	14/4/2009	1/8/2009	55			X			
Slovakia	12/11/2007	16/9/2008	1/1/2009		X	X	X			
Slovenia	28/3/2007	26/4/2010	1/8/2010		X	X	X			
Spain	20/2/2009	26/3/2010	1/7/2010			X	X			
Sweden	16/5/2005	23/6/2014	1/10/2014		X	X	X			
Switzerland										
Turkey	28/3/2007	02/5/2016	1/9/2016		X	X	X			
Ukraine	29/11/2005	2/2/2011	1/6/2011		X	X	X			
United Kingdom	29/09/2014	27/04/2015	01/08/2015		X	X	X			

Non-members of the Council of Europe

	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
Canada										
Holy See										
Japan										
Mexico										
Morocco										
United States of America										

International Organisations

	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
European Union	2/4/2009									

Total number of signatures not followed by ratifications:	6
Total number of ratifications/accessions:	37

Notes:
(55) Date of signature by the State union of Serbia and Montenegro. a: Accession – s: Signature without reservation as to ratification – su: Succession – r: Signature "ad referendum". R.: Reservations – D.: Declarations – A.: Authorities – T.: Territorial Application – C.: Communication – O.: Objection.

Source: 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.

Prems 092921

ENG

www.coe.int

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all 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.

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE