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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

MONEYVAL(2023)22

Anti-money laundering and counter-terrorist financing measures

Lithuania

4th Enhanced Follow-up Report & Technical Compliance Re-Rating

December 2023

Follow-up report

The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism - MONEYVAL is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems. Through a dynamic process of mutual evaluations, peer review and regular follow-up of its reports, MONEYVAL aims to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively.

The 4th Enhanced Follow-up Report and Technical Compliance Re-Rating on Lithuania was adopted by the MONEYVAL Committee at its 66th Plenary Meeting (Strasbourg, 15 December 2023).

Lithuania: 4th Enhanced Follow-up Report

I. INTRODUCTION

1. The mutual evaluation report (MER) of Lithuania was adopted in December 2018. Given the results of the MER, Lithuania was placed in enhanced follow-up.[1] Its 1st, 2nd, 3rd enhanced follow-up reports (FURs) were adopted in July 2020, November 2021, and December 2022, respectively.[2] The report analyses the progress of Lithuania in addressing the technical compliance (TC) deficiencies identified in its MER or subsequent FURs. Re-ratings are given where sufficient progress has been made. Overall, the expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER.

2. The assessment of Lithuania's request for technical compliance re-ratings and the preparation of this report were undertaken by the following Rapporteur teams (together with the MONEYVAL Secretariat):

- Monaco
- Slovenia

3. Section II of this report summarises Lithuania's progress made in improving technical compliance. Section III sets out the conclusion and a table showing which Recommendations have been re-rated.

II. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

4. This section summarises the progress made by Lithuania to improve its technical compliance by

   a. addressing the technical compliance deficiencies identified in the MER and applicable subsequent FURs for which the authorities have requested a re-rating (R. 2, 6, 7 and 28).

5. For the rest of the Recommendations rated as partially compliant (PC) (Recommendation 15) the authorities did not request a re-rating.

6. This report takes into consideration only relevant laws, regulations or other anti-money laundering and combating financing of terrorism (AML/CFT) measures that are in force and effect at the time that Lithuania submitted its country reporting template – at least six months before the FUR is due to be considered by MONEYVAL.[3]

II.1 Progress to address technical compliance deficiencies identified in the MER and applicable subsequent FURs

7. Lithuania has made progress to address the technical compliance deficiencies identified in the MER and applicable subsequent FURs. As a result of this progress, Lithuania has been re-rated on Recommendation 2. For other R. 6,7, and 28, which are also analysed, no re-rating has been provided.

8. Annex A provides the description of country's compliance with each Recommendation that is reassessed, set out by criterion, with all criteria covered. Annex B provides the consolidated list of remaining deficiencies of the re-assessed Recommendations.

III. CONCLUSION

9. Overall, in light of the progress made by Lithuania since its MER or 1st, 2nd, 3rd and 4th enhanced FUR was adopted, its technical compliance with the Financial Action Task Force (FATF) Recommendations has been re-rated as follows.

---

1. Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up.
2. 1st Follow-up report, 2nd Follow-up report, 3rd Follow-up report.
3. This rule may be relaxed in the exceptional case where legislation is not yet in force at the six-month deadline, but the text will not change and will be in force by the time that written comments are due. In other words, the legislation has been enacted, but it is awaiting the expiry of an implementation or transitional period before it is enforceable. In all other cases the procedural deadlines should be strictly followed to ensure that experts have sufficient time to do their analysis.

Table 1. Technical compliance with re-ratings, December 2023

R.1	R.2	R.3	R.4	R.5
LC (FUR1 2020) ~~PC (MER)~~	**C (FUR4 2023)** ~~PC (FUR1 2020)~~ ~~PC (MER)~~	LC (MER)	LC (MER)	LC (MER)
R.6	R.7	R.8	R.9	R.10
PC (FUR4 2023) PC (FUR2 2021) PC (MER)	PC (FUR4 2023) PC (MER)	LC (MER)	C (MER)	LC (MER)
R.11	R.12	R.13	R.14	R.15
C (MER)	C (MER)	LC (MER)	LC (MER)	PC (FUR1 2020) ~~C (MER)~~
R.16	R.17	R.18	R.19	R.20
LC (MER)	C (MER)	LC (FUR1 2020) LC (MER)	LC (MER)	LC (MER)
R.21	R.22	R.23	R.24	R.25
C (FUR1 2020) C (MER)	LC (MER)	LC (MER)	LC (FUR3 2022) ~~PC (MER)~~	LC (MER)
R.26	R.27	R.28	R.29	R.30
LC (FUR2 2021) ~~PC (MER)~~	C (MER)	PC (FUR4 2023) PC (FUR3 2022) PC (FUR2 2021) PC (MER)	LC (MER)	C (MER)
R.31	R.32	R.33	R.34	R.35
LC (MER)	LC (FUR3 2022) ~~PC (FUR2 2021)~~ ~~PC (MER)~~	LC (MER)	LC (MER)	LC (MER)
R.36	R.37	R.38	R.39	R.40
C (MER)	LC (MER)	LC (MER)	LC (MER)	LC (MER)

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

10. According to item 8 of Rule 21 of the MONEYVAL's Rules of Procedure for the 5th round Mutual Evaluations, the general expectation is for countries to address most if not all of the technical compliance deficiencies by the end of the 3rd year after the adoption of the MER.

11. The Lithuanian 5th round MER was adopted in December 2018. In line with item 8 of Rule 21, it was expected that Lithuania addresses most, if not all, its technical compliance deficiencies by December 2022. Lithuania is therefore at the decision point for the Plenary with regards to the next steps. Currently, R. 6, 7, 15 and 28 are rated as PC. Bearing in mind the decision taken at the 63rd Plenary to set a transition phase for the implementation of Compliance Enhancing Procedures (CEPs) throughout December 2022, and in line with Rule 25(1)3 under Title IV: Compliance Enhancing Procedures of the Rules of Procedure, Lithuania was issued with a CEPs warning; if progress was not to be made by this FUR, Step 1 would be applied.

12. Taking into consideration the earlier decision of the Plenary, and given the lack of sufficient progress observed at this stage of the follow-up process, Step 1 of the CEPs applies with effect from 15 December 2023, and MONEYVAL shall invite the Secretary General of the Council of Europe to send a letter to the relevant Ministers of Lithuania, drawing their attention to non-compliance with the reference documents and the necessary corrective measures to be taken.

13. The Plenary discussed and agreed the modalities and scope of the reporting under Step 1 of CEPs, considering that Lithuania has not reached the general expectation to address most if not all of the technical compliance deficiencies by the end of the fourth year since the adoption of its MER.

14. The CEPs procedures aim to ensure a swift progress with respect to R.6 as a priority. In accordance with Rule 25, paragraph 4 of the Rules of Procedure, Lithuania is required to provide an oral report to the Plenary in May 2024 on progress with respect to the outstanding deficiencies remaining under R.6 and subsequently, a written report to the December 2024 plenary meeting on how it has taken the necessary corrective measures to comply with the requirements of the recommendation.

Annex A: Reassessed Recommendations

Recommendation 2 – National co-operation and co-ordination

	Year	Rating and subsequent re-rating
MER	[2018]	[PC]
FUR1	[2020]	[PC] (no upgrade requested)
FUR2	[2021]	[PC](no upgrade requested)
FUR3	[2022]	[PC](no upgrade requested)
FUR4	[2023]	[↑ C] (upgrade requested)

1. In the 4th round MER Lithuania was rated PC with former Recommendation (R.) 31. The evaluation noted that no "effective mechanisms" were in place for AML/CFT domestic co-operation and co-ordination and questioned the outcome and effectiveness of the consultation mechanisms in place with the industry. In the 5th round MER, Lithuania was rated PC due to the absence of Proliferation Financing (PF) co-ordination mechanisms. In October 2018, R.2 was amended and requires countries to have co-operation and co-ordination between relevant authorities to ensure the compatibility of AML/CFT requirements with Data Protection and Privacy Rules. Lithuania's compliance with this new requirement was considered in its first follow up report.

2. **Criterion 2.1** – While Lithuania does not have a national AML/CFT policy, following the completion of the national risk assessment (NRA), an action plan was developed informed by the threats and vulnerabilities identified in the NRA. The authorities also referred to the different policy papers, strategies and activity plans, primarily produced by law enforcement, which define different priorities in combating serious crime, including money laundering/terrorist financing (ML/TF). Lithuania has a Co-ordination Commission which monitors the implementation of strategies to tackle ML/TF.

3. **Criterion 2.2** – In 2022, Lithuania established a two-tier decision-making and AML/CFT co-ordination framework. It has an expert level Working Group with the responsibility of co-ordinating co-operation between state institutions, financial institutions and other entities to work on the prevention of money laundering, terrorist financing and proliferation financing. The Working Group is accountable to the Co-ordination Commission, which is a led by an adviser to the Prime Minister and has the responsibility of monitoring and co-ordinating the implementation of policies tackling ML/TF/PF. The Working Group and the Co-ordination Commission provide updates on the implementation of national AML/CFT policies to the Government every 6 months.

4. **Criterion 2.3** – The Working Group and Co-ordination Commission enables policy makers and competent authorities to co-operate and where appropriate, co-ordinate domestically with each other concerning the development and implement of policies and activities. With this mechanism, co-ordination is possible at policymaking and operational levels.

5. **Criterion 2.4** – In 2022, Lithuania changed the composition and the functions of its senior-level national AML/CFT co-ordination group (the Working Group) and established a Co-ordination Commission. By Prime Minister Ordinances published on August 17, 2022 (no.163) and February 15, 2023, Lithuania has included proliferation and proliferation financing to its mandate. The Prime Minister Ordinance No.163, published on 17 August 2022 broadens the competence of the Working group, and states clearly that it will, from now on:

   a. "co-ordinate co-operation between state institutions, financial institutions and other entities in the prevention of money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction

   b. submit proposals to the authorities responsible for the prevention of money laundering and terrorist financing to improve the system for preventing money laundering, terrorist financing and proliferation of weapons of mass destruction".

6. A subsequent Ordinance, No. 34, published on 15 February 2023, appoints new members to the Working group, all of whom are members of relevant authorities responsible for AML/CFT/CPF. Its

article 3 also allows involving any expert or representative that could enhance national and international co-operation on this matter.

7. **Criterion 2.5** – With regard to data protection, Lithuania has the necessary mechanisms to ensure compatibility of AML/CFT requirements with Data Protection and Privacy rules through different formal and informal mechanisms (c.2.5) (as per 1st FUR, 2020).

Weighting and conclusion:

8. Recent amendments have made it possible to include the subject of proliferation financing in the mandates and work of the existing national co-operation mechanism. **Therefore, R.2 is re-rated compliant.**

Recommendation 6 – Targeted financial sanctions related to terrorism and terrorist financing

	Year	Rating and subsequent re-rating
MER	[2018]	PC
FUR1	[2020]	[PC] (no upgrade requested)
FUR2	[2021]	[PC] (upgrade requested)
FUR3	[2022]	[PC](no upgrade requested)
FUR 4	[2023]	[PC] (upgrade requested, maintained at PC)

1. In 2012, Lithuania was rated PC with previous SR.III. Assessors identified the following deficiencies: unclear mechanisms to challenge domestic and EU decisions; insufficient public information and guidance on the specificities of the international sanctions mechanisms (as opposed to the suspicion transaction reporting system); effectiveness of supervision, co-ordination and monitoring of implementation was not demonstrated; the authorities were themselves not familiar with the applicable rules. In its 5th round MER, Lithuania was also rated PC. Key deficiencies identified included: a lack of internal regulations setting out the responsibility of the Ministry of Foreign Affairs (MFA), uncertainty around the competent authorities' obligation to identify targets based on relevant UN Security Council Resolution (UNSCR) designation criteria, no obligations around how promptly designation determinations are to be made, no procedures concerning requests related to other countries, lack of mechanisms to implement targeted financial sanctions (TFS) pursuant to UNSCRs 1267/1989 without delay, shortcomings with respect to freezing obligations and no mechanism to immediately communicate updates to sanction lists.

2. As an EU member state, Lithuania is bound by the EU legal instruments which implement UNSCRS: Reg. 881/2002 (UNSCR 1267/1989), Reg. 753/2011 (UNSCR 1988) and Reg. 2580/2001 and Common Position 2001/931/CFSP (UNSCR 1373).

3. On 19 April 2022, the Seimas of the Republic of Lithuania (the Parliament) revised the model of the implementation of sanctions in Lithuania and adopted a new version of the Law on the Implementation of Economic and Other International Sanctions. Due to the variety of international sanctions imposed, the law has been renamed as the Law on International Sanctions (LIS). The last amendments of the LIS come into force on 15 April 2023. In addition, the Lithuanian Government adopted Order No.535, which includes the Decision on the implementation of the Law on International Sanctions of the Republic of Lithuania (Decision on Implementation) and the Description of the Procedure for the Implementation of United Nations Security Council Resolutions Establishing Targeted Financial Sanctions in the Area of Terrorism and Terrorist financing and Proliferation and Financing of Weapons of Mass Destruction (Description of the Procedure).

4. The Financial Intelligence Unit (FIU) instructions on Sanctions (FCIS Order V-273) continue to supplement the EU framework and set out the procedure for the Supervision of the Implementation of International Sanctions, in accordance with the LIS.

5. **Criterion 6.1** –

(a) The MFA is the competent authority responsible for drafting and submitting designation proposals to the UN (LIS, Art.5).

(b) National security authorities (defined broadly as the set of institutions identified within Lithuania's Law on National Security) can identify and propose targets that meet the criteria for listing the relevant UNSCR. This information is provided to the MFA, who then submit proposals to relevant UN Committees. The legislation does not define the one authority required to review proposals against UNSCR 1267/1989.

(c) Proposing authorities should identify that natural or legal persons, groups and entities that meet the criteria for listing in the relevant UNSCRs, and that there are sufficient grounds to propose listing. There is nothing in the law that requires such proposals to be conditional upon the existence of criminal proceedings (Order No.535, Description of the Procedure, paragraph 5). Moreover, paragraph 7.3 of the same Description notes that supporting information for proposals could include relevant court orders and investigations conducted, but only if there are any.

(d) The MFA is required to submit proposals to the UN in accordance with the procedures approved by relevant UNSCR (Order No.535, Description of the Procedure, paragraph 3). There is no explicit requirement to follow the standard forms for proposing designations.

(e) Designation proposals require the following information:

(i) specific information confirming that a natural or legal person, group or entity meets the criteria for listing in the sanctions set out in the relevant UNSCRs (short description of activities, modus operandi), identifying any other relevant acts or activities of the natural or legal person, group and body, including details of any relationship with a natural or legal person, group and body in the sanctions lists adopted by the UNSCRs or the committees established by it at the time;

(ii) supporting evidence (nature of intelligence, law enforcement, courts, open-source information, etc.);

(iii) additional information or documents supporting the proposal, as well as information on relevant court cases and investigations conducted by law enforcement authorities, if any. (Order No.535, Description of the procedure, paragraphs 7-8)

However, there are no provisions indicating whether Lithuania's status as a designating state can be known.

6. **Criterion 6.2** –

(a) At the EU level, the EU Council is responsible for deciding on designations. EU listing decisions would be taken on the basis of precise information from a competent authority, i.e., a judicial authority or equivalent of an EU Member State or third state. The MFA would (purportedly) be the competent authority that would refer the proposal to designate to the EU Council.

At national level, the Lithuanian Parliament, on the basis of a proposal by a relevant Minister, shall introduce, amend and revoke restrictive measures by law (provided they are not contrary to international obligations and EU law). A proposal to impose restrictive measures must be agreed with the Commission for Co-ordination of International Sanctions (Commission) (LIS, Art.6(1)). The Commission is headed by the MFA. (LIS, Art.10).

(b) While there is a provision for national listings (LIS, Art. 6(1)), Lithuania does not have a specific mechanism for identifying targets for designation, based on the designation criteria set out in UNSCR 1373.

Order No.535 only sets out that mechanism that the MFA and national security authorities have to follow when proposals are being made to the include natural or legal persons, groups or entities on the "sanctions list adopted by UNSCRs or the Committees established by it" (Description of the Procedure, paragraphs 3-6). This is not relevant to UNSCR 1373.

At the EU level, the COMET WP of the EU Council applies designation criteria consistently with the designation criteria of UNSCR 1373 set in EU Common Position 2001/931/CFSP (Art.1(2) and (4)).

(c) The COMET WP at the EU Council examines the requests received at the European level to determine whether they are supported by reasonable grounds and meet the criteria set forth in UNSCR 1373. The criteria set forth in Common Position 2001/931/CFSP are compliant with those stipulated in UNSCR 1373. All Council working parties consist of representatives of the governments of the Member States. There is no requirement that a prompt determination is made.

At national level, national security authorities are required to provide the MFA with information and reasoned opinion on designation targets, no later than 5 working days after identification (Order no. 535, Description of the Procedure, paragraph 5). However, the process only applies to designations proposed by Lithuania, on its own initiative and to the UN. There are no mechanisms that set out how requests from other countries must be considered and how promptly determinations should be made where a suspect meets the criteria for designation in UNSCR 1373.

(d) The COMET WP applies an evidentiary standard of proof of "reasonable basis" and the decision is not conditional on the existence of criminal proceedings (Art.1(2) and (4) Common Position 2001/931/CFSP). It is not clear what happens with respect to requests received by Lithuania.

At national level, proposing authorities should identify that natural or legal persons, groups and entities meet the criteria for listing in the relevant UNSCRs and that there are sufficient grounds to propose listing. There is nothing in the law that requires such proposals to be conditional upon the existence of criminal proceedings. (Order No.535, Description of the Procedure, paragraph 5). However, as previously noted, the provisions cited under this order are limited to instances where the MFA ultimately makes a proposal to the UN and is not relevant to UNSCR 1373.

(e) According to the LIS, the MFA shall provide information on the implementation of international sanctions inter alia to the competent authorities of foreign states (LIS, Art.10). This is broad enough to include situations where Lithuania would request another country to give effect to the actions initiated under its TFS implementation mechanisms, and provide relevant supporting information. However, this is a high-level provision, and the detailed steps to be taken in cases where Lithuania makes a request to another country for listing are not set out in legislation.

7. **Criterion 6.3** – (a) and (b) Competent authorities are required to collect information that allows for a clear and precise identification of persons and entities meeting the criteria for listing in the relevant UNSCRs (Order no. 535, Description of the Procedure, paragraphs 5, 6 and 7). Neither the LIS or Order no. 535 set out a legal or judicial requirement to inform a designation target, prior to a decision being made. The State Security Department and the Police may collect or solicit information pursuant to the Law on Criminal Intelligence and operate *ex parte* (Art. 4 and 6, Law on Criminal Intelligence).

8. **Criterion 6.4** – The implementation of TFS set out under UNSCRs 1267/1989 and 1988 into the EU framework does not take place "without delay", since there is a delay between the designation decision taken by the UN Security Council (UNSC) and its transposition into the EU framework. The delay is caused by the application of a due diligence process in light of case law of the European Court of Justice leading to the adoption of a legally binding act to be published in the EU Official Journal. The implementation of TFS set out under UNSCR 1373 under the EU framework takes place "without delay".

At national level, sanctions imposed by all UNSCRs shall be implemented in full and directly (LIS, Art.6). In being directly applicable, international sanctions established by the UN and the EU are binding in domestic law from the moment of their adoption, without delay.

9. **Criterion 6.5** –

(a) All natural and legal persons are required to comply with and implement international sanctions, in accordance with the procedure set out by the LIS and other legal acts (LIS, Art.4). Natural and legal persons in Lithuania are required to freeze funds and other assets under UNSCRS 1267/1989 and 1988 when such obligations are transposed into the EU framework. As noted under c.6.4, designations are not transposed into the EU framework without delay and, as such, it is doubtful whether, in practice, the freezing action takes place without prior notice. Both issues create a significant gap within the framework. Under UNSCR 1373, the obligation to freeze funds and other assets applies immediately to all EU Member States and without prior notice. EU internals are covered under clauses 5.1 and 5.2 of the FIU Instructions.

As noted under 6.4, at national level, UNSCRs and relevant international sanctions are directly applicable. However, in its national legislation, Lithuania has not set out a clear and explicit requirement to freeze without delay, and without prior notice, the funds or other assets of designated persons or entities, as per FATF's specific requirement. While there are general obligations not to enter agreements /transactions and assume new obligations that contradict international sanctions under LIS, Art.7 and FIU Order V-273, paragraph 5, these do not encompass all the FATF freezing requirements, either because they are not explicitly stipulated or in view of contradictions between these two laws. These deficiencies include: 1)

it is unclear whether these obligations would cover off all prohibitions to: transfer, convert, dispose or move of any funds or other assets; 2) there is no explicit requirement to implement these obligations without delay or prior notice; 3) uncertainty on whether it is only financial institution that should apply the aforementioned general obligations; and 4) whether requirements are applicable in respect of funds pertaining to all natural and legal persons (i.e. only entities under Order V-273).

(b) Pursuant to UNSCR 1267/1989 and 1988, the freezing obligation extends to all the funds or other assets defined in R.6, namely funds owned by designated persons (natural or legal) as well as funds controlled by them or by persons acting on their behalf or on their orders. These aspects are covered by the notion of "control" in Art.2 of Reg. 881/2002 Art.3 of Reg. 753/2011. The definition of "funds or other assets" was amended to include economic resources pursuant to Art.1 of Reg. 2016/1686 (applying additional restrictive measures against ISIL (Da'esh) and Al-Qaeda). With regard to UNSCR 1373, the freezing obligation under Art.2(1)(b) of Reg. 2580/2001, and under the RD of 28 December 2006, is not extensive enough as it does not cover the issue of "control". Technically, this issue does not arise in Lithuania, since Clauses 5.1 and 5.2 require persons to apply the sanctions in the manner as set out under the UNSCRs.

In national legislation the terms to "freeze", "funds" and other assets are not explicitly defined. Lithuania's legislation does not set out that freezing should extend to: (i) all funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular terrorist act, plot or threat; (ii) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; and (iii) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities, as well as (iv) funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

(c) At the EU level and in compliance with the UNSCRs, the regulations prohibit EU nationals and all other persons or entities present in the EU from making funds or other economic resources available to designated persons or entities. At national level, Art.7 of the LIS sets out the prohibition to enter agreements /transactions and assume new obligations that contradict international sanctions. However, there is no specific requirement explicitly prohibiting Lithuanian nationals, or any persons and entities within Lithuania, from making any funds or other assets, economic resources, or financial or other related services, available, directly, or indirectly, wholly or jointly, for the benefit of designated persons and entities, as per the requirements of this criterion.

(d) Designations made pursuant to the EU regulations are published in the Official Journal of the EU (publicly available on the EUR-Lex website) and on the website of the European External Action Service (users may subscribe to an automatic alert notification). The European Commission updates the Financial Sanctions Database after the issuing of UN designations and after publication of a listing in the Official Journal. The financial sector and designated non-financial businesses and professions (DNFBPs) can subscribe to the RSS-file with the latest updates. Credit institutions can also download the consolidated list through ftp access. The MFA is required to publish the relevant texts of UNSCRs (both the list and the UNSCRs) on its website no later than one working day after being notified of their adoption and informs the competent authorities (Order No. 535, Description on Implementation, paragraph 3). However, there is no specific mechanism to communicate designations to the financial institutions (FIs) and DNFBPs. There is no single set of guidance for FIs and other persons/entities, including DNFBPs that may be holding targeted funds or other assets. The Bank of Lithuania (BoL) approved and published guidelines in May 2023 which came into force in September 2023, however these are limited to FIs only.

(e) At EU level, natural and legal persons (including FIs/DNFBPs) are required to provide immediately any information about accounts and amounts frozen under EU legislation according to EU Regulation 881/2002 (Art. 5.1), EU Regulation 2580/2001 (Art. 4), and EU Regulation 753/2011 (Art. 8).

The reporting obligations of natural and legal persons as well as legal persons and other organisations without legal personality are regulated in paragraphs 10 and 11 of the Description on Implementation. Under this, natural and legal persons who have restricted the disposal of funds or economic resources shall inform the FCIS within 2 working days. Also, under paragraph 13, the Financial Crime Investigation Service co-ordinates, supervises and ensures the implementation of financial sanctions by inter alia also regularly verifying and collecting data on the implementation of financial sanctions from financial institutions and other obliged entities defined in Art. 2(7) and (10) of the Law of the Republic of Lithuania on the Prevention of Money Laundering and Terrorist Financing.

In the FIU instructions, persons are required to notify the FIU, whenever the possession of accounts or other assets of entities subject to financial sanctions is suspended. (Clause 5.7, FIU Instructions). As highlighted under 6.5 (a), it is unclear who is required to freeze and report on assets frozen, as the obligations under this order considers only monetary funds and other assets held by financial institutions. Therefore, it also remains unclear where reporting obligations for DNFBPs would be covered.

(f) The EU framework provides for the protection of bona fide third parties: Reg. 881/2002 (Art.6), Reg. 753/2001 (Art.7), Reg. 2580/2001 (Art.4). The EU framework provides for the protection of bona fide third parties: Reg. 881/2002 (Art.6), Reg. 753/2001 (Art.7), Reg. 2580/2001 (Art.4).

At national level, The LIS nor order.535 set out no specific provisions to protect the rights of bona fide third parties. The rights of bona fide property relationships and personal non-property relationships are regulated by the Civil Code – The Fourth book Rights in Rem Article 4.96).

10. **Criterion 6.6** –

(a) There are publicly-known procedures to submit de-listing requests to the Office of the Ombudsperson of the UN Security Council (Al-Qaida and ISIL designations) and the Focal Point for De-Listing (Taliban designations) (Clause 10, FIU Instructions). Designated persons are instructed to refer their petitions directly to the Ombudsman and the Focal Point. Lithuania has not, however, decided that as a rule its citizens or residents should address their de-listing requests directly to the Focal Point through a declaration addressed to the Chairman of the Committee (footnote 1 of UNSCR 1703).

At national level, Order.535 sets key provisions related to de-listing that require the MFA to review sanctions lists annually or upon the submission of a reasonable request, and consider whether listed individuals and entities still meet the criteria for listing. They then submit proposals for removal, in accordance with the procedures of relevant UNSCRs and UN Committees (Description of the Procedure, paragraphs 3, 9, 10, 11). The order does not mention anything on petitioning a request for de-listing through the focal point directly.

(b) Under UNSCR 1373, the EU Council regularly revises the list (at least every six months – Art.6 of the CFSP) in accordance with the assessment of the Working Party on restrictive measures to combat terrorism (COMET WP). The FIU instructions further explain the steps to be taken by an entity for de-listing and unfreezing (FIU Instructions, Clause 12).

At national level, powers to de-list and unfreeze are covered: the implementation of sanctions can be amended by the Government (and this would include de-listing) (LIS, Art.6). Under Order No.535, the registrar is expected to remove from the register the names of those who no longer meet the criteria for listing, upon the request of FCIS. However, it is not clear what process must be followed to meet these legislative requirements and there are no publicly known procedures regulating the de-listing process.

(c) At the EU level, a listed individual or entity can write to the Council to have the designation reviewed or can challenge the relevant Council Regulation, a Commission Implementing Regulation, or a Council Implementing Regulation in Court, as per Treaty on the Functioning of the European Union (TFEU) (Art.263 (4)). Art.275 also allows legal challenges of a relevant CFSP Decision.

At national level, with regards to UNSCR 1373, there are no procedures to allow, upon request, review of a designation decision before a court or other independent competent

authority. Paragraphs 9 and 10 of Order no.535 only consider the review of designation decisions made in relation to sanctions lists approved by the UN.

(d) The FIU Instructions state that persons listed pursuant to UNSCR 1988 may apply to the Focal Point for De-listing of the UNSC and provide a link to the relevant website (Clause 10.2).

(e) The FIU Instructions state that persons listed pursuant to the Al-Qaida/ISIL (Da'esh) Sanctions Lists shall be entitled to file requests to the Office of the Ombudsperson of the UNSC and provide a link to the relevant website.

(f) At the EU level, upon verification that the person/entity involved is not designated, the funds/assets must be unfrozen, according to EU Regulations 881/2002 and 2580/2001.

There are no publicly known procedures to unfreeze funds or other assets of persons or entities with the same or similar name as designated persons or entities, who are inadvertently affected by a freezing mechanism, upon verification that the person involved is not a designated person or entity.

(g) The MFA publishes changes to sanctions lists on its website. However, there is no proactive mechanism for communicating de-listing. It is not clear what action competent authorities take when the financial sector and the DNFBPs are required to unfreeze, and what guidance is provided to them on their obligations with respect to a de-listing or unfreezing action.

11. **Criterion 6.7** – At the EU level, there are mechanisms for authorising access to frozen funds or other assets which have been determined to be necessary for basic expenses, the payment of certain types of expenses, or for extraordinary expenses: Reg. 881/2002 (Art.2a), Reg.753/2011, Reg.2580/2001 (Art.5-6), FIU instructions (Clauses 9, 12.3, 13 and 14).

12. At the national level, the Description on implementation (paragraphs 33-42) sets out that requests for exemption may be submitted by post or electronic means of communication, and authorisations for exemptions must then be provided no later than 5 working days; requests motivated for humanitarian purposes shall be dealt with as a matter of priority. However, Lithuania's legislation does not explicitly set out instances where exemptions are to be granted i.e. access to frozen funds or other assets which have been determined to be necessary for basic expenses, for the payment of certain types of fees, expenses and service charges, or for extraordinary expenses, in accordance with the procedures set out in UNSCR 1452 and any successor resolutions**.**

Weighting and conclusion

13. After the revision of the LIS and the adoption of the Order No. 535, Lithuania has addressed some of the deficiencies identified at the time of the MER. However, the following shortcomings remain: 1) at national level, it does not have a specific mechanism for identifying targets based on the criteria under UNSCR 1373; it has provisions setting out the responsibility of the MFA and general obligations to identify 2) there are no mechanisms for ensuring prompt determinations when requests from other countries are made 3) legislation does not set out detailed steps to be taken when Lithuania makes a request to another country 4) legislation does not set out and define an explicit freezing obligation for natural and legal persons that is consistent with FATF requirements; it remains unclear whether natural and legal persons are required to specifically freeze funds or other assets, without delay or prior notice 5) there are no proactive mechanisms for communicating listings and de-listings 6) required procedures are not in place with respect to de-listing.

14. Whilst the provisions enabling the direct applicability of the UN Sanction list should be acknowledged as addressing a key gap in Lithuania's TFS framework, the deficiencies related to c.6.5 make it difficult to see how freezing action can be taken without delay or prior notice, in practice. Coupled with the deficiencies highlighted above, moderate shortcomings in Lithuania's framework remain and **R.6 remains rated partially compliant.**

Recommendation 7- Targeted financial sanctions related to proliferation

	Year	Rating and subsequent re-rating
MER	[2018]	[PC]
FUR1	[2020]	[PC] (no upgrade requested)
FUR2	[2021]	[PC] (no upgrade requested)
FUR3	[2022]	[PC] (no upgrade requested)
FUR 4	[2023]	[PC] (upgrade requested, maintained at PC)

1. Lithuania's previous MER was conducted prior to FATF's 2012 adoption of R.7. In its 5th round MER, assessors found that Lithuania was rated PC for R.7 because of delays in the transposition into European law of UN decisions on the Democratic People's Republic of Korea (DPRK) and shortcomings identified under C.6.5 impacting ratings for C.7.2.

2. As an EU Member State, Lithuania implements UNSCRs through the EU legal framework. The implementation of targeted financial sanctions is additionally regulated by the LIS, Order No.535 and the FIU Instructions on Sanctions. UNSCR 1718 on the DPRK is transposed into the EU legal framework through Council Reg. 329/2007, Council Decision (CD) 2013/183/CFSP, and CD 2010/413. UNSCR 1737 on Iran is transposed into the EU legal framework through Council Reg. 267/2012.

3. **Criterion 7.1** – As set out under 6.4, At national level, sanctions imposed by all UNSCRs shall be implemented in full and directly (LIS, Art.6). In being directly applicable, international sanctions established by the UN and the EU are binding in domestic law from the moment of their adoption, without delay.

4. At the EU level, UNSCR 1718 and successor Resolutions on the DPRK is transposed into the EU legal framework (the current legislative framework is based on Council Decision (CFSP) 2016/849 and Regulation (EU) 1509/2017)). UNSCR 2231 on Iran is transposed into the EU Legal framework through EC Regulation 267/2012 as amended by EC Regulations 2015/1861 and 1862.

5. **Criterion 7.2** –

(a) The same shortcomings noted C.6.5(a) apply.

(b) The freezing obligation applies to all types of funds in EU legislation. For measures at national level, see c.6.5 (b)

(c) At EU level, Art.6.4 of Regulation 329/2007 and Art.23.3 of Regulation 267/2012 prohibit making available, directly or indirectly, funds or economic resources to designated persons or entities or for their benefit, unless otherwise authorised or notified in compliance with the relevant UNSCRs. Similar to 6.5 (c), at national level, obligations are more limited; Lithuania has a provision on the prohibition to enter agreements/transactions and assume new obligations that contradict international sanctions (LIS, Art.7). There are no legislative provisions explicitly prohibiting Lithuanian nationals, or any persons and entities within Lithuania, from making any funds or other assets, economic resources, or financial or other related services, available to or for the benefit of designated persons and entities.

(d) Exemptions can be granted as per Order No.535 (Decision on implementation, paragraph 13.4). At the EU level, Regulations containing designations are published in the Official Journal of the EU. The EU also maintains a publicly available on-line consolidated list and has published Best Practices for the effective implementation of restrictive measures.

The same shortcomings noted under c.6.5(d) apply.

(e) At the EU level, FIs and DNFBPs must immediately provide to the competent authorities all information that will facilitate observance of the EU Regulations, including information about the frozen accounts and amounts (EU Regulation 1509/2017, Art. 50 and 267/2012, Art. 40).

For measures at national level, see c.6.5(e).

(f) The rights of bona fide third parties are protected by the relevant EU Regulations (Art.11 of Reg. 329/2007 and Art.42 of Reg. 267/2012).

For measures at the national level, see c.6.5(f).

6. **Criterion 7.3** – Sanctions for non-compliance with UNSCRs 1737 and 1718 are provided for in EU (Restrictive Measures concerning Iran) Regulations 2016 (Statutory Instrument No. 478 of 2016) and EU (Restrictive Measures concerning the DPRK) (No. 2) Regulations 2016 (Statutory Instrument No. 540 of 2016) respectively. In both cases, persons who fail to comply are subject to a class A fine (up to EUR 5,000) or imprisonment for a term not exceeding 12 months or both; or on conviction on indictment, to a fine not exceeding EUR 500,000 or to imprisonment for a term not exceeding 3 years or both (Regulations 4-6 and Regulation 4, respectively.

7. At national level, the supervision of TFS is to be carried out by the FCIS and BoL (for financial market participants) (Art. 11 and 14, LIS). These authorities monitor compliance and have the powers to issue sanctions. Monitoring will continue to be performed during FIU and BoL on-site inspections.

8. A range of administrative sanctions for non-compliance with international sanctions obligations are in place. Institutions applying sanctions for violations of international sanctions shall impose the following sanctions on a legal person:

a. a fine of between 50 % and 100 % of the value of goods, services or funds which were the subject of an infringement of international sanctions, but not less than EUR 10,000;

b. a fine of between EUR 10,000 and EUR 50,000 where the object of the violation of international sanctions is not goods, services or funds;

c. where a legal person repeatedly violates international sanctions within one year from the imposition of a sanction for violation of international sanctions or where the value of the goods, services or funds which were the subject of the violation of international sanctions exceeds EUR 100,000 – a fine up to 5 per cent of the gross annual income, but not less than 100 % of the value of the goods, services or funds which were the subject of the violation of international sanctions, and not less than EUR 20,000. (Art.15, LIS).

9. Sanctions for FIs' non-compliance with requirements to implement international sanctions and have proper internal control procedures under the AML/CFT law also apply.

10. **Criterion 7.4** –

(a) The EU Council communicates its designation decisions, and the grounds for inclusion, to the designated persons or entities which have the right to comment on them. If this is the case or if new substantial proof is presented, the Council must reconsider its decision. Individual de-listing requests must be processed upon receipt, in compliance with the applicable legal instrument and EU Best Practices for the effective implementation of restrictive measures. Designated persons or entities are notified of the Council decision. Delisting requests may be directly filed with the EU Council or the competent UN authority (Focal Point established pursuant to UNSCR 1730). When the UN decides to de-list a person, the EC modifies the lists in the annexes of the EU Regulations without the person in question having to request it (Art.13.1(d) and (e) of Reg. 329/2007, and Art.46 of Reg. 267/2012). Persons and entities affected by restrictive measures may file a delisting petition with the competent national authorities that will channel such request to the respective institutions. Designated persons or entities individually affected may also institute proceedings before the European Court of Justice to challenge the relevant (EU) Sanctions Regulations.

At national level, for the purposes of PF, there are no specific and publicly known procedures or mechanisms enabling listed persons and entities to submit de-listing requests pursuant to UNSCR 1730.

(b) At EU level, publicly known procedures are available for obtaining assistance in verifying whether persons or entities are inadvertently affected by a freezing mechanism having the same or similar name as designated persons or entities (i.e. a false positive). For measures at national level, See 6.6 (f)

(c) At the EU level, there are specific provisions for authorising access to funds or other assets, where the competent authorities of Member States have determined that the exemption conditions set out in UNSCRs 1718 and 1737 are met, and in accordance with the procedures set out in those resolutions. EU implementing regulations provide mechanisms for authorising access to frozen funds or other assets which have been determined to be necessary for basic

expenses, the payment of certain types of expenses or for extraordinary expenses. Any of the three competent authorities may authorise, under such conditions as deemed appropriate, the release of certain frozen funds or economic resources, if the competent authority determines that the EU Regulation conditions have been met. Applications for such authorisations should be made in writing.

At national level, pursuant to paragraphs 33-42 of the Decision on Implementation and in conjunction with Art. 11 of LIS, the FCIS is responsible for granting authorisations on exemptions including for humanitarian purposes. Beyond this, there is no explicit mention of the specific conditions for exemption and the relevant UNSCR procedures to be followed for the purposes of this criterion.

(d) The procedures set out in C.6.5(d) are equally applicable to any changes to EU listings, which will be given effect to by a Council Regulation or a Council/Commission Implementing Regulation, notice of which will appear in the Official Journal and will be communicated by DFAT to the members of the CDISC. Notice will, in turn, appear on the website of the Competent Authorities.

As with 6.6 (g), there is no proactive mechanism for communicating de-listing. It is not clear what action competent authorities take when the financial sector and the DNFBPs are required to unfreeze, and what guidance is provided to them on their obligations with respect to a de-listing or unfreezing action.

11. **Criterion 7.5** –

(a) Art.9 of Reg. 329/2007 and Art.29 of Reg. 267/2012 permit the payment to the frozen accounts of interests or other sums due on those accounts or payments due under contracts, agreements or obligations that arose prior to freezing, provided that these amounts are also subject to freezing.

At national level, it is unclear what specific measures set out requirements under this sub-criterion, beyond the broad provision of granting exemptions under Chapters 6 of the Decision on Implementation.

(b) Art.24-25 of Reg. 267/2012 authorise the payment of sums due under a contract entered into prior to the designation of such person or entity, provided that this payment does not contribute to an activity prohibited by the Regulation, and after notice is given to the UN Sanctions Committee.

At national level, there are no explicit measures or provisions settings out the requirements under this sub-criterion. As above, the provision on exemptions under Chapter 6, Decision on Implementation, does not cover this.

Weighting and Conclusion

12. In general, as with R.6, for R.7 Lithuania has addressed some of the deficiencies identified in its MER through its LIS and Order No.535. The following shortcomings are identified at the national level, notably: 1) absence of a mechanism that allows both natural and legal person to freeze without delay or prior notice, extending to funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities; absence of legislative provisions prohibiting making of any funds or other assets available, directly or indirectly, wholly or jointly, for the benefit of designated persons and entities 2) lack of proactive communication on listing decisions 3) absence of publicly known procedures or mechanisms enabling listed persons and entities to submit de-listing requests pursuant to UNSCR 1730 4) and absence of mechanisms for dealing with contracts, agreements or obligations that arise prior to the date on which an account becomes subject to PF-related TFS. **Therefore, R.7 remains rated partially compliant.**

Recommendation 28 – Regulation and supervision of DNFBPs

	Year	Rating and subsequent re-rating
MER	[2018]	[PC]MER
FUR1	[2020]	[PC] (no upgrade requested)
FUR2	[2021]	[PC] (upgrade requested)
FUR3	[2022]	[PC] (upgrade requested)
FUR 4	[2023]	[PC] [upgrade requested, maintained at PC]

1. Lithuania was rated PC with the previous R.24. The 4th round MER concluded that certain activities or professions (such as company services providers) were strongly exposed to ML/FT risks given the absence of any sector-specific regulations and licensing/authorisation; there were some legal limitations for supervisory authorities and self-regulatory bodies to carry out their supervisory function, mainly concerning lawyers and assistant lawyers; the AML Law did not require licencing of internet casinos; and there were several effectiveness issues concerning the supervision. In its 5th round MER, gaps were identified in Lithuania's system, in relation to: a lack of registration framework for accountants and real estate agents, prevention of criminal control of DNFBPs, the powers of the Bar Association and the Chamber of Notaries in relation to supervision and sanctions and risk based supervision.

2. **Criterion 28.1** –

(a) Gambling companies are required to be licensed under Art .4 of the Gaming Law.

(b) Under Art.11 of the Gaming Law persons with a non-spent or valid conviction for serious or very serious deliberate crimes or crimes against property, property rights, property interests, the economy and business practice or the financial system may not be the founders (shareholders) of a gaming company or its controllers, members of its supervisory council and board of directors, heads of the administration and their deputies, chief financiers, heads of the administration of a gaming establishment (casino), bingo hall or gaming machine hall and their deputies, chief financiers, or staff members providing services to the players. A controller is defined as meaning a natural or legal person which (1) has the right to elect (appoint) more than half the members of the supervisory council (board of directors) or the head of the administration; or (2) exercises actual control over the decisions made by a legal person: has the right of ownership to all or part of the assets of an economic entity or the right of disposal in respect of all or part of such assets. This definition does not cover all potential beneficial owners in practice. In practice, the Gaming Control Authority (GCA) has required information to be provided on all beneficial owners (with no threshold applied) for the four casinos with beneficial owners and no issues have arisen. Associates of criminal are also not covered.

Art.4 and 11 of the Gaming Law and Arts.9, 12 to 15, 17, 20 and 25 provide powers for the GCA to deal with applications such as requiring information to be provided to it and to refuse an application.

Under Art.12 of the Gaming Law changes to shareholders of licensed establishments should be notified to the GCA within 30 days of the change; under Art.25 of the Licensing Rules changes to the officers specified above must be advised to the GCA within 5 business days. Controllers can be removed under Art.11 of the law although this requires an application to be made to the court. The evaluation team does not consider the 5/30 day timeframe before notification to the GCA and the lack of ability of the supervisor to address problems by itself as fully meeting the criterion.

(c) Under Art.4 of the AML/CFT Law the FIU and the GCA have authority for supervising compliance by gaming entities; a MoU between the two authorities providing for clarity of functions. The sanctions framework specified in c.28.4 is applicable to the FIU and the GCA.

3. **Criteria 28.2 and 3** – Art. 4 of the AML/CFT Law designates supervisory authorities for other categories of DNFBP and as responsible for monitoring AML/CFT compliance. With regard to those specified by the FATF the position is as follows:

a) Lithuanian Bar Association: advocates;

b) Chamber of Notaries: notaries;

c) LAO: persons engaged in economic and commercial activities related to trading in precious metals and stones. As of September 8th, 2022, DPMS are under the supervision of the Lithuanian Probation Chamber (LPR) (Order No (1.6)1-36).

4. Art. 4(9) provides that the FIU shall approve instructions aimed at preventing ML/FT for the following DNFBPs:

a) undertakings providing accounting or tax advisory services;

b) providers of trust or company incorporation or administration services (TCSPs);

c) persons engaged in economic and commercial activities involving trade in precious stones, precious metals, movable cultural goods, antiques or any other property the value whereof is equal to or exceeds EUR 10,000 or an equivalent amount in foreign currency;

d) real estate agents/brokers.

5. The FIU also has a responsibility to supervise compliance by all DNFBPs with regard to ML/FT. The supervisory authorities (where the FIU is not the supervisor in practice) and the FIU must, in accordance with a mutually determined procedure, co-operate and exchange information about the results of AML/CFT inspections of reporting entities' activities. Memorandums of understanding have been signed between the FIU and each of the supervisory authorities.

6. Article 25(2) of the AML/CFT Law sets out a registration framework for TCSPs. A registration framework for accountants and real estate agents is still not in place. In this case, although the obligation to inform the FCIS about the obliged entity's designated employees (AML/CFT Law, Art.22(1)) is AML/CFT specific, it does not constitute a sufficient registration framework (as per the 2nd FUR, 2021).

7. **Criterion 28.4** –

(a) Art.32 of the AML/CFT Law provides the supervisory authorities with powers to perform their functions:

i. right to request information/explanations;

ii. right to request an obliged entity representative(s) to be interviewed at the supervisor's premises;

iii. right to interview any other representative or person who agrees to be interviewed in order to obtain information related to the subject of inspection;

iv. unimpeded access to the premises of the supervised obliged entities (except from the premises of advocates and their assistants), during their working hours, to inspect documents, notes of the employees, accounting documents and other data (including a bank secret or any other confidential information), to obtain copies and extracts of the documents, to copy the information stored in computers and any other electronic devise, and to seek advice/expert opinion from the specialised bodies or experts;

v. right to temporarily seize the documents of the supervised obliged entities (except those of advocates and advocates' assistants), that may evidence any breach of compliance. Seizure of the documents needs to be notified in writing, including the reasons for seizure and list of documents seized;

vi. right to seal a premise used by the obliged entities wherein documents subject to the examination and seizure are held for the period and to the extent necessary to carry out the inspection. This measure can be applied for no longer than three calendar days;

vii. right to use technical devices/support in the course of inspection;

viii. right to obtain information on subscribers or registered users of electronic communications services, (except from users who are advocates and their assistants), the traffic data and the content of information transmitted by electronic communications networks from providers of the electronic communications networks and/or public electronic communications services (this action can only be carried out with the judicial authorisation); and

ix. right to obtain data and documents or copies thereof related to the person(s) under inspection from other entities, including those from state and municipal institutions.

The Bar Association and the Chamber of Notaries have the right to exercise the powers stipulated in points i), ii), vii) and ix) above but not the other powers.

(b) Art.25 AML/CFT Law provides that a person may not be the beneficial owner of a real estate agency, or a member of the management or supervisory body of such entity, if he/she has been convicted of a serious or very serious crime provided for in the Criminal Code of the Republic of Lithuania or under the laws of other states, or convicted of a crime against property, property rights, property interests, the economy, the order of business, the financial system, civil service and public interests. It is not clear that this would cover all relevant criminality. Holding such a position is possible only after the expiry of a 3-year delay following the serving, the suspension or the release a of sentence (Art 25, § 3). These provisions also apply in relation to TCSPs, virtual currency exchange operator and depository virtual currency wallet operator.

(c) Art.3 of the Law on the Notaries Profession provides that a person cannot be appointed as a notary if he/she has been convicted of a crime. Where a person has been convicted of a crime, he/she can be appointed as a notary, but only if 5 years have passed since the sentence, the suspension of the sentence or a release from a sentence). In addition, a notary must be of impeccable character. Measures for bailiffs are similar as the Law on Bailiffs notes that a person cannot be considered of impeccable reputation if he was convicted of a crime (1), a criminal misdemeanour (2) or his behaviour or activity is incompatible with the requirements of the Bailiffs' Code of Professional Ethics (3) (Art. 1, § 5). A bailiff's powers expire upon entry into force of a court verdict for a conviction or found guilty (Art. 12). An appointment as bailiffs is possible under the same conditions as notaries (expiry of a 5 year delay).

The Law on the Bar (Art. 7) provides requirements for a person seeking to practice as an advocate, among which there is a requirement to be of high moral character. In addition, Art. 8 states that an applicant may not be recognised as an advocate if he/she (1) has been convicted of a serious or very serious crime until the conviction has expired or been lifted and at least four years after the execution or release of the sentence have passed (2) has been convicted of another intentional crime until the conviction has expired or been lifted and at least three years have passed since the sentence, the suspension of the sentence or the release of the sentence (3) has been found guilty of intentional crime, however released from the sentence (4) does not meet the requirements laid down for advocates in the Lithuanian Code of Ethics for Advocates.

The Law on the Audit of Financial Statements notes that an auditor shall not be considered to be of good repute where she/he was found guilty of a serious or grave crime against property, property rights, property interests, security of electronic data or information systems, the economy, the order of business, the financial system, civil service or public interests and their conviction has not expired or has not been expunged (Art.10). The Law on Financial Accounting states that the CEO of an entity providing accounting services can't be a person who was found guilty of the same serious or grave crimes as above (Art. 14). However, it is not clear whether this covers all relevant criminality and the requirement to prevent criminal from holding (or being the beneficial owner of) a significant or controlling interest (as per 3rd FUR, 2022).

The provisions for DNFBPs do not cover associates of criminals.

(d) Art. 36 AML/CFT Law (and Art. 198 of the Code on Administrative Offences) specifies the administrative sanctions available in case of failure to comply with AML/CFT requirements (see c. 27.3).

DNFBP supervisory authorities but not including the Lithuanian Bar Association and the Chamber of Notaries have the right to impose the following fines:

i. for breaches of the Law – from 0.5 up to 5 per cent of the annual income from professional or other activities;

ii. for breaches of the Law, where an entity commits systematic breaches of the Law or commits a single serious breach of the Law or commits a repeated breach of the Law within a year of the imposition of a sanction for the breach of the Law – up to twice the amount of the benefit derived from the breach (where such benefit can be determined and where this amount exceeds EUR 1,100,000), or from EUR 2,000 to EUR 1,100,000 (where the amount which is twice the amount of the benefit derived from the breach does not exceed EUR 1,100,000 or the amount of the benefit derived from the breach cannot be determined);

iii. for failure to provide, within the fixed time limit, the information or documents required for supervisory purposes on the basis of the Law or for the provision of incorrect information – from 0.1 up to 0.5 percent of the annual income from professional or other activities indicated in Art. 2(10) of the Law;

iv. for failure to comply or inadequate compliance with the mandatory instructions issued by the supervisory authority pursuant to the Law – from 0.1 up to 1 percent of the annual income from professional or other activities indicated in Art. 2(10) of the Law;

v. for improper performance of the actions which an entity has the right to perform only upon obtaining an authorisation from the supervisory authority or for the performance of the actions without obtaining the authorisation from the supervisory authorities, where such an authorisation is required – from 0.1 up to 1.5 percent of the annual income from professional or other activities indicated in Art. 2(10) of the Law.

vi. where a DNFBP commits systematic breaches of the Law or commits a single serious breach of the Law or commits a repeated breach of the Law within a year from the imposition of a sanction for the breach – up to twice the amount of the benefit derived from the breach (where such benefit can be determined and where this amount exceeds EUR 1,100,000), or from EUR 2,000 up to EUR 1,100,000 (where the amount which is twice the amount of the benefit derived from the breach does not exceed EUR 1,100,000 or the amount of the benefit derived from the breach cannot be determined).

The inability of the supervisory authorities for legal professionals and auditors to impose fines for AML/CFT breaches is a gap.

Licences/registrations may also be withdrawn under Art.46 AML/CFT Law. In addition, there are provisions for the publication of sanctions in Art.41.

8. **Criterion 28.5** –

(a) See Immediate Outcome 3. None of the DNFBP supervisory authorities has a comprehensive approach to AML/CFT supervision (including a risk sensitive approach).

Casinos – Lithuania amended its methodology for evaluating and controlling the risk of economic entities which articulates the GCA's risk-based approach to supervision in 2021 (New methodology covered new measures that came into force after 01-11-2021.). Inspections of the higher-risk entities are carried out one every 2 years. However, there is still a possibility of high-risk entities being placed in risk categories that do not reflect their real money laundering risks (as per 3rd FUR, 2022).

TCSPs, Accountants, Auditors, Advocates – In 2021, a division for the supervision of financial institutions and DNFBPs was set up with the Lithuanian FIU. The Financial Crime Investigation service also updated its order for selection for inspections (Order V-23). This order determines

a comprehensive list of criteria that should be considered when establishing an annual inspections plan. In particular, the FIU should consider ML/TF risk exposure of sectors and products, risks posed by different reporting entities, considering their business profile and etc. (as per 3rd FUR, 2022). FCIS has taken measures to introduce rules on supervision frequency: higher-risk inspected entities shall be subject to additional AML/CFT inspections at least every three years, either on-site, remotely or through a written procedure.

With respect to notaries, in April 2023, the Lithuanian Chamber of Notaries has amended its methodology of risk-based supervision of notaries. Even though the methodology provides that a notary's risk assessment is to be reviewed every three years, no measure was implemented regarding the frequency of supervision,

DPMS are, as of September 8th, 2022, under the supervision of LPR. According to Order No (1.6)1-36, the riskiest entities, identified on the basis of a risk-based approach, are inspected onsite or offsite at least once every three years.

(b) Paragraph 7.8 of Order V-233 requires the FIU to consider ML/FT profiles of individual DNFBPs. Onsite inspections undertaken by the GCA and the FIU consider risk, controls, policies, and procedures and by extension the degree of discretion allowed by AML/CFT requirements while the LPR checks that procedures exist and the quantity and amounts of transactions in cash (Order No (1.6)1-36) (as per 3rd FUR, 2022).

Weighting and Conclusion

9. A registration framework for accountants and real estate agents is not in place. While statutory powers exist to prevent criminal control of DNFBPs, the coverage of this is not clear except in relation to advocates. The Bar Association and the Chamber of Notaries do not have complete statutory powers in relation to supervision and sanctions. Associates of criminals are not covered. A risk sensitive supervision has introduced inspection cycles for the riskiest entities. **R.28 remains rated partially compliant.**

Annex B: Summary of Technical Compliance – Deficiencies underlying the ratings

Recommendations	Rating	Factor(s) underlying the rating[4]
6. Targeted Financial Sanctions related to terrorism and terrorist financing	PC (MER) PC (FUR4 2023)	• While National security authorities are required provide information on targets that meet the criteria for listing in the relevant UNSCR, the legislation does not define the one authority required to review proposals against UNSCR 1267/1989 (6.1 (b)). (As per 4th FUR, December 2023) • There is no explicit requirement to follow the standard forms for proposing designations. (6.1 (d)). (As per 4th FUR 2023) • There are no provisions indicating whether Lithuania's status as a designating state can be known. (6.1 (e)) (As per 4th FUR, December 2023) • Within its national framework, Lithuania does not have a mechanism for designation based on the criteria of UNSCR 1373 or requirements to apply an evidentiary standard of proof based on reasonable grounds (6.2 (b) and (d)) (As per 4th FUR, December 2023) • There are no provisions that require a prompt determination to be made (c.6.2(c)) (As per 4th FUR, December 2023) • It is not clear what happens with respect to requests received by Lithuania (c. 6.2(d)) • There steps to be taken in cases where Lithuania makes a request to another country for listing are not detailed in legislation. (c. 6.2(e)) (As per 4th FUR, December 2023) • It is doubtful whether, in practice, the freezing action takes place without prior notice. (c.6.5 (a)) • At national level, there is no specific requirement explicitly prohibiting Lithuanian nationals, or any persons and entities within Lithuania, from making any funds or other assets, economic resources, or financial or other related services, available, directly, or indirectly, wholly or jointly, for the benefit of designated persons and entities. Lithuania only prohibits

4. Deficiencies listed are those identified in the MER unless marked as having been identified in a subsequent FUR.

		natural and legal person to conclude or enter new transactions that contradict international sanctions. (c.6.5 (b)) (as per 4th FUR, December 2023) • There is no specific or proactive mechanism to communicate designations to the FIs and DNFBPs. (c. 6.5 (d)) (as per 4th FUR, December 2023) • At national level, The LIS nor order.535 set out no specific provisions to protect the rights of bona fide third parties. (6.5 (f) (as per 4th FUR, December 2023) • No guidance has been issued. Lithuania has not, however, decided that, as a rule, its citizens or residents should address their de-listing requests directly to the Focal Point through a declaration addressed to the Chairman of the Committee. (c.6.6 (a)) • Lithuania has not, however, decided that, as a rule, its citizens or residents should address their de-listing requests directly to the Focal Point through a declaration addressed to the Chairman of the Committee (footnote 1 of UNSCR 1703). (c.6.6 (a)) • At national level, there are no procedures fulfilling requirements under 6.6 (a-c, f-g). (as per 4th FUR, December 2023) • Lithuania's legislation does not set out explicitly instances where exemptions are to be granted i.e. access to frozen funds or other assets which have been determined to be necessary for basic expenses, for the payment of certain types of fees, expenses and service charges, or for extraordinary expenses, in accordance with the procedures set out in UNSCR 1452 and any successor resolutions. (6.7) (as per 4th FUR, December 2023)

7. Target financial Sanctions relation to proliferation	PC (MER) PC (FUR4 2023)	• It is doubtful whether, in practice, the freezing action takes place without prior notice. The same shortcomings noted under C.6.5(a) apply. (c.7.2(a)) (updated as per 4th FUR 2023, December 2023) • At national level, obligations are more limited; Lithuania prohibits natural and legal person to conclude or enter new transactions that contradict international sanctions (LIS, Art.7). There are no legislative provisions explicitly prohibiting (i) all funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular act, plot or threat of proliferation; (ii) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; and (iii) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities, as well as (iv) funds or other assets of persons and entities acting on behalf of, or at the direction of designated persons or entities. (7.2 (b)) (as per 4th FUR, December 2023) • There are no proactive communication mechanisms in place. The same shortcomings noted under c.6.5(d) apply. (c.7.2(d)) (as per 4th FUR, December 2023) • At national level, the new TFS framework does not include provisions or measures that fulfil the requirements of criterion 7.4 (a-b) (as per 4th FUR, December 2023) • At national level, pursuant to paragraphs 33-42 of the Decision on Implementation and in conjunction with Art. 11 of LIS, the FCIS is responsible for granting authorisations on exemptions including for humanitarian purposes. Beyond this, there is no explicit mention of the specific conditions for exemption and the relevant UNSCR procedures to be followed for the purposes of this criterion. (c.7.4 (c)) (as per 4th FUR, December 2023). There are no procedures fulfilling these requirements. (c.7.4 (d))

28. Regulation and supervision of DNFBPS	PC (MER) PC(FUR4 2023)	• The definition of controller does not cover all potential beneficial owners in practice. In practice, the GCA has required information to be provided on all beneficial owners (with no threshold applied) for the four casinos with beneficial owners and no issues have arisen. Associates of criminal are also not covered. (c.28.1 (b)) • The evaluation team does not consider the 5/30 day timeframe before notification to the GCA and the lack of ability of the supervisor to address problems by itself as fully meeting the criterion. (c.28.1 (b)) • A registration framework for accountants and real estate agents is not in place. (c.28.3) [updated in FUR 2, 2021] • Statutory powers exist to prevent criminal control of DNFBPs, (c.28.5 (b)) [as per 3rd FUR, December 2022, and 4th FUR, December 2023] • It is not clear that the provisions of Art.25 of the AML/CFT law would cover all relevant criminality. (c.28.5 (b)) • The provisions for DNFBPs do not cover associates of criminals. (28.4 (b)) • The Bar Association and the Chamber of Notaries do not have complete statutory powers in relation to supervision and sanctions. (c.28.4 (c)) • The inability of the supervisory authorities for legal professionals and auditors to impose fines for AML/CFT breaches is a gap. (c.28.4 (c)) • Lithuania has improved its AML/CFT risk-based supervision of casinos, but there is a remaining flaw since an entity can end up in a category not reflecting its real ML risk; (c.28.5 (a)) [as per 3rd FUR, December 2022]

GLOSSARY OF ACRONYMS

AML	Anti-money laundering
AML/CFT	Anti-money laundering and combating financing of terrorism
BOL	Bank of Lithuania
C	Compliant
CD	Council Decision
CEPs	Compliance Enhancing Procedures
CFT	Countering the financing of terrorism
COMET WP	Working Party on restrictive measures to combat terrorism
CPF	Counter proliferation financing
DNFBPs	Designated non-financial businesses and professions
DPMS	Dealers in Precious Metals and Stones
DPRK	Democratic People's Republic of Korea
EC	European Commission
EU	European Union
FCIS	Financial Crime Investigation Service
FI	Financial institution
FIU	Financial Intelligence Unit
FUR	Follow-up report
GCA	Gaming Control Authority
ISIL	Islamic State of Iraq and the Levant
LC	Largely compliant
LIS	Law on International Sanctions
LOA	Lithuanian Assay Office
LPR	Lithuanian Probation Chamber
MER	Mutual evaluation report
MFA	Ministry of Foreign Affairs
ML/TF	Money laundering/terrorist financing
NC	Non-compliant
NRA	National risk assessment
PC	Partially compliant
PF	Proliferation Financing
SR	Special recommendation
TC	Technical compliance
TFS	Targeted financial sanctions
TCSP	Trust and company service providers
UN	United Nations
UNSC	UN Security Council
UNSCR	UN Security Council Resolution

www.coe.int/MONEYVAL

December 2023

Follow-up report

Anti-money laundering and counter-terrorist financing measures -

Lithuania

4th Enhanced Follow-up Report &

Technical Compliance Re-Rating

This report analyses Lithuania's progress in addressing the technical compliance deficiencies identified in the December 2018 assessment of their measures to combat money laundering and terrorist financing.