



SELECT COMMITTEE OF EXPERTS  
ON THE EVALUATION OF ANTI-  
MONEY LAUNDERING MEASURES  
(PC-R-EV)

MONEYVAL(2019)12

# Romania

## 2<sup>nd</sup> Compliance Report

12 July 2019

Croatia is a member of MONEYVAL. This Report from Romania under step 1 of the Compliance Enhancing Procedures was adopted at MONEYVAL's 58<sup>th</sup> Plenary Meeting (Strasbourg, 15-19 July 2019). For further information, please refer to MONEYVAL website: <http://www.coe.int/moneyval> .

© [2019] Committee of experts on the evaluation of anti-money laundering measures and the financing of terrorism (MONEYVAL)

All rights reserved. Reproduction is authorised, provided the source is acknowledged, save where otherwise stated. For any use for commercial purposes, no part of this publication may be translated, reproduced or transmitted, in any form or by any means, electronic (CD-Rom, Internet, etc) or mechanical, including photocopying, recording or any information storage or retrieval system without prior permission in writing from the MONEYVAL Secretariat, Directorate General of Human Rights and Rule of Law, Council of Europe (F-67075 Strasbourg or [moneyval@coe.int](mailto:moneyval@coe.int)).

## **LIST OF ACRONYMS**

### **GLOSSARY OF ACRONYMS**

ACPO	Appellate Court Prosecutor's Office
AFIS	Antifraud Information System
AML	Anti-Money Laundering
AML/CFT Law	Law 656/2002
NCA	National Customs Authority
Art.	Article
CAFR	Chamber of Financial Auditors of Romania
CC	Criminal Code
CCP/CPC	Code of Criminal Procedure
CCR	Cash Control Regulation
CDA	Central Depository Agency
CDD	Customer Due Diligence
CECCAR	Body of Accounting Experts and Licenced Accountants in Romania
CETS	Council of Europe Treaty Series
CFT	Combating the financing of terrorism
CML	Capital Market Law
COMGAM	Commission for Authorization of Gambling in Romania
CPC	Criminal Procedure Code
CSA/ISC	Insurance Supervisory Commission
CSSPP	Private Pension Supervision Commission
CTR	Cash transaction report
DAPI	Analysis and Processing of Information Directorate
DCCOA	Directorate for Combatting Terrorism Financing and Money Laundering
DIOCT	Directorate for Investigating Organised Crime and Terrorism
DNFBPS	Designated Non-Financial Businesses and Professions
EAW	European Arrest Warrant
EC	European Commission
EEA	European Economic Area
EO	Executive Order
ETR	External Transaction Report
EU	European Union

FATF	Financial Action Task Force
FG	Financial Guard
FID	Fraud Investigation Directorate
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
GD	Governmental Decision
GEO	Governmental Emergency Ordinance
GO	Governmental Ordinance
GOD	General Operative Directorate
GPO	General Prosecutor's Office
GPOHCCJ	General Prosecutor's Office by the High Court of Cassation and Justice
GRECO	Group of States against Corruption
LEA	Law Enforcement Agency
IBUs	International Banking Units
IN	Interpretative Note
ISIC	International Standard Industrial Classification
IT	Information technologies
KYC	Know your customer
MJCL	Ministry of Justice and Citizenship's Liberties
ML	Money Laundering
MLA	Mutual legal assistance
MLCO	Money Laundering Compliance Officer
MoAI	Ministry of Administration and Interior
MoU	Memorandum of Understanding
MPF	Ministry of Public Finances
MVT	Money Value Transfer
NACE	Classification of Economic Activities in the European Union
NAD	National Anticorruption Directorate
NAFA	National Agency for Fiscal Administration
NATO	Northern-Atlantic Treaty Organisation
NBR	National Bank of Romania
NCCT	Non-cooperative countries and territories
NFI/NBFI	Non-banking Financial Institution
NIM	National Institute of Magistracy
NOCPARC	National Office for Crime Prevention and Asset Recovery

	Cooperation
NOG	National Office of Gambling
ONPCSB /Office	National Office for the Prevention and Control of Money Laundering (FIU)
NOTR	National Office of Trade Register
NPO	Non-Profit Organisation
NSC	National Securities Commission
NURE	National Union of Real Estate Agencies
OECD	Organisation for Economic Co-operation and Development
OFAC	Office of Foreign Assets Control (US Department of the Treasury)
OGBS	Offshore Group of Banking Supervisors
PAD	Preliminary Analysis Department
Para.	Paragraph
PEP	Politically Exposed Persons
PPS	Public Prosecution Service
RBA	Risk-Based Approach
RIS	Romanian Intelligence Service
RON/Lei	Romanian currency
SAR	Suspicious Activity Report
SR	Special recommendation
SRB	Self-Regulatory Body
SRO	Self-Regulatory Organisation
STRs	Suspicious transaction reports
SUP	Sectia de Urmarire Penala (Crime Investigation Section with GPO)
SWIFT	Society for Worldwide Interbank Financial Telecommunication
TCSP	Trust and company service providers
TPO	Tribunal Prosecutor's Office
UCD	European Union Cash Declaration
UCITS	Undertakings for Collective Investment in Transferable Securities
UN	United Nations
UNBR	National Union of Bar Associations of Romania
UNNPR	Union of Public Notaries of Romania
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
UTR	Unusual Transaction Report

## Table of Contents

LIST OF ACRONYMS .....	3
GLOSSARY OF ACRONYMS .....	3
Introduction.....	7
Progress made since the 57 <sup>th</sup> Plenary in December 2018 .....	8
Conclusion .....	9

## 2<sup>nd</sup> Compliance Report submitted by Romania

*Note by the Secretariat*

### Introduction

1. The purpose of this paper is to introduce Romania's 2<sup>nd</sup> Compliance Report to the Plenary concerning the progress that it has made since the 58<sup>th</sup> Plenary in December 2018 to remedy the deficiencies identified in the mutual evaluation report on the 4<sup>th</sup> round assessment visit (MER).
2. Romania has submitted its 2<sup>nd</sup> Compliance Report to the MONEYVAL Secretariat on 31 May 2019. According to the 4<sup>th</sup> Round Rules of Procedure, countries must have implemented those FATF Recommendations that are considered to be Core and Key at a level essentially equivalent to a "compliant" (C) or "largely compliant" (LC). The Plenary may retain some limited flexibility with regard to Key Recommendations if substantial progress has been made on the overall set of recommendations that were rated "partially compliant" (PC) or "non-compliant" (NC).

#### A. Background information

3. The onsite visit to Romania took place from 27 May to 1 June 2013. MONEYVAL adopted the 4<sup>th</sup> round MER of Romania at its 44<sup>th</sup> Plenary meeting in April 2014. As a result of the evaluation, Romania was rated PC on 16 Recommendations<sup>1</sup>, including three Core and five Key Recommendations, as indicated in the table below:

Core Recommendations rated PC (no Core Recommendations were rated NC)
Recommendation 5 (Customer due diligence)
Recommendation 13 (Suspicious transaction reporting)
Special Recommendation IV (Suspicious transaction reporting related to terrorism)
Key Recommendations rated PC (no Key Recommendations were rated NC)
Recommendation 23 (Regulation, supervision and monitoring)
Recommendation 26 (The FIU)
Special Recommendation I (Implementation of United Nations instruments)
Special Recommendation II (Criminalisation of terrorist financing)
Special Recommendation III (Freeze and confiscate terrorist assets)

4. Upon adoption of the report, Romania was placed under the regular follow-up procedure and was requested to provide information on the actions taken to address the deficiencies identified under the 40+9 Recommendations rated PC, no later than two years after the adoption of the report (April 2016). Romania was encouraged to seek removal from the follow-up process within three years after the adoption of the 4<sup>th</sup> round MER or very soon thereafter.
5. As a result, Romania submitted a regular follow-up report at the 50<sup>th</sup> Plenary in April 2016. The Plenary concluded that limited progress had been made, whilst the most substantial reforms were still underway. Hence, the Committee requested Romania to report back at its 53<sup>rd</sup> Plenary meeting (June 2017).
6. Given the continued limited progress achieved at the 53<sup>rd</sup> Plenary in June 2017, the country was invited to report back one year later at the 56<sup>th</sup> Plenary, with a view to apply for exit from follow-up on that occasion. Under Rule 13 of the 4<sup>th</sup> round Rules of Procedure, as amended, States or territories which are subject to regular follow-up will remain in a streamlined follow-up process and are expected to seek removal within four years after the adoption of the 4<sup>th</sup> round MER at the latest (i.e. July 2018 in the case of Romania).

<sup>1</sup> It should be pointed out that the FATF Recommendations were revised in 2012 and that there have been various changes, including their numbering. Therefore, all references to the FATF Recommendations in the present report concern the version of these standards before their revision in 2012.

7. At the 56<sup>th</sup> Plenary in July 2018, the Committee found that the country was not yet in a position to exit the regular follow-up procedure, given that the majority of deficiencies remained. Taking into account the severity of the outstanding deficiencies on a number of core and key recommendations, the Plenary applied Step 1 of the Compliance Enhancing Procedures (CEPs). The encouraged Romania to complete the on-going AML/CFT legislative reform and invited the country to report back on all outstanding core and key deficiencies (R.5, 13, 23, 26, and SR.I, III, IV) at its 57<sup>th</sup> Plenary in December 2018.

8. The first compliance report was discussed at MONEYVAL's 57<sup>th</sup> Plenary in December 2018. It was noted that Romania had undertaken some important steps to remedy identified deficiencies under core and key recommendations rated PC, notably through the adoption of a new AML/CFT Law. Even though the entry into force of this new law had been suspended by a complaint to the constitutional court (which thus fell outside the sphere of influence of the domestic authorities), the Plenary decided to keep Romania under Step 1 of CEPs for the time being. However, the Plenary also noted that there had been significant outstanding deficiencies under other recommendations (notably R.5, SR.I and SR.III) which were not addressed by the AML/CFT Law and therefore urged Romania to adopt the respective legal acts for these deficiencies and report back to the 58<sup>th</sup> Plenary (15-19 July 2019).

9. On a general note concerning all fourth-round follow-up and compliance reports: the procedure is a paper desk-based review, and thus by nature less detailed and thorough than a MER. Effectiveness aspects can be taken into account only through consideration of data and information provided by the authorities. It is also important to note that the conclusions in this analysis do not prejudge the results of future assessments, as they are based on information which was not verified through an on-site process and was not, in all cases, as comprehensive as it would have been during a mutual evaluation.

### **Progress made since the 57<sup>th</sup> Plenary in December 2018**

10. In its second compliance report, the Romanian delegation informed the Plenary about the progress made since the 57<sup>th</sup> Plenary in December 2018.

11. With regard to the AML/CFT Law which had been adopted on 24 October 2018 but whose entry into force had been suspended through a complaint before the Constitutional Court, the following developments have taken place since the 57<sup>th</sup> Plenary. On 5 December 2018, the Constitutional Court returned the AML/CFT Law to Parliament to redraft one particular provision which had been considered unconstitutional (regarding foundations and associations with regard to national minorities). The Parliament adopted the revised AML/CFT Law on 26 June 2019. The law is currently with the President for promulgation and, after promulgation, will be published in the Official Gazette. Once published, the law enters into force after three days. As previously analysed, the new law would address the majority of outstanding deficiencies under R.13, 23, 26 and SR.IV.

12. The law also appears to address two outstanding deficiencies under R.5, notably the amendment of linked transactions to consider common factors, as well as the removal of mandatory language in providing for the application of simplified CDD and allowing the latter only in cases of low risk determined through a global risk assessment. In the context of outstanding recommended actions under R.5, the Romanian authorities also submitted that there meanwhile exists in national law a requirement for reporting entities to apply CDD measures when carrying out transactions that are wire transfers (Recommended action No. 2 of the 2014 MER) through the directly applicable EU Regulation 2015/847. In the same context, the Secretariat notes that the recommended action for R.5 which suggests awareness-building measures on CDD requirements for non-bank financial institutions and payment institutions should be further addressed in order to be considered as fully implemented. A full assessment of the outstanding deficiencies for R.5 will be made by the Secretariat once the AML/CFT Law has fully entered into force.

13. With regard to SR.III, a new Law No.58 of 13 April 2019 entered into force (modifying Law No. 535/2004 on preventing and countering terrorism) which establishes a mechanism for compiling a



national list of natural and legal persons being subject to sanctions. On 30 May 2019, the Government issued Government Emergency Ordinance No. 37 for the modification and completion of Government Emergency Ordinance No. 202/2008 on the implementation of international sanctions. This ordinance entered into force on 3 June 2019.

14. With regard to recommended action (1) for SR.III (“*The authorities should issue regulations to designate persons, groups and entities formerly known as EU internals in a national list and adopt measures to freeze their funds, assets and resources.*”): As a complementary national mechanism to the existing EU Regulation 2580/2001, the new Law No. 58 of 13 April 2019 stipulates in its Articles 26 and 27 a mechanism to compile and update national lists containing natural and legal persons suspected of having committed or financed terrorist attacks, which includes EU internals. According to Article 26, the National System for Preventing and Countering Terrorism (NSPCT), the National Trade Register Office and the Financial Supervisory Authority bear the responsibility to compile and update these lists of natural and legal persons suspected of having committed or financed terrorist acts.

15. Government Emergency Ordinance No. 37/2019 provides that the National Agency for Fiscal Administration (NAFA) shall, by order of the President, without delay order the blocking of the funds or economic resources that are owned, or are in the property of, or are under the control of, directly or indirectly, designated persons or entities. NAFA is responsible for the supervision of the application of international sanctions, including the freezing of funds by natural and legal persons (not falling within the prerogative in the field of the public authorities and institutions). Government Emergency Ordinance No. 37/2019 also provides for the obligation of all Romanian public institutions and authorities to take all necessary actions for the implementation of targeted financial sanctions, including provision of guidance to all reporting entities. In light of this, the Secretariat considers that the above deficiency is largely addressed.

16. With regard to recommended action (2) for SR.III (“*The authorities should clarify that the freezing powers of NAFA are broad enough to ensure that all categories of funds, assets or resources envisaged under UNSCR 1373 are effectively frozen.*”), Government Emergency Ordinance No. 37/2019 amends Art. 19 of Government Emergency Ordinance No. 202/2008 on the implementation of international sanctions by extending the freezing powers to:

- funds or economic resources that are owned, or are in the property of, or are under the control of, directly or indirectly, the natural or legal persons who were identified as designated persons or entities;
- funds or economic resources derived from, or generated by goods owned, or controlled by the natural or legal persons identified as designated persons or entities, or funds or economic resources owned or controlled, individually or jointly, by such persons or entities.

17. However, the above provision does only partly make reference to funds or other assets which are “wholly or jointly owned” by designated persons or entities (i.e. only in the second of the two bullet points above). Moreover, it does not capture funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities. While it is recommended that Romania amends accordingly the Government Emergency Ordinance No. 37/2019 before the 5<sup>th</sup> round mutual evaluation, the Secretariat does not consider the deficiencies in this complementary national mechanism as severe enough to prevent the conclusion that SR.III has meanwhile been brought to an equivalent level of LC.

18. In this respect it is noted that, in light of the fact that Romania has already addressed the deficiencies for SR.II, SR.I is likewise brought to a level of LC.

## **Conclusion**

19. Romania has made tangible progress since the last compliance report adopted by the 57<sup>th</sup> Plenary in December 2018. Most notably, the new AML/CFT Law (after it had been referred back by the Constitutional Court in December 2018) has been adopted by Parliament in June 2018 and will enter into

force shortly. With regard to SR.III, a new Law No.58 of 13 April 2019 entered into force (modifying Law No. 535/2004 on preventing and countering terrorism) which establishes a mechanism for compiling a national list of natural and legal persons being subject to sanctions. The law is complemented by Government Emergency Ordinance No. 37 for the modification and completion of Government Emergency Ordinance No. 202/2008 on the implementation of international sanctions, which entered into force on 3 June 2019. While it is suggested that Romania seeks to address the remaining deficiencies identified in this analysis in view of their 5th round mutual evaluation, the progress brings both SR.I and III to a level equivalent of at least “largely compliant”.

20. In light of this progress, the Secretariat does not consider it necessary to suggest that the Plenary reverts to any additional steps in the Compliance Enhancing Procedures (CEPs). However, it suggests that the Plenary suspends Step 1 of CEPs and invites Romania to submit a further compliance report for MONEYVAL’s 59<sup>th</sup> Plenary in December 2019. At that stage, with the new AML/CFT Law having entered into force, Romania should seek removal from the 4th round follow-up process.

The MONEYVAL Secretariat  
November 2018