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(PC-R-EV)

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Slovak Republic

2nd Compliance Report

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LIST OF ACRONYMS

AML/CFT	Anti-money laundering/combating the financing of terrorism
BO	Beneficial Owner
CDD	Customer Due Diligence
CEPs	Compliance Enhancing Procedures
CETS	Council of Europe Treaty Series
CFT	Combating the financing of terrorism
CPC	Criminal Procedural Code
CTR	Cash Transaction Reports
DNFBP	Designated Non-Financial Businesses and Professions
EC	European Commission
ECDD	Enhanced Client Due Diligence
ESW	Egmont Secure Web
ETS	European Treaty Series [since 1.1.2004: CETS = Council of Europe Treaty Series]
EU	European Union
FATF	Financial Action Task Force
FI	Financial Institution
FT	Financing of terrorism
FIO	Financial Intelligence Office
FIU	Financial Intelligence Unit
GDP	Gross Domestic Product
GPO	General Prosecutor's Office
GRECO	Secretariat of the Group of States against Corruption
HR	Human Resources
IMF	International Monetary Fund
INTERPOL	International Police Organisation
IOSCO	International Organisation for Securities Commissions
IRM	International Restrictive Measures Law
IT	Information Technology
LAN	Local Area Networks
LEA	Law Enforcement Agency
MER	Mutual Evaluation Report
MFA	Ministry of Foreign Affairs
ML	Money Laundering
MoJ	Ministry of Justice
MLA	Mutual Legal Assistance

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1st Compliance Report submitted by the Slovak Republic

Note by the Secretariat

Introduction

1. The purpose of this paper is to analyse the Slovak Republic's second compliance report under MONEYVAL's Compliance Enhancing Procedure (CEPs).
2. Following the adoption of the 4th round MER in September 2011, the Slovak Republic was placed in regular follow-up and requested to report back to the Plenary in September 2013. The Slovak Republic presented its 7th follow-up report at the 53rd Plenary. Previous analysis noted that the Slovak Republic had made progress in addressing the shortcomings underlying R.1, R.13, SR II and SR IV. The Plenary noted at the time that there had been some progress in addressing the deficiencies under SR.III, with the adoption of the new "Act on the implementation of the international sanctions" covering the freezing of assets in the event of control or possession of assets. However, some deficiencies remained unaddressed. Moreover, the Plenary recalled that the shortcomings identified under R.26 remain, namely no formal safeguards were introduced to ensure the FIU's operational independence and autonomy. In view of continuous lack of progress with SR.III and key R.26, the Plenary decided to apply Step 1 under CEPs. The Slovak Republic was requested to report back to the Plenary on progress made at the 55th Plenary in December 2017.
3. In December 2017, the Plenary welcomed the high-level commitment made by the Prime Minister of the Slovak Republic, Mr Robert Fico, in a letter to the Secretary General of the Council of Europe in early December 2017. On the basis of the Slovak Republic's first compliance report, the Plenary determined that the draft amendments to the draft "Act on the implementation of the international sanctions" in its then form would address the majority of outstanding deficiencies under SR.III. The Plenary urged the Slovak Republic to finalise the adoption of these amendments as speedily as the constitutional process allowed. The Plenary recalled that, should these amendments not be adopted by the time of the 56th Plenary, it would consider the adoption of Step 2 of its CEPs. At that time, the Plenary would also further consider progress made on the outstanding deficiencies under R.26. The Slovak Republic was invited to submit a report at the 56th Plenary meeting.
4. On a general note concerning all fourth-round follow-up and compliance reports: the procedure is a paper desk-based review, and thus by nature less detailed and thorough than a MER. Effectiveness aspects can be taken into account only through consideration of data and information provided by the authorities. It is also important to note that the conclusions in this analysis do not prejudge the results of future assessments, as they are based on information which was not verified through an on-site process and was not, in all cases, as comprehensive as it would have been during a mutual evaluation.

Recommendation 26 (The Financial Intelligence Unit and its functions)

5. R.26 was rated partially compliant in the 2011 MER. The following deficiencies were identified: (1) the weak position of the FIU in the police structure and the system as a whole; (2) the lack of legal safeguards for its operational independence; (3) absence of information on trends and typologies in the annual reports; (4) the FIU does not concentrate sufficiently on ML and TF which should be the main focus, but rather on all criminal offences equally; (5) effectiveness of the FIU work on specific ML/FT cases cannot be appropriately established since statistics relate to all criminal offences.

6. As already noted in the previous secretariat analyses, no formal actions have yet been taken since the adoption of the 4th round MER. Hence the concerns raised therein relating to the weak formal position of the FIU in the police structure are still valid. No formal safeguards were introduced to ensure the FIU's operational independence and autonomy since the 56th Plenary in December 2017. In the second compliance report, the Slovak authorities stated that the identified deficiencies have no impact on the effectiveness of the FIU, which has independence and autonomy in performing its tasks under the AML/CFT Law without interference and influence.
7. Overall, it cannot be determined on the basis of a desk-based review if the concerns raised in the MER are currently having any impact on the work of the FIU. As for the deficiencies related to effectiveness under R.26, the present analysis was made on the basis of a desk-based review on the information provided by the country and, as such, cannot confirm if the FIU focuses sufficiently on ML and TF (as opposed to all criminal offences equally). The secretariat considers that this should primarily be an issue to be discussed in the Slovak Republic's upcoming 5th round of mutual evaluation.

Special Recommendation III (Freezing of Funds Used for Terrorist Financing)

8. The Slovak authorities reported that the amendments to the "Act on the implementation of the international sanctions" (hereinafter: the Act) were approved by the Slovak Parliament in January 2018 and came into force in March 2018.
9. SR.III was rated partially compliant in the 2011 MER. Since the previous report some deficiencies still remained: (1) the time taken for EU Regulations to be adopted aimed at dealing with amendments made to the list published by the 1267 Committee can be relatively long; in this respect the obligation to freeze terrorist funds without delay is not observed; (2) lack of any national mechanism to consider requests for freezing from other countries; (3) some deficiencies on unfreezing and de-listing.
10. Article 15 of the Act includes new provisions which state that the Ministry of Foreign Affairs (MFA) shall publish on their website references (web links) to the successional resolutions to the international sanctions regulation without any undue delay after they are adopted. Moreover, according to Article 4 of the Act, the competent authorities and obliged entities are obliged to monitor lists of sanctioned persons. If the implementing entity establishes, or has a suspicion, that property of sanctioned persons is registered or kept by it, it shall be obliged to immediately prevent disposal of the property of the sanctioned person. It is not clear if the wording used in this provision will cover the requirement to apply freezing. According to the information from the country, the Ministry of Finance is preparing methodological guidance comprising measures for effective implementation of rules and procedures for freezing the assets of terrorists and will also refer to the MFA's web site (which includes UN successional resolutions).
11. The new amendments to the Act also address the deficiency in relation to the national mechanism to consider requests for freezing from other countries. According to Articles 16, 16a), 17 and 17a) of the Act, the MFA is the competent authority to consider requests on listing or de-listing individuals from the list of sanctioned persons, based on an application of the competent state administration authority of another state.
12. The amendments under Article 18 of the Act improved also the regime of de-listing and unfreezing of assets. According to the provision, the person included in the list of sanctioned persons may lodge an application to initiate the proceeding concerning the exclusion from the list of sanctioned persons. At the same time, if the individual was included in the list of sanctioned persons issued by an international sanctions regulation by mistake, or if the individual was excluded from it, the competent state administration authority shall immediately take appropriate measures to exclude such individual from the list of sanctioned persons and make that individual's seized property fully available.

13. Having regard to the above, the secretariat considers that most of the outstanding deficiencies under SR.III have meanwhile been addressed through the amendments of the Act which entered into force in March 2018.

Conclusions

14. With the adoption of the amendments to the “Act on the implementation of the international sanctions” in January 2018, the Slovak Republic has demonstrated sufficient progress which – in the view of the secretariat - makes it unnecessary for the Plenary to revert to any additional steps in the compliance enhancing procedure. At the same time, some deficiencies - in particular with regard to R.26 - remain outstanding. Therefore, the secretariat proposes that the Plenary has regard to Rule 13, paragraph 8 (as revised in April 2016) of MONEYVAL’s 4th round Rules of Procedure which states that “[r]eporting under this follow-up procedure will be discontinued upon commencement of the 5th round process (i.e. within one year of a 5th round onsite visit)”.
15. The onsite visit for the Slovak Republic in the 5th round of mutual evaluations is envisaged for the second half of 2019, with the country training to be held and the evaluation process to commence in October 2018. Given that the next MONEYVAL Plenary takes place in December 2018, it is suggested that the Plenary suspends the CEPs once the official preparations for the Slovak Republic’s evaluation have commenced in October 2018. If the Plenary agrees, it is further suggested that it invites the Slovak Republic to provide an update on developments through the *tour de table* procedure. Moreover, the secretariat will draw the attention of the future assessment team to the outstanding deficiencies under R.26, with a view to discussing them with the authorities during the onsite visit to the Slovak Republic in 2019. Should that onsite visit, for whatever reasons, be postponed beyond the second half of 2019, the Plenary would invite the country to submit a further compliance report at the occasion of the 57th Plenary in December 2018.

The MONEYVAL Secretariat