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

MONEYVAL

Fifth Round of Mutual Evaluations First Compliance Enhancing Procedures Report Lithuania[1]

[1] Adopted by MONEYVAL at its 68th Plenary meeting (5 December 2024).

Lithuania: First Compliance Enhancing Procedures Report

I. INTRODUCTION

1. Rule 23(3) of the Rules of Procedure for MONEYVAL's 5th Round of Mutual Evaluations (RoP) provides for the mandatory application of compliance enhancing procedures (CEPs) at the end of the third year following adoption of a mutual evaluation report (MER) if any of the "big six" FATF Recommendations (R.3, R.5, R.6, R.10, R.11 and R.20) remain NC or PC. The Plenary has discretion only to decide on the appropriate compliance enhancing step to apply.

2. Rule 25(2) of the RoP also allows the Plenary to apply CEPs to "non-big-six" Recommendations where a member has not addressed most technical compliance deficiencies by the end of their third year following adoption of a MER.

3. The 5th round MER of Lithuania was adopted in December 2018. Lithuania was placed into enhanced follow-up and has submitted four follow-up reports (FURs). At the time of adoption of the fourth follow-up report, R.6 was still rated as PC and so Lithuania was placed into CEPs in December 2023 (66th Plenary) in respect of that Recommendation.

4. This is the first CEPs report for Lithuania. The purpose of this first report is to summarise the progress that Lithuania has made to remedy identified shortcomings in respect of R.6.

II. GENERAL PROGRESS MADE SINCE 66th PLENARY (DECEMBER 2023)

5. The objective of CEPs is not to re-rate covered Recommendations, which may be done only under the follow-up process. Instead, CEPs reports provide a general overview on whether a member has made progress addressing shortcomings identified in the MER or subsequent FURs and to what extent.

6. This section reviews progress in addressing shortcomings identified under R.6 in Lithuania's fourth FUR (adopted December 2023).

Shortcoming 1: Legislation does not define the one authority required to review proposals against UNSCR 1267/1989
Action taken to address deficiency: The Ministry of Foreign Affairs (MFA) is responsible for proposing individuals or entities to the relevant UN committee, based on the conclusions of the Coordination Commission. The Coordination Commission is the organisation responsible for drawing up conclusions on proposals to include individuals or entities on the relevant UN lists (Description on UNSC Sanctions, Art. 3 and Art. 5).
Remaining shortcoming: No shortcoming remains.

Shortcoming 2: There is no explicit requirement to follow the standard forms for proposing designations.
Action taken to address deficiency: The MFA must submit proposals using forms of the relevant committee (Description on UNSC Sanctions, Art. 3).
Remaining shortcoming: No shortcoming remains.

Shortcoming 3: There are no provisions indicating whether Lithuania's status as a designating state can be known.
Action taken to address deficiency: Proposals that are sent to the MFA must include a statement on whether the status of Lithuania as a designating state can be made known (Description on UNSC Sanctions, Art. 8).
Remaining shortcoming: No shortcoming remains.

Shortcoming 4: Lithuania does not have a specific mechanism for identifying targets for designation, based on the designation criteria set out in UNSCR 1373.
Action taken to address deficiency: Lithuania now has a mechanism for identifying targets for designation based on the designation criteria set out in UNSCR 1373 (Description on UNSC Sanctions, Art. 5 to Art. 10).
Remaining shortcoming: No shortcoming remains.

Shortcoming 5: There are no mechanisms setting out how requests from other countries must be considered and how promptly determinations are to be made.
Action taken to address deficiency: The country now has a mechanism for responding to requests made by other countries. Upon request from another country, the Financial Crime Investigation Service (FCIS) is required to review the request and determine whether additional information is required from the requesting country, in the shortest period of time and within no more than five working days. The FCIS then consults law enforcement agencies and seeks a response as soon as possible and within no more than five working days. The request is then forwarded to the Coordination Commission, which is required to provide an overall determination on the listing of an individual or entity as soon as possible and within no more than 20 days (FCIS Order V-191, para. 13 to para. 20, and Description on UNSC Sanctions, Art. 9). The legislation requires each stage to take place in the shortest period of time, however, overall, the process could take up to 30 days.
Remaining shortcoming: The mechanism to respond to foreign request does not permit prompt determination.

Shortcoming 6: Within its national framework, Lithuania does not have a mechanism for designation that requires it to apply an evidentiary standard of proof based on reasonable grounds.
Action taken to address deficiency: In its national framework, national security authorities are now required to collect information that allows for the clear and precise identification of a natural or legal person, group or entity and their compliance with the criteria for inclusion on sanctions lists set out in the relevant UNSCR. On the basis of information collected, they must now determine whether there are "sufficient grounds" to make a proposal (Description on UNSC Sanctions, Art. 7). It has been demonstrated that having "sufficient grounds" constitutes the same evidentiary threshold as "reasonable grounds".
Remaining shortcoming: No shortcoming remains.

Shortcoming 7: Steps to be taken in cases where Lithuania makes a request to another country for listing are not detailed in legislation.
Action taken to address deficiency: Lithuania now has a mechanism for making a request to another country for listing (FCIS Order V-191, para. 23 to para. 25).
Remaining shortcoming: No shortcoming remains.

Shortcoming 8: It is unclear whether freezing action takes place without prior notice.
Action taken to address deficiency: All entities are required to freeze assets and other funds must be frozen without delay (Description on UNSC Sanctions, Art. 20). The term "all entities" encompasses all natural and legal persons (LIS, Art. 1).
Remaining shortcoming: No shortcoming remains.

Shortcoming 9: 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.
Action taken to address deficiency: The obligation to freeze now includes a prohibition on making funds or other assets, economic resources or financial or other related services available, directly or indirectly, for the benefit of designated individuals or entities (Description on UNSC Sanctions, Art. 20 and Art. 21).
Remaining shortcoming: The prohibition on making funds or other assets, economic resources or financial or other related services available does not cover access to funds, assets or services wholly or jointly owned.

Shortcoming 10: There are no other communication mechanisms in place, except for periodic notices circulated by the FIU, which do not fulfil the requirement that updates are communicated immediately. There is no guidance for FIs and other persons/entities, including DNFBPs that may be holding targeted funds or other assets.
Action taken to address deficiency: Lithuania now has a mechanism to communicate updates to lists by publishing lists and additional information on the MFA and FCIS websites (for UNSCRs 1267 and 1373 respectively). FIs, VASPs and DNFBPs can also sign up to the FCIS's newsletter which disseminates updates related to national listings (under UNSCR 1373). In July 2023, the FCIS published guidance on TFS obligations, which will be updated in accordance with the new FCIS Order V-191.
Remaining shortcoming: There is no proactive mechanism or notification system to communicate updates to the 1267 list to FIs, VASPs and DNFBPs.

Shortcoming 11: It is unclear who is required to freeze and report on assets frozen. It also remains unclear where reporting obligations for DNFBPs are covered.
Action taken to address deficiency: All natural and legal persons are now required to follow freezing obligations and to report assets frozen to the FCIS (FCIS Order V-191, Art. 5.7 and Art. 5.8).
Remaining shortcoming: No shortcoming remains.

Shortcoming 12: There are no specific provisions to protect the rights of bona fide third parties.
Action taken to address deficiency: Rights of bona fide third parties are now protected (IS Law, Art. 7).
Remaining shortcoming: No shortcoming remains.

Shortcoming 13: 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.
Action taken to address deficiency: Lithuania now has procedures in place to submit de-listing requests directly to the relevant UN sanctions committees and to do so via the focal point mechanism (Description on UNSC Sanctions, Art. 19 and FCIS Order V-191, Art. 8 to Art. 8.2).
Remaining shortcoming: No shortcoming remains.

Shortcoming 14: It is not clear what process must be followed to meet legislative requirements and there are no publicly known procedures regulating the de-listing process.
Action taken to address deficiency: Lithuania now has a procedure in place for delisting individuals and entities covered by national designations - where an individual or entity no longer meets designation criteria (Description on UNSC Sanctions, Art. 15).
Remaining shortcoming: No shortcoming remains.

Shortcoming 15: At national level, there are no procedures to allow, upon request, review of a designation decision before a court or other independent competent authority.
Action taken to address deficiency: Decisions may now be appealed to the Administrative Court in accordance with the procedure laid down in the Law on Administrative Proceedings of the Republic of Lithuania (Description on UNSC Resolutions, Art.29).
Remaining shortcoming: No shortcoming remains.

Shortcoming 16: There is no proactive mechanism for communicating de-listings. 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.
Action taken to address deficiency: Lithuania now has a mechanism to communicate updates to lists via the MFA and FCIS websites (for UNSCRs 1267 and 1373 respectively). FIs, VASPs and DNFBPs can also sign up to the FCIS's newsletter which disseminates updates related to national listings. In July 2023, the FCIS published guidance on TFS obligations, which will be updated in accordance with the new FCIS Order V-191.
Remaining shortcoming: There is no proactive mechanism or notification system to communicate updates to the 1267 list to FIs, VASPs and DNFBPs.

Shortcoming 17: 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.
Action taken to address deficiency: Exemptions are now set out where a payment is made for: (i) goods and services provided to a designated person or members of their family to meet basic human needs, including food, medicines, health care and medical treatment, payments for rent and related services for the family's home, or housing credit; (ii) taxes and fees to the state and municipal budgets, contributions to the State Social Insurance Fund and other compulsory insurance contributions; and (iii) reimbursement to a financial institution of the costs imposed by law for the management of the accounts of those natural or legal persons, groups and organisations (Description on UNSC Resolutions, Art. 22).
Remaining shortcoming: No shortcoming remains.

III. CONCLUSION

7. Lithuania has made sufficient progress in addressing shortcomings for R.6. Therefore, Lithuania has been removed from CEPs.