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MONEYVAL (2008) 19

**EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)**

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

26th PLENARY MEETING OF MONEYVAL

Strasbourg, 31 March – 4 April 2008

MEETING REPORT

Memorandum
prepared by the MONEYVAL Secretariat
Directorate General of Human Rights and Legal Affairs

dg1.moneyval@coe.int - Fax +33 (0)3 9021 5073 – <http://www.coe.int/moneyval>

EXECUTIVE SUMMARY

During the 26th Plenary meeting, held in Strasbourg from 31 March to 4 April 2008, the MONEYVAL committee:

- Discussed and adopted the 3rd round reports and summaries as amended on Bulgaria, San Marino and Croatia.
- Agreed to move at this meeting to step 1 of the Compliance Enhancing Procedure for San Marino.
- Thanked the Azerbaijan authorities for the excellent organisation of the High Level Mission in February. New legislation on AML/CFT is awaited as a result.
- Discussed and adopted the revised Progress report on Lithuania.
- Agreed to further develop the report review procedures, by creating both a permanent group and an ad hoc group (to be appointed plenary by plenary).
- Agreed to appoint a Rapporteur country for each progress report.
- Took note of the fact that sectoral representation within delegations does not appear to be balanced.
- Heard information on anti-money laundering issues in other fora.
- Heard information on AML/CFT issues in MONEYVAL countries, and Israel.
- Took note of the present Typologies work status and forthcoming activities and invited delegations to reflect upon the project proposals for the 2008 typologies meeting
- Proposed shorter and more focused on-site visits for the 4th round of evaluations.

SUMMARY ACCOUNT ON THE MONEYVAL PROCEEDINGS

Items 1, 2 and 3 – Opening of the Plenary Meeting, Adoption of the Agenda and Information from the Chairman

1. The Chairman, Mr. Vasil Kirov (Bulgaria), opened the meeting, following which the Committee adopted the agenda as it appears in the appendix.
2. He then gave information on the bureau meeting that took place on 30 March 2008.
3. The Chairman noted that Moldova had now done all that was expected of it further to the lifting of Compliance Enhancing Procedures in respect of the Tax Amnesty legislation. Moldova would be expected to report on this issue as part of its overall progress report in December.
4. The Chairman reported to the Committee on the High Level Mission to Azerbaijan which was conducted in February 2008. The mission comprised the Director of Monitoring, Mr Christos Giakoumopoulos, the Chairman, the Executive Secretary and Mr Branislav Bohacik (Slovakia), Chairman of the European Committee on Crime Problems (CDPC). The Chairman thanked the Azerbaijan authorities for the excellent organisation and the commitment shown by the authorities during the High Level Mission. The delegation met with all senior officials from the National Bank, the Presidential Administration, the Cabinet of Ministers and others including the Speaker of the Parliament who confirmed that the new AML/CFT legislation was about to be submitted to the Parliament and that its adoption was a priority. MONEYVAL looked forward to a full report on progress at the July Plenary meeting.

Items 4.1 to 4.4 – Information from the Secretariat

5. The Secretariat invited delegations to fill in the list of participants so that the database was accurate.
6. There was a brief discussion of the upcoming evaluations. The teams were fixed for Azerbaijan, Ukraine and Montenegro. There would be marginal discussions about the timing of the on-site visits with Ukraine and Serbia.
7. It was noted that Israel should now be added to the pool of evaluators and nominations from that country should be sought.
8. The Executive Secretary drew attention to the vacancy notices for secondees which would be open until 16 May 2008.
9. The revised Progress report template was introduced and adopted for use by MONEYVAL.
10. It was noted that the OSCE had applied for observer status in MONEYVAL.
11. The Executive Secretary advised delegations that CETS no. 198 would come into force on 1 May 2008, and encouraged other signatory countries to ratify it.

Item 5 – Discussion on the revised Progress report on Lithuania

12. Lithuania had been asked in December to present a revised progress report to this plenary as there were some issues on which the delegations required further information and clarification. Lithuania presented their amended progress report and some clarifications were given in relation to how SR.IV will be addressed by Government Resolutions. Clarification was also given on the statistics regarding investigations, indictments and convictions, where new data had been provided.
13. *Decision taken*
 - After discussion, the plenary agreed that the progress report in its present form could be adopted and published.

Items 6 and 20 – Discussion on further development of the Ad hoc Review Group

14. It was explained that the work of the current group in ensuring consistency and quality of reports was very important, but that it was a large burden to place on an ongoing basis upon one small group of experts. The current scientific expert and Mr Laferla (Malta) were thanked for all the work they had done to assist the Committee with their reviews of draft reports. To share the burdens it was proposed that 2 new groups be created: one truly ad hoc group to be appointed plenary by plenary for review of the reports prepared for the next plenary, and to retain the current Ad Hoc Group as a permanent Group of Experts which will be called upon to offer advice on reports as they see fit, but primarily to act as a 'backstop' on major issues of interpretation and to advise the Chairman on specific issues. For the detailed reviews of reports, MONEYVAL would primarily call on the appointed Ad Hoc Group members drawn from trained evaluators. These names would be approved by the plenary at each meeting. The Permanent group should be extended to include an expert on European Union issues. The Secretariat proposals and draft terms of reference were then discussed.
15. *Decisions taken*
 - The terms of reference of the 2 groups were agreed as circulated to the plenary.
 - The Permanent Group would comprise the 3 scientific experts, plus Mr Herbert Laferla and Mr Paolo Constanzo to cover EU issues.
 - The first Ad Hoc Group was appointed later in the week for the review of the reports which will be examined in July. They were: Mr P. Rashkov (Bulgaria – legal), Mrs I. Fendekova (Slovakia), Mr D. Gatt (Malta).
 - The new procedures would be reviewed at the end of the year.

Item 7 – Discussion of MONEYVAL progress reports

16. This issue had been discussed earlier in the Bureau. There was thought to be a need for more screening of progress reports before plenary discussion. Currently, the reports are sent to the scientific experts and the heads of delegation of countries involved as examiners in the original evaluation, to generate debate and questions. It was now proposed also to appoint a Rapporteur country for each progress report. That country would be sent the original report and executive summary together with the progress report received. It would be for the head of delegation of the Rapporteur country to decide how the work on analysing the progress report should be divided among his/her delegation – ideally, the representatives from each sector within the Rapporteur

delegation would analyse their respective areas (legal, law enforcement and financial). They would raise questions on the report and form a preliminary view as to whether the information provided adequately answered the questions raised in the progress report questionnaire, and they would report back to the plenary.

17. The Secretariat also explained that Rule 38 of the Rules of Procedure will come into effect this year, requiring routine updates of adopted progress reports every 2 years. The first countries to provide such reports would be Slovenia and Hungary, ideally at the December 2008 meeting, subject to availability of plenary time.
18. *Decision taken*
 - It was agreed that Rapporteur countries would be appointed for upcoming progress reports on an alphabetical basis. Albania would be the rapporteur for Georgia, and Andorra for Poland in July.

Item 8 – Composition of MONEYVAL Delegations

19. The Chairman and the Executive Secretary raised the issue of the sectoral representation within MONEYVAL Delegations. An analysis of recent plenary meetings indicated an imbalance in the representation of each of the three sectors in some delegations. The importance of the financial aspects during the evaluation process was underlined and the consequential need for a proper balance between the three major sectors in delegations. The Chairman will write to this end to Heads of Delegations asking them to review the composition of their delegations.

Item 9 – Information on AML initiatives in other fora

20. The afternoon session of the first day was moderated by the vice-Chairman, Mr. Vladimir Nechaev.

9.1 EBRD

21. EBRD provided a written report which was circulated.

9.2 Egmont group

22. The Egmont group had its Spring Working Group meeting in March in Santiago, Chile. At the end of May 2008 the plenary session will take place in Korea. Mr. Verhelst indicated that one of the most important issues the Egmont Group will have to face during this meeting will be the coordination of different typologies work.

9.3 Eurasian Group on Combating Money Laundering and Terrorist Financing (EAG)

23. EAG could not be represented during the MONEYVAL plenary meeting. The Vice-Chairman, Mr. Vladimir Nechaev, spoke on its behalf. In the middle of December, the EAG seventh plenary meeting took place. As the former Chairman, Mr. Zubkov, was appointed Prime Minister of the Russian Federation, Mr. Markov had succeeded him for a period of two years. That plenary accepted India, Poland and Turkmenistan as observers to the Group. Two typology reports – one on terrorist financing and one on cash-based schemes for money laundering – were approved by the plenary meeting. Russia and Ukraine were responsible for the preparation of these reports. Both of them are available on the website of the EAG. The Chinese mutual evaluation report was also

discussed. Though the report had been adopted by the FATF, the EAG have raised some issues in the follow-up procedure, and the Chinese Delegation will report to the EAG meeting on these issues.

9.4 FATF

24. Ms. Rachelle Boyle informed participants that the last plenary meeting of the FATF was held in February. FATF issued a Statement highlighting deficiencies in the AML/CFT systems in Uzbekistan, Pakistan, Iran, São Tomé & Príncipe and Turkmenistan and also drawing attention to the AML/CFT risks in the northern part of Cyprus. FATF countries had been invited to report back to FATF on action that they had taken as a result of the FATF Statement and the Chairman of MONEYVAL invited MONEYVAL countries to report back in their tour de table next time on actions their countries had taken in response to the FATF Statement (a copy of which appears on the MONEYVAL website with a clarification that the Statement does not refer to the Republic of Cyprus).
25. Ongoing projects by the FATF in terms of typologies include money laundering vulnerabilities of commercial websites in internet payments systems, proliferation financing, money laundering threat analysis strategies, and money laundering and terrorist financing vulnerabilities in the gaming and casinos sectors. Concerning FATF membership, both Korea and India are currently FATF observer countries with a view to their accession as FATF members. The FATF has agreed to conduct the evaluation of Korea for the purposes of membership and is waiting for India to pass amendments to their legal system before they begin an evaluation. The FATF welcomed the Caribbean Financial Action Task Force as an Associate Member. Under the responsibility of the Typologies Working Group there is now a new Strategic Surveillance Initiative. It involves a regular surveillance discussion looking at fairly significant strategic issues in money laundering and terrorist financing threats. This surveillance would be based on a survey. The survey has been created and distributed to all FATF members and to FSRB Secretariats, including the MONEYVAL Secretariat. If a large proportion of the countries reply to the survey, the FATF should be able to produce a global threat assessment within two years. The Executive Secretary of MONEYVAL asked if MONEYVAL delegations, while sending their responses to the survey to the FATF, could copy them to the Secretariat to assist the Committee's work. Finally Ms Boyle thanked, on behalf of the FATF, the Government of Monaco for offering to host the joint FATF/MONEYVAL experts meeting on typologies in November this year in Monaco.

9.5 IMF and World Bank

26. Mr. Terry Donovan, on behalf of the IMF, read the statement of the IMF that had been presented in the FATF meeting. *Inter alia* he mentioned that the budget envelope for the next three years will result in a decrease in the Fund's annual general expenditure of approximately 100 million dollars. He indicated that at this point the IMF should be in a position to continue its current scheduled assessment work with MONEYVAL (i.e. Armenia in February 2009). It remains unclear if the IMF will be able to attend all future MONEYVAL meetings. However the IMF expressed its wish to retain observer status.
27. Ms. Cari Votava, on behalf of the World Bank, presented the work which had been done in February 2008 in Central Asia. 6 days of intensive AML technical training was held for government officials from various ministries and agencies in Kazakhstan, Uzbekistan and Kyrgyzstan. In March, a two day FIU workshop on the function of an FIU was held in Turkmenistan. Turkmenistan has now a draft AML law in the Parliament which should be soon adopted. In Tajikistan the draft AML law is still in the hands of the Government. Kazakhstan has an AML law which is still in the Parliament. It should be adopted in April

of this year. In Kyrgyzstan the AML law has been enacted and their FIU is beginning to become operational.

28. The Star initiative (on stolen assets recovery) in the World Bank and the UNODC has commenced. The World Bank would be working together with countries which are financial centres where corrupt officials are known to launder assets, as well as countries from which assets have been stolen. The focus will be on the recovery of assets. The main office has been created in the World Bank Washington office and further information is available on the website of the World Bank.
29. The plenary was also informed that Mr Klaudijo Stroligo will be taking over from Ms Cari Votava in central Asia. The Chairman and the delegations thanked Ms Votava for her work.

9.6 Offshore Group of Banking Supervisors (OGBS)

30. Their representative noted that the organisation comprises 16 members. The OGBS is considered by the FATF as equivalent to an FATF style regional body. Many of its members are trained as assessors for mutual evaluation. OGBS is doing some of its own evaluations, and has been called upon by the IMF and other FSRBs, particularly where offshore activities are significant, and where the OGBS assessors have particular experience or expertise such as in DNFBP.

9.7. Information from the European Union

31. Council of the European Union. The FIU Net has been granted co-funding by the Commission of almost 2 million € for a period of 2 years. The contract is led by the Netherlands and other EU member states co-finance this project. The first meeting took place on the 17th of January. The Commission will conclude a grant agreement with the Netherlands and the main contracting parties. This agreement will include strong conditions on the implementation of this project. At the moment there are 16 EU FIUs connected to the FIU Net, and three more are expected before summer 2008. Others should join within 2008 or at the beginning of 2009.
32. In January 2008 the Council submitted its evaluation report of the Council decision on co-operation between FIUs in respect of the exchange of information. The report mainly focuses on the legal aspects of the Council decision and focuses on the definition of the FIU, the bases and modalities for the exchange of information and data protection. Legally speaking, all EU members are compliant with the Council decision. The report concludes with a series of co-operation provisions. At the beginning of April it will be discussed in the formal Multidisciplinary Working Group on Organised Crime.
33. The new EU strategy on terrorist financing has been initiated by the newly appointed counter terrorism coordinator and most of the actions mentioned in the existing strategy of 2004 have been implemented. The focus of the new strategy will be on the implementation of the recently adopted legislation and the problems encountered in its implementation, new trends and methods, and the new developments in the FATF. Also, co-operation with third countries and international organisations such as the UN and the CoE, the freezing of assets and the co-operation with Europol and Eurojust in the fields of terrorist financing are included.
34. European Commission. The anti-money laundering committee, on 19 February 2008, discussed the implementation of the 3rd Directive. In March, only 11 States had notified the transposition of the Directive to the European Commission. A large majority of the

member states will be able to finalise the process by summer or the end of the year. This is considered by the Commission as a high priority.

35. An agreement on equivalent third countries had not been reached yet. The next meeting should finalise this. The issue of EU implementation of the FATF SRVII and SRIX has also been discussed in the last FATF plenary. FATF has challenged the way the EU has implemented those two Recommendations. FATF has decided that the EU can be viewed as one jurisdiction for the purposes of SRVII and the Interpretative Note has been changed accordingly. The Interpretative Note to SRVII and consequential amendments to the Methodology were made after the FATF agreed that wire transfers within the EU can now constitute domestic transfers for the purposes of SRVII. It is on the FATF website. For SRIX, there is still need for further discussion on whether the EU can be treated as one jurisdiction.

10. Information on AML/CFT initiatives in MONEYVAL countries (tour de table)

36. Albania. The final draft law on the Prevention of Money Laundering and the Financing of Terrorism has been approved by the Council of Ministers and was submitted for endorsement to the Albanian Parliament on 26 March 2008. This draft law aims to establish a firmer legal base for the prevention of money laundering and the financing of terrorism in accordance with international standards and the recommendations of the 3rd round evaluation of MONEYVAL. In mid February, the Council of Ministers approved Decision 140 supporting the law for the measures to counter the financing of terrorism. This decision clearly distinguishes the responsibility of the state authorities regarding the seizure of assets from persons suspected of terrorism financing. Following the programme of 2006, an intranet is currently being installed in the Albanian FIU.
37. Andorra. During March, the Government of Andorra approved the modification of the Penal Code and the Penal Procedure Code. The approval for the ratification of the Convention for the suppression of the financing of terrorism and the AML/ CFT law has also been agreed. In the first months of the year all internal procedures of the financial institutions were revised. A permanent commission that comprises all the relevant institutions of the government has been established, as well as the beginning of the training program for 2008.
38. Armenia. Since the last MONEYVAL meeting, certain progress has been made in passing the new AML/CFT law. It has passed the first Parliamentary reading and is waiting the second and final reading. Several Memoranda of Understanding with the Russian, Belarusian, Georgian, and Ukrainian FIUs have also been signed. The financial monitoring sector has elaborated 6 typologies based on the strategic analysis of disclosed AML related vulnerabilities. These typologies have been distributed to all financial institutions.
39. Azerbaijan. Several proposals were made during the High Level Mission. They should be reflected in the draft law made by the mission both during and after the visit. A list of Measures has been carried out on the basis of the last mission's recommendations. The MONEYVAL evaluation will take place in April.
40. Bosnia and Herzegovina. Due to internal problems within the police and constitutional reform, there have been no significant legislative changes. In the light of work within the MONEYVAL committee, it is hoped that the Council of Ministers of Bosnia & Herzegovina will support the proposal to establish AML expert groups. Work on software for automatic data processing has not become operational yet. Several investigations have been undertaken on the basis of suspicious transaction reporting (60 million of KM

(convertible mark) - 30 million €). So far in 2008, 8 criminal reports (against 36 natural and 1 legal person) have been submitted to the prosecution office for money laundering. 5 million KM have been blocked. Regarding international cooperation, 28 exchange international reports have been made.

41. Cyprus. A new law “the prevention and suppression of money laundering and terrorism financing of 2007” was enacted by Parliament on 13 December 2007 with effect as from 8 January 2008, in order to coincide with the introduction of the euro (1 January 2008). With this law the provisions of the 3rd EU Directive were incorporated into the domestic legal system. The opportunity was taken to amend and consolidate all previous laws in this field into one piece of legislation. Based on the provisions of the new law, the supervisory authorities have already prepared new directives which will shortly be circulated to the financial institutions as well as to the members of the professional bodies. In this area the FIU, as the supervisory authority for estate agents and dealers in precious stones and metals, have also drafted the new directive. This new directive will shortly be circulated and training seminars have been organised. In December 2007, the unit froze 468.000 Cyprus pounds. The predicate offence was fraud. In February 2008 there were two freezing orders, regarding a bank account in the amount of 1.7 million € and 10 land properties. Both predicate offences were fraud. In February 2008 there was a conviction for money laundering. The predicate offence was drug related. Imprisonment for 18 months and 7.500€ fees.
42. Czech Republic. The new anti-money laundering act that will bring the Czech Republic into compliance with the 3rd EU Directive is waiting for its second reading in the Parliament. The Czech Republic sent three delegates to the Egmont Working Group meetings in Chile. The Czech Financial Analytic Unit of the Ministry of Finance hosted participants of the original FIU Net users workshop. There were representatives from Poland, Slovakia, Slovenia and Germany. It was organised by FIU Net bureau.
43. Estonia. A new draft law was submitted to Parliament and came into force at the end of January 2008. With this law, the FIU became the biggest supervision institution. The FIU launched a new IT system, and a work-based reporting and information exchange system. The Ministry of Finance drafted two guidelines which are due to come into force in April. The Financial Supervision Authority drafted a guideline for financial and credit institutions. The Ministry of Foreign Affairs prepared a draft act on implementation of international sanctions to accommodate those sanctions which are not provided as a terrorist financing a “criminal act”. The MONEYVAL evaluation team visited Estonia in February. In 2008, there were two convictions for AML issues. The FIU of Estonia will be supervising all reporting institutions that have no other supervisory authorities.
44. Georgia. Draft amendments to the Criminal Code of Georgia and the anti-money laundering law, initiated by the Government authorities of Georgia, have been submitted to Parliament. After signature, they will be accepted as law. Georgia has concluded Memoranda of Understandings with Poland, Armenia and Sweden and is in the process of concluding a Memorandum with Russia. This year there were three convictions for money laundering offences: 3 millions dollars were confiscated.
45. Hungary. The 3rd EU Directive was implemented in December 2007 by a new AML/CFT act. Another act came into force in Hungary on the implementation of financial and asset related restructuring measures ordered by the EU. This act will improve the freezing of assets in a more effective manner. Customs will be the competent authority to implement these provisions. The functions of the FIU have been transferred from the Hungarian national police headquarters to the Hungarian customs and finance guard. Regarding international co-operation, the Hungarian FIU fully meets the requirements in order to be recognised as an Egmont type FIU. The ESW system of the Egmont Group

will be available for the Hungarian FIU presumably in April 2008. This statement was formally confirmed at the Egmont Working Group meeting in Chile. Since the last plenary of MONEYVAL, the Hungarian financial supervisory authority has continued its work in several areas in AML/CFT. The authority is also establishing a training and methodology centre, to educate the staff of the Hungarian financial supervisory authority. In the last three months the Hungarian financial supervisory authority conducted 13 on-site examinations, focusing on AML/CFT duties.

46. Israel was invited by the Chairman to participate in the *tour de table*. A special task force has been formed, headed by the attorney general with the state attorney, the inspector general of the police, the head of the tax authority and the chairman of the securities authority. A work plan for the intelligence centre and the 6 task forces was addressed. The intelligence centre is comprised of Israel police, the tax authority and the FIU acting to cross-reference information for the purpose of exposing criminal activities and producing quality intelligence products. 6 multi-agency task forces were formed, each assigned a specified criminal organisation or phenomenon. About 35 millions dollars have been confiscated since 2002 related to money laundering offences.
47. Latvia. The AML draft law is now in Parliament for the second reading. The Association of Latvian Commercial Banks has taken additional steps in order to enhance the transparency of offshore customers and approved the action plan. The action plan goes beyond the requirements of the 3rd Directive. It lists a number of steps that banks in Latvia have agreed to take as a voluntary private sector initiative and strengthens the relationships with correspondent banks. Regarding the FIU, several events are planned including a meeting with the Commission that drafted the AML law to discuss the work of the FIU. Last year the FIU issued 994 orders for freezing money (30 millions dollars). There were 17 final convictions for 23 convicted persons and 16 confiscation cases with confiscated sums with more than 3 million euros. Last year the prosecutor office dealt with 48 criminal cases with 62 prosecuted persons for conviction.
48. Liechtenstein. A change was announced within the composition of the Liechtenstein delegation. Mr Stephan Ochsner, the current head of delegation, will be replaced by Mr René Bruehlhart.
49. Malta. In the time allowed for the consultation on the implementation of the 3rd EU Directive, the FIU has received a good response from the industry, from the relevant authorities and interested stakeholders. The FIU is now in the process of meeting some of the stakeholders to discuss certain issues, for example, the application of obligations under the regulation for IT gaming. The court has also delivered a judgement on two cases, one related to movements of cash above the limit across borders, and the other regarding a money laundering offence, resulting in the confiscation of the money, and an appeal from the attorney general.
50. Moldova. The Parliament has adopted a law on amending several legislative acts such as the code on the administrative contraventions, the law on financial institutions, the law on gambling, the customs code, the law on combating terrorism, the criminal code and the criminal procedure code. It has approved a new order on reporting suspicious activities or transactions which comprise a special form for the reporting entities and instructions on how they should be completed and submitted to the FIU. The National Commission of the Financial Market adopted a decision on the Recommendation regarding the Enforcement of the Measures for the Prevention and Combating the Money Laundering and Terrorist Funding in the Non-Banking Financial Market. The National Bank of Moldova has amended the Recommendations on Developing Programs by the banks in the Republic of Moldova on the Prevention of Money Laundering and Combating Terrorist Financing. The National Bank has approved

amendments to decision Nr. 207 according to the recommendations of the MONEYVAL Committee. Two seminars on AML and safety have been organised for the FIU staff. Study visits have also been organised for the FIU staff in the Netherlands, Italy and Poland.

51. Monaco. Monaco was evaluated during the last plenary in December 2007. The Government has expressed its agreement on every issue of the action plan annexed to the evaluation. A start has been made on several changes to certain parts of the AML/CFT law which were recommended. Staff have been recruited for the on-site control of the professionals referred to in the law. In February 2008 the IMF evaluated Monaco, from a banking point of view. The IMF were presented with the action plan that was adopted by the MONEYVAL committee.
52. Montenegro. The new law on AML/CFT which was adopted in November 2007 entered into force on 1 January 2008. On that basis guidelines for the financial institutions that will help implement this law into the national law system are being created by the administration, the Minister of Justice and the Parliament. A new department was created for the inspection of financial institutions. Training for the staff of the financial authorities is being organised.
53. Poland. Poland has been accepted as observer in the EAG. During the Egmont plenary three new MOUs were signed on the exchange of financial information with Peru, the Philippines and Brazil. So far Poland has signed 41 Memoranda of Understanding. At the end of 2007, 296 criminal investigations had been launched, within those investigations 102 persons were charged with money laundering. Police enforcement authorities have confiscated assets originating from the predicate offence as well as from money laundering itself (approx 10 million euros).
54. Romania. The new law implementing the 3rd EU Directive will be effective in April 2008. The FIU continue the training session with the non-financial reporting entities and published an activity report for 2007. The FIU is also employing new financial assistants.
55. The Russian Federation. Since the last plenary, the new amendments to the AML/CFT were adopted by Parliament. They entered into force in the middle of January. The Russian FIU signed agreements with Afghanistan, Armenia and Brazil. There are about 40 agreements. The project financed by the European Commission and administrated by the Council of Europe is in progress. In April there will be a visit of Russian analysts from the FIU and from the Ministry of the Interior to Europol in The Hague and to visit the Dutch FIU. The Russian Federation is now preparing for an evaluation within the GRECO process which will take place on 20 April 2008. It has been decided that the action plan for implementing the recommendations of the FATF/MONEYVAL/EAG MER will be introduced in the summer.
56. Serbia. The draft law on AML/CFT has been adopted and is now in Parliament. Documents needed for the implementation of that law are in preparation. One Working Group has been established by the head of the FIU, to prepare guidelines to implement a risk-based approach in combating money laundering and terrorist funding. These documents will be used by the supervisors and the financial institutions. The law on the confiscation of property gained from criminal activity has been drafted. It will reverse the burden of proof regarding the proceeds of a list of criminal offences (including ML and FT). According to this draft, a directorate for the management of seized assets will be established. The draft law on liability of legal entities regarding criminal offences is being discussed.

57. Slovakia. The draft law implementing the 3rd EU Directive is still pending in the Parliament.
58. Slovenia. Some provisions of the AML law adopted in June last year entered into force in January 2008. The Bank of Slovenia sent a letter to all banks, the purpose of which was to clarify how to meet these legal requirements, especially on how to identify beneficial owners and PEPs. The Bank of Slovenia and FIU jointly organised seminars for banks.
59. “The former Yugoslav Republic of Macedonia”. On 4 January 2008 the new law on AML/CFT was adopted in the Parliament. It is harmonised with the 3rd EU Directive. With this law the FIU ML Prevention Directorate became a separate body with the status of legal entity within the Ministry of Finance. It is now the designated office for the prevention of ML and FT. The number of employees in this office has increased from 11 to 22. A new national strategy has been prepared for AML for the next three years. There is ongoing training for the new staff of FIU about all the aspects of AML issues and also for using IT software. Intensified operative inter-institutional co-operation with the Ministry of Interior, financial police and the public prosecution office through the creation of special taskforces has been made. In January 2008, an amendment to the Criminal Code was adopted by Parliament and entered into force on 23 January 2008. It introduces a new criminal offence (the financing of terrorism).
60. Ukraine. The FIU now has 25 fully operational regional subdivisions. The FIU operated a training centre which has trained more than 100 experts on AML/CFT issues. Ukraine now has 37 MOUs signed with different countries. A seminar for analysts will be jointly organised with the EAG Secretariat in mid April.

Items 11 to 13 – Discussion on the draft mutual evaluation report on Bulgaria

61. The Secretariat thanked the Bulgarian delegation for their hospitality in Bulgaria and their cooperation. The Secretariat explained the background of the on-site visit and introduced the experts involved in this evaluation. The evaluators presented an overview of their findings. The Plenary was briefed on the major changes that were made to the draft report between the version sent out before the plenary meeting and the revised version brought to the plenary. The Secretariat informed the delegates that the comments received from the Ad Hoc Review Group had been considered by the examiners. Then the Bulgarian authorities expressed their thanks to the assessment team and introduced the members of the delegation. The three intervener countries were: Ukraine (legal aspects), Andorra (law enforcement aspects) and Armenia (financial aspects).
62. *Important issues raised:*
 - The plenary had an intense discussion in the context of “other enforceable means” (OEM). The evaluators had acknowledged that “internal rules” for control and preventing money laundering were to be considered as OEM. The AML Law and the implementing rules require obliged entities to adopt “internal rules” for control and preventing money laundering. These rules provide further details as to criteria for identifying suspicious operations or transactions or customers; the training of the employees and the use of technical means for prevention and detection of money laundering; and also an internal control system for the compliance with the measures under the AML Law. The rules are required to be approved by the Director of the FIA. In MONEYVAL evaluations hitherto it has never been the case that the internal rules of individual financial institutions could be considered to be “other enforceable means”.

- The FATF note to assessors, which had been issued prior to the MONEYVAL plenary discussions of Bulgaria (Annex 2 in FATF/PLEN/(2008)10) on other enforceable means, was considered in relation to the internal rules. Briefly, in order to be considered as other enforceable means a “document or mechanism” must satisfy several specific factors set out in the FATF note including that a document / mechanism was issued by a competent authority, and that there should be sanctions for non compliance. The Bulgarian authorities argued that as their rules were authorised by the Director of the FIA and were capable of being sanctioned they constituted other enforceable means. It was pointed out that sanctions had been issued not simply for failure to produce internal rules as provided for by the AML Law, but also for breach of the content of individual rules. In this regard it was noted that one bank had been sanctioned by the FIA on the basis of the rules for not reporting a category of suspicious transaction described in the particular rules.
 - While in many ways the Bulgarian system for the issuing of internal rules is quite unique it was the view of the Plenary that its use in this context could not be viewed as producing texts which satisfied the “other enforceable means” test. The plenary was also concerned that the evaluators could not in a system of this kind review all the individual sets of rules authorised by the FIA for each financial institution. As such they were not in a position to determine globally whether there were in fact in place general and consistent national obligations on all relevant issues which could be covered by internal rules issued under Article 16 of the AML Law and Article 17 of the implementing rules. Additionally it appeared that the internal rules could address issues beyond what is provided for in the law (e.g. PEPs and correspondent banking).
63. The Plenary decided after discussion:
- to delete the first bullet in the underlying factors to R. 1;
 - to indicate the basic penalty for ML for natural persons as being 1-8 years in Para. 207;
 - to specify in Para. 272 that the list designation process takes as a maximum 1 week;
 - to indicate in Para. 278 that 69 matches have been checked, but they were all false matches;
 - to insert in the last bullet in the rating box under SR III “relating only to the non-banking sector”;
 - to further explain in the text Article 11 in the AML Law concerning the right for the FIU to obtain additional information from the reporting entities;
 - to include more description under R. 33 on beneficial ownership and the up-to-date information in the commercial register on ownership, management and control of the commercial companies registered;
 - the word “clarified” in the second bullet under R. 5 should be substituted by “required” and to delete the third bullet point;
 - to specify under Para. 437 that there are no requirements in law or regulation to undertake CDD when it concerns TF;
 - to clarify the summary factors of R. 13 and SR IV by including the underlying factor in R. 1 as a first bullet point in R. 13, to repeat the first bullet point in SR IV under R. 13 and to delete “comparatively low filing of banks”. To insert a new bullet point under SR IV indicating that a clear provision to file STR on TF promptly should be provided and to delete “sustained outreach should be provided by the FIU”;
 - to delete the word “case” in the underlying factor to R 25.2;
 - to clarify in Para. 570 that the EU list will only be a useful tool when compiling a national list on countries that do not or insufficiently apply the FATF recommendations;
 - to adjust the text under SR VII to only reflect the EU Regulation 1781/2006 on information on the payer accompanying transfer of funds and to delete the two first bullet points in the underlying ratings;

- to delete any reference to individual money transfer companies in Para. 57;
- to delete some text in Para. 100, 452 and 467.
- to upgrade R. 17 to LC and to delete the first bullet in the summary factors;
- to upgrade R. 23 to LC.

64. *Decision taken:*

- Adopted the draft third round detailed assessment report on Bulgaria as amended and its draft summary (and subject to consequential editorial changes by the Secretariat).

Items 14 and 15 – Discussion on the draft mutual evaluation report on San Marino

65. The Secretariat thanked the San Marino delegation for their hospitality in San Marino and their co-operation. The Secretariat explained the background of the on-site visit and introduced the experts involved in this evaluation. The evaluators presented an overview of their findings and after that the major changes to the draft report between the version sent out before the plenary meeting and the version brought to the plenary discussion were presented. The Secretariat informed that the Ad Hoc Review Group and the IMF had submitted comments for consideration and presented the comments which were endorsed by the examiners. The San Marino authorities expressed their gratitude to the assessment and introduced the members of delegation. They also made a general presentation of the situation in San Marino and presented briefly the institutional and legislative developments since the last evaluation visit.

66. The three intervener countries were: the Czech Republic (legal), Cyprus (law enforcement) and Latvia (financial). In discussions on the draft report, the interveners and the Plenary sought further clarification and information on various issues.

67. *Discussions*

68. The Plenary sought more information on :

- fundamental principles and self laundering
- on the legal form of the Central Bank in San Marino, its shareholders and its autonomy from the private sector (as it is owned 30% by commercial banks) and the possible impact that this might have on its functions as a financial intelligence unit or otherwise on the norms issued by the Central Bank in the AML/CFT field
- on the status of Regulations, circulars, instructions and standard letters issued by the Central Bank according to the Methodology given its legal form
- on the powers of the financial intelligence unit to block assets in the banking sector
- on the scope of co-operation of the San Marino FIU with non-administrative foreign FIUs

69. *Important issues raised*

70. The Plenary discussed at length the institutional set up of the financial intelligence unit in San Marino, which in their view raised serious concerns. They questioned whether the fact that the Central Bank was the FIU, as the authorities claimed (as opposed to having an FIU within the Central Bank) could be considered as meeting the essential criterion 26.1. There was no similar institutional precedent in other MONEYVAL jurisdictions. The San Marino authorities advocated the benefits of this institutional set up (autonomy, resources, close links with the supervisory department of the Central Bank) considering also the national context. The Plenary considered several aspects (importance of the FIU function of the Central Bank, the guarantees in place for the autonomy and the

operational independence of the Central Bank operating as the FIU from the Central Bank operating in its other functions, the decision-making process for FIU daily operations, the nomination procedure for the head of the FIU, the protection of data, etc). It concluded that an institutional framework which identified the Central Bank as the FIU did not appear to satisfy the requirements of Recommendation 26.

71. The Plenary addressed also the specific situation of San Marino as an enclave in a European Union country (Italy) as regards compliance with Special Recommendation IX. San Marino is considered to be part of the Italian customs area, and there was never a physical border between both countries. The Plenary finally concluded that it would not be adequate to rate Special Recommendation IX as not applicable, as San Marino should be in a position to introduce measures in place to detect the physical cross-border transportation of currency and bearer negotiable instruments without jeopardizing the provisions of the customs treaty with Italy.
72. The Plenary discussed the status of the Central Bank (private and public participatory body, 70% of capital State-owned and the rest by 4 commercial banks) and the legal basis upon which it is entrusted with issuing legal norms. It decided that the Regulations, circulars, instructions and standard letters issued by the Central Bank are according to the Methodology "other enforceable means".
73. The Plenary decided after discussions:
 - To maintain the rating on Recommendation 11 (Partially Compliant)
 - To upgrade the rating on Recommendations 1 and 29 from Partially Compliant to Largely Compliant and modify as relevant the summary of factors
 - To clarify and modify in accordance with the discussions the text and/or summary of factors related to several recommendations.
74. *Decisions taken*
 - Adopted the draft third round detailed assessment report on San Marino and its draft summary (and subject to consequential editorial changes).
75. Following the adoption of the report, the Plenary examined also the overall compliance of San Marino in the light of the discussion and the changes to the draft report. Considering the important number of recommendations rated Non – Compliant and Partially Compliant, including key recommendations, the Plenary agreed to initiate the application of compliance enhancing procedures (CEP) in respect of San Marino. The San Marino representatives indicated at this stage that the Government planned to take urgent measures to ensure that the draft AML/CFT law would be adopted by the Parliament by July 2008. Therefore they proposed to make a report to the next Plenary without the formal launching of compliance enhancing procedures. While acknowledging their commitment, the Chairman advised that this would deviate from the Committee's procedures.
76. *Decision taken*
 - In accordance with its rules of procedure, it decided to apply Step 1 of the Compliance Enhancing Procedures and requested San Marino to provide a compliance report at the next Plenary meeting on measures that it has or taking to address the deficiencies underlying the recommendations which were rated Non Compliant and Partially Compliant.

Items 16 and 17 – Discussion on the draft mutual evaluation report on Croatia

77. The Secretariat thanked the Croatian delegation for their hospitality in Croatia and their cooperation. The Secretariat explained the background of the on-site visit and introduced the experts involved in the evaluation. The evaluators presented an overview of their findings and after that major changes to the draft report between the version sent out before the plenary meeting and the version brought to the plenary discussion were presented. The Secretariat informed that the Ad Hoc Review Group and the IMF had submitted comments for consideration. Their expertise and advice were highly appreciated and most comments were endorsed by the examiners. Then the Croatian authorities expressed their gratitude to the assessment team and introduced the members of the delegation.
78. The three intervener countries were: Lithuania (legal), Liechtenstein (law enforcement) and Malta (financial). In discussions on the draft report on Croatia, the interveners and the Plenary sought further clarification on various issues.
79. *Discussions*
80. The Plenary sought more information:
- concerning the required *mens rea* with regard to the criminalisation of terrorist financing;
 - concerning the issue of anonymous accounts in Croatia;
 - whether Croatia uses European Union regulations as “best practice” examples and also as blueprints for amendments to the AML Law.
81. *Important issues raised*
- The plenary concluded that the criminalisation of terrorist financing solely on the basis of aiding and abetting, attempt, or conspiracy does not comply with SR.II but that it is not necessary that financing of terrorism has to be criminalised in form of an “autonomous offence”.
 - The plenary decided in the context of SR IV that terrorist financing needs to be expressly addressed. With regard to the Croatian AML Law which was originally designed exclusively as anti-money laundering legislation, it is insufficient to amend the law simply by adding to the first (programmatic) article that the scope of this law also covers terrorist financing.
 - The plenary concluded that an NC rating for Recommendation 13/Special Recommendation IV does not necessarily mean an NC rating for R.14 (tipping off/safe harbour provisions) and that this is not a “cascading” issue.
 - The plenary concluded that “refusing a transaction” does not comply with “refraining (from) a transaction” as required by Article 7 of the EU AML Second Council Directive.
82. The Plenary decided after discussions
- that Special Recommendation II (which was rated as “Non Compliant”) should be rated as “Partially Compliant”.
 - that Recommendation 21 (which was rated as “Partially Compliant”) should be rated as “Non Compliant”.
 - To maintain the rating on Recommendation 14 as “Non Compliant”.
 - To maintain the rating on Special Recommendation IV as “Non Compliant”.
83. *Decision taken*
- Adopted the draft report and summary, as amended (and subject to consequential editorial changes).

Item 18 – Typologies – update on status of work and the future activities

84. There was an update on progress with the 2007 Typologies reports. Mr. Robert Tupa, Chairman of the Working Group on Typologies, introduced the item following which the project leaders indicated that the draft reports are in the process of being finalised and would be presented in July for review and adoption. The Executive Secretary to MONEYVAL thanked the members of the two Working Groups that have worked extremely hard, particularly the two Working Group leaders, as well as Michael Levi (UK) and John Baker (UK).
85. The Committee agreed that Mr. Robert Tupa (Poland) will continue to hold the Chairmanship of the Working Group on Typologies until July this year following which Ms. Eva Rossidou-Papakyriacou (Cyprus) will take on this role thereafter. This was formally proposed to and accepted by the Committee.
86. As decided at the last plenary, a joint FATF/MONEYVAL Typologies meeting will be held in Monaco in November, under the generous hospitality of the Monaco authorities. The Bureau had some preliminary consideration on the issue of which topic will be taken forward post July. Several Heads of Delegations have put forward proposals for the 2008 typologies exercise: currency exchange transactions with no underlying logical or business explanation (Armenia), the use of free trade zones in money laundering processes (Cyprus), gate keepers (Romania), money laundering using cross-border cash transfers (Ukraine), PEPs.
87. Ms. Rachel Boyle from FATF presented the Strategic Surveillance Initiative and the expected results of this project (annual collection of information through survey, analysis of trends, regular Strategic Surveillance discussion at FATF meetings, biannual production of a global threat assessment). Delegates were invited to contribute to the FATF Strategic Surveillance survey.
88. *Decisions taken*
- The plenary took note of the present typologies work and delegates were to reflect upon the project proposals with a view to taking a decision in July on the topic to be addressed at the 2008 typologies meeting.

Item 19 – MONEYVAL work programme 2009 and beyond

89. As discussed previously, the on-site visits in the 3rd round should be completed by early 2009. The remaining reports will be adopted during the course of 2009. There was a preliminary discussion about the future of on-site visits after the 3rd round, and a shorter and more focused process of on-site visits was proposed. If countries presently involved in the financial sector assessment process would require for those purposes a complete assessment using the current methodology, the preliminary thinking of the Bureau was that to avoid duplication, the procedure would be relaxed to ensure that the country is not disadvantaged. MONEYVAL's plans would be coordinated with the FATF.

Item 21 – Future representation in FATF meetings

90. The policy adopted in the Bureau since MONEYVAL became an Associate Member of the FATF is that in respect of the 5 countries that are able to participate, in addition to the Presidency and the Secretariat, in the plenary meeting of FATF, priority would be

given to the countries represented in the Bureau (Cyprus, Estonia and Croatia). This policy was confirmed. On the assumption we will have some further places in June, delegations were invited to express their interest. It was noted that as Andorra had already requested and was not able to attend the last meeting, it would be given priority. The Slovak Republic also expressed their interest in attending the next meeting.

Item 22 – Financing and staffing

91. It was noted that the deadline for applications for the 2 seconded positions to MONEYVAL would be extended to give countries sufficient time to reflect on potential candidates. Secondees should be proposed through their Permanent Representations to the Council of Europe (official applications should be sent from the Permanent Representation to the Directorate of Human Resources). The Executive Secretary gave an update on the budgetary position.
92. The Chairman intervened to indicate that in his view, a Deputy Secretary of the committee was required and a further person from the permanent staff as there is an increasing workload. He very much appreciated the input of the secondees but he considered more permanent staff would strengthen the Secretariat. The Chairman would raise this with the responsible persons in the Secretariat of the Council of Europe

Item 23 – Miscellaneous

93. The Executive Secretary explained that he had been involved in an EU Committee looking at statistics that the EU ought to collect in order to be able to demonstrate the effectiveness of the AML/CFT systems. To this end, Eurostat would like to have contact details of all EU member MONEYVAL delegates in order to make enquiries about the kinds of statistics that are kept within jurisdictions. No objections were raised, so the EU members represented gave their permission to the Secretariat to pass on this information.

ANNEX

AGENDA / ORDRE DU JOUR

26th PLENARY MEETING / 26^e SESSION PLENIERE

Day 1: Monday 31 March 2008 / 1^e jour: lundi 31 mars 2008

Morning 9h30 / matin 9h30

1. **Opening of the Plenary Meeting at 9h30 / Ouverture de la Réunion Plénière à 9h30**
2. **Adoption of Agenda / Adoption de l'Ordre du Jour**
3. **Information from the Chairman / Informations communiquées par le Président**
 - **Bureau / Bureau**
 - **High level mission in Azerbaijan / Mission de haut niveau Azerbaïdjan**
4. **Information from the Secretariat / Informations communiquées par le Secrétariat**
 - 4.1 **Agenda of evaluations and meetings for 2008 / Agenda des évaluations et réunions en 2008**
 - 4.2 **Participation in other events / Participation à des activités diverses**
 - **MONEYVAL Secretariat / Secrétariat de MONEYVAL**
 - 4.3 **Progress report: 2008 amendments to incorporate 3rd EU Directive / Rapport de progrès Questionnaire: amendements pour 2008 afin d'incorporer la 3^{ème} Directive de l'UE**
 - 4.4 **OSCE application for observer status / OSCE application au statut d'observateur**
5. **Discussion on the Progress report on Lithuania / Discussion du rapport de progrès sur la Lituanie**
6. **Discussion on further development of the Ad hoc Review Group / Discussion des activités futures du Groupe ad hoc d'experts**
7. **Discussion on MONEYVAL progress reports / Discussion des rapports de progrès MONEYVAL**
8. **Composition of MONEYVAL Delegations / Composition des Délégations de MONEYVAL**

Afternoon 14h30 / après-midi 14h30

9. **Information on AML initiatives in other fora / Information sur les initiatives LAB/CFT dans d'autres institutions**
 - EBRD / BERD**
 - Egmont group / Groupe Egmont**
 - Eurasian Group on Combating Money Laundering and Terrorist Financing (EAG) / Groupe Eurasie sur le blanchiment de capitaux et le financement du terrorisme (EAG)**
 - FATF / GAFI**

IMF and World Bank / FMI et Banque Mondiale
Offshore Group of Banking Supervisors (OGBS) / Groupe offshore des autorités de contrôle bancaire (OGBS)

UNCTC / CCTNU

United Nations / Nations Unies

Information from the European Union / Information de la part de l'Union Européen

- 10. Information on AML/CFT initiatives in MONEYVAL countries (tour de table) / Information sur le initiatives LAB/CFT dans les pays membres de MONEYVAL (tour de table)**

Day 2: Tuesday 1st April 2008 / 2^e jour: mardi 1er avril 2008

Morning 9h30 / matin 9h30

- 11. Discussion on the draft Mutual evaluation report on Bulgaria / Discussion du projet de rapport d'évaluation mutuelle de la Bulgarie**

Afternoon 14h30 / après-midi 14h30

- 12. Continuation of the discussion on the draft Mutual evaluation report on Bulgaria / Poursuite de la discussion du projet de rapport d'évaluation mutuelle de la Bulgarie**

- 13. Information on AML/CFT initiatives in MONEYVAL countries (tour de table) – continuation of the discussion as necessary / Information sur les initiatives LAB/CFT dans les pays membres de MONEYVAL (tour de table)- poursuite de la discussion si nécessaire**

Day 3: Wednesday 2nd April 2008 / 3^e jour: mercredi 2 avril 2008

Morning 9h30 / matin 9h30

- 14. Discussion on the draft Mutual evaluation report on San Marino / Discussion du projet de rapport d'évaluation mutuelle de Saint-Marin**

Afternoon 14h30 / après-midi 14h30

- 15. Continuation of the discussion on the draft Mutual evaluation report on San Marino / Poursuite de la discussion du projet de rapport d'évaluation mutuelle de Saint-Marin**

Day 4: Thursday 3rd April 2008 / 4^e jour: jeudi 3 avril 2008

Morning 9h30 / matin 9h30

- 16. Discussion on the draft Mutual evaluation report on Croatia / Discussion du projet de rapport d'évaluation mutuelle de la Croatie**

Afternoon 14h30 / après-midi 14h30

- 17. Continuation of the discussion on the draft Mutual evaluation report on Croatia / Poursuite de la discussion du projet de rapport d'évaluation mutuelle de la Croatie**

Day 5: Friday 4th April 2008 / 5^e jour: vendredi 4 avril 2008

Morning 9h30 / matin 9h30

- 18. Typologies – update on status of work and the future activities / Typologies – mise à jour concernant l'état des travaux et les activités futures**
- 19. MONEYVAL work programme 2009 and beyond / MONEYVAL Programme de travail 2009 et activités futures**
- 20. Further discussion of Ad hoc Review Group (as necessary) / Poursuite de la Discussion sur le Groupe ad hoc d'experts (si nécessaire)**
- 21. Future representation in FATF meetings / Représentations futures dans les réunions du GAFI**
- 22. Financing and staffing / Financement et questions de personnel**
- 23. Miscellaneous / Divers.**

LIST OF PARTICIPANTS

26th PLENARY MEETING / 26e RÉUNION PLÉNIÈRE

ALBANIA / ALBANIE

Mr Arben DOÇI
HEAD OF DELEGATION
Financial Intelligence Unit, Ministry of Finance
Street Dora Istria 2, ALB – TIRANA

Mr Arben KRAJA
Prosecutor, Prosecutor General's Office, Organised Crime Department
Qemal Stafa, 1, ALB - TIRANA

Mr Agim MUSLIA
Head of Prevention and Supervision, Ministry of Finance
Street Dora Istria 2, ALB – TIRANA

ANDORRA / ANDORRE

Mr Josep M^a FRANCINO
HEAD OF DELEGATION
Directeur, Unité de Prévention du Blanchiment (UPB)
C/ Prat de la Creu 8, Edifici Le Mans, ANDORRA LA VELLA, Principat d'Andorra

ARMENIA / ARMENIE

Mr Arakel MELIKSEYAN
Deputy Head of the Financial Monitoring Center of the Central Bank of Armenia
Vazgen Sargsyan 6, ARM – 375010 YEREVAN

Mr Davit TADEVOSYAN

AZERBAIJAN / AZERBAÏDJAN

Mr Rufat ASLANLI
HEAD OF DELEGATION
Head, Banking Supervision Department, Member of the Board, National Bank of Azerbaijan
R. Behbudov Street, 32, AZ – 1014 BAKU

Mr Mehti MEHTIYEV
Government Commission on the issue of Money Laundering and FT

Mr Anar SALMANOV
Banking Supervision, National Bank of the Republic of Azerbaijan

BOSNIA AND HERZEGOVINA / BOSNIE-HERZÉGOVINE

Mr Karan SINISA
HEAD OF DELEGATION
(State Investigation and Protection Agency, Chief of the
Financial Intelligence Department of Bosnia and Herzegovina)

Ms Sandra MALESIC
Head of Department for European Integration, Ministry of Justice,
M. Tita 40, 71000 SARAJEVO

Mr Samir OMERHODZIC
Director Insurance Agency
Ul. Obala Kulina Bana 4/11, 71000 SARAJEVO

BULGARIA / BULGARIE

Mr Vasil KIROV
CHAIRMAN / PRÉSIDENT
HEAD OF DELEGATION
Director General, Financial Intelligence Agency ,
Slavyanska Street 4, BG – 1040 SOFIA

Ms Kalinka DIMITROVA

Ms Sonya KLISSARSKA
Representative of the Ministry of Interior, AFCOS
"Serdika" str., No 34, SOFIA

Ms Angelina PAMPOROVA

Mr Stefan STOILKOV

Ms Daniela STOILOVA

Mr Petar RASHKOV
49, Marie-Louise Square, B - 1030 BRUSSELS, Belgium

Ms Mitka ZAHARLIEVA
Head of International Cooperation Department, Ministry of Justice
Slavyanska Street, BG – 1040 SOFIA

CROATIA / CROATIE

Mr Damir BOLTA
HEAD OF DELEGATION
Law enforcement evaluator for Bulgaria
Deputy Director, Anti-Money Laundering Department, Ministry of Finance
Ulica Grada Vukovara 72, HR - 10000 ZAGREB

Mr Damir DEAK
Chief Inspector, Economic Crime and Corruption Department, Ministry of the Interior
Ilica 33, HR - 10000 ZAGREB

Ms Marcela KIR
Director, Foreign Exchange Policy Department, Croatian National Bank
Trg Hrvatskih Velikana 3, 1000, Zagreb

Ms Ivana KOVACEK
Croatian National Bank

Mr Dinko KOVECEVIC
Ministry of Justice

Mr Ivan MUCNJAK
Financial Supervision Agency

Ms Anita LJUBIČIĆ
Licensing Analyst, Supervisory Sector, Licensing and Market Competition Department
Croatian National Bank, Trg Hrvatskih Velikana 3, 1000, Zagreb

Ms Zana Pedic,
Foreign Exchange Inspectorate

Mr Ivan PLEVKO
Deputy District Attorney, District Attorney's Office
Županijsko Drzavno Odvjetnistvo u Zagrebu, Savska 41/IV, HR - 10000 ZAGREB

Ms Kristina SPAJIC
Croatian National Bank

CYPRUS / CHYPRE

Mrs Eva ROSSIDOU-PAPAKYRIACOU
HEAD OF DELEGATION
Senior Counsel of the Republic, Head of the Unit for Combating Money Laundering
Attorney General's Office, 27 Katsoni Street, CY - 1082 NICOSIA

Mr Theodoros STAVROU
Police Investigator – Member of OUKAS, Law Office of the Republic, Unit for Combating Money Laundering,
27 Katsoni Street, CY – 1082 NICOSIA

CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE

Mr Jaromir NEUZIL
HEAD OF DELEGATION
Head of International Co-operation Department, Financial Analytical Unit
Ministry of Finance, Jindrisska 14, PO Box 675, CZ– 11121 PRAHA 1

Ms Kamila BRABCOVA
Police Officer, Police Service for Combating Corruption and Financial Crimes
PCR Police Presidiud, PO Box 62 / OKFK,
Strojnicka 27, 17089 PRAGUE 7

Ms Iva MILD
Legal Expert, Banking Supervision, Czech National Bank
Na Prikope 28, CZ - 11503 PRAGUE 1

Mr Stanislav POTOČEK
Public Prosecutor, Head of Department of Criminal Proceedings
Supreme Public Prosecutor's Office, Jezuitská 4, CZ - 66055 BRNO

ESTONIA / ESTONIE

Mr Andres Palumaa
HEAD OF DELEGATION
Head of AML Unit, Business Conduct Supervision Division, Estonian Financial Supervision Authority, Sakala 4, EE –
15030 TALLINN

Ms Lelo LIIVE
Head Financial Policy Department
Ministry of Finance

Mr Arnold TENUSAAR
Head of Supervisory Division, Central Criminal Polic, Financial Intelligence Unit,
Toostuse 52, 10416 TALLINN

GEORGIA / GEORGIE

Mr Tamar GODERDZISHVILI
Head of Legal Department, FIU
7 Tavisupleba Square, Tbilisi 0162

Mr Tinatin GOLETIANI
Head of the Law Making Department
Ministry of Justice

Mr Vakhtang Matchavariani
(legal evaluator for San Marino)
Head of Legal Department, Tao Privat Bank
114 Tsereteli Ave, Tbilisi, 01119 Georgia

Mr Levan MESKHORADZE
Head of the Internal Relations Unit, Ministry of Justice
Rustaveli av 28 Tbilisi

Ms Natalia TCHKOIDZE
Head of the Methodology and International Cooperation Division, Financial Monitoring Service of Georgia
7 Tavisupleba Square, Tbilisi 0162

Mr Nikoloz CHINKORASHVILI
Head of Unit, AML Unit, Prosecutor's Office
Gorgasali street 24, Tbilisi

GERMANY / ALLEMAGNE

Mr Hans-Martin LANG
Bundesanstalt für, Finanzdienstleistungsaufsicht, Federal Financial Service Supervision Authority
Referat Q 31, Graurheindorfer Strasse 108, D - 53117 BONN, Germany

HUNGARY / HONGRIE

Mr Árpád KIRALY
HEAD OF DELEGATION
Head of Department, Hungarian Financial Supervisory Authority (HFSA)
Krisztina Krt 39, H - 1013 BUDAPEST

Mr István FÜR
Lawyer, Ministry of Finance, Dept for International Relations
H-1051 Budapest, Jozsef Nador ter 2-4

Mr Béla KÁTAI-TÓTH
Lawyer, Hungarian Customs- and Finance Guard (FIU)
H-1122 Budapest

Mr Lajos KORONA
(legal evaluator for Croatia)
Public prosecutor

Mr Péter SCHIFFER
Deputy Director General, Hungarian Financial Supervisory Authority
1013 Budapest, Krisztinz Krt 39

ITALY / ITALIE

Romana Giovanna Piscitelli
(legal evaluator for San Marino)
Ministero dell'Economia e delle Finanze, Dipartimento del Tesoro
Direzione V - Prevenzione dei reati finanziari, Ufficio VIII - Relazioni internazionali

IRELAND / IRELANDE

Ms Elaine BYRNE
(financial evaluator for San Marino)
Deputy Registrar of Credit Unions, Irish Financial Regulator
College Green, IRL - DUBLIN 2

LATVIA / LETTONIE

Mr Viesturs BURKANS
HEAD OF DELEGATION
Head of the Office for Prevention of laundering of proceeds derived from criminal activity
Prosecutor General's Office, O. Kalpaka Blvd. 6, LV - 1801 RIGA

Ms Indra GRATKOVSKA
Administrative and Criminal Justice Department, Ministry of Justice
Brivibas Street, 36, LV – 1536 RIGA

Ms Daina VASERMANE
Chief Supervision Expert Supervision Department, Financial and Capital Market Commission
Kungu iela, 1, LV – 1050 RIGA

LIECHTENSTEIN

M. René BRUELHART
Director, Financial Intelligence Unit
Aeulestrasse 51, FL - 9490 VADUZ, Liechtenstein

Ms Miriam Chiara KLIER
Director, Other Financial Service Providers Supervision, Financial Market Authority (FMA)
Heilighreuz 8, 4-9490 VADUZ

Mr Stephan OCHSNER
Chief Executive Officer, Financial Market Authority
Heiligkreuz 8, P.O. Box 684, FL - 9490 VADUZ

Mr Ralph SUTTER
Deputy Director, Financial Intelligence Unit (FIU)
Aeulestrasse, 51, FL – 9490 VADUZ

LITHUANIA / LITUANIE

Mr Liutauras ZYGAS
HEAD OF DELEGATION
Chief Legal Adviser, Legal Division, Bank of Lithuania,
Gedimino Av 6, LIT - 01103 VILNIUS

Ms Diana BUKANTAITE
Senior Expert, International Law Department, Ministry of Justice
Gedimino Ave. 30/1, LIT – 01104 VILNIUS

Mr Igoris KRZECKOVSKIS
Consultant of the Director, Financial Crime Investigation Service,
Sermuksriu Str 3, Vilnius

Mr Vilius PECKAITIS
Head of the Second Subdivision, Money Laundering Prevention Division, Financial Crime Investigation Service,
Sermuksniu Street 3, LIT - 01106 VILNIUS

Mr Sigitas SILEIKIS

MALTA / MALTE

Mr Herbert ZAMMIT LAFERLA
HEAD OF DELEGATION
Director Financial Stability Division, Central Bank of Malta
Castille Place, MLT - VALLETTA CMR 01

Mr Anton BARTOLO
Registrar of Companies and Director Corporate Services
Malta Financial Services Authority (MFSA), Notabile Road, MLT - ATTARD

Mr Michael CASSAR
Assistant Commissioner of Police, Police General Headquarters
MLT – FLORIANA CMR 02

Mr Daniel GATT
(law enforcement evaluator for San Marino)
Financial Analyst, Financial Intelligence Analysis Unit
67/4, South Street, MLT - VALLETTA

MOLDOVA / REPUBLIQUE DE MOLDOVA

Ms Stela BUIUC
HEAD OF DELEGATION
Deputy Director of the Centre of Legal Approximation, Ministry of Justice
31 August 1989 Street, 82, MD – 2012 CHISINAU

Ms Iana BETIVU
Head of Division, National Commission of the Financial Market, Internal Audit and Internal Securities Division,

Ms Victoria GINCEAN
Superior Inspector, FIU

Mr Mihai GOFMAN
Deputy Director of the FIU

Mr Grate RUSLAN
Head of the Banking Supervision and Control Directorate, National Bank of Moldova

Mrs Valeria SECAS
Inspector, FIU

MONACO

Mme Ariane PICCO-MARCOSSIAN
HEAD OF DELEGATION
Directeur, Service d'Information et de Contrôle sur les Circuits Financiers (SICCFIN)
Ministère d'Etat, 13, rue Emile-de-Loth, B.P. 537, MC - 98015 MONACO Cedex

Mme Danielle MEZZANA-GHENASSIA
Conseiller technique SICCFIN, Service d'Information et de Contrôle sur les Circuits Financiers
Ministère d'Etat, 13, rue Emile-de-Loth, B.P.537, MC - 98015 MONACO Cedex

MONTENEGRO

Mr. Janko ĐURĐIĆ
HEAD OF DELEGATION
Administration for the prevention of money laundering
Senior Advisor

Mr. Dušan DRAKIĆ
Advisor, Directorate for Anti-corruption Initiative

Mr Ivan MASULOVIĆ
Security Advisor to the Minister of Foreign Affairs, Ministry of Foreign Affairs

Mr Predrag MITROVIĆ
Director, Administration for the prevention of money laundering

Ms Tatjana RADOVIĆ
Ministry of Justice

NETHERLANDS / PAYS-BAS

Ms Anne-Chris VISSER
Senior Policy Adviser, Integrity Division, Financial Markets Policy Directorate,
Ministry of Finance, Prinses Beatrixlaan 512, P.O.Box 20201,

POLAND / POLOGNE

Mr Robert Typa
HEAD OF DELEGATION
Minister Counsellor, Department of Financial Information, Ministry of Finance
Ul. Swietokrzyska 12, 00 - 916 WARSAW, POLAND

Mr Jacek LAZAROWICZ
Prosecutor, Ministry of Justice, Al. Ujazdowskie 11, 00-950 Warsaw, POLAND

Mr Przemysław RABCZUK
Polish financial supervision authority (UKNF), pion nadzoru bankowego, Pl. Powstanców Warszawy 1,

Ms Ewa SZWARSKA-ZABUSKA
Senior Specialist, Ministry of Finance

ROMANIA / ROUMANIE

Mrs Alina BICA
Prosecutor Chief Service, General Prosecutor's Office, High Court of Cassation and Justice
Bd. Libertatii, 14 RO – BUCHAREST

Mrs Paula LAVRIC
Senior Member of the Office's Board, National Office for Prevention and Control of Money Laundering (NOPCML), 1,
Ion Florescu Street, District 3, RO – 60022 BUCHAREST

Mr Bogdan Mihai MARTIMOF
Senior Member of the FIU Board, Representative of Romanian Banks Association
National Office for Prevention and Control of Money Laundering (NOPCML)
1, Ion Florescu Street, District 3, RO – 60022 BUCHAREST

Mr SILVIU NEAGU
Ministry of Justice, Directorate for Relations with Public Ministry, Preventing Criminality and Corruption

Ms Catalina Teodora STROE
(legal evaluator – Bulgaria)
Legal Adviser, Department for the Relations with the Public Ministry
Prevention of Crime and Corruption, Ministry of Justice
Apolodor Street 17, District 5, RO - BUCHAREST

Mr Sorin TANASE
Legal Adviser, Ministry of Justice

RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE

Mr Vladimir NECHAEV
HEAD OF DELEGATION
Head of International Co-operation Department, Federal Financial Monitoring Service, 39, Bldn 1 – Myasnitskaya
Street, RUS – 107450 MOSCOW K-450

Ms Anastasia DIVINSKAYA
Federal Financial Monitoring Service

Mrs Tatyana GUREEVA
Chief of Section, Department for New Challenges and Threats , Ministry of Foreign Affairs
Smolenskaya-Sennaya Pl., 32/34, Moscow

SAN MARINO / SAINT-MARIN

M. Damiano BELEFFI
Représentant Permanent Adjoint
7, quai des Pêcheurs, 67000 Strasbourg

Mr Luca PAPI
Director General BCSM and Chairman of the Supervision Committee

Mr Daniele BERNARDI
Vice Director General BCSM

Mr Stefano CARINGI
Member of the Supervision Committee

Mr Nicola VERONESI
Head of the AML Service and member of the Supervision Committee

Mr Nicola MUCCIOLI
Vice Head San Marino FIU, Central Bank of the Republic of San Marino

Mr Alberto BURIANI
Law Commissioner

Ms Savina ZAFFERANI
Ambassador and Min. Plen. of the Foreign Department

Mr Pietro GIACOMINI
Ambassador and Advisor

Ms Valentina BERTOZZI
Interpreter of the Foreign Department

SERBIA / SERBIE

Ms Tatjana DJURASINOVIC
HEAD OF DELEGATION

Head of Section for International and Internal co-operation, Department for prevention of money laundering
Ministry of Finance of the Republic of Serbia, Masarikova 2, 11 000 Belgrade

Ms Silvija DUVANCIC-GUJANIC
Director of Section for payment system control and supervision and exchange, Private Office of the Governor,
National Bank of Serbia
12, Kralja Petra st, 11 000 Belgrade

Mr Milovan MILOVANOVIC
Advisor in Section for international and internal co-operation, Department for prevention of money laundering, Ministry
of Finance of the Republic of Serbia
2, Masarikova st. 11 000 Belgrade

Ms Aleksandra POPOVIC
Advisor in Section for International Cooperation and European Integration, Ministry of Justice of the Republic of
Serbia, 42, Svetozara Markovica, 11 000 Belgrade

Ms Lidija SMILJANIC
Advisor to the Governor, National Bank of Serbia
12, Kralja Petra st, 11000 Belgrade

Mr Mladen SPASIC
Head of Department for combating organized crime, Ministry of the Interior of the Republic of Serbia
Bulevar Mihaila Pupina 2, 11070 Novi Beograd

Mr Aleksandar VUJICIC
Director of Directorate for prevention of money laundering, Ministry of Finance of the Republic of Serbia
2, Masarikova st, 11000 Belgrade

Mr Aleksandar VULOVIC
Assistant Director General (Enforcement Division), Serbian Customs Administration,
Bulevar Zorana Djindjica 155a, 11000 Belgrade, Serbia

SLOVAKIA / SLOVAQUIE

Ms Izabela FENDEKOVA
HEAD OF DELEGATION
Supervisor, Banking Supervision Division, National Bank of Slovakia,
Karvasa 1, SK – 81325 BRATISLAVA 1

Mr Ivan SNIRER
Head of International Co-operation Department, Financial Intelligence Unit (FIU), Bureau of Organised Crime,
Racianska, 45, SK – 81372 BRATISLAVA

Mr Jozef SZABO
Director of International Dpt., Prosecutor's General Office

SLOVENIA / SLOVÉNIE

Ms Aleksandra ČARGO
(financial evaluator – San Marino)
Head of Sector for Prevention and Supervision, Office for the Prevention of Money Laundering
Ministry of Finance, Cankarjeva 5, 1000 Ljubljana

Ms Jelena MILOŠEVIĆ
Senior examiner, Banking Supervision Department, Bank of Slovenia
Slovenska 35, 1505 Ljubljana

Ms Maja CVETROVSKI
Head of International Cooperation Service, Office for Money Laundering Prevention Republic of Slovenia -
Ministry of Finance, Cankarjeva 5, SI - 1001 Ljubljana

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

Mr Dimitar GJEORGIEVSKI
Director of the State Administrative Inspectorate
Ministry of Justice, Dimitrie Cupovski 9, MK - 1000 SKOPJE

Ms Vane CVETANOV
Director, Office for Prevention of Money Laundering and Financing Terrorism(FIU)

Ms Nada Kareva GLIGOROSKA
Ministry of Interior, Head of Department for Money Laundering and Corruption, Ministry of Interior

UKRAINE

Mr Stanislav KLUSHKE
HEAD OF DELEGATION
Deputy Head, State Committee for Financial Monitoring (SCFM), Financial Intelligence Unit
24, Biloruska Str., UA – 04050 KYIV

Mr Oleksii BEREZHNYI
(financial evaluator – Croatia)
Director AML / CFT Department, National Bank of Ukraine
9 Institutska Street, UA - 01008 KYIV

Ms BORSUKOVSKA
Head of International Cooperation Department
State Committee for Financial Monitoring of Ukraine, 04050 Ukraine , Kiev

Mr Anatoliy EZHOV

UNITED KINGDOM / ROYAUME-UNI

Mr Ian MATTHEWS
Financial Crime Policy Unit, Financial Services Authority
25 The North Colonnade, Canary Wharf, GB - LONDON E14 5HS

Ms Sarah CARPENTER

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

Ms Rachelle BOYLE
Administrator, FATF Secretariat
2 rue Andre-Pascal, Paris Cedex 16, 75775, FRANCE

SCIENTIFIC EXPERTS / EXPERTS SCIENTIFIQUES

Mr William C. GILMORE
Professor of International Criminal Law, Faculty of Law
University of Edinburgh, Old College, South Bridge, GB – EDINBURGH EH8 9YL

Mr Giovanni ILACQUA
Senior Financial Adviser, Deputy Head of Suspicious Transactions Analysis Department
Ufficio Italiano dei Cambi, Anti-Money Laundering Department, Via Salandra, 13, I - 00186 ROME

Mr Boudewijn VERHELST
Deputy Director CTIF-CFI, Scientific Expert Law Enforcement, Attorney General
Gulden Vlieslaan 55, B - 1060 BRUSSELS

EUROPEAN UNION / UNION EUROPÉENNE

EUROPEAN Commission / COMMISSION EUROPÉENNE

Mr Paolo COSTANZO
National Expert, DG Internal Market, Unit F/2 Company Law, Corporate Governance
Financial Crime, European Commission, B – 1049 BRUSSELS

Council of the European Union

Mieneke DE RUITER
General Secretariat of the Council of the European Union, DG H 2 B - Judicial Cooperation
Office 30 GM 42, Rue de la Loi 175 - 1048 BRUXELLES

**OBSERVERS WITH THE COUNCIL OF EUROPE
OBSERVATEURS AUPRES DU CONSEIL DE L'EUROPE**

JAPAN/JAPON

Hiroyuki OSHIMA
Official, International Organized Crime Division, Foreign Policy Bureau, Ministry of Foreign Affairs
2-2-1 Kasumigaseki, Chiyoda-ku, Tokyo 100-8919

UNITED STATES OF AMERICA / ETATS-UNIS D'AMERIQUE

Michael ROSEN
(financial evaluator – Bulgaria)
Policy Advisor, Office of Terrorist Financing and Financial Crimes, US Department of the Treasury

Ms Abigail SULLIVAN
Policy Adviser, Department of Treasury, 1500 Pennsylvania Avenue, Washington DC, 20220

**OBSERVERS WITH THE COMMITTEE
OBSERVATEURS AUPRES DU COMITÉ**

OGBS – Offshore Group of Banking Supervisors

Paul Edwin HECKLES
Financial Supervision Commission, PO BOX 58, Finch Hill House, Bucks road, DOUGLAS
ISLE OF MAN IM99 1DT

ISRAEL / ISRAËL

Mrs Zivit SHALMON-MOZER
Advocate, Money Laundering and Terror Financing Prohibition Authority, Ministry of Justice
39 Shaul Hamelekh, P.O.B. 33664, 61336 - TEL AVIV

INTERNATIONAL INTERGOVERNMENTAL ORGANISATIONS
ORGANISATIONS INTERNATIONALES INTERGOUVERNEMENTALES

IMF

Mr Terry DONOVAN
Senior Financial Sector Expert IMF, Monetary and Financial System Department
700 19th Street N.W. (HQ 6-106), WASHINGTON DC 20431, United States of America

WORLD BANK / BANQUE MONDIALE

Ms Cari VOTAVA
UNODC (GPML Department) / World Bank (FSEFI Department)
AML/CFT Mentor for Central Asia, World Bank, Central Asia Regional Office
41 A Kazybek bi Street, Bldg. A, 050010 ALMATY / Kazakhstan

Mr Kludijo STROLIGO
Senior Financial Sector Specialist, WORLD BANK - FSEFI Department
Rusjanov trg 4, SLO - 1000 LJUBLJANA

SECRETARIAT OF THE COUNCIL OF EUROPE
SECRETARIAT DU CONSEIL DE L'EUROPE

Mr John RINGGUTH
EXECUTIVE SECRETARY TO MONEYVAL/ SECRÉTAIRE EXÉCUTIF DE MONEYVAL
Administrator, Directorate General of Human Rights and Legal Affairs (DG-HL)
Directorate of Monitoring, Council of Europe, F – 67075 STRASBOURG Cedex

Ms Kirsten MANDRUP
Administrator, MONEYVAL, Directorate of Monitoring

Mr Gerhard MILD
Administrator, MONEYVAL, Directorate of Monitoring

Ms Livia STOICA-BECHT
Administrator, MONEYVAL, Directorate of Monitoring

Mrs Marie-Louise FORNES
Administrative Assistant

Mrs Anna ILYUSHYNA
Administrative Assistant

Mrs Danielida WEBER
Administrative Assistant to MONEYVAL Committee

INTERPRETERS / INTERPRETES

Mme RAPPOSELLI : le 2 uniquement
Mme FRIEDMAN : le 2 uniquement
Mme GIRAUDO : le 2 uniquement
Mme MONTERISI : le 2 uniquement
M. SZYMANSKI : du 31 mars au 4 avril
Mme LUDEWIG : du 31 mars au 4 avril
Mme McGEORGE : du 31 mars au 4 avril (sauf le 2 avril)