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

**SELECT COMMITTEE OF EXPERTS ON THE EVALUATION OF ANTI-MONEY**  
**LAUNDERING MEASURES**  
**(MONEYVAL)**

***SECOND MUTUAL EVALUATION REPORT ON***  
***MOLDOVA***

***SUMMARY***

1. In the context of the second-round evaluation, a team of MONEYVAL assessors, accompanied by colleagues from the Financial Action Task Force (FACT), visited Moldova between 12 and 16 May 2003, or almost three years after the visit in connection with the first-round evaluation (20-23 June 2000).
2. The country is still at a disadvantage economically although the Moldovan economy has begun to recover in recent years. Undeclared commercial activities (the black market) continue to pose a significant problem. The Transnistria question remains crucial: in 1996 the National Bank of Moldova asked the commercial banks of Moldova to close the accounts held in the region. In 2002 the NBM also requested the authorities of certain countries to take measures to the same effect.
3. No estimate of the extent of money laundering exists. However, the Moldovan authorities indicated in the replies to the questionnaire that the main offences giving rise to illicit profits continue to be: tax evasion, smuggling, document forgery and the sale of drugs. The table below indicates the number of instances of these offences (the figures for the first round are given for comparison). Apart from the obvious discrepancy in the figures for tax evasion in 2000, it is difficult to say whether the structure of crime has changed.

Offences/Year	Information first round		Information second round		
	1999	2000 (first 8 months)	2000	2001	2002
Tax evasion	201	333	119	103	100
Smuggling	124	114	132	115	76
Illegal trade	235	220			
Misappropriation of goods	791	471			
Large-scale misappropriation of goods	295	165			
Fraud	171	132			
Document forgery			123	95	82
Sale of drugs			1,427	1,556	2,140

4. The Moldovan authorities state that since the first round evaluation, and as a result of the enactment of the Anti-Laundering Law of 2001, there have been fewer offences of money laundering. They claim that the adoption of a legal framework designed to prevent and combat money laundering has put organised criminal groups on their guard and that these groups are now less numerous and more closed to outsiders. The organised criminal groups do not cooperate in their activities but prefer to organise their affairs through intermediaries from foreign countries, in most cases the off-shore areas. These groups also make use of companies which are lawfully registered but involved in unlawful activities. A large number of companies of this type involved in illegal activities in the economic, financial and banking field, were identified by the Moldovan authorities, leading to the introduction of a central database on natural and legal persons.
5. The experts learnt that the Intelligence and Security Service, the Ministry of the Interior and the National Securities Commission were aware of the extent of the illegal activities. The

representatives of the Ministry of the Interior stated that offshore companies (defined as companies trading in Moldova but registered abroad) constitute the main channel for money laundering in Moldova, especially those registered in three or four particular foreign countries.

6. It is also apparent from the interviews held on site that the gambling, insurance and pawnbroking sectors are also risk sectors as regards money laundering.
7. The first round evaluation report highlighted a large number of shortcomings and the absence of an anti-money laundering policy. The measures adopted by the Moldovan authorities since the first round are therefore significant; among the most important are the following:
  - the Republic of Moldova has ratified the Strasbourg Convention;
  - money laundering was made a criminal offence in September 2002;
  - the Law on the Prevention and Repression of Laundering was enacted on 15 November 2001; it introduced a mechanism for the notification of suspicious or large transactions, the implementation of anti-money laundering programmes, etc.;
  - a Financial Intelligence Unit was set up on 29 November 2001 in the Public Prosecutor's Office and implementing measures were adopted (a standard form for notifying dubious transactions and transactions in excess of a certain amount, formation of a working group in November 2001 with the police authorities, etc.) and Parliament authorised the Public Prosecutor's Office to join the Egmont Group;
  - the Centre for the Fight Against Economic Offences and Corruption – CLIEC - was set up on 27 June 2002 as an independent enforcement body (coming directly under the Government); its powers expressly cover money laundering offences;
  - the National Bank of Moldova has become involved in the fight against money laundering, taking inspiration in particular from the standards of the Basel Committee, etc.;
  - a joint action plan has been adopted, involving the Public Prosecutor's Office, the Centre for the Fight Against Economic Offences and Corruption and the Intelligence and Security Service.
8. At the time of the visit, a new Code of Criminal Procedure and a new Criminal Code were about to be introduced. The latter was adopted in September 2002 and its entry into force – initially planned for 1 January 2003 – was postponed pending the entry into force of the new Code of Criminal Procedure. Both Codes therefore entered into force on 12 June 2003, or one month after the evaluation visit. At the time of the visit, a draft law amending the forthcoming provisions making laundering a criminal offence were being drafted<sup>1</sup>.
9. As for the legal side, the provisions on the money laundering offence have not yet been used for a prosecution or conviction, and have thus not been tested. According to the wording of Art.243 of the Criminal Code (in the version applicable at the time of the visit), money laundering is not limited to certain transactions and self laundering seems to be covered. The attempt is also punishable. However, the examiners regretted that the knowledge of the illicit origin of proceeds cannot be deduced from objective circumstances and that, as a consequence, money laundering is not considered an autonomous crime. The examiners were informed of a new drafting proposal which seems much more in line with the Strasbourg Convention. Concerning measures targeting the proceeds of crime, the new provisions on seizure and the placement under sequester seem to offer large possibilities for the authorities. On the other hand, the provisions on confiscation are subject to diverging interpretations (in

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<sup>1</sup> The draft was approved by Law N°353-XV, entered into force on 8.08.2003

particular as regards the confiscation of equivalent assets). Altogether, and despite the absence of statistics on temporary and final measures outside the tax sector, awareness raising measures on the application of these measures should be introduced for the relevant practitioners (police, prosecutor's office etc.).

10. As for the financial side, the Bank of Moldova has done a lot to ensure the existence of a general and money laundering supervision which seems effective. The identification of clients and intermediaries is clearly regulated. The situation remains more critical for the other sector, either because the authorities to be in charge of the anti-money laundering supervision are not clearly designated, or because they consider their sector little subject to money laundering risks. Some uncertainties also remain as to the importance in practice of transactions carried out by certain intermediaries (notably barristers). Finally, bearer deposits have definitely been abolished during the year of 2002.
11. Turning to the law enforcement aspects, it is difficult to assess the inevitably very modest results of the public prosecutor's office special Section (since the preventive system and the mechanism for the reporting of transactions are recent). Its competence as a Financial Intelligence Unit was transferred during the on site visit to another entity (the Centre for the Fight against Economic Offences and Corruption) which seems to have more means at its disposal than its predecessor. But it will have to cope with a vast amount of reported transactions leading to possible backlogs due to little efficiency of certain provisions contained in the anti-money laundering law (notably the fact that all economic operators are potentially called upon to report suspicious transactions and those exceeding a certain amount), and to the fact that public authorities themselves feel obliged to report. Cooperation between authorities seems to be satisfactory and the CLIEC itself is a multidisciplinary body involving members of various Ministries. Bank secrecy is not an obstacle anymore for the gathering of information, but a number of investigative means cannot be used for money laundering investigations, or investigations of offences generally linked with organised crime. This is notably the case for controlled deliveries.
12. The various improvements seen above (criminalisation of money laundering, creation of an FIU, weakening of bank secrecy etc.) allow Moldova to cooperate at present at international level, including when the request is dealing with fiscal matters. Some outstanding issues, however, require clarification: the use of certain investigative means in money laundering cases in cooperation with other countries and the possibility to execute certain foreign judicial decisions (if the levels of proof required in Moldova in money laundering and confiscation cases are a greater constraint than in the requesting country).