

REPUBLIC OF CROATIA

MINISTRY OF JUSTICE

STABILITY PACT ANTI-CORRUPTION INITIATIVE

7th STEERING GROUP MEETING

REPORT ON ANTI-CORRUPTION EFFORTS

CROATIA

REPUBLIC OF MONTENEGRO, 5-6, MAY 2004

ZAGREB, APRIL 2004.
The Program of the Government of the
Republic of Croatia 2003-2007

The Fight against Corruption

The Government is aware of the extent of the corruption in Croatian society. The increase in corruption, collusion between private interests and public administration, the impossibility of monitoring the flow of finance within the country and abroad, what is called the, “grey economy” and its consequences for budget revenues, nepotism and other negative occurrences have objectively become a threat to national security.

The Government is determined to embark on the fight against corruption as the crucial question for the government of Croatia as a stable European state.

The Government will ensure full oversight over financial transactions in the country and towards other countries, it will suppress by means of the necessary legislation illegal and semi-legal entrepreneurship, provide for full and determined cooperation of the police and courts in the fight against crime and corruption, and introduce a firm hierarchical system of supervision and accountability in public administration and the civil service.

The Government is determined to provide the legal preconditions necessary for sanctioning criminal actions and their protectors, for defining forms of economic crime, for establishing vertical liability and liability of protectors, accomplices and auditors. The Government will introduce the institution of the obstruction of justice, simplify police procedures and judicial proceedings, strengthen the institution of the crown witness and apply it more frequently.

The Government is convinced that the public supports firm and immediate punishment of corruption, expecting that sanctions for corruption should be severe, without exception and publicly announced.

The Government will pay special attention to an efficient system of control, liability and sanctions regarding state owned property.

The Government will undertake the measures necessary for the anti-corruption programme to become part of the system of upbringing and education and for it to stimulate a revival of a socially acceptable system of values.

Legal and institutional framework

The amendments to the Criminal Procedure Act of May 2002 contribute to the speeding up and efficient processing and sanctioning of criminal offences related to corruption and organised crime.

The amendments to the Penal Code which were sent for Government and Parliamentary procedure at the beginning of April 2004 will bring substantive criminal law into line with international standards, and especially the UN Conventions, Criminal Law Convention on Corruption and the other CE Conventions. The amendments relate to the fight against terrorism and the prevention of its financing, prevention of organised and cyber crime, trafficking in human beings and all forms of corruption (private and public sector).

The Act on the Office for Suppression Corruption and Organised Crime was enacted (entered into the force on October 19, 2001) and the Office as a specialised state's attorney's service for proceeding against criminal offences of corruption and organised crime was organised, with a view to increasing the efficiency of the justice system, and primarily to more efficient discovering, processing and sanctioning corruption and organised crime. Together with the repressive, the Office also has a preventive and educational function, in accordance with the ratified international conventions. The Act on the Office for Fighting Corruption and Organised Crime ensures the co-ordinated work of state's attorneys, judges and police and other supervisory bodies in an integrated and consistent process of fight against corruption and organised crime.

The Amendments to the Act on the Office for the Suppression of Corruption and Organised Crime (june 2004) will modify all the provisions which have shown themselves to be insufficiently clear in practice, and are related to the competence of the Office for the Criminal Offence of Organised Crime, by strengthening the role of the Office in the investigation of criminal offences of corruption and

organised crime, and the provisions which will give a leading role to USKOK in coordination with other state bodies in the investigation of all criminal offences for which it is competent. Those provisions of the Act will also be added which will more precisely define the role of USKOK in its preventive and educational function.

The Government consider to establish new Preventive Anti-corruption body for the purpose of implementation Preventive Anti-corruption measures according UN Convention against Corruption.

The Witnesses Protection Act was adopted on 1st October 2003. It regulates the measures of out-of- proceedings protection of persons who provide information and testify about corruption and criminal offenses committed by organised crime. It will include a program of protection measures, in compliance with the rules of international law.

The Croatian Parliament adopted **the Law on the Conflict of Interests in Performance of Public Duties** on 25 September 2003. This Law is complementary to other criminal regulations and should resolve conflicts of interest arising from situations when public officials have a private interest that affects or could affect the impartiality in the performance of public duties. In a certain way it constitutes a code of ethics, but it is a rule nevertheless and a part of overall anti-corruption efforts at legislative level. The view that it is anti-entrepreneurial is unfounded.

An important new item in the Croatian criminal legal system is the regulation of the responsibility of legal persons for criminal offences due to the ever increasing frequency of economic, corruptive, and other criminal offences, where the one responsible for the criminal activity and the user of illegally gained pecuniary benefit is a legal person. Croatian Ministry of Justice, and Croatian Government have drawn up the Draft of **the Law on Responsibility of Legal Entities for Criminal Offences** which was sent to the legislative procedure and adopted by Croatian Parliament on 12 September 2003.

One of the basic conditions for the democratisation of society and the creation of conditions for citizens to competently decide on all their rights and responsibilities and the occurrences within the community, that is, in the environment in which they live, is by being well-informed, that is, their right to be informed, and it can be achieved by unlimited access to all relevant information and data

controlled by government bodies, local and regional bodies, legal entities or other public authorities.

The right to access to information which is at the disposal of the public authorities is one of the basic human rights which is protected by the Constitution of the Republic of Croatia, international acts, especially the European Human Rights Convention and basic liberties as well as the Convention on the access to information, public participation in decision making and access to judiciary systems regarding environmental issues from 1998.

In the implementation of the National Program for the fight against corruption and international conventions Croatia adopted **the new Law on the Right on Access to Information** on 16 October 2003 which enables conditions to citizens to achieve the right of access to information which are in the property of three branches of government.

The Act will create a legal framework to the realisation of the general right to access to information and together with the new Media Act and the Personal Data Protection Act this Act constitutes a logical unity. It is also important in corruption prevention because only transparent, open and fair execution of public business is a guarantee of the principles of good government and democracy of the society.

With these acts in force, Croatian legislation is considerably more harmonised not only with the UN Conventions but also with European conventions (Criminal Law Convention on Corruption and Civil Law Convention on Corruption) against corruption to which the Republic of Croatia has acceded, as well as with the recommendations of the Council of Europe and other legal instruments in the domain of fight against corruption.

The funding of political parties must follow the principle of transparency in the use of budgetary funds and in the case of donations, limits of donations by individuals and firms who might in exchange ask for privileges and special status.

This year Croatia will adopt **new Law on funding of political parties**.

National Program for the fight against corruption with Action Plan

Legislative measures, international or national doesn't have much of the meaning if not followed by the effective implementation, which is the crown of all the affords taken before. However, the above-mentioned activities have only marked the beginning of the process that Croatia is determined to undertake in the fight against corruption and organised crime in generally. With this in mind the Croatian Parliament adopted the National Programm for the fight against corruption with Action Plan on 21 March 2002.

On this way Croatian Parliament will obligate all three branches of power to undertake appropriate measures for the eficiant fight against corruption.

The Parliament Comission will have a supervising and monitoring function over state bodies obligated for the implemenation of the eight pilars of the Action Plan.

The Parliament Comission consists of representatives of the Parliament, public and civil society. At operational level the National Program will be conducted and managed by a department within the Office for the Prevention of Corruption and Organised Crime.

This will attach more importance to the legislative and executive branches of government including judiciary authorities and the judiciary in the broader sense in their fight against corruption and undoubtedly strengthen the principle of rule of law. In parallel to it, it will be necessary to develop institutions of the civil society which should promote reforms and mobilise citizens in a fight against all forms of corruption and make them more aware of origins and detriments of the corruption. Besides, they should advocate independence and freedom of the press which may be very instrumental in uncovering cases of corruption.

This year Parliament will established **Parliament Commission for Implementation of the Anti-corruption Programme.**

Training of judiciary

The training of the judiciary and public servants also represent one of the most important measures of a comprehensive, never-ending endeavour in combating against corruption.

With the adoption of the **Decree on the Internal Organisation of the Ministry of Justice** which came into force on 18. March 2004., the Judicial Academy was founded as an Institute within the Ministry of Justice aimed at the continuing and permanent training of not only judges and public prosecutors, but also expert associates, advisors and other employees in the justice system. This training is necessary not only to raise the overall educational level of all employees in the justice system but also to prepare the judiciary for the adjustment of domestic legislation to European legal standards.

Adoption and implementation of European and other international instruments

Being aware of danger of the corruption which attacks the very structure of the modern society and being aware of the need to fight against it in an efficient and energetic way, the Republic of Croatia was among the first countries to sign the **UN Convention against Corruption** in Merida last year (December 2003).

Croatia takes measures to make international, specially regional co-operation and in particular mutual legal assistance more effective by promoting direct contacts and communication between judges, and prosecutors, specialising and training staff, and by supporting judicial networking at European and international levels.

In view of the fact that the Republic of Croatia has acceded to a large number of conventions related to extradition proceedings, international legal assistance in the narrow sense, assuming prosecution, conducting shared investigations and the transfer of sentenced persons, a working group has been founded to draw up an **Act on International Legal Assistance** and work has begun on a new act. At the moment the relevant data is being gathered from the courts and the public prosecutors.

By signing or ratifying a number of international instruments relating to these fields the Republic of Croatia has created legal basis to take active part in joint efforts of international community to fight against organised crime, corruption and terrorism.

In the implementation of the Association and Stabilisation Agreement with the European Union, Croatia harmonizes its criminal legislation in the field of judiciary and home affairs with EU Acquis Communautaire.

We are fully aware of the fact that the fight against the trans-national organised crime and corruption cannot be conceived without an international and regional co-operation in justice and home affairs. We are obliged to co-operate by international law as well. Therefore the fight against corruption and organised crime in countries of South-Eastern Europe is impossible without a faster, direct and less formal mutual exchange of relevant data needed for suppression of corruption, tracing and sanctioning of activities carried out by organised groups involved in all forms of crime.

First of all, countries of South-Eastern Europe (members of SPAI) should establish an efficient mutual judicial assistance (public prosecutors) and co-operation in criminal matters as well as in the conduct of joint investigations, in order to create a common strategy. In the framework of such strategy, one should foresee the workings of the network composed by the institutions of the judicial system, public prosecutors i.e. general attorneys, courts and, especially, anti-corruption agencies and investigation teams, which would create the conditions necessary to fight the trans-national organised crime and corruption.

We believe this form of co-operation should not be limited to the countries of the South-Eastern Europe. The Republic of Croatia is willing to establish this way of co-operation with all the members of the Council of Europe, especially with the members of the European Union, in order to be able to use their experience, institutional and legal framework. Therefore a technical assistance provided by the international community, especially by the European Union, is indispensable for Croatia and other countries in the region.

This is the way to realise the common aim: a faster and more efficient international mutual legal assistance through direct contacts between police, courts, state attorney's offices and other relevant institutions.

**SENIOR REPRESENTATIVE
ASSISTENT MINISTER OF JUSTICE**

DUBRAVKO PALIJAŠ