

Anti-money laundering and counter-terrorist financing measures

Gibraltar

2nd Enhanced Follow-up Report & Technical Compliance Re-Rating

May 2024

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.

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The 2nd Enhanced Follow-up Report and Technical Compliance Re-Rating on Gibraltar was adopted by the MONEYVAL Committee at its 67th Plenary Meeting (Strasbourg, 22 May 2024).

Gibraltar: Second Enhanced Follow-up Report

I. INTRODUCTION

1. The mutual evaluation report¹ (MER) of Gibraltar was adopted in December 2019. Given the results of the MER, Gibraltar was placed in enhanced follow-up.² Its 1st Enhanced Follow-up Report (FUR)³ was adopted in November 2021. The report analyses the progress of Gibraltar in addressing the technical compliance (TC) deficiencies identified in its MER. 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 the request of Gibraltar for technical compliance re-ratings and the preparation of this report were undertaken by the following Rapporteur team (together with the MONEYVAL Secretariat):

- Bulgaria

3. Section II of this report summarises Gibraltar'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 Gibraltar to improve its technical compliance by addressing the technical compliance deficiencies identified in the MER for which the authorities have requested a re-rating (Recommendation (R.)36).

5. 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 Gibraltar submitted its country reporting template – at least six months before the FUR is due to be considered by MONEYVAL.⁴

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

6. Gibraltar has made progress to address the technical compliance deficiencies identified in the MER. As a result of this progress, Gibraltar has been re-rated on R.36.

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

1. MER of Gibraltar, available at <https://rm.coe.int/anti-money-laundering-and-counter-terrorist-financing-measures-british/16809c3c45>

2. Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up.

3. First Enhanced Follow-up Report, available at <https://rm.coe.int/moneyval-2021-33-fur-gibraltar/1680a4dd10>.

4. 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.

III. CONCLUSION

8. Overall, in light of the progress made by Gibraltar since its MER or 1st enhanced FUR was adopted, its technical compliance with the Financial Action Task Force (FATF) Recommendations has been re-rated as follows:

Table 1. Technical compliance with re-ratings, May 2024⁵

R.1	R.2	R.3	R.4	R.5
C (FUR1 2021) PC	LC	C	LC	C
R.6	R.7	R.8	R.9	R.10
LC	LC	LC	C	LC
R.11	R.12	R.13	R.14	R.15*
C (FUR1 2021) PC	C (FUR1 2021) PC	C (FUR1 2021) PC	LC	LC (FUR1 2021) C
R.16	R.17	R.18	R.19	R.20
C	LC	LC	LC	C
R.21	R.22	R.23	R.24	R.25
C	C (FUR1 2021) PC	LC	LC (FUR1 2021) PC	C (FUR1 2021) PC
R.26	R.27	R.28	R.29	R.30
C (FUR1 2021) PC	C	C (FUR1 2021) PC	C	C
R.31	R.32	R.33	R.34	R.35
LC	LC	C	C	LC
R.36	R.37	R.38	R.39	R.40
LC (FUR 2024) PC	C	C	C	LC

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

9. Gibraltar has implemented all 40 Recommendations at the level of LC/C. In application of Rule 23(5) of the Rules of Procedure, no further reporting shall be required under MONEYVAL's 5th round of evaluations.

5. Recommendations with an asterisk are those where the country has been assessed against the new requirements following the adoption of its MER or FUR.

Annex A: Reassessed Recommendation

Recommendation 36. International instruments

	Year	Rating and subsequent re-rating
MER	2019	PC
FUR1	2021	Upgrade not requested
FUR2	2024	↑ LC (upgrade requested)

1. Gibraltar was rated PC in respect of Recommendation 36 in MONEYVAL's 5th round report of 2019, which noted that at the time, the jurisdiction was a Party to the relevant treaties, with the exception of the International Convention for the Suppression of Financing of Terrorism (FT Convention) and the Merida Convention, and that it had transposed to its domestic legislation to some extent the provisions of the Merida and the FT Convention.

2. **Criterion 36.1** – Gibraltar is a Party to the 1988 Vienna Convention (extended to Gibraltar on 2 July 2014), to the 2000 Palermo Convention (extended to Gibraltar on 27 November 2007), to the Terrorist Financing Convention (extended to Gibraltar on 30 March 2020), and to the Merida Convention (extended to Gibraltar on 20 October 2023).

3. **Criterion 36.2** – The Vienna Convention is fully implemented through: (i) the 2011 Crimes Act; (ii) the 1986 Imports and Exports Act; (iii) the 2011 Criminal Procedure and Evidence Act; (iv) the 2015 Proceeds of Crime Act; (v) the 1995 Drug Trafficking Offences Act; (vi) the 1995 Drug Trafficking Offences Act (Designated Countries and Territories) Order 1999; (vii) the 2005 Drugs (Misuse) Regulations; (viii) the 2006 Transnational Organised Crime Act; (ix) the 2005 Mutual Legal Assistance (EU) Act; (x) the 2005 Mutual Legal Assistance (International) Act; (xi) the 2011 Merchant Shipping (Port State Control) Regulations; (xii) the 1961 External Parcels and Postal Packets Regulations; (xiii) the 2020 Imports and Exports (ATA Convention) Regulations; and (xiv) the 2021 Imports and Exports (TIR Convention) Regulations, (xv) other measures such as provision of 24 hour helpline service by the Maritime Administration Office.

4. One reservation was made to the Vienna Convention which concerns not granting immunity where a person is going to give evidence if against the public interest. This does not impair implementation of the Convention.

5. The Palermo Convention is fully implemented primarily through the 2006 Transnational Organised Crime Act, as revised by the Transnational Organised Crime (Amendment) Act 2023.

6. The provisions of the Terrorist Financing Convention have been largely implemented in domestic law through: (i) the 2018 Terrorism Act; (ii) the Terrorist Asset Freezing Regulations; (iii) the 2015 Proceeds of Crime Act; (iv) the 2018 Extradition Act; (v) the 2011 Crimes Act; (vi) the Consular Relations Act; and (vii) other legislation. The Proceeds of Crime (External Requests and Orders) Order 2019, the Proceeds of Crime (External Investigations in a Civil Context) Order 2019, and the Proceeds of Crime (External Investigations Ancillary to a Criminal Investigation or Proceeding) Order 2019 are also important instruments in legislation for investigation and enforcement purposes regarding incoming requests. However, Gibraltar has not provided relevant legislation to demonstrate its full compliance with Articles 16 (2)(a)(b) and(d) of the TF Convention.

7. Gibraltar has fully implemented the Merida Convention's provisions in its national legislation through: (i) the 2015 Proceeds of Crime Act; (ii) the 2011 Crimes Act; (iii) the 2018 Extradition Act; (iv) the 2006 Transnational Organised Crime Act; (v) the 2005 Mutual Legal Assistance (EU) Act; (vi) the 2005 Mutual Legal Assistance (International) Act; and (vii) the Mutual Legal Assistance (Merida Convention) Act 2023.

Weighting and Conclusion

8. Gibraltar is a Party to all relevant treaties. Gibraltar has not demonstrated its full compliance with Article 16 (2) of the TF Convention. **R.36 is re-rated largely compliant.**

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

Recommendations	Rating	Factor(s) underlying the rating ⁶
36. International instruments	PC (MER) LC (FUR2 2024)	<ul style="list-style-type: none">• Full implementation of Article 16 (2) of the TF Convention is not demonstrated (c.36.2, FUR, May 2024)

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

GLOSSARY OF ACRONYMS

AML/CFT	Anti-money laundering and combating financing of terrorism
C	Compliant
EU	European Union
FT Convention	International Convention for the Suppression of Financing of Terrorism
FUR	Follow-up report
LC	Largely compliant
MER	Mutual evaluation report
NC	Non-compliant
PC	Partially compliant
R.	Recommendation
TC	Technical compliance

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Technical Compliance Re-Rating**

This report analyses Gibraltar's progress in addressing the technical compliance deficiencies identified in the December 2019 assessment of their measures to combat money laundering and terrorist financing and in subsequent follow-up reports.

Follow-up report