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

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Montenegro

7th Compliance Report

4 December 2018

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LIST OF ACRONYMS

AML/CFT	Anti-money laundering and combating financing of terrorism
APMLFT	Administration for the Prevention of Money Laundering and Terrorist Financing
BOs	Beneficial Owners
CC	Criminal Code
CDD	Customer Due Diligence
CEPs	Compliance Enhancing Procedures
CMB	Central Bank of Montenegro
CFT	Combating the financing of terrorism
DNFBP	Designated Non-Financial Businesses and Professions
EU	European Union
EUR	Euro
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
GPO	General Prosecutor's Office
ISA	Insurance Supervision Agency
LEA	Law Enforcement Agency
LIRM	Law on International Restrictive Measures
LPMLFT	Law on the Prevention of Money Laundering and Terrorist Financing
MER	Mutual Evaluation Report
ML	Money Laundering
MLA	Mutual legal assistance
MFA	Ministry of Foreign Affairs
MVTS	Money Value Transfer Service Providers
SAR	Suspicious Activity Report
SR	Special recommendation
STR	Suspicious transaction report
UN	United Nations
UNSCR	United Nations Security Council resolution

Table of Contents

LIST OF ACRONYMS	3
Introduction.....	5
Conclusion	6

7th Compliance Report submitted by Montenegro

Note by the Secretariat

Introduction

1. Following adoption of its 4th round mutual evaluation report (“MER”) at MONEYVAL’s 47th Plenary in April 2015, Montenegro was placed under the enhanced follow-up procedure pursuant to Rule 13 of the revised Rules of Procedure, and Step 1 of the Compliance Enhancing Procedures (“CEPs”) was applied. Since then, six compliance reports have been adopted.

2. The first compliance report was adopted at MONEYVAL’s 50th plenary in April 2016. This included an analysis by the Secretariat of the measures taken by Montenegro to address the factors/deficiencies in relation to the core and key FATF Recommendations rated PC or NC in its 4th round MER. Montenegro was requested to provide a further compliance report to the 51st Plenary in September 2016 to demonstrate that timely action was being taken to address the remaining deficiencies in order to avoid the application of Step 2 of CEPs.

3. The second compliance report was adopted at MONEYVAL’s 51st plenary in September 2016. This included an analysis by the Secretariat of progress since the adoption of the first compliance report. It was agreed that positive action was being taken to change legislation and implement procedures and, as a result, it was deemed premature to apply Step 2 of CEPs. Accordingly, the Plenary agreed that progress would be considered again in December 2016 at the 52nd Plenary, by which time it was expected that: (a) the requirements of R.6 (which replaces SR.III) would have been implemented (or would be very close to implementation); and (b) the political commitment and revised timetable requested for other necessary legislative amendments¹ would have been provided.

4. At MONEYVAL’s 52nd Plenary in December 2016 the third compliance report was adopted. MONEYVAL welcomed the adoption by the Government of Montenegro of an Action Plan on the Implementation of UNSCR 1373 (2001) since the second compliance report had been considered in September 2016. This Action Plan also dealt with the application in Montenegro of UNSCR 1267 (1999). However, it was noted that the majority of implementation deadlines set in the Action Plan (some of which related to legislative amendments) were for the third quarter of 2017 which meant that there would be a further delay in the rectification of severe deficiencies related to Special Recommendation III. The Plenary also noted that the political commitment and revised timetable requested for other legislative amendments needed to address deficiencies highlighted in Montenegro’s 4th Round MER (in respect of core and key Recommendations 1, 3, 5, 13, 23, 26 and 40 and Special Recommendations I, II, IV and V) had not been provided. This raised significant concern. The Chair observed that deadlines set in April and September 2016 had not been met by the authorities, in part due to recent elections. However, it was important for the Plenary to take a consistent approach to the application of CEPs. In light of the foregoing, the Plenary decided to apply Step 2 of CEPs.

5. As a consequence of the application of Step 2 of CEPs, a high-level mission to Montenegro was arranged to meet relevant ministers and senior officials on 3-4 May 2017. The MONEYVAL delegation was composed of Mr Daniel Thelesklaf (Chair of MONEYVAL), Mr Jan Kleijssen (Director of Information Society and Action against Crime) and Mr Matthias Kloth (Executive Secretary to MONEYVAL). The delegation held meetings with the Minister of Foreign Affairs as well as senior officials (General Directors) from the Ministry of Justice and the Ministry of Finance. The delegation also met with representatives from the Montenegrin Parliament.

¹ Needed in relation to the Criminal Code, the Law Preventing Money Laundering and Terrorist Financing (“LPMLTF”), and a number of regulatory laws administered by the Central Bank of Montenegro, Insurance Supervisory Authority and Securities and Exchange Commission

6. Subsequently, the fourth compliance report was discussed and adopted at MONEYVAL's 53rd Plenary in June 2017. The Plenary heard an update on the measures taken by Montenegro since the third compliance report and the high-level mission. The Plenary noted the substantial progress made through legislative developments, particularly in relation to the Criminal Code, the Law on International Restrictive Measures, the Law on Misdemeanours and the new Law on the Prevention of Money Laundering and Terrorist Financing. Despite the fact that most of the legislation was yet to enter into force², the Plenary welcomed the commitment by the Montenegrin government to finalise the legislative process before the Parliament's summer recess. In light of these developments, no further additional steps under the CEPs were deemed necessary by the Plenary. However, Montenegro was urged to bring the various legislative instruments into force before the 54th Plenary in September 2017 and invited to submit an updated compliance report.

7. The 54th Plenary concluded that the high-level mission conducted on 3-4 May 2017 (Step 2 of the CEPs) had had a positive effect and triggered an accelerated legislative action. However, since some significant deficiencies (both technical and effectiveness-related) were outstanding, the Plenary requested Montenegro to report back to the Plenary on the remaining deficiencies ahead of the 56th Plenary. It was therefore decided to maintain Montenegro under Step 2 of the CEPs. It was also agreed that the Secretariat would take stock of the remaining deficiencies immediately after the Plenary meeting and submit a memorandum containing these deficiencies to Montenegro. It was decided that should Montenegro fail to meaningfully address the remaining deficiencies by the 56th Plenary, the Plenary would consider applying Step 3 of the CEPs.

8. The sixth compliance report was discussed at MONEYVAL's 56th Plenary in July 2018. It was noted that Montenegro adopted amendments to the Law on the Prevention of Money Laundering and Terrorist Financing (LPMLTF) on 26 June 2018, which addressed the vast majority of the outstanding deficiencies identified by the Secretariat in the stock-taking exercise. While noting some progress in relation to SR III, the Law on International Restrictive Measures (LIRM), which was intended to address the most serious deficiencies under SR III, had not yet been adopted by Parliament by the end of June 2018, despite the political commitment made during the high-level mission in June 2017, indicating that the law would be adopted before the 54th MONEYVAL Plenary in September 2017 and the call upon Montenegro by MONEYVAL at the 55th Plenary to address the most significant deficiencies by the 56th Plenary meeting at the very latest. This raised significant concern and the Plenary urged Montenegro to proceed with the adoption of the new LIRM by 31 July 2018 at the latest before Parliament's summer recess. Failing the adoption of the LIRM, it was proposed that the Plenary would place Montenegro under Step 3 of CEPs, which would involve the publication of a statement on 1 August 2018.

9. Following the 56th Plenary meeting, the Montenegrin authorities informed the MONEYVAL Secretariat that the Parliament of Montenegro adopted the LIRM on 27 July 2018. As a result, it was decided to maintain Montenegro under Step 2 of the CEPs and not to proceed with the publication of a statement. The decision was communicated by the MONEYVAL Secretariat to all delegations on 31 July 2018.

Conclusion

10. Upon the coming into force of the LIRM, Montenegro broadly addressed the deficiencies under SR III, which were the last remaining serious deficiencies examined under the CEPs. In light of this development, the Plenary may wish to consider removing Montenegro from the CEPs and place the country in regular follow-up. Should the Plenary agree to place Montenegro in regular follow-up, the country should be urged to exit the process by July 2019.

² At the time of the fourth compliance report, the amendments to the Criminal Code, the Law on International Restrictive Measures and the Law on Misdemeanours had been adopted by the Government but had not yet been adopted by Parliament. The Law on the Prevention of Money Laundering and Terrorist Financing had still been in draft form.

The Secretariat