

MONEYVAL: Fifth Round Evaluation Report on Poland



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News

On 1 February 2022, Moneyval published its [fifth round evaluation report on Poland](#). Moneyval called on the Polish authorities to improve the regulatory framework and to strengthen the practical application of measures to stop money laundering and the financing of terrorism (ML/TF). According to the report, most legal requirements and practical actions put in place by the authorities ensure a satisfactory level of transparency of legal persons and beneficial ownership. The report acknowledges that the private sector demonstrates a substantial level of effectiveness in applying ML/TF preventive measures, including customer due diligence and internal controls.

However, Polish authorities have a limited understanding of ML threats emanating from certain types of predicate offences, and they lack a comprehensive view of the factual/detected and potential/undetected amounts of the proceeds of crime. Therefore, further improvements are needed to enhance the country's capacity to understand ML threats, and significant additional efforts are needed as regards appropriate identification and reliable assessment of TF risks.

Poland has a broad range of law enforcement agencies (LEAs), but none of them are designated with specific responsibility to investigate ML. While the Polish Financial Intelligence Unit (FIU) has full access to a wide variety of information from the private and public sectors, the results of its analysis are insufficiently exploited at the investigative stage. Overall, the ML cases are not fully prioritised, and the number of ML investigations lags behind the number of convictions for offences generating proceeds. Therefore, the rate of transforming FIU notifications (and other information sent to the prosecution service/LEAs) into investigations and into corresponding indictments is low. LEAs mainly use the communications for their own statutory activities, with little or no focus on tracing proceeds of crime. MONEYVAL therefore encourages Poland to take procedural and institutional measures to ensure that ML is detected and investigated efficiently. This should include adopting a coherent practice of tasking LEAs with ML investigations as well as detailed guidelines on effective parallel financial investigations.

MONEYVAL calls for fundamental improvements regarding the seizing and confiscating of proceeds of crime from ML and associated predicate offences. The confiscation of proceeds and instrumentalities is not consistent with ML/TF risks, and national AML/CFT policies are not being pursued as a policy objective. Relevant statistics on confiscations applied in relation to predicate offences are lacking, which negatively impacts the authorities' ability to assess the effectiveness of the system and to take targeted policy measures to address any weaknesses. In detected cases of false declaration or non-declaration, the restrained assets concern only the equivalent value of the fine for a fiscal crime and the remaining assets are returned, even in cases of suspicion of ML.

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TF cases are conducted primarily in connection with a terrorist offence. In the past seven years, three of several TF cases ended with charges and two TF convictions of four individuals were achieved, which is partially reflects the country's risk profile. However, the sanctions applied were minimal, hence neither dissuasive nor proportionate. Moreover, the prosecution services and other LEAs had not adopted methodological guidelines or instructions for TF investigations and it cannot be concluded that TF investigations have been integrated into and used to support national counter-terrorism strategies.

Moneyval calls on the Polish authorities to take measures to clarify that TF is a stand-alone crime and not a byproduct of terrorism. The cash control mechanisms at the border should be strengthened by providing a legal basis to stop and restrain suspicious assets. A specific risk assessment on the non-profit organisation sector's exposure to TF risks should also be conducted, and targeted measures should be applied for entities that are more vulnerable to TF abuse.

The report recommends that a supervisory system, including a sanctioning regime, on proliferation financing must urgently be put in place. There should be more awareness-raising activities to enhance knowledge and understanding on the part of many authorities and entities in the private sector as to their respective obligations.

Poland has a comprehensive legal framework for international co-operation. It is carried out together with other EU Member States, based on a simplified mechanism; however, co-operation with non-EU jurisdictions is less constructive. The case management system is fragmented, and no guidelines exist with regard to the handling and prioritisation of MLA requests. Although there are no systematic statistics on MLA, extradition, and other forms of co-operation, several successful examples of co-operation in ML and TF cases, including the establishment of JITs, exist. Co-operation in relation to seizing, freezing, confiscating, and sharing of assets is still of limited effectiveness. Although proactive information exchanges with foreign counterparts take place, the extent to which this co-operation is carried out for AML/CFT purposes remains unclear. Except for the FIU, no other supervisory authority exchanges information with its foreign counterparts for AML/CFT purposes, perhaps hampered by such co-operation requiring the prior consent of the Polish Prime Minister, which may well impact the effectiveness and constructiveness of the requested international assistance, especially in urgent cases.

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