



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

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Report on Fourth Assessment Visit – *Executive Summary*

Anti-Money Laundering and Combating the
Financing of Terrorism

SLOVENIA

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LIST OF ACRONYMS USED

AML/CFT	Anti-Money Laundering/Counteracting Financing of Terrorism
APMLTF	Act on the Prevention of Money Laundering and Terrorist Financing
C	Compliant
CC	Criminal Code
CDD	Customer Due Diligence
DNFBP	Designated Non-Financial Businesses and Professions
EU	European Union
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
ISA	Insurance Supervision Agency
LC	Largely Compliant
ML	Money Laundering
NA	Non Applicable
NC	Non Compliant
NPO	Non-Profit Organisation
OMLP	Office for Money Laundering Prevention
PC	Partially Compliant
PEP	Politically Exposed Person
SMA	Securities Market Agency
STR	Suspicious Transaction Report
TCSP	Trust and Company Service Providers
TF	Terrorist Financing
UN	United Nations
UNSCR	United Nations Security Council Resolution

EXECUTIVE SUMMARY

Background information

1. This report summarises the major anti-money laundering and counter-terrorist financing measures (AML/CFT) that were in place in Slovenia at the time of the 4th on-site visit (5 to 9 October 2009) and immediately thereafter. It describes and analyses these measures and offers recommendations on how to strengthen certain aspects of the system. The MONEYVAL 4th cycle of assessments is a follow-up round, in which Core and Key (and some other important) FATF Recommendations have been re-assessed, as well as all those for which Slovenia received non-compliant (NC) or partially compliant (PC) ratings in its 3rd round report. This report is not, therefore, a full assessment against the FATF 40 Recommendations and 9 Special Recommendations but is intended to update readers on major issues in the Slovenia AML/CFT system.

Key findings

2. Slovenia has introduced a number of measures in recent years to strengthen its AML/CFT regime. There is, however, a very low level of prosecutions for money laundering (ML) and of orders to confiscate assets. In the view of the evaluators this significantly undermines the effectiveness of the regime.
3. In terms of risk, Slovenia is a small country and is not a major international financial centre. Furthermore, the risk of the country being used as a base for terrorism or financing of terrorism is estimated as being low.
4. The core elements of Slovenia's AML/CFT regime are established in the Slovenian Criminal Code (CC), which contains the ML and TF offences; the Act on the Prevention of Money Laundering and Financing of Terrorism (APMLTF); and the sector-specific laws. The APMLTF was most recently amended in June 2007 and came into force in January 2008, when Slovenia transposed the third EU Money Laundering Directive, and its Implementing Directive, into national law as well as introducing the financing of terrorism into preventive legislation.
5. There is now a broadly sound legal structure in place for the major preventive standards. No major deficiencies were detected in the key preventive standards. There were, however, concerns that weak supervision and lack of guidance to certain non-banking sectors could impact on the effectiveness of the AML/CFT regime.

Legal Systems and Related Institutional Measures

6. The national legislation is broadly in line with the international standards. However, important difficulties still occur mainly as a result of the perceptions as to what is required to prove the money laundering offence. Only two convictions have been obtained for money laundering since 1995 (one of which was for own proceeds laundering). It is apparent that money laundering cases are generally pursued on the basis of self laundering in circumstances where there is clear evidence of a specific offence committed on a specific

date. There have been no contested trials for autonomous money laundering. Judicial practice seems to favour high levels of proof of the underlying predicate offence, which has made it difficult to prosecute an autonomous money laundering offence. There is a reluctance to draw inferences from facts and circumstances. It still appears to be a prerequisite condition in practice, although not required by the law, to prove the predicate offence. In the view of the evaluators, there is an important and urgent need to bring an appropriate case to the Supreme Court to test current assumptions on the levels of proof required with regard to the underlying offence in an autonomous money laundering case

7. The seizure and confiscation regime under Slovene law is basically comprehensive and well-balanced. It is firmly imbedded in law and covers all forms of criminal instrumentalities. All eventualities are properly addressed, including the situation where a conviction is not possible. However, the small number of money laundering and terrorist financing related confiscations, and a lack of statistics on confiscation generally in respect of other major proceeds-generating designated categories of offence, raise concerns about the effectiveness of the system.
8. With regard to the freezing of funds related to the financing of terrorism, effectiveness remains a concern: no bank accounts or other assets have been frozen in Slovenia on the basis of the UN or EU lists. Although Slovenia has assessed the financing of terrorism risk to be low, only the banking sector showed any awareness of the lists and there is a lack of local rules or guidance as to what should be done with an account once it has been frozen and what procedures should be followed to unfreeze it.
9. The Office for Money Laundering Prevention (OMLP) is the designated FIU for Slovenia. The OMLP is well structured and professional. It appears to be operating effectively and to have a good working relationship with the police and other relevant state agencies.
10. The law enforcement results relating to money laundering are quantitatively still quite low. Furthermore, the evaluators were concerned that insufficient priority is given by law enforcement, prosecution and other competent authorities to asset recovery and detection in investigations relating to proceeds-generating crimes.

Preventive Measures – Financial Institutions

11. It was noted in the 3rd round evaluation report that the risk of terrorist financing was not always taken into account as a separate issue from risk of money laundering. With the adoption of the APMLTF, the Slovenian authorities have fully covered this deficiency from the previous evaluation round. There is a comprehensive legal definition for terrorists and terrorist financing and the obligation to conduct a risk analysis on money laundering and terrorist financing is required in the law.
12. Slovenia assesses that internet gambling and other games of chance, when offered via the internet or other telecommunications means are particularly likely to be used for money laundering or terrorist financing purposes, however, although no formal risk assessment has been undertaken in this regard on the basis of experience and data available through international organisations and forums. Furthermore, obligations have been extended to several other professionals and categories of undertaking which are likely to be used for money laundering or terrorist financing purposes.

13. There is now a broadly sound legal structure for the major preventive standards. However, there is no clear requirement in the AML/CFT law to verify that a person acting on behalf of a client is authorised to do so. Furthermore, the existing AML Law no longer contains a requirement for financial institutions to determine whether the customer is acting on behalf of another person, and then to take reasonable steps to obtain sufficient identification data to verify the identity of that other person. Furthermore, there is still no specific requirement anywhere in the existing legislative acts requiring financial institutions to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes.
14. The banks appear to have a good understanding of the FATF standards. However, other parts of the non-banking financial services sector, particularly the insurance sector, did not appear to have developed a comprehensive preventive regime.
15. No deficiencies were identified relating to financial institution secrecy or confidentiality and wire transfer rules. However, with regard to record keeping, there is no provision for data to be retained for longer than five years when requested by the relevant authorities and financial institutions are not specifically required to maintain records of the account files and business correspondence.
16. With regard to suspicious transaction reporting, the reporting level compared to the market size appears to be internationally above average. However, STRs are mainly received from banks. With regard to the reporting obligation, there are no explicit requirements in law or regulation to cover money laundering or terrorist financing if the suspicious transaction has been performed. Furthermore, with regard to suspicions of terrorist financing, only “property” linked with a transaction is covered by the reporting obligation.
17. Currently, the activity of the financial industry of Slovenia abroad is limited, thus the risks appear low. The only concern that arose during the evaluation was the limitation of the Recommendation 22 requirements to subsidiaries and branches in third countries (e.g. non-EU) and the fact that there is no specific distinction between third countries and countries which do not or insufficiently apply the FATF Recommendations.
18. The supervisory and regulatory structure on AML/CFT issues is broadly in place and is working, however, understanding of the risks of money laundering and terrorist financing still need further strengthening across the whole of the financial sector. Supervision by the Insurance Supervision Agency, however, appears to the assessors to be particularly weak and the insurance companies need guidelines to help them implement the provisions of the law regarding risk assessment, the CDD process and on-going monitoring.
19. With regard to sanctions, the number of administrative sanctions imposed by financial supervisory bodies in the last two years is too low and the policy to start an offence procedure against the offender only after the supervisory process is concluded makes the proceedings protracted and therefore doubts remain in relation to the issue of effectiveness of the sanctioning system.
20. Overall the system for regulating money or value service transactions appears to be operating effectively and efficiently.

Preventive Measures – Designated Non Financial Businesses and Professions (DNFBP)

21. The legal coverage of DNFBP is comprehensive and in line with international standards.
22. Casinos appear to be both aware of and applying the AML/CFT rules in practice. There was, however a general lack of awareness in other parts of the DNFBP sector. This was particularly the case with regard to the sector's awareness of the standards in relation to politically exposed persons (PEPs). There was a particularly notable lack of AML/CFT awareness among estate agents. With regard to lawyers, there is no AML/CFT supervision. Furthermore, the Bar Association does not consider itself legally competent to perform this function. Furthermore, for certain sectors (dealers in precious metals and stones; trust and company service providers; accountants and tax advisory services) there is no authority to perform inspections. Sanctioning powers of the supervisory authorities for DNFBPs seem to be present in the existing legislation, but have not yet been used in practice.
23. Discussions with the representatives of DNFBPs disclosed a lack of guidance and practical knowledge across the sector. Supervisory authorities monitoring DNFBPs for AML/CFT issues have not provided comprehensive training and it is important that this is undertaken.
24. The evaluators considered that the guidance provided to DNFBPs on suspicious transaction reporting (including indicators) had improved since the third round report. Lack of suspicious transaction reports from the sector do, however, raise concerns about the effectiveness of implementation by DNFBPs.

Non-Profit Organisations

25. Although there has been clear progress since the third round report there is still a lack of awareness of the TF risks within the NPO sector. No specific risk assessment has been conducted of those NPOs which are most vulnerable to TF and there is a general lack of supervision for CFT purposes.

National and International Co-operation

26. There are various mechanisms supporting inter-agency and multi-disciplinary cooperation and coordination including Inter-Departmental working groups involving the FIU, police, prosecutors etc.. Overall cooperation and co-ordination appears to be an important part of the system and is performed on state level, inter ministerial level, expert level and operational level.
27. Although Slovenia has ratified all of the relevant conventions, measures still need to be taken in order to properly implement UNSCR 1267 and 1373 and to ensure full implementation of relevant provisions on confiscation and preventive measures in the Palermo and Terrorist financing Convention.
28. Although the legal provisions are in place, which allow Slovenia to provide mutual legal assistance and other forms of assistance, the lack of detailed statistics on co-operation in money laundering, the financing of terrorism and predicate offences makes it difficult for the Slovenian authorities to demonstrate effectiveness.

Other Issues

29. With regard to resources, the OMLP and the banking sectors supervisors appear to have adequate resources devoted to AML/CFT activities. Furthermore police and prosecutors appear to have adequate resources although there are concerns about the level of resources devoted to the investigation and prosecution of money laundering and terrorist financing offences and the level of priority given to such cases. There are also concerns about the level of overall resources devoted to the non-banking sectors and this is reflected in part in the relatively low level of STRs received from these sectors.
30. With regard to statistics the OMLP and the financial sector supervisors were able to provide comprehensive statistics and appeared to be making practical use of these. There was, however, a lack of comprehensive statistics concerning overall investigations and prosecutions of proceeds-generating crimes as well as provisional measures applied and confiscations.

Table 1. Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF 40+ 9 Recommendations is made according to the four levels of compliance mentioned in the AML/CFT assessment Methodology 2004 (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (N/A).

The following table sets out the ratings of Compliance with FATF Recommendations which apply to Slovenia. *It includes ratings for FATF Recommendations from the 3rd round evaluation report that were not considered during the 4th assessment visit. These ratings are set out in italics and shaded.*

Forty Recommendations	Rating	Summary of factors underlying rating¹
Legal systems		
1. Money laundering offence	PC	<ul style="list-style-type: none"> • Not all designated categories of offences are fully covered as predicates as incrimination of the financing of an individual terrorist or terrorist organisation is not covered. • Given the level of proceeds generating offences in Slovenia and the low level of convictions for money laundering, the overall effectiveness of money laundering criminalisation still needs to be proved. • Autonomous investigation and prosecution of the money laundering offence still constitute a challenge for the judiciary.
2. <i>ML offence – mental element and corporate liability</i>	<i>Compliant</i>	
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> • The small number of money laundering and terrorist financing related confiscations and a lack of statistics on confiscation generally negatively affect the system.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	C	
5. Customer due diligence	LC	<ul style="list-style-type: none"> • No obligation for financial institutions to

¹ These factors are only required to be set out when the rating is less than Compliant.

		<p>establish or discover if a customer is acting on his behalf or on behalf of another person.</p> <ul style="list-style-type: none"> • General lack of awareness in the insurance sector gives rise to concerns over effectiveness of implementation.
6. Politically exposed persons	LC	<ul style="list-style-type: none"> • Slovenia does not fully meet essential criterion 6.1. as there is no requirement in the legislation to determine whether the beneficial owner of a customer is a politically exposed person. • No clear obligations for financial institutions concerning customers that become PEPs during the business relationship. • Lack of application by some financial sector participants gives rise to concerns over effectiveness of implementation. • The definition of Politically Exposed Persons is not sufficiently broad to include all categories of senior government officials.
7. Correspondent banking	<i>Largely compliant</i>	<ul style="list-style-type: none"> • <i>Relationships with foreign banks and ID procedures applied are same as for any other foreign legal persons. Criteria 18.2 not met.</i>
8. New technologies and non face-to-face business	PC	<ul style="list-style-type: none"> • There is still no specific requirement anywhere in the existing legislative acts that requires financial institutions to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes.
9. Third parties and introducers	<i>Compliant</i>	
10. Record keeping	LC	<ul style="list-style-type: none"> • Financial institutions are not specifically required to maintain records of the account files and business correspondence.

11. Unusual transactions	<i>Largely compliant</i>	<ul style="list-style-type: none"> • <i>Recommendation as such not transposed into national laws.</i>
12. DNFBP – R.5, 6, 8-11 ²	PC	<ul style="list-style-type: none"> • The same concerns in the implementation of Recommendations 5, 6, 8 and 10 apply equally to DNFBP (see section 3 of the report). • Lower level of awareness of requirements relating to PEPs amongst DNFBP than in the financial sector.
13. Suspicious transaction reporting	LC	<ul style="list-style-type: none"> • Low numbers of STRs from outside the banking sector gives rise to concerns over effectiveness of implementation. • Insurance companies were not sufficiently aware of guidance regarding the manner of reporting, including the specification of reporting forms and the procedures that should be followed when reporting. (Effectiveness issue)
14. Protection & no tipping-off	<i>Largely compliant</i>	<ul style="list-style-type: none"> • <i>“Safe harbour” provisions should clearly cover criminal liability.</i>
15. Internal controls, compliance and audit	<i>Largely compliant</i>	<ul style="list-style-type: none"> • <i>No specific provisions on employee screening and more clarification of the compliance officer’s powers and role required.</i>
16. DNFBP – R.13-15 & 21 ³	LC	<ul style="list-style-type: none"> • Supervisory authorities have not yet reached out (except for general training) to TCSP and Lawyers and Notaries. • The low level of STRs from the sector give rise to concerns over effectiveness of implementation. • TCSPs, Lawyers and Notaries were not sufficiently aware of guidance regarding the manner of reporting, including the specification of reporting forms and the procedures that should be followed when reporting. (Effectiveness issue)
17. Sanctions	PC	<ul style="list-style-type: none"> • The number of administrative sanctions imposed by financial supervisory bodies in the

² The review of Recommendation 12 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendations 9 and 11.

³ The review of Recommendation 16 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendations 14, 15 and 21.

		<p>last two years is too low.</p> <ul style="list-style-type: none"> The policy to start an offence procedure against the offender only after the supervisory process is concluded makes the proceedings protracted and therefore doubts remain in relation to the issue of effectiveness of sanctioning system.
18. Shell banks	<i>Largely compliant</i>	<ul style="list-style-type: none"> <i>No explicit provision to meet Criteria 18.3.</i>
19. Other forms of reporting	<i>Compliant</i>	
20. Other DNFBP & secure transaction techniques	<i>Largely compliant</i>	<ul style="list-style-type: none"> <i>Criteria 20.1 fully met; insufficient information on Criteria 20.2.</i>
21. Special attention for higher risk countries	<i>Compliant</i>	
22. Foreign branches and subsidiaries	LC	<ul style="list-style-type: none"> No requirement to apply the higher standard where requirements differ. Requirement to ensure observing AML/CFT measures in respect of branches and subsidiaries of is limited to institutions located in "third countries".
23. Regulation, supervision and monitoring	LC	<ul style="list-style-type: none"> Inadequate AML/CFT supervisory framework for the insurance sector.
24. DNFBP - regulation, supervision and monitoring	<i>Largely compliant</i>	<ul style="list-style-type: none"> <i>Risk-based approach in very initial stages. More resources needed for monitoring and ensuring compliance by DNFBPs, given tiny number of STRs and size of sector.</i>
25. Guidelines and Feedback	<i>Largely compliant</i>	<ul style="list-style-type: none"> <i>More sector-specific guidelines required and guidelines on TF.</i>
Institutional and other measures		
26. The FIU	C	
27. Law enforcement authorities	PC	<ul style="list-style-type: none"> The law enforcement results on money laundering investigations are increasing but are quantitatively still quite low. Insufficient priority is given by law enforcement agencies, prosecution and other competent authorities to asset recovery and detection in investigations relating to funds-generating crimes.

28. <i>Powers of competent authorities</i>	<i>Compliant</i>	
29. Supervisors	PC	<ul style="list-style-type: none"> • No targeted on-site AML/CFT inspections by ISA and SMA • No inspection visits to financial institutions by the Market Inspectorate. • Although the supervisors have adequate powers of enforcement and sanction these powers are not being fully utilised.
30. Resources, integrity and training	PC	<ul style="list-style-type: none"> • Insufficient resources and priority given to the investigation and prosecution of money laundering and terrorist financing cases. • Insufficient resources have been applied to AML/CFT supervision in the non-banking sectors.
31. National co-operation	C	
32. Statistics ⁴	LC	<ul style="list-style-type: none"> • Inadequate statistics on investigation and prosecution of funds generating crimes. • No statistics on provisional measures applied and confiscations relating to all predicate offences. • No statistics on wire transfers. • No MLA statistics have been provided to the evaluators. • Statistics are not kept indicating the number of incoming and outgoing requests in respect of money laundering or the financing of terrorism, the time taken to respond to each request and whether a request is granted or refused. • No statistics on mutual legal assistance or other forms of international co-operation.
33. <i>Legal persons – beneficial owners</i>	<i>Compliant</i>	

⁴ The review of Recommendation 32 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendations 38 and 39.

34. <i>Legal arrangements – beneficial owners</i>	<i>Not applicable</i>	
International Co-operation		
35. Conventions	LC	<ul style="list-style-type: none"> Confiscation provisions of both Palermo and Vienna Conventions not fully implemented. Reservations about full effective implementation of the regulatory and supervisory regime for bodies other than financial institutions susceptible to money laundering under the Palermo Convention.
36. Mutual legal assistance (MLA) ⁵	LC	<ul style="list-style-type: none"> The lack of statistics on cooperation in money laundering and the financing of terrorism cases undermines the assessment of effectiveness.
37. <i>Dual criminality</i>	<i>Compliant</i>	
38. <i>MLA on confiscation and freezing</i>	<i>Largely compliant</i>	<ul style="list-style-type: none"> <i>No asset forfeiture fund is being considered.</i>
39. <i>Extradition</i>	<i>Compliant</i>	
40. Other forms of co-operation	LC	<ul style="list-style-type: none"> Lack of detailed statistics undermines effectiveness
Nine Special Recommendations		
SR.I Implement UN instruments	LC	<ul style="list-style-type: none"> Implementation of UNSCR 1267 and 1373 is not yet sufficient. Not all CDD requirements in the Terrorist Financing Convention are fully implemented for DNFBP.
SR.II Criminalise terrorist financing	LC	<ul style="list-style-type: none"> Criminalisation of TF not yet fully in line with SR.II as it is not as broad as required by the United Nations Convention and a separate incrimination of the financing of an individual terrorist or terrorist organisation is not covered. Several aspects coming from the second Protocol for the Suppression of Unlawful Acts

⁵ The review of Recommendation 36 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendation 28.

		against the Safety of Fixed Platforms Located on the Continental Shelf must be incriminated.
SR.III Freeze and confiscate terrorist assets	PC	<ul style="list-style-type: none"> • The freezing of terrorism related accounts and funds, and related procedures, have not been fully elaborated locally and are not publicly known. There is a lack of local guidance and training. • Slovenia does not have a fully elaborated publicly known national procedure for the purpose of delisting and unfreezing requests upon verification that the person or entity is not a designated person. • The accounts of EU internals designated on UNSCRs are not required to be frozen. • Lack of awareness in the non-banking sector of UN and EU lists.
SR.IV Suspicious transaction reporting	LC	<ul style="list-style-type: none"> • Only “property” linked with a transaction is covered by the reporting obligation. • Insurance companies were not sufficiently aware of guidance regarding the manner of reporting, including the specification of reporting forms and the procedures that should be followed when reporting. (Effectiveness issue)
SR.V International co-operation ⁶	LC	<ul style="list-style-type: none"> • The incomplete criminalisation of terrorist financing as set out in section 2.2 above could be an issue when responding to foreign requests for MLA based on dual criminality. • The lack of statistics on cooperation in money laundering and the financing of terrorism cases undermines the assessment of effectiveness.
SR.VI AML requirements for money/value transfer services	C	
SR.VII Wire transfer rules	C	
SR.VIII Non-profit organisations	PC	<ul style="list-style-type: none"> • Unclear whether there is a coordination between the different governmental actors including those from law-enforcement side, in

⁶ The review of Special Recommendation V has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendations 37, 38 and 39.

		<p>assessing the current risk in the sector.</p> <ul style="list-style-type: none"> • No fully comprehensive review of domestic NPOs in order to obtain a clear picture of all the legal entities that perform as NPOs, especially ones of potential high risk as described in criteria VIII.3. • No comprehensive outreach through awareness raising campaigns in the NPO sector, particularly with regard to potentially vulnerable NPOs • No “know your beneficiary and associate” rules for NPOs. • Insufficient supervision or monitoring of NPOs which control significant portions of the financial resources of the sector and substantial shares of the sector’s international activities.
<i>SR.IX Cash Couriers</i>	<i>Compliant</i>	