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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

SECOND ROUND EVALUATION REPORT ON
SLOVENIA

SUMMARY

1. Slovenia was the first PC-R-EV member State whose anti-money laundering regime was assessed in the framework of the second round of mutual evaluations conducted by Committee PC-R-EV. A team of PC-R-EV examiners, accompanied by a colleague from a Financial Action Task Force (FATF) member State visited Slovenia from 9 to 12 July 2001. The purpose of this evaluation visit was to take stock of the developments which occurred since Slovenia's the first round evaluation (i.e. April 1998) and to assess the overall effectiveness of its anti-money laundering system in practice.
2. The money laundering situation has not changed significantly since the first round evaluation. Drug trafficking is still considered to be the main source of illegal proceeds. In the period under review, the number of detected drug trafficking offences continued to grow. Other important sources of illegal proceeds are fraud, trafficking in weapons, illegal immigration, currency and securities counterfeiting as well as extraterritorial offences such as tax evasion, tax fraud (especially VAT fraud), corruption and abuse of office. Organised crime is believed to be involved in both predicate crimes (e.g. drug and weapon trafficking, illegal immigration and counterfeiting currency and securities) and laundering operations.
3. The methods of money laundering have not changed much either since the first round: they usually involve the misuse of non-resident accounts by non-residents from the neighbouring countries and from the countries of the former Soviet Union. Most of these accounts are opened on behalf of companies registered in off-shore countries. Money launderers still use the Western Union money-transfer system in connection with the proceeds of illegal immigration.
4. Aware of this crime situation, the Government of Slovenia has been implementing since 1997 a special strategy for the prevention and detection of economic crimes. This strategy, which involves all Government agencies and in particular the Ministry of the Interior, aims at the prevention of economic crime through detection, crime analysis and standardised investigation measures, special training of law enforcement personnel and enhanced co-operation with other agencies, including co-operation with foreign law enforcement bodies. On 1 April 2000 a dedicated Economic Crime Section was created under the General Police Directorate, within the Criminal Investigation Police. This section includes the Financial Crime Division which is in charge of conducting preliminary investigation into money laundering cases as well as into other economic crimes.
5. As drug trafficking is considered to be the main source of laundered proceeds a joint Police and Customs group has been set up to deal with drug trafficking. In addition, specialised anti-corruption units were established at central and regional levels.
6. As far as prosecutorial bodies are concerned, the Law on State Prosecution was modified with effect from 8 July 1999 and the competences of the Group of State Prosecutors for Special Matters, set up in 1996 specifically for the prosecution of organised crime cases, including money laundering, were enlarged.
7. The quality of the preventive system based on the Law on the Prevention of Money Laundering (LPML) of 1994, has already been recognised by the first round evaluation report. At the time of the visit, a new anti-money laundering law was in preparation, which entered into force on 25 October 2001.

8. The Office for Money Laundering Prevention (OMLP), i.e. Slovenia's Financial Intelligence Unit, is at the very heart of the anti-laundering system. Though its financial and human resources have recently been increased, OMLP stills needs strengthening, particularly since the new anti-money laundering legislation is expected to further increase its workload with the proposed extension of the reporting duty to other professions.
9. During the period of 1998 – 2001 the OMLP has received 265 cases on suspicious transactions and between 1999 – 2000 72689 disclosures about cash transactions in excess of SIT 4,6 million. Though the reporting threshold for cash transactions has recently been increased from SIT 3,6 million to SIT 4,6 million, a further increase is envisaged to SIT 5 million.
10. Financial supervision, which was identified in the first round evaluation as one of the weak points of the system, has also been addressed but there is still room for improvement. The supervisory bodies (Bank of Slovenia, Securities Market Agency, Insurance Supervisory Agency, Office for Gaming Supervision) are more aware of their supervisory responsibilities and of the necessity to take their guidance role seriously. But the phenomenon of over-reliance on the OMLP is still perceptible, both legally and practically. The supervisory authorities of banks, non-banking financial institutions and those non-financial businesses which are subject to supervision (i.e. casinos) are not explicitly entrusted by the LPML with any supervisory powers or responsibilities. In particular, the control of the "fit and proper" condition of owners and managers of exchange houses is not up to the required standard, and that the monitoring and supervision of the latter as well as other non-banking financial institutions is still quite unsatisfactory.
11. The existence of bearer passbooks in Slovenia remains an issue which the examiners recommend to address urgently. Notwithstanding the identification of the client on opening the underlying account, no identification is made of the passbook holder concerning transactions below the threshold identification limit of SIT 2.8 million. Since bearer passbooks are transferable from one person to another, these passbooks effectively operate as anonymous accounts and as such are contrary to the spirit of FATF Recommendations and raise issues of compatibility with Recommendation 10. The Slovenian authorities are recommended to take measures to prohibit the operation of such accounts and the conversion of existing ones into normal passbooks where the usual customer identification requirements will apply.
12. The possibilities of international co-operation have continued to expand thanks to the multilateral and bilateral instruments to which Slovenia is a Party. Yet, this ever increasing co-operation may prove difficult to cope with given the limited human resources currently available at the Ministry of Justice. The examiners therefore recommend to strengthen the relevant division of the Ministry with additional staff as a matter of urgency.
13. Apart from police and FIU-related agreements, since the first evaluation Slovenia signed and ratified the European Convention on Mutual Assistance in Criminal Matters and its additional protocol of 1978. It also ratified the Council of Europe Criminal Law Convention on Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Moreover, Slovenia signed the Pre-Accession Pact on Organised Crime between the Member States of the European Union and the Applicant Countries and initiated the agreement on co-operation with Europol. Slovenia also signed, but has not yet ratified, the UN Convention on Transnational Organized Crime.

14. The Slovenian authorities have also made serious efforts to close certain legal gaps identified in the first round report, e.g. by the introduction of corporate liability under the new Law on the Liability of Legal Persons for Criminal Offences (which came into force on 23 October 1999), by regulating the possibility to confiscate criminal proceeds in the absence of a formal conviction (such as with the demise or disappearance of suspect - Art. 498 and 498a Code of Criminal Procedure) and by resolving the controversy on “self-laundering” with an express reference in Article 252 (2) Penal Code.
15. Given the high standard of the legal framework surrounding the anti-money laundering regime, the performance of the preventive system, the efficiency of the FIU and the commitment of the police, it is greatly disappointing to see that the system does not produce the results it deserves in terms of convictions and confiscation. All efforts in the anti-money laundering chain are being jeopardised by the judicial follow-up. The crucial problem would seem to be the nature and degree of proof required to prove the offence of money laundering and in particular the insistence on proof of the specific predicate offence postulated by the prosecution. There also seems to be substantial reluctance on the part of the judicial authorities to draw the pertinent inferences from circumstantial evidence which is very often the only available evidence in money laundering prosecutions.
16. The entire problem is compounded by the apparent over-cautious approach of the prosecuting authorities to take cases before the courts. Increased prosecutions would enable the courts to familiarise themselves better with the nature of money laundering and the operating methods of launderers and this could, in turn, encourage the courts to more readily draw the legitimate inferences from the evidence produced and which could result in increased convictions and confiscations.
17. This second round evaluation has also shown that the law enforcement effort is still predominantly crime-oriented. A more asset-oriented approach, in particular in relation to financial and fiscal crime is likely to contribute to the reversal of the current law enforcement approach. In relation to this, the creation of a police force to deal specifically with asset recovery and confiscation matters would be of value.
18. Overall, Slovenia has adopted a number of positive measures since the first round evaluation to further enhance the efficacy of its anti-laundering system. The examiners welcome these measures. However, some issues remain, which need to be addressed.