**SIGMA**

**Support for Improvement in Governance and Management**

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# CROATIA

## PUBLIC INTEGRITY SYSTEM

## ASSESSMENT MAY 2008

## 1. Introduction

This report includes and updates information from Sigma's 2006 report on the public integrity system in Croatia, highlighting developments in institutional arrangements and the integrity framework. It follows Sigma's baselines for these areas and is mainly based on information gathered up until April 2008. The main objective of the report is to identify strengths and weaknesses in the system in order to help guide reforms and provide further assistance.

On 25 November 2007 elections were held in Croatia and a new government took office on January 2008. According to the Coalition Agreement of 8 January 2008 — signed by the Croatian Democratic Union (HDZ), the Croatian Peasants' Party (HSS) and the Croatian Social Liberal Party (HSLS) — the most relevant issues for Croatia in acceding to the EU are "strengthening the fight against corruption" and completing "the judiciary and public administration reforms". Full chapters in the coalition agreement refer to the "Fight against corruption", and "Judiciary and public administration reforms". The agreement highlights the need for an efficient fight against corruption in order "to ensure stability, democracy and economic development".

The parliamentary elections tested the new regulations on financing political parties and electoral campaigns, as well as the capacity to implement them.

A new and comprehensive strategy and action plan for fighting corruption is being worded, co-ordinated by USKOK (Office for the Prevention of Corruption and Organised Crime) with the participation of other state bodies. The approach focuses more on results so as to show citizens the government's commitment to dealing with the problem.

During Sigma's assessment, March 2008, a new action plan for the judiciary, including concrete measures to improve justice administration, was being discussed by the government.

However, despite all these measures, the perception of corruption remains very high according to international reports[1]. In a survey conducted by Transparency International and published in 2007, 62% of respondents in Croatia thought that government efforts to fight corruption were ineffective.

The legal framework to combat corruption has been progressively adjusted to EU standards, but its implementation remains the major problem. The enforcement bodies themselves, with some exceptions, remain potentially vulnerable to corruption. The ethical infra-structure put in place is insufficient and weak.

## 2. Conclusions and Recommendations

- Awareness of the importance of a clear, comprehensive and effective integrity system is increasing in Croatia. Corruption in the political, administrative and business environment is becoming less

[1] 2007 Corruption Perceptions Index – Regional Highlights: Eastern Europe and Central Asia; Report on the Transparency International – Global Corruption, Barometer 2007 (www.transparency.org).

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tolerated and is seen as a serious obstacle to the national plan for expanded international integration. However, it seems that in spite of this consciousness, international pressure is still playing the more important role in pushing for relevant, consistent and sustainable reforms.

- The main elements of the legal framework related to these issues are in place, but overall quality needs to be improved. For example, inconsistent consultation, continuous amendments, loopholes, etc. are creating problems in interpreting and implementing the laws and also undermining the effectiveness of the court system.
- The institutional set up is in place and the capacity of key players is improving. However, overlapping responsibilities need to be resolved in order to increase effectiveness in implementation and the use of financial and human resources.
- If adopted and properly implemented, the new draft law on general administrative procedures could help improve transparency in public administration and in decision-making, thereby reducing opportunities for corruption and improving trust and citizens' views of the issue.
- Improvements in the legislation for funding electoral campaigns and political parties have been made, though there are still some outstanding problems. The main difficulty is the capacity to ensure effective implementation of the law.
- The judiciary has achieved positive results in reducing the backlog of cases in recent years but this still remains a big problem. The planned reforms aim to reduce the backlog significantly. Strong political will is needed to adopt and implement some important pieces of legislation (the law on general administrative procedures and law on administrative proceedings, for instance), as well as an ambitious action plan to reorganise the courts.
- Political interference with the judiciary must be stopped and the independence of the judges should be strengthened and protected. The power of the National Judicial Council must be reinforced.
- A better understanding of the role of parliamentary immunity in a democratic regime is needed, as well as coherence in rules on incompatibilities and conflict of interests.
- Implementation and control capacity are the main problems with the legislation on conflict of interests and asset declarations. The parliamentary commission in charge of it has no effective power or capacity to ensure that the law is respected. The latest drafted amendments could slightly improve the situation but they are still not enough.
- A stricter post-employment policy for MPs, members of government and other public officials should be adopted to protect public integrity and trust in political institutions.
- Training should be developed in ethics, and in fighting corruption and organised crime.
- It remains to be seen if the new strategy for combating corruption will address these problems in a radical way, or whether it is merely superficial.

## 3. Background on Integrity

In Croatia, petty, medium and state capture corruption all occur. Bribery prevails in administrative bodies. However, severe cases of corruption, as reported by public entities and in the media, confirm the high level of corruption still existing in Croatia.

In the last few years, citizens' awareness of corruption and organised crime has become greater, due to the media and NGOs' role in denouncing illegal acts. Recognising the importance of integrity for democracy consolidation and better governance is essential. Integrity includes the delivery of improved services to citizens, comprehensive and transparent policies, government accountability, and assignments of public resources in an honest way.

The anti-corruption legal framework is being completed; strategies and action plans in this field have been prepared and are being reviewed and updated; and institutional capacity is increasing. However special attention should be paid to the regulatory implementation and to the enforcement mechanisms in order to create trust in the government institutions and in the effectiveness of the policies to fight corruption, lack of integrity and unethical behaviour.

## 4. Integrity in Parliament

***Parliament as an institution against corruption***

In 2006, parliament passed new amendments to the law on Preventing Conflict of Interest in Performing Public Office (CoI). In March 2008 further amendments to this law were submitted to parliament. In 2007 parliament also passed new amendments to the laws on Financing of Political Parties and Independent Lists and Candidates,[2] Election of Representatives to the Croatian Parliament (LER),[3] Elections of Municipal Town Mayors, County Governors and the City Mayor of the City of Zagreb,[4] and the State Election Commission[5]. These laws share a common objective of increasing transparency in political life; thus they may also increase integrity and trust in politicians.

Although the new law on Voters' Lists has been in force for almost a year, the number of voters at the 2007 parliamentary elections was reported to be excessively large (more than the number of inhabitants). This can partly be ascribed to bad organisation by the state administration in charge of voters' lists. For example, address changes should be reported to the branch offices of the Ministry of Internal Affairs. But these offices unfortunately do not pass on the information to the branch offices of the county Offices of State Administration, which are responsible for voters' lists. The reason is partly connected to problems with information and computer technology in various branch offices. But the fact is that problems like these inevitably raise suspicions about the overall integrity of the electoral process.

***MPs' immunity, incompatibilities and conflicts of interest***

The Branimir Glavas case[6] raised questions about the level of immunity that Croatian MPs enjoy; a level deemed excessive by part of civil society. Glavas was a candidate in the last elections to the Sabor (the Croatian Parliament), despite being accused of serious war crimes, and he was elected. Parliament granted him immunity from imprisonment until the end of criminal procedure. His is the first case of an individual under indictment and on trial to be elected to the Croatian Parliament. Parliament's rules of procedure imply that MPs have to be present when they are inaugurated.

This was a test case for Croatia's political integrity. Parliamentary immunity is designed to protect MPs from political persecution, not criminal persecution. In this sense parliamentary immunity should be more restricted, only protecting parliamentary activity and the fulfilment of the mandate from judicial consequences resulting from political statements and interventions.

The legal framework for incompatibility has also been amended since the last assessment. The law of 9 April 2003 on Election of Representatives to the Croatian Parliament (LER) regulates incompatibilities related to positions in the public sector. This was amended in 2007[7] and entered into force on 16 February of the same year. The law of October 2003 on Preventing Conflict of Interest in Performing Public Office (CoI), which regulates conflict of interest in both public and private sector positions, has been successively amended.[8]. The last amendment was in 2006.

The existing legal framework foresees only a very short six-month ban for taking up a job in the private sector in an area in which the incumbent had previously regulated or controlled while working in the public sector. As it was already stressed by a Greco report, a solid post-public employment policy is still missing, In March 2008, a new amendment to the Act on the Prevention of Conflict of Interest in the Exercise of Public Office was proposed to parliament, but it does not introduce changes to post-public employment policy.

***The Glavas case shows the weakness of Croatia's immunity regime. It's not only the immunity regime that is questioned, but also the legal criteria for standing as an MP and the choice of candidates within political parties. To promote integrity in political life and in civil society, parliament should demonstrate its commitment better.***

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[2] Official Gazette 1/2007.

[3] Official Gazette 19/2007. The previous one was from 1992.

[4] Official Gazette 109/2007.

[5] Official Gazette 44/2006 and 19/2007.

[6] Branimir Glavas was a former MP who was detained for war crimes. Members of his unit were accused of torturing Serbs in garages by forcing them to drink battery acid. The case became known as the "garage case".

[7] Official Gazette 19/2007.

[8] Official Gazette 163/2003; 94/2004; 48/2005 and 141/2006.

***The regulatory dispersion of MPs' incompatibilities through LER and CoI is an obstacle to the compliance with and enforcement of the law. This was already underlined in the last Sigma assessment, and should be resolved. A solid post-public employment policy is needed to promote public integrity.***

### *Asset Declaration*

In compliance with Article 7 of the CoI, the president and vice-president of parliament and MPs are obliged, within 30 days of taking office, to disclose their property to the Commission for the Resolution of Conflict of Interest. This covers real estate and movable property, regular or expected income, as well as the property of their spouses and children.

Publication on the Internet of the income declarations of all public officials subject to the CoI has allowed greater control by citizens. However, in spite of this public scrutiny, inaccurate and incomplete data in the declarations remain. Control is almost ineffective; the commission's role is unclear and it lacks the necessary power and resources to implement the law. The commission itself considers that its role is mainly pedagogical and that it therefore lacks enforcement capacity.

The elected and appointed officials of the 2007 parliamentary elections (MPs, prime minister, deputy prime ministers, ministers, etc) have submitted their asset declarations to the CoI Commission, but they have not yet been published on the Internet.

### *Verification and Sanction*

With the beginning of the new legislature in 2008, the Parliamentary Credentials and Privileges Commission and the Commission for the Resolution of Conflict of Interest are responsible for controlling the incompatibility situations of MPs according to the LER and to the CoI respectively. The CoI Commission had not yet fulfilled this by March 2008 as the MPs members had not yet been appointed, nor had the Commission president been elected.

The CoI Commission is not a parliamentary committee. According to the law on Preventing Conflict of Interest in Performing Public Office it should be autonomous, but in practice depends to a certain extent on political power, which compromises its independence. Its activities are limited: it does not have the status of a legal person and lacks financial and human resources (only two advisers, one clerk and the head of office). Until now its staff is legally part of the professional service of parliament and also come under its budget. Although the commission has preventive and enforcement responsibilities (e.g. imposing sanctions[9]), the lack of financial resources limits its ability to carry out preventive activities such as information campaigns (distribution of booklets, organisation of training courses for officials, etc.).

The CoI Commission's capacity is also rather limited to control the 1 200 asset declarations of all the officers who begin or cease functions or to ensure the enforcement of its decisions. An additional problem is the inexistence of the taxpayer's identification number (TIN), which makes it difficult to identify the property of the holders. TIN will only be introduced in early 2009.[10] The TIN will be an important tool in the fight against corruption, as it will improve citizens' legal security as well as ensure a fairer distribution of social expenses. The TIN Bill is one element of a package of laws that have to be adjusted to European standards.

The current proposed CoI amendment is to increase the members of the Commission for the Resolution of Conflicts of Interest from 7 to 11 (Art. 16). Six will be appointed from the ranks of the MPs, with three of them being members of the ruling party and the other three members from the opposition parties. The remaining five members will be eminent public personalities. The chairman will be chosen from among these and will not be a member of any political party. The draft amendment also aims to expand the content of officials' reports to the commission (besides property, they will include information related to any other professional or non-professional activity performed); create a professional service to support the work of the Commission; and increase fines for non compliance.

Another problem is linked to the effectiveness of the Commission decisions and the sanction frame. The sanctions are laid down by law, but in general they are not applicable. If an official doesn't submit the asset declaration or if it is incorrect, the commission can fine him/her EUR 400 for each month of delay. However, after three months the commission cannot apply any more sanctions. The commission can propose an official

[9] For instance: salary retentions, warnings or publication of disciplinary decisions at the official's expense.

[10] Currently there is only a citizen identification number.

dismissal, but cannot appeal to the court. All contact is made directly with the concerned party — if they don't agree with the sanction then only the concerned official can appeal to the court.

All the cases so far submitted by officials to the Administrative Court confirmed the commission's decisions; 56 cases are currently under scrutiny. The commission's decisions should be published in the Official Gazette, but so far this has not occurred, indicating the commission's insignificant political power.

The CoI amendment proposal foresees more serious sanctions (Art. 19). There will be an increase in the fines for stating false data in the report (Article 7[11]). The suspension of the net monthly salary would be in the range of HRK 5 000 to HRK 10 000, which would be an increase from the current HRK 3 000 to 5 000.

However, even considering that sanctions are legally foreseen (suspend payment of part of the official net monthly salary; issue a warning and public announcement of the Commission's decision at the official's expense)[12], in practice there is no sanction for breaching the law. None of the decisions has been enforced until now.

***The establishment of the CoI Commission seems to be more the result of pressure from the EU than from an internal desire to prevent corruption and improve governance and the business climate. This theory is supported by the commission's limited political power, its weak resources, its total dependence on parliament, and the weak enforcement of its legally granted decisions. Thus, although on paper conflict of interest regulations exist, their implementation and control are almost non-existent. The main problem with the integrity system continues to be the lack of implementation capacity. Although positive, the proposed amendments to the CoI are not sufficient. The Commission's is still unable to apply to the courts to enforce its decisions.***

### *Remuneration of Parliamentarians*

There have been no changes since the previous report. Remuneration and other compensation for MPs (such as additional fees for some parliamentary functions, monthly accommodation allowance for representatives living outside Zagreb, free use of public transport, retirement pension, etc.) are established by the law on Rights and Duties of the Representatives to the Croatian Parliament, supplemented by decisions of the relevant parliamentary committee. MPs enjoy full pension rights after only two years' service.

A public debate was going on during 2006 and 2007 and it was expected that the remuneration scheme would be reviewed. However, the debate has since faded away and there is almost no chance of changing the current situation because the ruling coalition opposes changes to MPs' remuneration and pension rights.

## 5. Role of Parliament in ensuring Integrity in Government

### *Political Accountability of the Government*

According to the constitution (Articles 80 and 114), the government is accountable to parliament and has the usual set of legal instruments to make it effective: the right to propose laws (Article 84), to ask questions to the government or individual ministers and to submit interpellations (Article 85), to form commissions of inquiry (Article 91) and to submit a vote of confidence in the Prime Minister, in individual members of the government or in the government as a whole (Article 115). Therefore, the legal framework is in line with common international standards.

Some signs of improvement have been reported in parliament's control over government activity. For example, "question time" is an opportunity for MPs to ask government ministers questions. It takes place at the beginning of each parliamentary sitting after deciding on the agenda, and before the first issue of the agenda. Some of the issues raised by opposition MPs concern corruption suspicion cases. One example is a public procurement case dealing with the slippage of costs for constructing the Gazenice-Zadar highway section. Costs increased from the planned HRK 250 million to 450 million in 2007. Reference should also be made to the opposition's request for a vote of no confidence in the government over the scandal in the Croatian Privatisation Fund (HFP).[13] Known as the Maestro case, it involves bribery, corruption and

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[11] This report details the offices they exercise professionally or non-professionally, other offices they exercise, activities they were performing directly before entering into office, and information about their property, as well as of that of their wife (or husband) and sons.

[12] Article 19, CoI.

[13] This scandal led to the arrest of three HFP vice-presidents on suspicion of corruption.

organised crime. These kinds of questions and initiatives are a positive sign of parliament's control over government action in such sensitive areas. In some cases this has forced the government to amend laws (*e.g.* the amendment to the law on the HFP that is being prepared).

However, the setting up of inquiry commissions is still not normal practice in the Croatian parliament, despite a number of situations that may justify them.

Parliament could also control the government activities through independent bodies like the Ombudsman and the State Audit Office, which are also accountable and report to parliament.

***Ombudsman***

In addition to the "general" Ombudsman and the two separate ombudsmen responsible for children and gender equality respectively, a fourth one was established in 2007,[14] in charge of disabled persons. This has been in force since 1 January 2008. A fifth ombudsman in charge of immigrants' rights is also being discussed.

Along with protecting the constitutional rights of citizens "*in proceedings before the state administration and bodies vested with public authority*", the Ombudsman is now trying to argue that his office should also have competences with regard to the judiciary.

In March 2008, the Office of the General Ombudsman increased its staff from 18 (2006) to 22, despite requesting 32. Under the new ombudsman, the office has gained a good reputation and is well-respected by the public.

The lack of Ombudsman regional offices limits its action, despite the meetings with citizens, national minority councils, social welfare councils, NGOs and others when visiting the regions. But visiting each region once every two years is not enough. It means that citizens of other parts of Croatia have fewer opportunities to report their cases than those of Zagreb.

In 2007 most citizens' complaints to the ombudsman (1 880) related to administrative procedures; this represents an increase of more than 200 cases compared to 2006 (1 680). These referred to the long duration of administrative procedures and conducts and the failure of administrative bodies to undertake actions connected to this issue. A small number referred to the illegality or irregularity of their decisions and actions. Recurrent issues of complaint continue to be pensions, social security, insurance, insurance for the disabled, property-rights, as well as issues of reconstruction and construction, housing issues, protection of the environment, restitution of property, and returnees, along with other grievances over citizenship status, treatment of imprisoned persons, etc. However, it must also be realised that many people do not complain as they are afraid of being penalised by the non-settlement of their cases. In the first three months of 2008 the office has received 426 new complaints.

The Ombudsman points out the difficulty facing the government in implementing administrative procedures. One reason for the long duration of many administrative procedures is that neither bodies of first instance nor bodies of second instance use rights and possibilities and the obligations from Articles 242 to 243 of the Act on General Administrative Procedure, according to which they can decide the appeals themselves in a different way. The ignoring of the provisions of the law leads to the repeated annulment of decisions and returning cases for a renewal, which prolongs the procedure and results in the violation of the citizens' rights. Other factors are the complexity of procedures in certain spheres, a great inflow of cases over a short period and an insufficient number of officials. We would also stress the slowness of the bodies responsible for delivering statements requested by the Ombudsman. In as many as 440 cases responses were not delivered within the legal deadline of 30 days.

The general Ombudsman received 200 complaints about the judiciary in 2007. Citizens are unsatisfied with the courts, primarily the excessively long-lasting proceedings and the outcomes of court disputes. The situation is more critical in the municipal courts. The poorly prepared and inexperienced young judges were criticised, and they do not use all the available legal instruments. In one newspaper article they are described as a "poorly-educated group, unfamiliar with the ethics". It is expected that the new act on courts will provide for a more frequent and better supervision of the regularity of carrying out court administrative activities.

[14] Law on Ombudsman for Disabled Persons, Official Gazette, nº 107/2007.

Another problem stressed by the Ombudsman Office was the difficulty of implementing the law. It gave the example of the law on housing that has existed for six years but has not yet been implemented.

The inefficiency of the Administrative Court[15] is another problem. This situation should be improved with the new draft law on Administrative Disputes. The current law does not meet the standards set by the *acquis communautaire* for this aspect.

The intensive legislative activity, evidenced in the production of new laws and the revision of others, has left citizens confused. Sometimes even administrative bodies are unaware of the new laws. One example given was the law on the right to access to information. After two years of implementation the services sometimes do not apply it, as they are unaware of its existence.

The Free Legal Aid Act is one of the important measures to facilitate access to justice by more needy citizens. Up until now they have had the support of the NGOs. However, this legal provision is seen to be more a result of EU pressure than from pressure internally. This year a bill on free legal aid was sent to parliament for a second reading as the procedure of exercising legal aid in the first reading was considered difficult and complicated. This bill is planned to enter into force on 1 April 2009.

The Ombudsman is legally bound to submit an annual report to parliament, which is posted on the Ombudsman website. However, this has no impact because, in practice, the reports are not discussed by parliament.

***The existence of four ombudsmen seems unnecessary in a country the size of Croatia and should be reconsidered. Merging the four different ombudsmen into one structure with four different departments would enhance its capacity by concentrating its resources into a single structure and by maximising synergies. The decentralisation of the ombudsmen should also be considered. Parliament should give more attention to the Ombudsman's role in protecting citizens' legal rights as well as to its recommendations.***

***State Audit Office***[16]

In July 2006, the State Audit Office issued a set of guidelines for conducting audits in the event of suspected fraud or corruption. Training on these guidelines has been organised for state auditors, including practical cases on recurrent irregularities which may be faced in the course of audits and training on ethics in the public service.

## 6. Political Party and Electoral Campaign Financing

Amendments made to relevant laws in 2007 are worthy of mention. These include the laws on: elections of representatives to the Croatian parliament;[17] elections of representatives in local government and self-government bodies;[18] financing political parties and independent lists and candidates;[19] and elections of municipal and town mayors, county governors, and the city mayor of the city of Zagreb.[20]

The bill on financing political parties is an important step in efforts to fight corruption. Under this amendment Political parties would be financed from three sources: the state budget (parliamentary parties are entitled to sums in proportion to the number of seats they fill on the day of inauguration of the new parliament), from membership fees and from donations in funds, commodities and services.

State, local and regional self-government units reserve 0.056% of the previous year's expenditure for financing political parties. A party with at least one MP or member in a local or regional representative body has the right to money from the budget, according to the situation at the moment of constituting the representative body (Sabor, local or regional council). For every woman who is the member of the representative body, the sum is increased by 10%.

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15 The administrative court has a broad jurisdiction that encompasses, among other fields of law, health insurance and pension law, welfare law, asylum and residential law, building law, enterprise law and financial law.

16 For more information on the State Audit Office see Sigma's report on External Audit.

17 Official Gazette 19/2007.

18 Official Gazette 44/2005.

19 Official Gazette 1/2007.

20 Official Gazette 109/2007.

A maximum donation of HRK 90 000 was set for individuals and HRK 1 million for legal entities. Anonymous donations are not allowed, neither are donations by foreign citizens and countries, state bodies, trade unions, companies controlled by the state and local authorities, employers' associations and religion associations. Donations in kind were regulated. The use of premises, cars, and other equipment owned by local and regional self-government units for election campaigns is forbidden. Pressure or promises by political parties on the physical and legal entities connected with collecting financial resources are also forbidden. All of the donations have to be subject to a report by the State Audit Office, to be submitted before the parliament. Any political party that fails to comply with this will face a fine of HRK 500 000, while an individual authorised to represent a party would face a fine of between HRK 10 000 and 20 000.

Parties are also obliged to keep records on and issue receipts for subscriptions and donations.

The law requires that the spending of political parties' money is limited to realising the goals set out in their programmes and statutes. Spending parties' money for personal purposes has been forbidden. There is no legal limit for expenditure in electoral campaigns.

The State Audit Office and the Tax Administration of the Ministry of Finance have been entrusted with the control of financial issues.

In 2007 political parties submitted their financial statements to Sabor, after prior control by the State Audit Office (SAO). However, as there is no standard form required by law, the composition of these statements varies greatly from one party to another, which makes comparison difficult. A standardised format for financial reports should be implemented.

In the last parliamentary elections some major parties, such as SDP, HNS, HSS and HSLS, published their financial reports on their web pages. This was an important step towards more transparency in political party financing.

Although there are certain improvements to be made, it should be recognized that the adoption of the law on financing political parties and independent lists and candidates is a substantial step forward in establishing a more consistent political party financing system. However, control and monitoring are still not very well developed.

***Gradual improvements to the political party financing system have been verified. Annual reports and electoral campaign financing reports have been submitted by major political parties. Prohibition of anonymous donations, the setting of limits to donations by legal entities and individuals, as well as the disclosure of political party reports on the Internet all help to increase transparency and thus reduce the opportunities for corruption. However, there is a need to better control the veracity of accounts presented by political parties. The technical competence of parliament to monitor audit reports should also be enhanced.***

## 7. Integrity in Government

There have been no relevant changes since the last assessment. Members of the government are basically subject to the legal framework described above in terms of conflicts of interest and asset declaration (obligations and control mechanisms).

Some concerns about integrity in government (including central, regional and local governments) have been reported in relation to the unregulated use of public-private-partnerships (PPPs) in Croatia. In fact, PPPs are being implemented on the basis of the guidelines adopted by the Croatian Parliament[21] which are not constitutionally or in any law predicted as the source of law. They are not obligatory, and there is no effective mechanism to control the legality, risk, and other critical issues surrounding PPPs. A draft law on PPPs is being discussed now but the current practice is undermining trust in governments' integrity and may even create resistance to a better use of such mechanisms in the future. Therefore, it will be important that PPPs are introduced within a clear legal framework, in line with good public procurement principles and standards (which is not the case currently).

[21] Official Gazette 98/2006.

*Remuneration of Members of Government*

Members of government have a salary, and cannot accept any other remuneration or fee, unless exceptionally provided for by Law. The salaries of ministers as well as of the Prime Minister are linked to the remuneration of civil servants. The base for the salary determination for civil servants as well as for state officials is fixed every year as an annex to the Collective Agreement for the civil service. The multipliers applicable to the different levels of state officials are set by the Law on rights and duties of state officials (for instance, for ministers, the multiplier is 6.42).

Newly established coefficients for determining salaries for "depoliticised" posts[22] are ranged from 3.39 to 5.27 (Art. 151a). Such high coefficients for "depoliticised" posts show that they are still seen as part of political spoil.

After the ceasing of their functions, members of the government (like MPs) receive six months' full salary and then half pay for a further six months if they haven't found a new job in the meantime. This situation is not justifiable and places a considerable financial burden on the state.

*Incompatibilities, Immunities and Conflict of Interest*

Members of government cannot simultaneously be MPs. The law on conflict of interest (Article 11) provides the rules for membership of companies. These require public officials to transfer their management rights in companies if they own stocks of 0.5% share in the company or more. However, the law allows them to be members of supervisory boards of state-owned companies or companies in which there is a special state interest. But they are not allowed to receive remuneration for these supervisory functions. However, it was reported that at least in one recent case an important sum of money was paid to a minister as a "reward". This practice seems not to be fully in line with the legal framework.

Members of government do not enjoy constitutional immunity, although Article 33 of the Government of the Republic of Croatia Act provides some degree of immunity. This states that without prior consent of the government, criminal proceedings cannot be initiated against a member of the government during his/her term of office for a criminal offence which carries a penalty of imprisonment of five years or less.

Conflict of interest and asset declarations are supposedly controlled by the Parliament Commission on Conflict of Interest and they are disclosed in the Internet. However, this control is neither effective nor reliable. The main problems stem from the ambiguities in the commission's role (pedagogical *versus* enforcement, see above), its weak capacity and power and its lack of independence. In fact, the commission has a more reactive than proactive capacity in investigating conflict of interest situations.

No proper post-employment policy is in place in Croatia.

***Despite the fact that several public statements have demonstrated political commitment to fight corruption and to improve transparency and integrity, there are however examples that contradict this political will.***

***The conflict of interest legal framework has been gradually improving, but there seems to be lack of will to implement it. An effective and comprehensive conflict of interest policy is needed that fosters public confidence in the integrity of public officials and public decision-making. Coherent and consistent enforcement measures are also vital. Strict post-employment measures will also be needed to improve integrity in the political sphere.***

## 8. Integrity in the Judicial System

*Integrity within the Judiciary*

The Croatian Constitution guarantees the autonomy and independence of the judiciary (Article 117) and confers immunity to judges (Article 121). The appointment of judges (as well as discipline and immunities issues) is the responsibility of the National Judicial Council (NJC).

[22] Amendments to the Civil Service Act (CSA) introduced provisions for "depoliticising" certain posts in the government (see the Public Service Assessment). Positions that were previously political appointments, such as minister secretary and assistant ministers/directors (the highest levels in ministries) now have civil servant status and are subject to open competition (Art. 74 CSA). However, such appointments are still being carried out following special procedures which are more permissive to political cronyism than those for recruiting other civil servants.

The constitution also establishes the Office of Public Prosecutions as an autonomous and independent judicial body (Article 124). The National Council of Public Prosecutions is in charge of appointing prosecutors, as well as disciplinary matters.

The judiciary continues to be seen as one of the most corrupt sectors in Croatia. One of the main objectives of the Coalition Agreement HDZ-HSS and HSLS of January 2008 is to restore citizens' trust in the judiciary (along with strengthening the fight against corruption, completing the judiciary and public administration reforms as well as the privatisation process).

There is still a perception that judges' decisions are influenced by political power. The provincial courts are considered to be so easily influenced by those in power that people needing legal advice are forced to call in big city lawyers to help with minor cases.

It should be remembered that sometimes unfair legal decisions do not mean a lack of integrity on the part of judges, but are instead a result of lack of expertise or incompetence. There is a binding Code of Ethics enacted under the Law on Courts (2006) and a Council of Judges in County Courts is in charge of its implementation. Breaching the Code of Ethics is a disciplinary offence. The Association of Judges also has its own Code of Ethics which is only obligatory for its members.

Prosecutors are also governed by a binding ethical code, adopted in February 2008 (OG no. 25/2008).

Judges and prosecutors are obliged to declare their assets in order to prevent corruption and conflicts of interest. These declarations are not under the control of the parliamentary Commission of Conflict of Interest; instead the Ministry of Justice is responsible.

***Personnel Rules Underpinning Integrity***

*Recruitment and Promotion*

The recruitment of judges takes too long, between six months and one year. The announcement is published by the Ministry of Justice. The law on courts establishes verifiable evaluation criteria for the work of judges and also introduced a judicial inspection system. The evaluation of judges is compulsory for their promotion, when they appeal to a higher court and after their first five years of work in the judicial office.[23] The evaluation criteria are identical in all courts, as stipulated by law, in order to avoid evaluation parameters varying according to the candidates.

Despite the selection criteria being laid down in the law, a number of judges without the appropriate competence or experience have still been appointed. In general, the State Judicial Council (SJC) validates the decisions of the local judicial council, whose selection criteria are not objective enough. This fosters criticism that judicial appointments are based on political suitability rather than professionalism. According to the Coalition Agreement, the new government intends to ensure complete transparency in the selection and promotion of judicial officials by, *inter alia*, amendments to the law on state judicial council.

In order to promote transparency, in February 2007 new dispositions were introduced for the SJC regarding the selection criteria for candidate judges. From now on the SJC has the possibility of interviewing the candidates pre-selected by the local judicial councils, which seems to only be feasible if there are few candidates.

Although constitutional protection of all minorities is implemented, it seems there is still discrimination against Serbs and Roma, according to the US Department of State's annual report on human rights around the world. In the judicial system Serb judges are not represented proportionally.[24]

The President of the Supreme Court is elected and relieved of duty by the Parliament at the request of the President of the Republic. There is also a prior opinion given by the General Session of the Supreme Court and by the authorised parliamentary committee. The President of the Constitutional Court is appointed by this court's judges. All the other court presidents (misdemeanour, municipal, county, commercial and administrative courts) are appointed by the Minister of Justice. They also can be dismissed by him and this power has largely been used. From 2005 an amendment to the law on Courts allowed these appointees the option to appeal to the administrative court against the dismissal decision.

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[23] Judicial office is permanent, but exceptionally, new judges are initially appointed for a five-year term. After renewing the appointment after the first five-year period, the judges' positions then become permanent.

[24] This report also states that Serb judge candidates are either refused or are not encouraged to apply by Croatian authorities (http://www.state.gov/g/drl/rls/hrrpt/2007/100553.htm).

Currently, once judges have been appointed they are not obliged to undergo training. However, the Minister of Justice is going to propose this. The law on courts adopted in 2005 included compulsory training for judges who are already in post. In order to increase the training capacity of the Judicial Academy, more than EUR 1 million has just been launched to support the new PHARE programme.

***The Minister of Justice's ability to appoint the court presidents in the first instance does not comply with EU standards and should be reviewed in mid-term to ensure transparency and the use of objective criteria, as well as to secure the independence of the judiciary.***

***We draw attention to the need for the professional recruitment of judges and judicial trainees, using more uniform, objective and transparent selection criteria that are effectively applied.***

*Remuneration of Judges*

Salaries for the judiciary are higher than in the civil service. For instance, a full professor at the Faculty of Law with a PhD, 25 years of experience and a great number of scientific and professional papers published receives approximately the same salary as a municipal court judge with, for example, only five years of professional experience (including the preparatory period). This net salary would be EUR 1 200 monthly. Therefore, salaries of judges are competitive and provide conditions for recruiting qualified people.

*Accountability of Judges and Prosecutors*

Since the previous report there have been no changes to the legal framework regarding accountability of judges and prosecutors. In 2007 two court judges were dismissed from service for serious misconduct.

Reference should be made to the judges' web, which is an online, publicly accessible database listing all judicial decisions. This is intended to bring more transparency to the system and to contribute to better judicial accountability. Only the Supreme Court publishes limited decisions online.

### Institutional capacity of the justice system to promote integrity and fight corruption

Despite considerable efforts to implement the judiciary reform strategy, involving both legislative and organisational initiatives, the judiciary is still perceived as slow, inefficient and prone to corruption. Recent reports on corruption perceptions and complaints to the Ombudsman on the judiciary functioning confirm these perceptions.

In terms of the operational capacity of courts, the number of judges remains relatively high:[25] there are 1 935 judges for a population of 4 443 000. But despite this high number of judges, in 2007 the average duration of proceedings in the administrative court was 3 years and 4 months, which is not in line with suitable standards. This situation is the result of a huge backlog of almost 39 000 pending cases.[26] In 2007, the 32 judges and 30 court advisors working at the administrative court decided 15 874 cases (9% more than in 2006). In the same year 14 409 new law suits were filed. In the Supreme Court in 2007 the number of cases filed was 7 008 (6 692 in 2006); total in process 9 451 (9 768 in 2006); cases solved: 6 856 (7 325 in 2006); cases remaining unsolved: 2 595 (2 443 in 2006). Between 2006 and 2007 the backlog was reduced by 14%.

### Main reasons for the inefficiency of courts

The current inefficiency of the courts is a result of several factors. In the majority of cases, judges in Croatia lack experience and are not adequately trained. In the municipal courts, 61.5% of all judges have less than six years of practice in court. In addition, the judges are relatively young. In the municipal courts 11.4% of the judges are younger than 30 and 27.3% are less than 35.

The General Administrative Procedures Law leads to a lack of transparency and unnecessary difficulties for citizens and enterprises, and may even promote petty corruption and lack of accountability (it involves more than 70 to 80 administrative procedures). Some examples are as follows:

[25] However, Croatia has a significantly lower number of administrative judges: there are 33 posts, including the president, five of which are vacant.

[26] These pending cases were mainly built up in the years 1998/1999 and were caused by a steep increase in the number of incoming cases (from 12 636 in 1997 to 20 602 in 1999).

- Some cases on the protection of rights and freedoms of human beings and citizens guaranteed by the constitution fall within the jurisdiction of the administrative court, while most are within the jurisdiction of the county courts. This raises some difficult legal questions about the demarcation between administrative and civil jurisdiction.
- Currently administrative disputes are decided on the facts established in the administrative proceedings. If a relevant fact is doubtful or has not been established at all, the administrative court has to refer the case back to the administrative body.[27]
- The current law only grants the administrative court cassation powers. The court is not competent, apart from a few exceptions, to legally oblige the administrative body to render the requested administrative act, i.e. a reformatory decision. As a result, some cases come back to the court several times. A reformatory system is more efficient, since the court only has to deal with a case once and the average duration of proceedings is shorter.
- Oral hearings are left to the discretion of the administrative court and in practice no oral hearings take place at all.
- Administrative dispute cases have to be decided by a chamber of three judges, and in some cases, of five judges.

***Other reasons for lengthy proceedings and the inefficient judiciary:***

- Law procedures are too long and complicated.
- The system of mediation is not used as a tool to develop the efficiency of the judiciary. The government has to grant incentives for the parties concerned to appeal to it, for example not paying fees. Instead parties prefer to appeal to the courts.
- Hearings are not recorded and so the proceedings are still manual: the judge dictates what has been said in the hearing room and this is transcribed by the court clerk.
- Proceedings are not computerised.
- Court staff are too few and lack skills, especially in information technology.
- There is not enough modern technology, even the judges, who usually do not have computers to write their judgements or to research relevant literature.
- The courts deal with petty matters such as non-payment of electricity bills, land registration, parking, and misdemeanour offences that should be dealt with by other administrative bodies as they are time-consuming for the court.
- Judges in smaller courts are charged with the administration matters management. Only in larger courts are the presidents assisted by a court secretary.
- Working conditions are not suitable (rooms, tools, communications, computers, registers).
- Insufficient court funding. The Ministry of Justice allocates resources every month, and it is not possible to transfer funds between budget headings as necessary, which limits capacity to purchase equipment.
- Judges' job rotation has not been institutionalised despite this being provided for in the new court act. Judges can be transferred up to 50km away without their permission, but not for further distances.

Against this background, a number of measures have been taken to increase the efficiency and reduce the length of judicial proceedings, as well as reduce the existing backlog[28]. For instance:

- The judicial reform strategy includes a programme to streamline the network of courts by gradual reducing 117 municipal courts to 65 by 2019, and by transferring court clerks and judges to other courts. This rationalisation process would cover 21 county courts[29] and 114 municipal courts. The

[27] Only under restricted circumstances may the Court establish the facts itself.

[28] It was mentioned that since 2004 the backlog of cases has fallen from 1.7 million to 900 000 cases (by almost 50%).

[29] County courts are first instance courts for criminal offences where the punishment is a prison sentence exceeding ten years. Criminal corruption offences have primarily been under the competence of the county courts since the adoption of the law on USKOK.

law on courts adopted in December 2006 introduced changes to make this merger possible.[30] The deadline to have this project passed is 15 July 2008, before the parliament summer break.

- The implementation of law on courts has allowed cases to be redistributed among judges to balance out the workload.
- Between 2006 and 2008 the State Attorney's office and USKOK redistributed cases from the busier state attorney's offices to less busy ones.
- The introduction of public notaries will decrease the number of cases coming to court.
- In 2006 the judiciary inspection system was set up within the Office of Organisation and Personnel. Its aim is to monitor the correct conduct of the judiciary.
- Implementing a computerised distribution system of cases in the higher courts will withdraw human influence as this task used to be performed by the court clerk.
- Adopting the Free Legal Act will facilitate access to justice that has been obstructed by high fees for legal services.[31] Under the bill, free aid can be provided by lawyers, associations and law schools.
- The computerisation of courts has already started and 2009 is the target year for all municipal courts to be IT connected.
- An electronic register of documents was planned to be fully operational by January 2008 (this didn't happen). It aims to make more simple and transparent the use of the information recorded in commercial registers.
- The Zagreb municipal court has been restructured.
- The webpage of the Supreme Court contains the dates, time and process identification of the public sessions in criminal cases. This will strengthen transparency in the judiciary.
- Training organised by the judiciary's Academy of Judges and attending seminars will increase judges' expertise.
- There is an obligation[32] for prosecutors and judges to attend continuous professional training and to attend it in an active manner. Attendance on this training is positively assessed in their professional appraisals and therefore plays a role in their career advancement.
- Specialised courts now conduct criminal proceedings in the field of corruption and organised crime. In County Courts there are already judges specialised in corruption.
- Improvements proposed to the current law on administrative disputes will increase the efficiency of judicial proceedings. These proposals include that:

    - Disputes over all law suits concerning administrative matters shall fall under the jurisdiction of the administrative courts. Article 6 of the European Convention on Human Rights and Article 17 of the Charter of Fundamental Rights of the European Union demand that at least one tribunal deciding the case has full jurisdiction over law and facts.
    - The administrative courts should be empowered to take reform decisions.
    - Oral hearings before at least one court should be mandatory.
    - A single judge should be restricted to first instance courts to increase the efficiency of the judiciary and to reduce judiciary related costs.
    - Administrative jurisdiction should be decentralised.

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30 The courts network was not changed in 2007 because of the legislative elections that took place.

31 Attorneys' fees are among the highest in Europe, whereas the country's GDP is about 50% of the EU average, and only 10-15% of the people have above average wages (about EUR 700 per month).

32 This was introduced in 2007 amendments to the Public Prosecution Service Act and Courts Act.

***The current institutional capacity of the judiciary to promote integrity and fight corruption is limited for the above reasons. There is still political influence on the recruitment system and this should be abolished. The appointment by the Minister of Justice of presidents of courts of first instance doesn't comply with EU standards, and brings the independence of the judiciary into question. More empowerment for the National Judicial Council to decide on this matter will be welcome. Further intensive training will be needed in cases involving organised crime and economic crime as it is still difficult to find good and specially qualified judges for such important trials.***

***To make the judicial system more efficient, modern and independent key improvements will be needed to the legal framework, courts' infrastructure and computerisation, human resources skills and expertise (judges and judicial clerks). The planned streamlining of municipal courts included in the reform of the judiciary will also be important. However as some of the structural changes have not yet been implemented, an impact assessment of government policy on the efficiency of the judiciary is currently unfeasible.***

## 9. Anti-corruption Policies and Strategies

Along with the reforms of the judiciary and public administration, the fight against corruption are important issues for Croatia in its EU accession process.

The National Programme for Fighting Corruption, adopted in March 2006 for the period up until 2008 produced some results. However these did not go far enough and it is being reviewed. By the end of March 2008 a new strategy had been drafted and sent for inter-institutional consultation. Other consultations were planned before it was adopted by government. According to the political schedule the strategy will be sent formally to the EC before the end of Slovenia's EU Presidency (30 June 2008). After that, the national programme will be updated and an action plan will be developed. HRK 24 million is the estimated amount needed for implementing the new strategy**.**

One of the problems that the new strategy aims to solve is the proliferation and overlapping of organisations in charge of preventing and fighting corruption, without proper and clear co-ordination and accountability mechanisms. The Ministry of Justice has the overall co-ordination role but it was reported that a Vice-Prime Minister was also in charge of some co-ordination functions.

All four directorates of the Office for the Prevention of Corruption and Organised Crime (USKOK) are now operational and its scope of intervention has been extended (since 2007 its mandate also covers abuse of office). It now favours a more preventive strategy than a reactive/repressive one. Simultaneously its action has been more focused, by investigating medium size and high corruption cases, putting into practice its motto: “Eagles don't catch flies”.

Legislation on the financing of political parties was amended in January 2007 in order to introduce greater transparency.

Recent amendments to the law on civil servants aim to depoliticise state administration, reduce corruption and improve the overall state administration integrity system. Amendments to the Civil Servants Act (28 February 2008) included the right of protection for civil servants reporting suspicion of corruption (whistleblowing) and other measures to aggravate sanctions for corruption.

Other initiatives announced by the government to improve transparency and reduce corruption include a legal “guillotine” to rationalise business-related regulation and a “one-stop-shop” to improve transactions. The current excessive demand for paperwork for both business and citizens create a fertile ground for graft. To open a new business in Croatia, applicants need to take 28 administrative steps, each of which offered an opportunity for corruption.

A draft law for the election of mayors is being prepared. It will be the first time that mayors will be elected directly, introducing more transparency in the election process and avoiding the influence of political parties.

It should also be mentioned that in 2008 the government established a new commission for monitoring the implementation of anti-corruption measures.[33] Its 20 members are mainly state secretaries from various ministries, the head of USKOK, vice-president of the Supreme Court, vice-state attorney, etc. The president is the Minister of Justice.

[33] Official Gazette 44/2008.

***Despite some improvements, the previous National Programme for Fighting Corruption did not produce the intended results and much is now expected of the new draft strategy. A broad strategy to prevent and combat corruption presupposes a sound ethical infra-structure: political commitment; an efficient legal framework; efficient mechanisms of coordination and accountability; codes of conduct; instruments of professional socialisation (case of training); good employment conditions and management in the civil service; and an active civil society, in which the media and the NGOs are included, to supervise the activities of government. It remains to be seen if all these aspects are considered by the new strategy and coherently implemented.***

*Legislative Activity against Corruption*

There have been minor changes to the Criminal Procedures Code[34] and the Criminal Code[35] (stricter penalties and certain new offences). For the first code, the changes are as follows:

- Some amendments to the rules which regulate custody have been introduced. The investigating judge has now been authorised to make decisions on custody (previously the court council, consisting of three judges, was in charge of these decisions). The purpose is to make court investigation decisions simpler (Art. 106).
- A new chapter on legal aid has been added. The police, state attorney offices and courts are authorised to ask for other state bodies' aid during criminal procedures. A court is obliged to inform, within eight days, the head of a state body that a criminal procedure has been started against its civil servant. Audio-visual and telephone conferences, conversations and their records are regulated, so as to become a fully acceptable part of criminal procedure(s). The purpose is to include new ICT technologies as fully legal aspects of the procedure and to make criminal procedure faster and simpler (Arts. 162.a-162.c).
- The list of felonies for which measures from Article 180 of the Criminal Procedure Code can be taken has been changed and extended (to include, for example, all sorts of computer and Internet felonies). These include, for example, secret recording of phone and mobile phone conversations, undercovered investigators, false buying or false bribing, etc. The purpose is to make investigations more effective (Changed Art. 181, point 2).

The following amendments have been made to the *Criminal Code*:

- New cases of fraud have been regulated ("special cases of fraud at the expense of the financial interest of the EU" – Art. 224b).
- A new felony — "abuse of powers with regard to the resources of the EU" — has been introduced (Art. 292a).
- A new case of felony — "evading custom supervision" at the expense of the EU — has been introduced (Art. 298, paragraph 4).
- Penalties for certain felonies have been increased (felonies against general security).

***Better Regulation and Quality of Legislation***[36]

Administrative simplification and good quality legislation are very important in improving transparency and in creating a trust by citizens and business. The Croatian government is aware of this and has adopted several measures intended to reduce red tape and to improve the overall quality of the legislation.

Problems relating to the quality of the legislation include[37]: i) insufficient (or absence of) consultation with stakeholders (*e.g.* in developing the new law on CoI, the Commission applying it was not consulted); ii) existing legislation is not reviewed carefully enough when a new law is passed, resulting in legal contradictions and conflicts in legal interpretation (*e.g.* the incompatibility between regulations LER and CoI); iii) too many loopholes which make it difficult in many cases to say what is illegal; iv) continuous amendments to legislation without republishing the integral version to facilitate its understanding; v)

34 Official Gazette 115/2006.

35 Official Gazette 71/2006 and 110/2007.

36 For more information on this topic see Sigma's report on Policy-Making and Coordination.

37 This problem is more acute at the level of the subordinate legislation.

existence of articles of law that are changed but that are not included in the new law when it is published in the *Official Gazette*, producing considerable confusion (as stressed by the Constitutional Court); vi) unclear wording of rules which makes interpretation difficult and increases opportunities for corruption (*e.g.* the new law on the restitution of property, which led to 15 000 complaints to the Ombudsman). Moreover, where the law is not explicit enough, the courts lack the courage to actively apply it, especially where political interests are in question.

In September 2006 HITROREZ was created as a specific body, directly accountable to the Prime-Minister, to review the existing legislative framework for business. Its main aim in the review was to take into consideration its constitutional compatibility and the harmonisation of the existing legislation with EU regulations. After nine months of work, recommendations have been submitted to the government: 1 451 pieces of legislation and regulations were screened and 799 pieces of legislation were recommended for revision. Of these, 449 recommendations were accepted and are available on the HITROREZ website. To date 194 recommendations have been implemented. However, HITROREZ's mandate is limited because it only involves monitoring the compliance of the laws with the constitution and the EU regulations. It does not look at their implementation or efficiency. Moreover, its scope is limited to regulations pertaining to the economy and does not include local level regulations, which are reportedly very problematic. Meanwhile, HITROREZ has been integrated into the new Office for Regulatory Impact Assessment, created in the middle of 2007. The objective of this office is to analyse, jointly with other ministries if justified, the creation of new legislation. In these cases there is a general obligation to carry out impact assessment. According to what has been agreed by the government this role is limited to fiscal impact assessment, and thus only covers impacts on the state budget. However, the control over the fiscal impact assessments is too weak and it is still often seen as a formality required by the EC.

Simplifying administrative procedures to reduce opportunities for corruption is another of the HITROREZ's targets. The draft law on general administrative procedures will largely support this effort as well.

A one-stop-shop has been set up for issues related to the creation of new companies. Another is envisaged for registering citizens' property because this is a big problem in Croatia (about one million cases are pending).

***The quality of the legislation is crucial if it is to be properly implemented and better understood by the public and business. Some better measures have been adopted, such as the project on regulatory simplification, the introduction of the impact assessment, the involvement of stakeholders in the legislative process (albeit in an* ad hoc *manner and at a early stage), and even the publication of draft laws on the website. However, it is important to raise the awareness of the importance of well-drafted legislation amongst all those involved in the legislative process. They should also receive training in legal drafting.***

### *Office for the Prevention of Corruption and Organised Crime (USKOK)*

USKOK was established by the law on the office for fighting corruption and organized crime.[38] It is the central body for implementing all anti-corruption activities in Croatia. Of the four departments that compose USKOK, the departments for Prevention of Corruption and for Public Relations, Investigation and Documentation and for International Cooperation were operational in March 2008. Currently this body is staffed with 19 public prosecutors (including the head) and 30 administrative staff. Its overall budget is HRK 15 million.

USKOK has both a preventive and enforcement role. Its current main focus is on corruption prevention. Its prevention activities include: to inform and raise citizens' awareness of the damage caused by corruption, to improve the level of awareness among private accountants and auditors on detecting and reporting corruption and to motivate public servants to denounce these cases. In the future, it will concentrate on more vulnerable areas and sectors to corruption.

In its enforcement role it targets the privatisation process, the judiciary, land registration, construction, licences and high level political corruption. Some relevant investigations were launched and have had an impact on public opinion: "five stars" (related to corruption in selling Croatian property); "operation Maestro" (related to the Croatian Privatisation Fund); and false war veterans (false medical reports allowing people to receive pensions and social benefits to which they are not entitled). These demonstrate that USKOK is finally looking at high level corruption.

[38] Minor amendments were introduced in 2007 - *Official Gazette* 76/2007.

In 2007, more than 2 000 reported suspicions of corruption to USKOK. The number of requested investigations sent to court also increased, from 269 in 2006 to 455 in 2007. The number of file indictments submitted in court in 2007 was 210. Of these 210 files, the court decided 193 guilty verdicts and 8 indictments were rejected.

A specific office was set up for the prosecution of organised crime, whose scope includes drug abuse, people trafficking and criminal associations. A new plan for 2007-2008 to combat organised crime was launched in August 2007. In 2007, 325 reports were submitted on organised crime, which represented an increase of 54% from 2006. Thirty-five groups/criminal associations were identified, five of which have 15-25 members and two of which have 26-30 members.

Improvements in co-operation between USKOK and the media and NGOs have been reported. Seminars and meetings for discussing methods of co-operation have been held. An inter-institutional co-operation has been developed. USKOK signed a co-operation agreement with the Tax Directorate in September 2006, which provides USKOK with direct access to tax databases. Co-operation with the police headquarters and the Anti-Money Laundering Department has also been developed. USKOK has prepared a project proposal under the EU pre-accession on assistance IPA funds which aims to strengthen its capacities by further structuring its co-operation with other institutional bodies involved in the fight against corruption. Activities could include joint investigation, joint training sessions for USKOK prosecutors and crime investigation police, co-operation between USKOK and Eurojust as well as OLAF officials, etc.).

Currently a new government strategy for fighting corruption is being prepared, as the measures in the previous plan have already been carried out (increasing awareness raising, training and transparency through the use of the Internet). Now changes are needed to adapt the measure to the new context. An action plan for combating organised crime is also being worded.

USKOK, as the central body for implementing all anti-corruption activities in Croatia, has been gradually strengthening its operational capacity and resources. This is proved by the dimension of the investigations it carried out.

***Economic Crime and Corruption Department of the Ministry of Interior***

This is a police unit in the Ministry of Interior (which is the general co-ordinator of anti-corruption and organised crime issues) which specialises in anti-corruption and economic crimes. It also has a role as an investigative arm for other bodies (like USKOK, Money-Laundering Prevention Office, etc).

One of its tasks is the supervision of the police regarding corruption. However, the situation in the police is reported as unsatisfactory and its control over them is considered very weak. In a way, it seems that the main intention is to support police officers in almost every situation, yet some police officers are reportedly involved in all sorts of crime and corruption, from taking bribes or violating citizens' rights on the roads to co-operating in trafficking, prostitution and narcotics. Thus, control over police functioning should be strengthened.

***Money-Laundering Prevention Office***

Acting as an intelligence unit on money-laundering at national and regional levels, the Money-Laundering Prevention Office is legally independent and has investigative powers[39] as well as an important role in prevention. To supervise money circulation with regard to money-laundering it co-operates with the Ministry of Finance, the Croatian National Bank and the Croatian Agency for Supervision of Financial Services.

In 2005, this office submitted 70 cases, for a total amount of EUR 100 million. In 2006 there were 281 new cases, a total of 1 162 people were investigated in the context of money-laundering (753 individuals and 409 legal persons). In 87 cases, the office informed other competent bodies about the suspicious circulation of money. At the same time, the office rerouted 51 pieces of information to other bodies about possible illegal activities of a different nature (not money-laundering). The office was involved in freezing five bank accounts whose holders were suspected of terrorism (on list R-1267 of the UN Security Council).

The office seems to be equipped with sufficient resources to operate successfully and to co-operate with other institutions on national (USKOK and others) and international levels. Internationally, it co-operates with the EGMONT Group, an association of financial-information units or agencies. Croatia has been a

[39] Law on Money-Laundering Prevention, Official Gazette 69/1997; 106/1997; 67/2001; 114/2001; 117/2003 and 142/2003.

member since 1998. In 2007 the office had 19 staff (the systematisation allows for 22) and so it may be said that the situation is satisfactory. The office's lack of professional experience was noted in the previous assessment report, but this is changing gradually.

A draft plan to combat money-laundering is currently being prepared.

***Financial Police***

Since the 2006 Sigma report there have been no changes to the Financial Police. Some respondents view the Financial Police as a completely unnecessary and unsuccessful organisation. It was abolished during Račan's government for being quite unsuccessful, with some of the inspectors engaged in criminal and ethically unacceptable behaviour. Its responsibilities overlap those of the Customs and the Tax Directorates.

***Tax Directorate and Customs Directorate***

No organisational or functional changes have been reported since the last assessment. In any case, the participation of the Tax Directorate in the taxpayer's identification number project should be underlined because if and when the single taxpayer's identification number is introduced it could be quite useful in fighting corruption in Croatia.

***Some of these bodies, namely those attached to the Ministry of Finance, require a functional review to weigh up the need to rationalise the institutions responsible for monitoring corruption and improve the quality of their work. The role and the scope of each body are not well defined: thus current responsibilities of the Financial Police overlap with those of the Customs Directorate and the Tax Directorate, which reduces the effectiveness of these bodies.***

***USKOK has improved its operational and co-ordination capacity in fighting corruption.***

## 10. International Co-operation against Corruption and Organised Crime

International co-operation (including at regional level) in this field continues to increase and it seems that Croatia has signed and ratified all the main conventions and treaties on corruption and organized crime (terrorism, trafficking of human beings, drugs, etc). For instance, the European Convention against Trafficking in Human Beings, signed in 2005, was ratified in 2007 by Croatia.

Moreover, several bilateral agreements and conventions have been signed with neighboring countries.

Co-operation in practice (exchange of information, extraditions, mutual assistance, etc.) is also improving.

***There are no major concerns about Croatia's international co-operation for tackling corruption and organised crime.***