



Strasbourg, 4 July 2003

**MONEYVAL (2003)6 Summ**

**EUROPEAN COMMITTEE ON CRIME PROBLEMS**  
**(CDPC)**

**Select Committee of Experts on the Evaluation**  
**of Anti-Money Laundering Measures**  
**(MONEYVAL)**

***SECOND EVALUATION REPORT ON***  
***CROATIA***

***SUMMARY***

## **SUMMARY**

1. In the framework of MONEYVAL's second evaluation round, Croatia received the visit of an evaluation team which visited Zagreb between 10-13 June 2002, is almost three years after the first evaluation round visit. Meetings were held with members of the Anti Money Laundering Department in the Ministry of Finance (AMLD), the Customs and Tax departments, the Foreign Exchange Supervision of the Ministry of Finance (FES), the Securities Commission, the Croatian National Bank, the Agency for the Supervision of Insurance Companies (SIC), the Criminal Police Department and Office for Combating Corruption and Organised Crime (USKOK), the State Prosecutor's Office and District Court of Zagreb, the Ministry of Justice. The team also visited the Bar Association, the Banking Association and a commercial bank (Reiffeisen Bank - Zagreb).
2. Subsequently, the MONEYVAL evaluators (in consultation with their FATF colleague who had participated in the evaluation), drafted the evaluation report, which was approved by MONEYVAL meeting in plenary on 30 June-4 July 2003.
3. Since the first evaluation round, there were no major changes as regards the phenomenon of money laundering. The most frequent predicate offences in money laundering cases dealt with by the authorities are the following: misuse of narcotics, abuse of office, illicit trade, customs control evasion, tax evasion. The evaluators were also occasionally advised that the real estate sector and legitimate businesses (for instance on the coast) offer similar money laundering opportunities as the financial sector (an opinion not shared by the country's authorities).
4. The Croatian authorities underlined that, considering the small number of cases of concealing illegally acquired monies (Article 279 of the Penal Code), it is not possible to make relevant conclusions regarding the phenomenon of money laundering and its connections with the predicate offences. Narcotics and economic crimes represent the main source of criminal income.
5. The Croatian authorities see no significant evolution in the number of reported criminal acts nor in the structure of criminality, on the basis of indictments or convictions for the above-mentioned criminal acts. The Croatian authorities further emphasised that the handling of complicated cases such as those of the above-listed categories remains difficult and that this is a problem when it comes to uncovering, processing and bringing accusations in those cases. There is a need for special expert knowledge of all participants involved in the processing of such cases (education of lawyers in financial investigations, education of personnel dealing with investigations and prosecutions, need of financial experts at the level of prosecutors). During the period 1999-2001, the State Prosecution Offices submitted 19 requests for investigation to the investigative judge under Article 279 of the Penal Code (concealing illegally acquired money). The first legally binding sentence for money laundering was passed (in December 2000; the property and funds involved were confiscated; the judge who handled the case started sharing his experience with colleagues). The Croatian authorities also explained that on several occasions, freezing orders had been applied.
6. At the time of the evaluation visit, there have also been little changes - since the first round - regarding the anti-money laundering policy and legislation. An Interministerial

body was formed in 2000 under the lead of the Ministry of Finance. Meeting twice a year, it is in charge of assessing the efficiency of the anti money laundering policy on the basis of statistics, the work accomplished by the various bodies concerned and results in terms of criminal charges and indictments. It is also competent for initiating reforms and legal amendments if needed. At the same time, co-ordination between the Ministry of Finance, the Ministry of Interior (Police Directorate, Crime Police Department, Economic crime and Corruption Sector) and State Prosecutors Office was strengthened, notably with compliance/liaison officers; this change would enhance the efficiency of the fight against money laundering, co-ordination in concrete cases, and make the process faster and more effective.

7. The Law on the Office for Combating Corruption and Organised Crime (USKOK) entered into force on 19 October 2001, with the Office being progressively established, to perform as one of the Offices of the State Prosecutor's Office. It shall have special competencies in combating organised crime and corruption, including money laundering.
8. Croatia introduced the all crimes approach following amendments to the above Article. Further changes include the coming into force of the Law on Payments Mechanism and the power of the Croatian FIU to postpone transactions was extended (from 2 to 72 hours, with the amendment to Article 10 of the Law on Prevention of Money Laundering).
9. At the time the report was adopted, a new law on criminal proceedings and a new banking law were adopted. Further projects include, among others: the revision of the Law on Prevention of Money Laundering of 1997 - hereinafter the LPML (and in this framework, initiatives in favour of the identification of beneficial owners and transparency of businesses); a Law on the Criminal Liability of Legal Entities; initiatives for the suppression of bearer instruments, an issue which focused part of the discussions when the report was adopted due to the existence, in Croatia, of bearer shares and until the end of 2003 (due to a phasing out procedure) of numbered passbooks.
10. As at the time of the first evaluation, according to Article 22 of the LPML, the responsibility for supervising the implementation of the anti-money laundering legislation is shared between the Croatian National Bank (CNB) and the various bodies of the Ministry of Finance, except the anti-money laundering department – hereinafter the AMLD, which centralises and analyses the reports on transactions sent to it according to the LPML, by the obligated entities (the list of which is quite comprehensive). The following figures on STRs were communicated:

SUSPICIOUS TRANSACTIONS BY THE REPORTING INSTITUTIONS				
INSTITUTION	2000	2001	2002	TOTAL
BANKS	7674	12324	6099	26097
ZAP	4	34	0	38
SAVINGS BANKS	26	42	22	90
INSURANCES	0	102	39	141
BROKERS AND OTHERS	16	4	10	30
OTHERS	2	1	4	7
	7722	12507	6174	26403

11. In light of the high number of STRs from banks, it was concluded that the Croatian authorities should take measures to limit the apparent over-reporting of STRs which is

facilitated by the present, rigid instructions given to the reporting entities, and which overwhelms the work of the AMLD. To achieve this, it is recommended that: detailed and comprehensive guidance notes to reporting entities should be issued by their respective regulatory authorities; adequate training of reporting entities' employees in identifying suspicious transactions should be given, banks' compliance officers should assume a special duty of making bank employees aware of the indicators of suspicious transactions.

12. Overall, it was concluded that Croatia certainly made some progress in improving its anti-money laundering regime addressing several issues brought up by the first report. It was clear during the evaluation visit that the country's administration and legal system are undergoing a major reform aimed at harmonisation with EU requirements. As part of this reform, the law enforcement sector was also reorganised by disbanding the Financial Police and re-allocating its functions to the Criminal Police, the Tax Administration and other government agencies. Within the Public Prosecutor's Office, a specialised Office was created to deal with organised crime and corruption cases and further changes are expected within the framework of the penal reform.
13. The applicability of the existing laws and regulations related to the repressive side of the Croatian anti money laundering system were tested by achieving one legally binding conviction together with confiscation of pecuniary benefits and applying successfully the provisional measures in place. The system is not perfect but was able to produce results. Learning from that, experiences and prioritising further specialisation, focusing on financial aspects of crimes and a clear division of powers among the police, prosecutors and investigating judges together with a better cooperation, more successes could be achieved.
14. The legal framework on the preventive side is in place with the leading role of the AMLD but it requires urgent action related to the identification of beneficial owners, the supervisory regime in general and the supervision of compliance with anti-money laundering measures specifically. The supervision of the banking and non-banking sectors needs strengthening. The CNB should assume a more pro-active role in inspecting banks' compliance with anti-money laundering issues through a comprehensive guidance note to banks and by keeping to its schedule of on-site examinations. Furthermore, the Securities Commission and the Agency for the Supervision of Insurance Companies should be given legal mandate to supervise the securities and insurance sectors respectively in anti-money laundering matters. The political commitment to the anti-money laundering efforts is manifested in the establishment of an Interministerial Coordinating Body.
15. The improvement in the quality, efficiency and profitability of the banking sector of Croatia since the banking crisis of 1999 does not appear to have been matched with an equal improvement in the quality of supervision as regards anti-money laundering issues. Although progress appears to have been made as regards the overall awareness of the money laundering problem among supervised entities and although the CNB has started paying special attention, during its inspection process of banks, to the latter's' compliance with anti-money laundering issues, there is still a lot to be done both in terms of legal as well as operational measures. It was believed that with the appropriate political will, the Croatian authorities can enhance their anti-money laundering regime to implement, without any further delay, new laws and policies in regard to anti-money

laundering issues and ensure that the new measures are effective.

16. It is believed that with providing the sufficient resources for the effective implementation of the reforms together with finding solutions for the weaknesses identified, Croatia can develop an effective operational system.

OoO