

THE REPUBLIC OF CROATIA

The Annual Report on Anti Corruption Activities

In the reporting period the Republic of Croatia has ratified, signed or adopted as follows:

The Law on International Legal Assistance in Criminal Matters has been adopted by the Croatian Government and entered into force on 1 July 2005.

The Republic of Croatia has ratified:

- The UN Convention on Corruption – Merida Convention on 4th February 2005.
- The Additional Protocol to European Criminal Convention against Corruption – April 2005.
- The Convention for the Protection of Individuals with regard to Automatic Processing on Personal Data – April 2005.
- The Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing on Personal Data regarding supervisory authorities and transborder data flows.
- Protocol against illicit manufacturing of and trafficking in trafficking fire arms their parts and components and ammunition supplementing the UN Convention against transnational Organized Crime
- The Republic of Croatia has acceded to the Agreement GRECO and successfully passed second evaluation round.

The Republic of Croatia took proactive approach in number of international and regional initiatives in exchanging the best practices and experiences aimed at constant improving the cooperation and its own learning about the possible advancements in further aligning with the European standards and its implementation within national legal framework in combating corruption.

PROMOTION OF GOOD GOVERNANCE AND RELIABLE PUBLIC ADMINISTRATION

The scope and principles of the functioning of public administration are contained in the Constitution, the Law on Civil Servants and Employees, and the General Administration Procedure Act.

New Law on Civil Servants and Employees has been adopted (Official Gazette 92/05) and will enter into force on 1st of January 2005.

The Law sets out the manner in which civil servants and employees are to be selected and posted, educational requirements needed, their competencies, job classifications, pay, rights and their obligations.

It is also very important to mention that the Government of Croatia has established the Working Group consisted of the representatives of social, private, business and governmental sector who participated in drafting the National Strategy against Corruption which was

recently introduced to public and will be adopted by the Government by the end of 2005. The Strategy is very important as the measures prescribed are very much referring to the good governance and reliable public administration sector.

The Law on the Access to Information and the Regulation on the Structure, Content and the Manner of Keeping the Official Register on Information Requests which address the rights of natural and legal persons in requesting access to information has been adopted.

The Law provides that public authorities should disclose certain types of information without waiting for request and that they should inform public about agendas, time and venue of certain meetings, indicating whether these meetings are open to the public and the procedures to be followed in the case of attendance. This is very important in order to maintain and to advance the transparency in the work of public administration.

The role of the Ombudsman in the promotion of good governance related to corruption issue has no direct competence in relation to the prevention and detection of corruption, but is entrusted with the protection of citizens' rights in cases of maladministration acts taken by the State administration or any other body vested with public authority.

Although, there is no legal obligation to develop regular training for public officials about fundamental principles, ethics and anti-corruption (however, the related rules are prescribed within the Law on Civil Servants and Employees, as well as in the Law on Preventing the Conflict of Interest), the Centre for training of the state officials and employees has been established and it is operational.

The Republic of Croatia will take the further steps in improving the effectiveness of the provisions of the Law on the Right of Access to information and its implementation through additional training for those who manage programmes that are subject to significant requests for information.

The Law on Preventing the Conflict of Interest in Public Office aims at ensuring that financial or other interests or undertakings of certain categories of holders of public office do not compromise the performance of their duties. Additional measures to prevent conflicts of interest consist of limitations to engage in activities involving advisory or supervisory tasks for the private sector as well as the mandatory reporting of any situation that may give rise to a potential conflict of interest.

As part of the review of the organisation, functioning and decision-making process of public administration, the Government has stated in its Programme of the Government for the 2003-2007 Mandate, that will consider and propose a new organisation of public administration. In addition to the Law on the Right on Access to Information, the 2003-2007 Mandate of the Government indicates that an e-Croatia project will set up a system to enable every citizen to make use of services in public administration, communicate with public administrative offices, and request and receive a wide variety of government documents and information, all by means of internet.

A Central State Administration Office for e-Croatia has been established to implement that programme.

Although the Republic of Croatia has no general code of Conduct for public officials (however, certain authorities have begun to develop their own) there are respective provisions in the new Law on Civil Servants and Employees which fairly cover this issue.

STRENGTHENING OF LEGISLATION AND PROMOTION OF THE RULE OF LAW

Following the Acts on Amendments to the Criminal Code (15.072004 -1.10) the criminal legislation of the Republic of Croatia has been entirely harmonized with international conventions (UN and EC Conventions) in the field of combating all forms of corruption. Accepting the conventional description of the term of corruption, the criminal legislation of the Republic of Croatia incriminates a number of criminal behaviours as such. However, there is no criminal incrimination of corruption in explicit.

Corruptive criminal acts in the Republic of Croatia include, normatively, the acts of the abuse of performing duty of government authority, the abuse of a position and authority, the abuse in the bankruptcy proceedings, unfair competition in foreign trade transactions, conclusion of harmful agreements, disclosure of official secret, disclosure and publishing of unauthorized procurement of a business secret. The acts of embezzlement, laundering of property gain, and obstruction of justice are also incriminated.

In order to counter political corruption, the Republic of Croatia has adopted the Law on the Amendments to the Law on the Prevention of Conflict of Interest in Performing Public Duty, as well as the Law on Financing Electoral Campaign for the Election of President of the Republic of Croatia. Thus, one of the most important principles for countering corruption has been achieved, and these are the transparency in the work of state administration and illegal acquisition of wealth by state officials is being prevented.

The Ministry of Justice of the Republic of Croatia has drafted the new National Strategy in fighting corruption followed by Action Plan. Having in mind that the legislative framework to fight corruption has been fully drafted the special attention will be given to the full implementation of envisaged measures.

When implementing the National Strategy against corruption and within the framework of the Strategy of the Reform of the judiciary, the special emphasis have been put on the training and specialization of judges, state prosecutors in the field of investigating, processing and sanctioning of criminal offences of corruption

The punishment for the corruptive offences will be increased as stated in Draft on the Croatian Reform of the Criminal Code which clearly shows determination and political will of the Government to deal efficiently with corruptive criminal cases.

In addition, the Criminal Code brought substantive changes with regard to the seizure of pecuniary gain as the Article on extended seizure of pecuniary gain has been introduced which will ease the seizure of illegal profit gained by illegal activities.

PROMOTION OF TRANSPARENCY AND INTEGRITY IN BUSINESS OPERATIONS

The Law on Responsibility of Legal Entities for Criminal Offences foresees a number of sanctions where a legal person is found criminally liable: penalties consisting of fines, suspended sentences and dissolution of the legal entity; security measures, including professional bans, bans on transactions with beneficiaries of the national or local budgets, ban

on obtaining licences, authorisations or concessions, confiscation and publication of the verdict.

Croatian legislation provides for a wide range of legal persons. Requirements for establishing legal person depends on the form of legal entity; however, all legal persons are subject to registration.

Recognising that the existence of a transparent and accessible register of legal persons is an essential preventive measure against the possibility of legal persons to shield corruption offences, it is to take appropriate measures to ensure that the public's right of access to information on legal persons contained in commercial registers can be exercised in an effective manner.

The principle of corporate criminal liability was introduced by the Law on Liability of Legal Entities for Criminal Offences.

However, there is a clear need to improve the level of awareness of corporate liability among crime preventing/investigating/prosecuting authorities. This calls for extensive information and training to the aforementioned authorities which will certainly result in trainings organized by Croatian Judicial Academy which is the part of the Croatian Ministry of Justice and provides the continuous trainings for judicial officials and employees.

PROMOTION OF AN ACTIVE CIVIL SOCIETY

As yet, civil society organizations are active in monitoring work of public administration and raising public awareness. It is necessary to involve the non governmental organizations in proactive work in regard to this issue.

However, it is notable that the involvement of these organizations are more and more present in different public discussions on television and other public media, which gives the opportunity to both, the organizations to establish themselves as reliable and responsible partner on one side and to the other to be for the time being the public corrective for the official, governmental policy.

During the period of drafting the National Strategy against Corruption, the civil society was actively involved through their representation in the drafting Working Group.

Also, the Independent Anticorruption Agency, or the National Anticorruption Council, whichever is to take place of monitoring and supervising body in terms of controlling the implementation of the National Strategy against Corruption, will be consisted of the members that will include the representatives of the civil society, as well.

ANTICORRUPTION INITIATIVES PLANNED FOR NEXT 6 MONTHS

The major of the activities aimed to suppress and combat corruption issues will be focused in implementing the National Strategy against Corruption which will be adopted by the end of 2005. The Strategy is followed by Action measures whose aim is to ensure its implementation and not just the mere declaration of will.

For that purpose all the efforts will be aimed at operational level in order to align the corruption at the level which will not represent anymore the threat to democratic and secure development of society in whole.

