

# CROATIA



April 2009

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## NATIONAL POLICY

The Republic of Croatia condemns international terrorism and is strongly committed to combating terrorism in all its forms and manifestations at national, regional and global level. In order to efficiently counter this threat, Croatia recognizes the need for strong and intensive co-operation with-within-and-among the United Nations, regional organisations and all States. Furthermore, close co-operation is necessary in order to find long-term solutions for many regional crises and to continue with necessary measures to incapacitate the ideological, organisational and financial supporters of terrorism. Having this in mind, the Republic of Croatia is actively participating in counter-terrorism efforts at national, regional and global level.

Croatia believes that terrorism is, at its very core, a war against democracy, and that the best weapon against it is in fact a democracy itself, coupled with the consistent preservation of and support for human rights. In this regard, Croatia firmly supports values and objectives of the UN Global Counter-Terrorism Strategy, especially the position that all counterterrorism measures must comply with the undertaken obligations under international law, including the Charter of the United Nations and relevant international conventions and protocols, and in particular with human rights law, refugee law and international humanitarian law. Croatia has always acted in accordance with those values and in line with provisions set by the United Nations, in particular those set by Committees established pursuant to relevant Security Council Resolutions.

Most notably, as a new non-permanent member of the United Nations Security Council, elected in late 2007 for the term of office 2008-2009, the Republic of Croatia was also immediately elected as a Chair of the Security Council's Counter-Terrorism Committee (CTC), the Working group established pursuant to Resolution 1566 and also in 2008 vice-chaired the 1540 Committee on weapons of mass destruction. During the Croatian Presidency the Security Council held on 09 December 2008 in New York, the Open thematic debate - Threats to International Peace and Security Caused by Terrorist Acts - on the initiative of Croatian President Stjepan Mesić who also chaired this meeting. The outcome of this meeting was a Presidential Statement in which the Security Council,

inter alia, called on all Member States of the United Nations to renew the degree of solidarity manifested immediately after the tragic events of 11 September 2001 and to redouble their efforts to tackle global terrorism (S/PRST/2008/45).

On a regional level, Croatia is also honoured that its representative was elected two years in a row to serve as Chair of the Council of Europe's Committee of Experts on Terrorism (CODEXTER). Furthermore, Croatia notes with satisfaction that the Workshop on International Cooperation on Counter-terrorism, Corruption and the Fight against Transnational Organized Crime (organized in Zagreb in early 2005 in close cooperation with the United Nations Office on Drugs and Crime - UNODC) intensified regional cooperation in the field of counterterrorism, as well as on the issues of corruption and the fight against transnational organized crime, through follow-up sub-regional expert meetings held in Bucharest (2006 and 2009) and Budapest (2008).

Croatia actively participates in many different international counterterrorism meetings and is determined to continue to do so in the future. Recognizing the importance of regional organizations in implementation of the United Nations Global Counterterrorism Strategy, the Republic of Croatia especially welcomes efforts of the Council of Europe and the OSCE and its Action against Terrorism Unit invested in organizing important meetings, both on a political and expert level, pertaining to new aspects of counterterrorism (including public-private partnerships, protection of critical infrastructure against terrorist attacks and cyber-terrorism etc.) as well as other, more traditional, counterterrorism topics.

## STRATEGIC FRAMEWORK

The Republic of Croatia has an integral approach to the prevention and suppression of terrorism which is at the same time adjusted to the particularities of the individual measures and procedures to counter terrorism. The Republic of Croatia has been systematically implementing institutional solutions as well as measures and activities as a reaction to general security challenges and to concrete threats, including international terrorism.

## **National Security Strategy Document<sup>1</sup>**

In addition to the obligation of implementation of relevant resolutions of the UN Security Council, the prevention and suppression of terrorism and the active contribution of the Republic of Croatia to global efforts were defined among the national security priorities in the National Security Strategy adopted by the Croatian Parliament on 19 March 2002. This document underlines the importance of implementing a series of specific measures for the purpose of neutralising security risks such as terrorism and organised crime.

These measures comprise the following:

- establishment of an efficient system of border control in the Republic of Croatia;
- deepening of police and intelligence co-operation with neighbouring countries on the surveillance and prevention of the activities of terrorist groups and organised crime;
- precise legal regulation of the status of immigrants and asylum seekers;
- alignment of extradition procedures for persons accused of the said activities with procedures in other EU countries (in particular with EU procedures);
- linking of relevant national databases with equivalent databases in other countries, in particular EU countries.

## **National Strategy for the Prevention and Suppression of Terrorism<sup>2</sup>**

Most importantly, on 27 November 2008 the Government of the Republic of Croatia adopted a National Strategy for the Prevention and Suppression of Terrorism. Its implementation Action Plan is expected to be adopted by the end of 2009. The Strategy emphasizes that the Republic of Croatia follows a zero tolerance principle towards terrorism. Moreover, it sets out the general framework of counterterrorism activities of the Republic of Croatia by providing guidelines for the improvement of existing, and for the development of new, measures, mechanisms and instruments for the prevention and suppression of terrorism. The strategy recognizes new key attributes of modern terrorism as well as new challenges and new needs in counterterrorism (cyber-terrorism, protection of critical national infrastructure, public-private partnership, relation with media and civil society in prevention of terrorism etc.)

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<sup>1</sup> Official Gazette – NN 32/02, [http://www.soa.hr/UserFiles/File/Strategy\\_Republic\\_of\\_Croatia.pdf](http://www.soa.hr/UserFiles/File/Strategy_Republic_of_Croatia.pdf)

<sup>2</sup> Official Gazette – NN 139/08, [http://narodne-novine.nn.hr/clanci/sluzbeni/2008\\_12\\_139\\_3896.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2008_12_139_3896.html)

Protection against the threat of terrorism is defined as an obligation on the State, to carry out its most fundamental function of ensuring conditions for a peaceful and secure life for all its citizens, free of violence and fear, democratic, tolerant, creative and prosperous, in conformity with law and order. For the Republic of Croatia, any form of terrorism aimed against it would be a serious and impermissible threat to its basic values and interests, because such a threat would jeopardise the security and life of its citizens. Therefore, for the Republic of Croatia, its priority is to develop comprehensive measures – both national and international – for the prevention and protection against all forms of the threat of terrorism, which through their efficiency, with immediate benefits, would induce a strong deterring effect on any terrorist threat which might arise against the Republic of Croatia.

The Republic of Croatia wants to prevent any form of activity by terrorists, terrorist groups or any related persons on its territory, as well as the use of its territory for any terrorism-related activities, such as public provocation of the criminal acts of terrorism, that is, distribution or circulation in some other way of materials with the intention of provoking the perpetration of the criminal acts of terrorism, where such conduct, regardless of whether it directly advocates the criminal offences of terrorism or not, results in the danger of perpetration of one or more of such criminal offences.

## **National Coordination**

Following the horrific events of 9/11, which unfortunately opened a new era in international terrorism, the Government of Croatia promptly established an Interagency Working Group (IWG) for Monitoring Implementation of United Nations Security Council Resolution 1373 (2001). Since then, Croatia has devoted much time, effort and resources to adjusting its legislation to bring it in line with the requirements of Resolution 1373 (2001). In accordance with the guidelines for the submission of national reports, the Working Group prepared the first of four Reports of the Republic of Croatia on the Suppression of Terrorism which was submitted to the Security Council on 24 December 2001.<sup>3</sup>

In the meantime, numerous international and regional initiatives have come into existence and have subsequently created new tasks for governments. Mindful of the necessity to combat terrorism on a plethora of levels, at its session on 21 April 2005 the Croatian Government adopted a Decision on the establishment of the Interagency Working Group for the Suppression of Terrorism. Pursuant to this Decision, the Interagency Working

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<sup>3</sup> <http://www.un.org/Docs/sc/committees/1373/c.htm>

Group was tasked with monitoring the implementation of Resolution 1267 (1999) on measures against the Taliban regime, Resolution 1373 (2001) on the suppression of terrorism and Resolution 1566 (2004) on the threat to international peace caused by terrorist attacks, and the implementation of other relevant international documents and initiatives within the European Union, NATO, the Council of Europe and the OSCE in the field of the fight against terrorism.

The chairmanship of the IWG belongs to the Ministry for Foreign Affairs and European Integration which coordinates the work of all the relevant government bodies included in the IWG: Ministry of the Interior; Ministry of Defence; Ministry of Justice; State Attorney's Office; Ministry of Finance (Customs Administration, Financial Inspectorate and Money Laundering Prevention Office); Croatian National Bank (CBA); Ministry of Economy, Labour and Enterprise; Ministry of Sea, Transport and Infrastructure; National Protection and Rescue Directorate, State Office for Nuclear Safety, as well as the Security and Intelligence Agency and Military Security and Intelligence Agency. The tasks of the Interagency Working Group are:

- to promote and coordinate the activities of competent state bodies concerning the implementation of anti-terrorist measures, and to draw up reports within their scope for every reporting period on individual activities and measures undertaken to implement them in accordance with the guidelines for the drawing-up of the Report to the UN Security Council's Counter-Terrorism Committee and to other international institutions;
- to examine the reports of competent state bodies delivered to the Working Group as background for the preparation of the integral reports of the Republic of Croatia;
- to ensure coordinated interagency activities in response to the questions of the UN Security Council's Counter-Terrorism Committee and other international institutions and interested parties;
- to propose viewpoints to be presented by the delegations of the Republic of Croatia at international conventions on terrorism;
- to report to the government of the Republic of Croatia on activities undertaken in the fulfilment of the obligations assumed under the UN Security Council resolutions and international legal documents; on the activities of the Working Group; and on reports submitted to the UN Security Council's Counter-Terrorism Committee and other international institutions.

Within the scope of the activities of the Interagency Working Group, each member of the group is, in particular, in charge of:

- coordinating measures, within his/her scope, aimed at implementing the obligations assumed under the UN Security Council resolutions and international legal documents;
- preparing and drafting, within his/her scope, reports on individual activities and measures undertaken in each reporting period;
- collecting data in order to formulate responses to individual questions from the resolutions of the UN Security Council's Counter-Terrorism Committee, other international institutions and interested parties.

Conscious of the emerging threat of possible terrorist use of weapons of mass destruction, at its session on 10 November 2005 the Government of the Republic of Croatia also adopted a Decision on the establishment of the National Commission for the Prevention of the Proliferation of Weapons of Mass Destruction and Equipment, Technology and Material related to these Weapons.

This Decision was adopted for the purpose of implementing Security Council Resolution 1540 (2004) and relevant international conventions within the framework of the Republic of Croatia's support for the Proliferation Security Initiative. The Commission's objective is to suppress the proliferation and prevent the unauthorised transfer, including transport and transit, of weapons of mass destruction (nuclear, biological and chemical weapons, and related materials) in order to remove the danger of such weapons being used during possible terrorist attacks.

## **LEGAL FRAMEWORK**

All counterterrorism activities undertaken by the competent bodies of the Republic of Croatia are in line with the political and legal framework of the Republic of Croatia, including all the legal norms prescribed by international conventions. Croatian authorities use wide-ranging legislation in order to cover the different aspects of the suppression of terrorism. The same legislation is also used in fighting organised crime, corruption, illegal smuggling and trade, and other forms of crime. To date the Republic of Croatia has ratified 14 key international conventions on the suppression of terrorism, including the United Nations "Palermo" Convention against Transnational Organized Crime, and its three Protocols, and also the United Nations "Merida" Convention against Corruption. Additionally, at the regional level, Croatia has also ratified the Council of Europe Convention on the Prevention of Terrorism (on 21 January 2008) and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (on 10 October 2008). Accordingly, domestic laws have consequently been

amended as well (e.g. the Criminal Code, the Criminal Procedure Act, the Money Laundering Prevention Act, the Foreign Exchange Act, the Asylum Act, etc).

International treaties pertaining to the suppression of terrorism, to which the Republic of Croatia is a party, form a part of the Croatian legal system. Pursuant to Article 140 of the Constitution of the Republic of Croatia: "International agreements concluded and ratified in accordance with the Constitution and made public, and which are in force, shall be part of the internal legal order of the Republic of Croatia and shall be above law in terms of legal effects." This also includes relevant Security Council resolutions adopted under Chapter VII of the United Nations Charter, and derived materials (namely the Consolidated List ).<sup>4</sup> Following its political and international legal obligations as a member of the United Nations, the Republic of Croatia has adjusted its legislation to bring it into line with the requirements of UN Resolution 1373 (2001).

### Recent Developments

In 2008 an important set of new and/or amended counterterrorism instruments were adopted. The most significant legislative changes include new amendments to the Criminal Code. New provisions represent a major improvement in relation to achieving a necessary coherence of previous terrorism related articles. Several new and important changes introduced therein also enabled direct incorporation of provisions of international and regional legal instruments, including requirements of the UNSC Resolution 1624 (2005).

Moreover, a new Act on Suppression of Money Laundering and Financing of Terrorism amended and improved already existing *lex specialis* in this field and thus accepted the recent MONEYVAL recommendations and achieved harmonization with the "Third" EU Directive on the Prevention of the Use of the Financial System for the Purpose of Money Laundering and Terrorist Financing (2005/60/EC).

Further, a new International Restrictive Measures Act was adopted on 21 November 2008. This Act enables a more comprehensive and efficient implementation of the sanctions regimes, counting as well existing counterterrorism sanctions, that are adopted within the framework of the UN and the European Union (and other international organizations), including also those restrictive measures that the Republic of Croatia introduces in accordance WITH other obligations that are in

conformity with international law.

Croatian legislation is available on the Internet at the web-site of the Official Gazette of the Republic of Croatia - "Narodne novine - NN" (only in Croatian),<sup>5</sup> and partially on the website of the Supreme Court (in English).<sup>6</sup> The relevant legislation also includes:

- the Constitution of the Republic of Croatia – NN 41/01;<sup>7</sup>
- the National Security Strategy - NN 32/02;<sup>8</sup>
- the Defence Strategy - NN 33/02;<sup>9</sup>
- the National Strategy for the Prevention and Suppression of Terrorism – NN 139/08;<sup>10</sup>
- the Criminal Code - NN 110/97,<sup>11</sup> 27/98,<sup>12</sup> 129/00,<sup>13</sup> 51/01,<sup>14</sup> 111/03,<sup>15</sup> 105/04,<sup>16</sup> 84/05,<sup>17</sup> 71/06,<sup>18</sup> 110/07,<sup>19</sup> 152/08;<sup>20</sup>
- the Criminal Procedure Act - NN 62/03<sup>21</sup> (the purified English text<sup>22</sup> includes the original act published in NN No 110/97,<sup>23</sup> as well as amendments published in NN 27/98,<sup>24</sup> 58/99,<sup>25</sup> 112/99,<sup>26</sup> 58/02<sup>27</sup> and 143/02 ),<sup>28</sup> 115/06;<sup>29</sup>

<sup>5</sup> <http://www.nn.hr/>

<sup>6</sup> <http://www.vsrh.hr/EasyWeb.asp?pcpid=286>

<sup>7</sup> <http://www.nn.hr/clanci/sluzbeno/2001/0705.htm>

English:

[http://www.usud.hr/default.aspx?Show=ustav\\_republike\\_hrvatske&m1=27&m2=50&Lang=en](http://www.usud.hr/default.aspx?Show=ustav_republike_hrvatske&m1=27&m2=50&Lang=en) or

<http://www.soa.hr/UserFiles/File/constitution.pdf>

<sup>8</sup> <http://www.nn.hr/clanci/sluzbeno/2002/0692.htm>

English:

[http://www.soa.hr/UserFiles/File/Strategy\\_Republic\\_of\\_Croatia.pdf](http://www.soa.hr/UserFiles/File/Strategy_Republic_of_Croatia.pdf)

<sup>9</sup> <http://www.nn.hr/clanci/sluzbeno/2002/0708.htm>

<sup>10</sup> [http://narodne-](http://narodne-novine.nn.hr/clanci/sluzbeni/2008_12_139_3896.html)

[novine.nn.hr/clanci/sluzbeni/2008\\_12\\_139\\_3896.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2008_12_139_3896.html)

<sup>11</sup> <http://www.nn.hr/clanci/sluzbeno/1997/1668.htm>

<sup>12</sup> <http://www.nn.hr/clanci/sluzbeno/1998/0333.htm>

<sup>13</sup> <http://www.nn.hr/clanci/sluzbeno/2000/2385.htm>

<sup>14</sup> <http://www.nn.hr/clanci/sluzbeno/2001/0816.htm>

<sup>15</sup> <http://www.nn.hr/clanci/sluzbeno/2003/1496.htm>

English:

[http://www.vsrh.hr/CustomPages/Static/HRV/Files/Legislation\\_Criminal-Code.pdf](http://www.vsrh.hr/CustomPages/Static/HRV/Files/Legislation_Criminal-Code.pdf)

<sup>16</sup> <http://www.nn.hr/clanci/sluzbeno/2004/2026.htm>

<sup>17</sup> <http://www.nn.hr/clanci/sluzbeno/2005/1640.htm>

<sup>18</sup> <http://www.nn.hr/clanci/sluzbeno/2006/1706.htm>

<sup>19</sup> <http://www.nn.hr/clanci/sluzbeno/2007/3227.htm>

<sup>20</sup> [http://narodne-](http://narodne-novine.nn.hr/clanci/sluzbeni/2008_12_152_4150.html)

[novine.nn.hr/clanci/sluzbeni/2008\\_12\\_152\\_4150.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2008_12_152_4150.html)

<sup>21</sup> <http://www.nn.hr/clanci/sluzbeno/2003/0740.htm>

<sup>22</sup> [http://www.vsrh.hr/CustomPages/Static/HRV/Files/Legislation\\_Criminal-Procedure-Act.doc](http://www.vsrh.hr/CustomPages/Static/HRV/Files/Legislation_Criminal-Procedure-Act.doc)

<sup>23</sup> <http://www.nn.hr/clanci/sluzbeno/1997/1669.htm>

<sup>24</sup> <http://www.nn.hr/clanci/sluzbeno/1998/0334.htm>

<sup>25</sup> <http://www.nn.hr/clanci/sluzbeno/1999/1069.htm>

<sup>26</sup> <http://www.nn.hr/clanci/sluzbeno/1999/1824.htm>

<sup>27</sup> <http://www.nn.hr/clanci/sluzbeno/2002/1059.htm>

<sup>28</sup> <http://www.nn.hr/clanci/sluzbeno/2002/2313.htm>

<sup>29</sup> <http://www.nn.hr/clanci/sluzbeno/2006/2558.htm>

<sup>4</sup> <http://www.un.org/sc/committees/1267/consolist.shtml>

- the Security Intelligence System Act – NN 79/06;<sup>30</sup>
- The Police Act (NN 129/00)<sup>31</sup>
- the Act on the Liability for Damage Incurred as a Consequence of Terrorist Acts and Public Demonstrations – NN 117/03;<sup>32</sup>
- the Act on Liability of Legal Entities for Criminal Acts - NN 151/03,<sup>33</sup> 110/07;<sup>34</sup>
- the International Restrictive Measures Act – NN 139/08<sup>35</sup> (replaced the previous Act on International Restrictive Measures);
- Anti-Money Laundering and Terrorist Financing Act – NN 87/08<sup>36</sup> (replaced the previous Money Laundering Prevention Act);
- the Act on International Legal Assistance in Criminal Matters - NN 178/04,<sup>37</sup> etc.

### Penal law

In the process of aligning the Croatian criminal law with the legal norms and provisions of the EU, Croatia achieved complete harmonisation with the Framework Council Decision on combating terrorism of June 2002 (definition of the criminal act of terrorism; criminal acts of association in the terrorist group; criminal acts connected to terrorist activities; inciting, aiding and attempting of terrorist acts; penalties and special circumstances; liabilities of legal entities and sanctions against legal entities; competence and criminal prosecution; protection of, and assistance to, victims).

Croatian Parliament adopted on 18 December 2008 a set of important amendments to the Criminal Code, especially in regards to counterterrorism provisions. Previous articles on domestic and international terrorism have been merged and new offences have been introduced (e.g. Public Instigation to Terrorism, Recruitment and Training for Terrorism). These changes directly incorporated provisions of relevant international and regional legal conventions and protocols, including requirements of the UNSC Resolutions 1373 (2001) and 1624 (2005). Besides

<sup>30</sup> <http://www.nn.hr/clanci/sluzbeno/2006/1912.htm>

English:

[http://www.soa.hr/UserFiles/File/Zakon\\_o\\_sigurnosno-obavjestajnom\\_sustavu\\_RH\\_eng.pdf](http://www.soa.hr/UserFiles/File/Zakon_o_sigurnosno-obavjestajnom_sustavu_RH_eng.pdf)

<sup>31</sup> [http://narodne-](http://narodne-novine.nn.hr/clanci/sluzbeni/2000_12_129_2382.html)

[novine.nn.hr/clanci/sluzbeni/2000\\_12\\_129\\_2382.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2000_12_129_2382.html)

<sup>32</sup> <http://www.nn.hr/clanci/sluzbeno/2003/1635.htm>

<sup>33</sup> <http://www.nn.hr/clanci/sluzbeno/2003/2178.htm>

<sup>34</sup> <http://www.nn.hr/clanci/sluzbeno/2007/3228.htm>

English:

[http://www.vsrh.hr/CustomPages/Static/HRV/Files/Legislation\\_Responsibility-Legal-Persons-CO.pdf](http://www.vsrh.hr/CustomPages/Static/HRV/Files/Legislation_Responsibility-Legal-Persons-CO.pdf)

<sup>35</sup> [http://narodne-](http://narodne-novine.nn.hr/clanci/sluzbeni/2008_12_139_3885.html)

[novine.nn.hr/clanci/sluzbeni/2008\\_12\\_139\\_3885.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2008_12_139_3885.html)

<sup>36</sup> [http://narodne-](http://narodne-novine.nn.hr/clanci/sluzbeni/2008_07_87_2792.html)

[novine.nn.hr/clanci/sluzbeni/2008\\_07\\_87\\_2792.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2008_07_87_2792.html)

<sup>37</sup> <http://www.nn.hr/clanci/sluzbeno/2004/3086.htm>

the fact that all criminal terrorist acts described in international legal instruments, to which the Republic of Croatia is a party, can be utilized in the criminal prosecution, new articles of the Croatian Criminal Code provide explicit criminalisation of terrorist offences on their own, as follows:

“Terrorism

Article 169

(1) Whosoever, with the intent of causing major fear among the population, with the intent of forcing the Republic of Croatia, a foreign state or international organisation to perform or abstain from performing any act, or with the intent of seriously jeopardising or destroying the fundamental constitutional, political or social values, the constitutional structure of state authority and the economic units of the Republic of Croatia, of a foreign state or an international organisation, commits one of the following acts:

a) attacking a person’s life, physical integrity or freedom;

b) kidnapping or taking of hostages;

c) causing destruction to state or public facilities, a transport system, infrastructure, including IT systems, fixed platforms located on the continental shelf, a public place or private property likely to endanger human life or cause major economic loss;

d) seizure of aircraft, ship or other means of public transport or transport of goods which is likely to endanger people's lives;

e) manufacture, possession, acquisition, transport, supply or use of weapons or explosives,

f) or of nuclear or radioactive material or devices, nuclear, biological or chemical weapons;

g) research into and development of nuclear, biological or chemical weapons;

h) releasing dangerous substances, or causing fires, explosions or floods or undertaking other generally perilous acts which may endanger people’s lives;

i) disrupting or interrupting the supply of water, electricity or other fundamental natural resources or goods which is likely to endanger people's lives

shall be punished by imprisonment for no less than five years.

(2) Whosoever threatens to commit a criminal act referred to in paragraph 1 of this Article shall be punished by imprisonment for between one and five years.

(3) If the perpetrator, while committing a criminal act referred to in paragraph 1 of this Article, intentionally causes the death of one or more persons, he/she shall be punished by imprisonment for no less than ten years or by long-term imprisonment.

(4) If, by the criminal act referred to in paragraph 1 of this Article, the death of one or more persons or large-scale destruction is caused, the perpetrator shall be punished by imprisonment for no less than ten years.”

“Public provocation to terrorism

Article 169a

(1) Whosoever, with the intent of committing the criminal act referred to in Article 169 of this Code, publicly presents or spreads ideas by which terrorism is directly or indirectly incited and thus causes the danger that this criminal act may be committed, shall be punished by imprisonment for between one and ten years.

(2) To institute criminal proceedings concerning the criminal act referred to in this Article, the approval of the State Attorney General of the Republic of Croatia is required.”

“Recruitment and training for terrorism

Article 169b

(1) Whosoever, with the intent of committing the criminal act referred to in Article 169 of this Code, solicits another person to commit or participate in the commission of the criminal act of terrorism or to join a group of people or a criminal organisation with the intent of contributing to the commission of this criminal act by the group or criminal organisation - shall be punished by imprisonment for between one and ten years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whosoever, with the intent of committing the criminal act referred to in Article 169 or this Code, provides instructions in the making or use of explosive devices, firearms or other weapons or harmful or dangerous substances or trains another person in applying methods and techniques for the commission, or participation in the commission, of this criminal act.

(3) To institute criminal proceedings concerning the criminal act referred to in this Article, the approval of the State Attorney General of the Republic of Croatia is required.”

“Article 187a

Association for the Purpose of Committing Criminal Offences against the Values Protected by International Law

(1) Whosoever organizes a group of people or in some other way joins three or more persons in common action for the purpose of committing the criminal offences referred to in Articles 156 - 160, Articles 169 - 172 and Articles 179 and 181 of this Code shall be punished by imprisonment for between three and fifteen years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whosoever, in whatever manner, directly or indirectly, gives or raises funds knowing that they will, fully or partially, be used for the purpose of committing the criminal offence referred to in paragraph 1 of this Article.

(3) The perpetrator of the criminal offence referred to in paragraph 2 of this Article shall be punished irrespective of whether the funds have been fully or

partially used for the purpose of committing the criminal offence referred to in paragraph 1 of this Article and irrespective of whether the act has only been attempted.

(4) The funds referred to in paragraph 2 of this Article shall be forfeited.”

## Procedural Rules

### Jurisdiction and Criminal Proceedings

The Criminal Code describes the applicability of criminal legislation to criminal offences and particularities regarding the institution of criminal proceedings for criminal offences, whether they are committed within or outside of the territory of the Republic of Croatia, or aboard its vessels or aircraft.<sup>38</sup> According to Article 16 of the Criminal Procedure Act, criminal cases shall be considered in municipal courts, county courts and the Supreme Court of the Republic of Croatia.

These courts shall, within the limits of their subject matter and territorial jurisdiction, consider all criminal offences and try all persons, unless otherwise provided by law. The jurisdiction of courts is further described in detail in Articles 17-35. In cases where it cannot be established which court has territorial jurisdiction, the Supreme Court of the Republic of Croatia has the power to designate one of the courts with competence for the subject matter to conduct the proceedings.

The institution of criminal proceedings is described in the Criminal Code and the Criminal Procedure Act. Article 8 of the Criminal Code states that criminal proceedings for criminal offences shall be instituted by the State Attorney's Office on his/her own initiative in the interests of the Republic of Croatia and all its citizens (relevant legislation available only in Croatian).<sup>39</sup>

It should be noted that the legal provisions that are in force in the Republic of Croatia are aligned with the International Covenant on Civil and Political Rights and the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms. The legislation of the Republic of Croatia strictly regulates when and under which conditions human rights may be temporarily limited. It also prescribes the actions of the police in the fight against all aspects of crime, including terrorism.

The Criminal Procedure Act<sup>40</sup> contains procedural institutes and measures that provide the State

<sup>38</sup> Articles 13-16 of the Criminal Code

<sup>39</sup> <http://www.dorh.hr/default.asp?ru=183&sid=&akcija=&jezik=1>

<sup>40</sup> Articles 3-6, 186 and 237 of the Criminal Procedure Act

Attorney's Office, the police and the courts with a legal framework for the detection, investigation and prosecution of criminal offences of terrorism and for the pronouncing of criminal legal sanctions on the perpetrators thereof. However the founding bases for the protection of human rights are laid down in the Croatian Constitution,<sup>41</sup> e.g.:

- presumption of innocence;
- arrest on the condition of a valid court warrant;
- unconditional humane treatment and respect for the dignity of the detained person;
- the right to an independent and fair trial;
- the right to be informed, in detail, in a language the person understands and within the shortest possible time, of the nature and reasons for the charges against him/her and of the evidence incriminating him/her;
- the right to have adequate time and opportunity to prepare his/her defence;
- the right to defence counsel and free communication with him/her, and to be informed of this right;
- the right to defend him/herself in person or with the assistance of defence counsel of his/her own choice, and if he/she lacks resources to engage counsel, to have free counsel under the terms specified by law;
- the right to be tried in his/her presence if he/she is able to have access to the court;
- the right to interrogate the prosecution witness(es) or to have them interrogated and to demand the presence of the defence witness(es) and that they be heard under the same circumstances as the witness(es) for the prosecution;
- the right to the free assistance of an interpreter if he/she does not understand the language used in court.

### Investigation Methods

According to the Criminal Procedure Act,<sup>42</sup> the State Attorney may instruct the police authorities to obtain all the necessary information and undertake any other measures required for the discovery of an offence and the perpetrator.<sup>43</sup> The State Attorney may determine the measures or actions in more detail in his/her request to the police authorities and require immediate information from the police authorities about the measures or actions undertaken.

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<sup>41</sup> Personal and political freedoms and rights, Articles 21-47 of the Croatian Constitution

<sup>42</sup> Article 183 of the Criminal Procedure Act

<sup>43</sup> Article 186 and Article 179

At his/her request, the police authorities, the Ministry of Finance, the State Audit Office and other state authorities, organisations, banks and other legal entities shall deliver to the State Attorney the information required, with the exception of information representing a lawfully protected secret. Failure to comply with the request of the State Attorney or undue delay in the delivery of the required information constitutes a severe violation of public or official duty.

When collecting information from suspects, the State Attorney shall proceed in accordance with the provisions of the Criminal Procedure Act (CPA)<sup>44</sup> in which case the State Attorney's records on information collected from suspects in the presence of their defence counsel may be used as evidence in criminal proceedings. When collecting or giving information, the State Attorney and other state authorities and organisations shall be bound to proceed with consideration, taking care not to harm the honour and reputation of the person to whom the information refers.

The Criminal Procedure Act contains provisions on so-called special investigative measures. These are measures used to temporarily limit certain constitutional rights and freedoms of citizens for the purpose of criminal proceedings. If a criminal investigation cannot be conducted in any other manner or would otherwise encounter significant difficulties, upon the request of the public prosecutor, an investigating judge may order measures against a person which temporarily limit certain constitutional rights of citizens if there is a well founded suspicion that he/she committed a criminal offence alone or participated in a criminal offence together with other persons. The following measures can be taken:<sup>45</sup>

- surveillance and technical recording of telephone conversations and other means of long-distance technical communication;
- entry into premises in order to carry out the surveillance and technical recording of premises;
- secret surveillance and technical recording of persons and objects;
- use of undercover investigators and informers;
- simulated purchase of objects and simulated giving and receipt of bribes;
- controlled transport and delivery of objects related to a criminal offence.

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<sup>44</sup> Articles 177, paragraph 5, and 225 of the Criminal Procedure Act

<sup>45</sup> Article 180 of the Criminal Procedure Act

Article 192 of the CPA defines the criminal offences to which these measures may apply. Some of these various criminal offences are closely related to or can be considered as a part of international terrorism: offences against the Republic of Croatia, offences against values protected by international law, offences against the Armed Forces of the Republic of Croatia; murder, kidnapping, robbery with severe consequences, cyber-counterfeiting, cyber-fraud, extortion, blackmail, serious criminal offences against public safety, counterfeiting of money, money laundering, avoiding customs control, obstruction of evidence, duress against an official engaged in the administration of justice, association for the purpose of committing a criminal offence, as well as criminal offences committed by a group or criminal organisation in concurrence, illicit possession of weapons and explosive substances, accepting bribes, bribery, other offences punishable by long-term imprisonment, etc.

The Police Act (NN 129/00)<sup>46</sup> prescribes the authority, and the Security Intelligence System Act<sup>47</sup> prescribes the manner of conduct with regard to the prevention and disclosure of criminal offences, including terrorism. The application of police authority must be proportional to the need for which it is undertaken and must not cause more harm than would have occurred had police authority not been applied.

Among several police authorities, the one which is likely to cause the least harm and achieve the objective in the shortest possible time should be applied. The measures applied should last for no more than four months. At the request of the State Attorney, the investigative judge can prolong such measures for a period of three months. If there is a disagreement between the State Attorney and the investigative judge, the final decision will be taken by the council of the municipal court. Upon the cessation of the preconditions for surveillance, the investigative judge is obliged to end the application of measures. If the State Attorney decides not to start the prosecution process, or if it is not necessary to prosecute, the collected data shall be destroyed under supervision of the investigative judge and shall be officially recorded in the case file.

Special investigative measures can also be applied on the basis of the Act on International Legal Assistance in Criminal Matters<sup>48</sup> and upon the request of a foreign judicial body. In such cases, the domestic judiciary decides on the use of measures which temporarily limit certain constitutional rights

defined under the Criminal Procedure Act. The Asylum Act (NN 79/07)<sup>49</sup> and the Aliens Act<sup>50</sup> (NN 79/07)<sup>51</sup> provide an additional legal basis for countering terrorism from the perspective of controlling the residence and migration of foreigners in the Republic of Croatia.

## Security Services

On 30 June 2006, the Croatian Parliament adopted a new Security Intelligence System Act that restructured the previous security services of the country. The Intelligence and Counterintelligence Services merged and function as a new Security-Intelligence Agency (SIA) accompanied by the Military Security-Intelligence Agency. These agencies conduct their activities in accordance with the Constitution, relevant national legislation, the National Security Strategy, the Defence Strategy and the Annual Guidelines for the Work of Security Services.

The Agencies present annual reports, as well as extraordinary reports, to the President of the Republic of Croatia, the President of the Parliament (Hrvatski sabor), the Chair of the Parliament's National Security Committee, the Head of the Office of the National Security Council and the President of the Government. Other reports, pending on a case, can also be given to the Minister of Defence and other State officials, the Head of the Joint Chief of Staff and State Attorney's Office (Article 55). The control of secret services is conducted by the Parliament's National Security Committee, the Office of the National Security Council and the Council for Citizen's Supervision of Security-Intelligence Services (Articles 103 and 104).

All government bodies, the judiciary and other legal entities that keep and control records/databases that include personal information, are bound to give access to this information to representatives of the security services. Pursuant to Article 25, the security services are allowed to gather information: directly from citizens, from open public sources, by accessing official records and different databases and, if necessary, by applying covert procedures and measures. Measures on secret information gathering can be applied for a maximum of four months, with the possibility of an extension, and are as follows (Article 33):

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<sup>46</sup> Article 16

<sup>47</sup> Articles 25-38, 52-57

<sup>48</sup> Article 24 of the Act on International Legal Assistance in Criminal Matters

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<sup>49</sup> <http://www.nn.hr/clanci/sluzbeno/2007/2474.htm>

<sup>50</sup> <http://policija.hr/mup.hr/UserDocsImages/engleska%20verzija/The%20Aliens%20Act.pdf>

<sup>51</sup> <http://www.nn.hr/clanci/sluzbeno/2007/2473.htm>

1. Secret surveillance of telecommunication services, activity and traffic:

- a) Secret surveillance of the communication content
  - b) Secret surveillance of the telecommunication traffic data (intercept related information)
  - c) Secret surveillance of the location of the user
  - d) Secret surveillance of international telecommunications.
2. Postal censorship,
3. Secret surveillance and technical recording of the interior of facilities, closed spaces and objects,
4. Secret surveillance and monitoring, with recording of images and photos of persons in the open and public spaces,
5. Secret surveillance and monitoring, with audio recording of the content of communication between persons in the open and public spaces,
6. Secret purchase of documents and objects.

The implementation of these measures (Article 33, paragraph 3, items 1b, c, d, 4 and 6) can be approved by the heads of the Security-Intelligence Agencies in writing and with a justified warrant. When the necessary information cannot be obtained in any other manner or when to gather such information would produce disproportionate difficulties, the Head of the Security-Intelligence Service is authorised to present a written, well argued request to the Supreme Court for the approval of the application of each and every needed covert measure (Article 33, paragraph 3, items 1a, 2, 3 and 6). As these measures may temporarily restrict some constitutional rights and freedoms, they can only be authorised with the written approval of the judge of the Supreme Court, who is appointed by the President of the Supreme Court. If the judge of the Supreme Court does not give the necessary approval or denies it, he/she must report his/her reasons for this decision to the Office of the National Security Council (Article 36).

Exceptionally, when there is a risk that an important opportunity may be missed due to administrative procedures (time needed for approval prolonged or even approval denied), covert measures can be temporarily approved by the head of the security service, who is then bound to obtain the approval of the judge of the Supreme Court within 24 hours or face the obligation to destroy all the data gathered in the process. A judge who has decided to refuse such a request must report on his/her reasons to the National Security Council or the relevant committee for national security. The whole preliminary process (request, approval, denial, etc.), actions taken during the gathering process and all the data accumulated are considered a state secret.

Additionally, where there are several methods of gathering information available, the one which causes the least harmful consequences and achieves

the objective in the shortest possible time should be applied (Article 33). The heads of the security intelligence services are obligated to report on all requests for covert measures on a monthly basis to the Office of the National Security Council and to the State Attorney (measures under Article 33, paragraph 3, item 6). The Security-Intelligence Agency notifies the State Attorney's Office if it collects data which indicates the preparation or commission of a criminal offence which is prosecuted ex officio (all criminal offences of terrorism).

With the aim of increasing their mutual co-operation in countering terrorism, on 25 August 2006 the SIA and the Ministry of the Interior signed an "Agreement on the Exchange of Data for Preventive Countering of Terrorism through State's Border Control" which defines methods and *modus operandi*, as well as the exchange of collected data. Furthermore, at the beginning of 2007, the SIA also signed a "Protocol on Co-operation and the Establishment of an Inter-Institutional Working Group for Prevention of Money Laundering and Financing of Terrorism" that provides an additional platform for coordination in this field.

The Croatian security services co-operate with their foreign counterparts and international organisations (in accordance with Articles 59 and 60), and through their everyday activities diminish the terrorist threat in and outside of the Republic of Croatia. The SIA is also a member of the Middle European Conference of Intelligence Services (MEC) and an observer in the Southeast-Europe Conference of Intelligence Services (SEEC).

If presented with credible data, the Croatian security services are allowed to give information on citizens of the Republic of Croatia that may be considered threats to the national security of another country in response to a request from a foreign intelligence agency. The requested information shall not be shared with the foreign intelligence agency if to do so would be against the interests of the Republic of Croatia, or if the security of the persons in question is of greater importance. The given material can be used for no purpose other than that which was specifically stated in the request. The security services have the right to know how the given information is used.<sup>52</sup>

## Other relevant legislation

### International Restrictive Measures

The Croatian Parliament adopted, on 21 November 2008, a new International Restrictive Measures Act

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<sup>52</sup> In particular Articles 39-41 and 60

(NN 139/08).<sup>53</sup> This Act enables a more comprehensive and efficient implementation of the sanctions regimes, including of existing counterterrorism sanctions, that are adopted within the framework of the UN and the European Union (and other international organizations), including also those restrictive measures that the Republic of Croatia introduces in accordance with other obligations that are in conformity with international law.

According to this new, important legislation, the Republic of Croatia implements, enforces or removes international restrictive measures against countries, international organizations, territorial entities, movements or physical or legal persons according to the Act on International Restrictive Measures. The Government of the Republic of Croatia adopts the decisions on the implementation of international restrictive measures that prescribe the implementation of restrictive measures depending on the case, determine the type of restrictive measure, method of implementation, duration period and implementation control. The restrictive measures adopted upon the former Act on International Restrictive Measures remain in force until the adoption of decisions on their abolition.

Finally, this Act also directs the Government to establish a Permanent Coordination Group for the implementation of this Act which would comprise of all relevant Government institutions and take responsibility for the special database on all implemented restrictive measures. It also defines possible sanctions for non-compliance that include imprisonments (range from 6 months to 5 years) and fines (15.000,00 – 1.000.000,00, or 2.000,00 – 134.000,00 €).

### **The Liability of Legal Entities for Criminal Offences**

The Act on Liability of Legal Entities for Criminal Acts does not contain a closed list (numerous clauses) of criminal offences for which legal entities can be legally responsible. It allows the initiation and carrying out of the prosecution against legal entities for all criminal offences including ones with elements of international terrorism.<sup>54</sup>

A list of possible sentences includes: fine (up to 8.000.000,00 KN, just over 1.000.000,00 €), termination of a legal entity, parole sentence and security measures (a ban on conducting certain activities or business affairs, a ban on acquiring

permissions, authorisations, concessions or subventions, a ban on conducting business with users of a state or a local budget and confiscation of items).

### **Public-Private Partnerships in Counterterrorism**

Public-private partnerships (PPP) in countering terrorism demand a serious and modern approach, a principle that is fully embraced by the Croatian authorities. Croatia has some experience in PPP (in)directly related to counterterrorism and is very interested in any future co-operation with countries experienced in the area of developing PPP in countering terrorism.

The National Strategy for the Prevention and Suppression of Terrorism emphasises the development of public private partnerships with the business community in promoting economic security and stability in terms of the danger of terrorism, especially in protecting the critical infrastructure and preventing and suppressing the financing of terrorism. The development of public private partnerships will be encouraged in the field of cooperation in detecting terrorist activity, especially in the field of preventing the financing of terrorist organisations, raising public awareness of terrorism, in the protection of IT, communication, transport, energy and industrial infrastructure, in cooperation in the training of the business sector in its response to terrorist attacks and the rectification of any consequences of terrorist attacks

The Republic of Croatia holds that both civil society and economic operators play a role in the prevention and suppression of terrorism, for which there is enough space in the development and improvement of public private and social partnerships, and relations with non-governmental organisations, religious communities and the media.

The Croatian Parliament adopted, on 24 October 2008, the Act on Public-Private Partnerships (NN 129/08),<sup>55</sup> a legal framework that will regulate PPP issues in general. Accordingly, an Agency for Public-Private Partnerships has been established to support the implementation of this Act. Since one of Croatia's future goals in this respect is promotion and facilitation of PPP in counterterrorism, Government's Interagency Working Group for Suppression of Terrorism will cooperate with the PPP Agency with a view to enhancing possible co-operation between national authorities and the private sector and civil society in the field of countering terrorism.

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<sup>53</sup> [http://narodne-novine.nn.hr/clanci/sluzbeni/2008\\_12\\_139\\_3885.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2008_12_139_3885.html)

<sup>54</sup> Article 3 of the Law on liability of legal entities for criminal acts

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<sup>55</sup> [http://narodne-novine.nn.hr/clanci/sluzbeni/2008\\_11\\_129\\_3679.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2008_11_129_3679.html)

## Prevention of Terrorist Financing

The close link between terrorism and other criminal activities has always been the focus of all counterterrorism strategies and measures. Since the main prerequisite for the preparation of terrorist actions is the accumulation of financial resources, it is obvious why the financing of terrorism must be addressed with the utmost vigorousness and resolve. To this end, careful consideration must also be given to the full protection of human rights. For this reason, Croatia attaches great importance to the legal basis for the prevention of financing of terrorism.

The Croatian Parliament has adopted in its session of 15 July 2008 the single most important piece of legislation in Croatia in this regard – the Anti Money Laundering and Terrorist Financing Act (NN 87/08)<sup>56</sup> which entered into force on 1 January 2009 and thus replaced the previous Money Laundering Prevention Act. This Act harmonized Croatian preventive legislation with relevant international AML/CFT standards, and is based on:

- Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing;
- Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis;
- Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds;
- Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community;
- relevant FATF Recommendations; and
- the Council of Europe Convention on laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism,

The following regulations are required for the implementation of the new (2008) Anti Money Laundering and Terrorist Financing Act which entered into force on 2 January 2009 (published in Official Gazette No. 87/2008):

- Rulebook on the content and type of information on payees accompanying cash wire transfers, on duties of payment service providers and exceptions from the cash wire transfer data collection obligation;
- Rulebook on reporting the Anti-Money Laundering Office on suspicious transactions and persons;
- Rulebook on the manner and deadlines for reporting the Anti-Money Laundering Office on suspicious transactions and persons and on keeping records by lawyers, law firms, notaries public, auditing firms and independent auditors as well as legal and natural persons involved in the performance of accounting and tax advisory services;
- Rulebook on reporting the Anti-Money Laundering Office on cash transactions equal to or greater than HRK 200.000,00 and on the conditions under which the reporting entities shall not be obliged to report the Office on cash transactions for designated clients; and
- Rulebook on controlling domestic or foreign exchange cash carrying across the state border.

Furthermore, important improvements can be found in recent amendments to the Criminal Code. The offence of money laundering now undoubtedly covers all kinds of operations and all kinds of transformations. It no longer deals only with dirty money but money, objects, rights or proceeds of crime. The Criminal Code gives a new definition to proceeds of crime as every increasing of or disabling of the reduction of assets regardless of being material or immaterial, movable or immovable, or whether it is a decree in any form which proves a right or interest over assets directly or indirectly gained from a criminal offence. This confiscation regime has been extended to all property related to perpetrators of organised crime or corruption offences with the possibility of reversal of the burden of proof.

The offence of terrorism financing has been extended to cover all acts, directly or indirectly, of giving or raising funds knowing that they will, fully or partially, be used for the purpose of committing a terrorist act, irrespective of whether the funds have been fully or partially used for the purpose of committing such offence and irrespective of whether the act has only been attempted. According to this Act the sanctioning regime includes a wide range of fines that can be used against legal persons, responsible persons and members of the board. Additionally, the entity's approval for performance (license) can be recalled.

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<sup>56</sup> [http://narodne-novine.nn.hr/clanci/sluzbeni/2008\\_07\\_87\\_2792.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2008_07_87_2792.html)

In addition, relevant AML/CFT legislation also includes:

- the Croatian National Bank Act – NN 75/08;<sup>57</sup>
- the Banking Law<sup>58</sup> - NN 84/02,<sup>59</sup> 141/06;<sup>60</sup>
- the Foreign Exchange Act<sup>61</sup> – NN 96/03;<sup>62</sup>
- the Amendments to the Foreign Exchange Act<sup>63</sup> – NN 132/06<sup>64</sup> (NN 140/05),<sup>65</sup>
- the Regulation on Amendments to the Foreign Exchange Act – NN 150/08;<sup>66</sup>
- the Act on the Financial Inspectorate – NN 85/08;<sup>67</sup>
- the National Payment System Act<sup>68</sup> (Bilingual Regulation Booklets)<sup>69</sup> – NN 117/01;<sup>70</sup>
- the Seizure Act (NN 57/96,<sup>71</sup> 29/99,<sup>72</sup> 173/03,<sup>73</sup> 194/03,<sup>74</sup> 151/04,<sup>75</sup> 88/05,<sup>76</sup> 151/05,<sup>77</sup> English).<sup>78</sup>

<sup>57</sup> <http://www.hnb.hr/propisi/zakoni-htm-pdf/e-zakon-o-hnb.htm> English: <http://www.hnb.hr/propisi/zakoni-htm-pdf/e-zakon-hnb--7-2008.pdf>; Other unofficial English translations of the relevant laws and regulations can be found on the Croatian National Bank's website:

<http://www.hnb.hr/propisi/epropisi.htm>

<sup>58</sup> <http://www.hnb.hr/propisi/zakoni-htm-pdf/ezbanke-7-2002.htm> and <http://www.hnb.hr/propisi/zakoni-htm-pdf/ezbanke-7-2002.pdf>

<sup>59</sup> <http://www.nn.hr/clanci/sluzbeno/2002/1388.htm>

<sup>60</sup> [http://narodne-](http://narodne-novine.nn.hr/clanci/sluzbeni/2006_12_141_3189.html)

[novine.nn.hr/clanci/sluzbeni/2006\\_12\\_141\\_3189.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2006_12_141_3189.html)

<sup>61</sup> <http://www.hnb.hr/propisi/zakoni-htm-pdf/e-zakon-o-deviznomposlovanju-06-2003.htm> and

<http://www.hnb.hr/propisi/zakoni-htm-pdf/e-zakon-o-deviznom-poslovanju-06-2003.pdf>

<sup>62</sup> <http://www.nn.hr/clanci/sluzbeno/2003/1217.htm>

<sup>63</sup> <http://www.hnb.hr/propisi/zakoni-htm-pdf/e-zakon-o-izmjenazakona-o-deviznom-poslovanju-12-2006.htm> and <http://www.hnb.hr/propisi/zakoni-htm-pdf/e-zakon-o-izmjenazakona-o-deviznom-poslovanju-12-2006.pdf>

<sup>64</sup> <http://www.nn.hr/clanci/sluzbeno/2006/2955.htm>

<sup>65</sup> <http://www.nn.hr/clanci/sluzbeno/2005/2646.htm>

<sup>66</sup> English: <http://www.hnb.hr/propisi/zakoni-htm-pdf/e-zakon-o-deviznom-poslovanju-uredba.pdf>

<sup>67</sup> [http://narodne-](http://narodne-novine.nn.hr/clanci/sluzbeni/2008_07_85_2731.html)

[novine.nn.hr/clanci/sluzbeni/2008\\_07\\_85\\_2731.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2008_07_85_2731.html)

<sup>68</sup> <http://www.hnb.hr/propisi/zakoni-htm-pdf/e-novi-zakon-o-pp-uzemlji.htm> and <http://www.hnb.hr/propisi/zakoni-htm-pdf/e-novizakon-o-pp-u-zemlji.pdf>

<sup>69</sup> [http://www.hnb.hr/publikac/dvojezicne-](http://www.hnb.hr/publikac/dvojezicne-brosure/brosura-zakon-oplatnom-prometu.pdf)

[brosure/brosura-zakon-oplatnom-prometu.pdf](http://www.hnb.hr/publikac/dvojezicne-brosure/brosura-zakon-oplatnom-prometu.pdf)

<sup>70</sup> <http://www.nn.hr/clanci/sluzbeno/2001/1952.htm>

<sup>71</sup> <http://www.nn.hr/clanci/sluzbeno/1996/1158.htm>

<sup>72</sup> <http://www.nn.hr/clanci/sluzbeno/1999/0584.htm>

<sup>73</sup> <http://www.nn.hr/clanci/sluzbeno/2003/2505.htm>

<sup>74</sup> <http://www.nn.hr/clanci/sluzbeno/2003/3086.htm>

<sup>75</sup> <http://www.nn.hr/clanci/sluzbeno/2004/2624.htm>

<sup>76</sup> <http://www.nn.hr/clanci/sluzbeno/2005/1731.htm>

<sup>77</sup> <http://www.nn.hr/clanci/sluzbeno/2005/2944.htm>

<sup>78</sup> [http://www.vsrh.hr/CustomPages/Static/HRV/Files/Legislation\\_Execution-Act.pdf](http://www.vsrh.hr/CustomPages/Static/HRV/Files/Legislation_Execution-Act.pdf)

## Anti-Money Laundering Office (AMLO)

In December 1997, the Anti-Money Laundering Office (AMLO) was established within the Ministry of Finance, as an independent administrative and analytical body authorised to receive information on financial transactions from obligated entities, relevant state authorities - supervisory authorities within the Ministry of Finance (Financial Police, Customs, Tax Department, Supervision of Foreign Transactions Department), the Ministry of the Interior and appropriate authorities and organisations as well as to international organisations responsible for preventing money laundering.

According to the new 2008 Anti Money Laundering and Terrorist Financing Act the AMLO is an administrative organisation within the structure of the Ministry of Finance (equal to the Tax Administration, Customs Administration etc.), performing tasks aimed at preventing money laundering and terrorist financing, as well as other tasks as provided for in the Act. As a national Financial Intelligence Unit, the AMLO collects, stores, analyses and submits data, information and documentation on suspicious transactions to competent government bodies for further proceeding for the purpose of money laundering and terrorist financing prevention and detection in keeping with the provisions contained in the Act. In the money laundering and terrorist financing prevention and detection, the AMLO cooperates with the State Attorney's Office of the Republic of Croatia, the Ministry of the Interior – the General Police Directorate, the supervisory services of the Ministry of Finance (the Financial Inspectorate, the Customs Administration, the Tax Administration and the Financial Police), the Croatian Financial Services Supervision Agency, the Croatian National Bank, the Security-Intelligence Agency, the Ministry of Foreign Affairs and European Integration, the Ministry of Justice and with other state bodies.

For the purpose of achieving the strategic and operational objectives, the above mentioned bodies (including the AMLO) signed a protocol on cooperation and on the establishment of an Inter-institutional Money Laundering and Terrorist Financing Working Group. Furthermore, the AMLO has timely access, direct or indirect, to financial, administrative and security data, information and documentation relative to the implementation of the Act and regulations passed on the basis of the Act to enable the AMLO to perform its tasks, including the analysis of suspicious transactions.

The Croatian Financial Intelligence Unit (FIU), the Anti-Money Laundering Office (AMLO) underwent institutional and administrative development. It is

not only an independent unit within the Ministry of Finance but independent administrative organisation (equal to the Tax Administration, Customs Administration etc.). In March of 2009, the Croatian Government also adopted a new Regulation on the Amendments to the Regulation on internal organization of the Ministry of Finance. The Anti-Money Laundering Office (AMLO) has been restructured and established the:

1. Financial Intelligence Analysis Department
  - Suspicious Transactions Division
  - Analytic Processing of the Transactions and Terrorist Financing Division
2. Information System and Strategic Analysis Department
3. Prevention and Supervision of the Reporting Entities Department
  - Credit and Financial Institutions Division
  - Non-Financial Institutions Division
4. Inter-institutional and International Cooperation Department.

When the AMLO deems, on the basis of the analytical processing of data, collected information and documentation, that there is reason for suspicion of money laundering or terrorist financing in the country or abroad exist in relation with a transaction or person, the AMLO shall accordingly and in writing report the competent state bodies or foreign financial intelligence units thereof, the report containing all necessary documentation.

More specifically, the AMLO supplies a written notification thereof to the reporting entities who reported the transaction, save for instances in which the AMLO deems that such a course of action could damage the further process and outcome of the proceedings, by doing the following: confirm the transaction report receipt, supply information on the decision or the result of such a case if the case based on the report of transaction was closed or completed, and information thereof became available, at least once a year, supply or publish statistical data on the received transaction reports and the results of proceedings, supply or publish information on the current techniques, methods, trends and typologies of money laundering and terrorist financing and supply or publish summarised examples of specific money laundering and terrorist financing cases.

If it is necessary to take urgent action to verify data on a suspicious transaction or a person or when the AMLO believes that there are grounded reasons that a transaction or a person is linked with money laundering or terrorist financing, the AMLO may issue a written order to instruct the reporting entity to temporarily suspend the execution of the

suspicious transaction for a maximum period of 72 hours.

However, in instances where it is not possible to issue the written order to the reporting entities due to the nature or manner of transaction execution, i.e. the circumstances surrounding the transaction, as well as in other urgent instances, the AMLO may exceptionally give the reporting entity a verbal order to temporarily suspend the execution of the suspicious transaction. The AMLO must confirm the above mentioned verbal order by a written order immediately, and no later than within 24 hours after the verbal order has been issued. The reporting entity's authorised person makes an official note on the receipt of the above mentioned verbal order, and keep the note on file in line with the provisions of the Act providing for the storing and protection of data.

The AMLO notifies, without any undue delay, the State Attorney's Office of the Republic of Croatia and/or the competent State Attorney's Branch of the issued above-mentioned orders. After the expiration of the above-mentioned deadline, the transaction may be suspended only on the basis of a court decision in agreement with the provisions contained in the Act providing for criminal procedure. If within 72 hours of the issuance of the temporary suspicious transaction execution suspension order the AMLO has examined the data on the suspicious transaction and judged that grounds for suspicion of money laundering and terrorist financing no longer exist, the AMLO inform the State Attorney's Office of the Republic of Croatia and/or competent State Attorney's Branch and the reporting entity, who is allowed to immediately conduct the transaction.

The other assignments of the AMLO include:

- Increasing the professional awareness of compliance officers in obligated entities, and staff from other governmental and judicial authorities about the detection and prevention of money laundering;
- Supervising the obligated entities that have to comply with this Act;
- Proposing and preparing changes to legislation connected with money laundering;
- Promoting international co-operation in the field of preventing money laundering;
- Informing the public through the media about money laundering.

#### *Information System of the AMLO*

This system is used for gathering, transmitting, safekeeping and analysing data about certain financial transactions and for detecting suspicious

transactions. It consists of a number of subsystems that can function independently:

- TPO - the Paperless Office-system for gathering, filing and managing original documents,
- BAZA - a system for gathering, inputting and analysing data implemented in the AMLO and within obligated entities,
- OLAP - a system for analysts that enables questioning, reporting, forecasting, modelling, statistics and what-if-analysis,
- i2 - a system for the visualisation of analytical investigation,
- CROSSFINDS – an expert system for the detection of suspicious transactions.

Within the framework of international co-operation in the field of global prevention of money laundering, the Republic of Croatia actively participates in the work of the Egmont working Group as a Croatian Financial Intelligence Unit (FIU) since June 1998. Representatives of the AMLO attended a number of international seminars organised by the Egmont Group as well as many other seminars and conferences to learn about new methods of combating financial crimes. The AMLO was also engaged in several international operations to uncover money laundering in co-operation with foreign FIUs. The Republic of Croatia is also a permanent member of the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures of the Council of Europe.

#### *Wire transfers*

According to the Article 15 of the new Anti Money Laundering and Terrorist Financing Act, credit and financial institutions, including companies involved in certain payment operation services or money transfers (hereinafter referred to as the payment service providers) are obliged to collect accurate and complete data on the payee and include them in a form or a message accompanying the wire transfer, sent or received in any currency. In doing so, data must follow the transfer at all times throughout the course of the chain of payment. The Minister of Finance issued a Rulebook on the content and type of information on payees accompanying cash wire transfers, on duties of payment service providers and exceptions from the cash wire transfer data collection obligation (NN 01/09) to prescribe content and type of data to be collected on the payee and other obligations of the payment service providers and exceptions from the obligation of collecting data at money transfers representing a negligible money laundering or terrorist financing risk. The payment service providers, which act as intermediaries or cash receivers, refuse wire transfers failing to contain complete data on the payee or ask for payee data supplement within a given deadline.

The payment service providers may restrict or terminate a business relationship with those payment service providers who frequently fail to meet those requirements, with that they may alert them on such a course of action before taking such measures. The payment service provider notifies the AMLO of a more permanent restriction or business relationship termination. The payment service providers, which act as intermediaries or cash receivers, consider a lack of payee information in relation to the assessed level of risk as a possible reason for implementing enhanced transaction due diligence measures, to analyse the background and purpose of such transactions, and make a written record of the analysis results to be available at the request of the AMLO and other supervisory bodies. If they detect suspicion of money laundering or terrorist financing they are obliged to inform the AMLO. These provisions shall pertain to wire transfers conducted by both domestic and foreign payment service providers. When gathering data the payment service providers identify the payee by using an official identification document, and credible and reliable sources of documentation.

Before making a cash wire transfer, the payee's payment service provider shall identify the payee and verify his/her identity through the review of an official payee's identification document in his/her presence, i.e. from credible and reliable documentation sources. In instances when cash is being transferred from an account, identification may be regarded as performed: if the payee's identification was carried out at opening the account, or, if the payee was subsequently subject to customer due diligence in keeping with the Act. Where cash transfers are not made from an account, the payment service provider is to check the payee information only if the Kuna equivalent amount shall exceed a total of 1.000,00 € or if the transfer shall be conducted in several obviously linked transactions with the Kuna equivalent amount in excess of 1.000,00 €.

Irrespective of the transaction value, the payee's payment service provider shall identify and verify the payee's identity in all instances when reasons for suspicion of money laundering or terrorist financing exist in relation to a transaction or person. The payment service providers, which act as intermediaries or cash receivers, refuse wire transfers failing to contain complete data on the payee or ask for payee data supplement within a given deadline. The payment service providers may restrict or terminate a business relationship with those payment service providers who frequently fail to meet those requirements, with that they may alert them on such a course of action before taking such measures. The payment service provider notifies the AMLO of a more permanent restriction or business

relationship termination. The payment service providers, which act as intermediaries or cash receivers, consider a lack of payee information in relation to the assessed level of risk as a possible reason for implementing enhanced transaction due diligence measures, to analyse the background and purpose of such transactions, and make a written record of the analysis results to be available at the request of the AMLO and other supervisory bodies. If they detect suspicion of money laundering or terrorist financing they are obliged to report to the AMLO.

## **Supervision**

Pursuant to the Foreign Exchange Act, the supervision of transactions is exercised by the Croatian National Bank and the Ministry of Finance - Financial Inspectorate and Customs Administration. The Croatian National Bank supervises banks and the Financial Inspectorate supervises exchange offices. The supervisory bodies exchange information needed for the process of supervision and inform each other of any irregularities found in the course of their activities, provided such findings are relevant to the work of the other supervisory body. The Anti Money Laundering and Terrorist Financing Act defines the following as reporting entities:

1. Banks, branches of foreign banks and banks from member-states authorised for a direct provision of banking services in the Republic of Croatia;
2. Savings banks;
3. Housing savings banks;
4. Credit unions;
5. Companies performing certain payment operations services, including money transfers;
6. Croatian Post Inc.
7. Investment fund management companies, business units of third countries management companies, management companies from member states which have a business unit in the Republic of Croatia, i.e. which are authorised to directly perform funds management business in the territory of the Republic of Croatia and third parties which are allowed, in keeping with the law providing for the fund operations, to be entrusted with certain matters by the respective management company;
8. Pension companies;
9. Companies authorised to do business with financial instruments and branches of foreign companies dealing with financial instruments in the Republic of Croatia;
10. Insurance companies authorised in the performance of life insurance matters, branches of insurance companies from third countries authorised to perform life insurance matters and insurance companies from member states which perform life insurance matters directly or via a branch in the Republic of Croatia;

11. Companies for the issuance of electronic money, branches of companies for the issuance of electronic money from member-states, branches of companies for the issuance of electronic money from third countries and companies for the issuance of electronic money from member states authorised to directly render services of issuing electronic money in the Republic of Croatia;

12. Authorised exchange offices;

13. Organisers of games of chance:

- a) Lottery games,
- b) Casino games,
- c) Betting games,
- d) Slot-machine gaming,
- e) Games of chance on the Internet and via other telecommunications means, i.e. electronic communications;

14. Pawnshops;

15. Legal and natural persons performing business in relation to the activities listed hereunder:

- a) Issuing credit or loans, including: consumer credit, mortgage loans and factoring and commercial financing, including forfeiting,
- b) Leasing,
- c) Issuance and management of payment instruments (e.g., credit cards and travellers cheques),
- d) Issuance of guarantees and security instruments,
- e) Investment management on behalf of third parties and providing advice thereon,
- f) Rental of safe deposit boxes,
- g) Credit dealings intermediation,
- h) Insurance agents entering into life insurance agreements,
- i) Insurance intermediation with entering into life insurance agreements,
- j) Trusts or company service providers,
- k) Trading in precious metals or gems and products made from them,
- l) Trading in artistic items and antiques,
- m) Organising or carrying out auctions,
- n) Real-estate intermediation.

16. Legal and natural persons performing matters within the framework of the following professional activities:

- a) Lawyers, law firms and notaries public,
- b) Auditing firms and independent auditors,
- c) Natural and legal persons performing accountancy and tax advisory services.

## **The Croatian National Bank (CNB)**

The Croatian National Bank (CNB) has, among other things, the operational autonomy, independence and authority for bank supervision (Article 4 of the

Croatian National Bank Act).<sup>79</sup> CNB conducts supervision of compliance with the new Anti Money Laundering and Terrorist Financing Act with the following reporting entities: banks, branches of foreign banks and banks from member-states authorised for a direct provision of banking services in the Republic of Croatia, savings banks, housing savings banks, credit unions and companies for the issuance of electronic money, branches of companies for the issuance of electronic money from member states, branches of companies for the issuance of electronic money from third countries and companies for the issuance of electronic money from member states authorised to directly render services issuing electronic money in the Republic of Croatia. On 10 January 2008 the CNB published its broad "Guidelines Relating to the Prevention of Money Laundering and Terrorist Financing for Credit Institutions and Credit Unions".<sup>80</sup>

Suspicious Transaction Reporting Made in Good Faith  
The development of the banking industry, entry of foreign banks into the domestic market and domestic banks into the foreign market and integration processes in the European Union, necessitated the drafting of a new Banking Law which took effect in July 2002. This Banking Law enabled the efficient and transparent supervision of banks in Croatia. The Croatian National Bank and the Financial Inspectorate are obliged to notify the AMLO in writing without any undue delay, and within 15 days, of the measures taken, the irregularities identified and other significant information, established through the minutes or other enactment of the Croatian National Bank or the Financial Inspectorate.

Among other areas of activity and responsibilities, bank supervision includes:

- determining bank owners' accountability for bank operations (internal organisation of a bank, audit);
- consolidated supervision of banks (determining the scope and frequency of consolidation, as well as the content of consolidated financial statements);
- co-operation with other supervisory bodies in the country and abroad (data processing and communication of information).

The Banking Law<sup>81</sup> regulates protection from liability for the reporting in good faith of suspicious transactions. The obligation to keep banking secrets shall not apply: if the disclosure of confidential data is necessary for the collection and establishment of

facts in criminal proceedings and preliminary proceedings, and if requested or ordered in writing by the competent court; if confidential data is disclosed for the purposes of the Anti-Money Laundering Department and pursuant to laws and other regulations regulating the prevention of money laundering; or if confidential data is disclosed to the Croatian National Bank, Financial Inspectorate or other supervisory authority for the purposes of the supervision they exercise within their legally prescribed competence.

The latest amendments to the Banking Law (NN 141/06) enforced a new type of financial institution called "savings banks", which can provide almost all banking and financial services. The Croatian National Bank is in charge of supervising savings banks. It should be noted that, among other activities, these banks are prohibited from making payment transactions abroad. Also, the Croatian National Bank deems it necessary to mention that as of 1 January 2009, the Credit Institutions Law has been in force and replaces the aforementioned Banking Law. Also, as of 2008, Croatian National Bank began on transposing EU Directive 2007/64/EC which regulates money remittance institutions. EU countries are obliged to transpose aforementioned Directive by November 1st, 2009 This directive in Croatia will be incorporated in the new Act on Payment Services, payment service providers and payment systems which is going to be adopted in Parliament in 2009 and put in force in 2011.

#### *Customer Due Diligence*

According to the new Anti Money Laundering and Terrorist Financing Act, for the purpose of preventing and detecting money laundering and terrorist financing, the reporting entities are obliged to fulfil the duties as provided for in the Act and regulations passed on the basis of the Act during the course of the performance of their regular activities. One of those duties is carrying out customer due diligence measures in the manner and under the conditions provided by the Act.

Unless otherwise prescribed in the Act, customer due diligence shall encompass the following measures: identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a credible, reliable and independent source, identifying the beneficial owner of the customer and verifying the beneficial owner's identity, obtaining information on the purpose and intended nature of the business relationship or transaction and other data in line with this Act, conducting ongoing monitoring of the business relationship including due scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being

<sup>79</sup> <http://www.hnb.hr/supervizija/esupervizija.htm>

<sup>80</sup> <http://www.hnb.hr/supervizija/e-smjernice-za-sprecavanjehranja-novca-financiranjeterrorizma.pdf?tsfsg=0a5f6ee649e3b3130eec4ae3640f68b6> English: <http://www.hnb.hr/supervizija/e-smjernice-za-sprecavanje-pranja-novca-financiranjeterrorizma.pdf?tsfsg=b79f89504f9a61ad361f4e407afe93d1>

<sup>81</sup> Article 99 of the Banking Law

conducted are consistent with the reporting entity's knowledge of the customer, the type of business and risk, including, as necessary, information on the source of funds, on which the documents and data available to the reporting entity must be kept up-to-date.

The reporting entities are obliged to define the procedures for the implementation of these measures in their respective internal enactments. Also, one of the duties of the reporting entities is to ensure data storage and protection and keeping the prescribed records as per the Act and regulations passed on the basis of the Act. The reporting entities undertake to keep collected data on the basis of the Act and regulations passed on the basis of the Act and the accompanying documentation for the period of ten years after a transaction execution, the termination of a business relationship, entry of a customer into a casino or approaching a safe deposit box.

Furthermore, the reporting entities shall undertake to keep the data and any accompanying documentation on an authorised person and the authorised person's deputy, the professional training of employees and the performance of internal audit for the period of four years after the appointment of the authorised person and the authorised person's deputy, the delivery of professional training or the performed internal audit.

Simultaneously, as reporting entities according to the Act, lawyers, law firms and notaries public, auditing firms and independent auditors, legal and natural persons involved in the performance of accounting services and tax advisory services undertake to keep the data and any accompanying documentation they collect on the basis of the Act for the period of ten years after the completion of customer identification. Also, lawyers, law firms and notaries public, auditing firms and independent auditors, legal and natural persons involved in the performance of accounting services and tax advisory services undertake to keep data and the accompanying documentation on the professional training of employees for the period of four years after the delivery of professional training.

Also, the Foreign Exchange Act (NN 96/03) which entered into force on 18 June 2003 requires identification of residents when opening foreign currency accounts or holding foreign currency savings deposits as well as non-residents when opening both kuna and foreign currency accounts. According to this law banks are obliged to keep documentation of a bank account owner for at least five years from the date of closing the account.

Moreover, the additional specific documentation required is prescribed by subordinate regulations.

There are two pieces of subordinate legislation to the Foreign Exchange Act which regulate the conditions for opening and managing the foreign exchange accounts of residents and foreign exchange and Kuna accounts of non-residents, the respective identification of customers and conditions for the non-face-to-face opening of accounts.

*The Decision on the Opening and Managing of Foreign Exchange Accounts and Foreign Exchange Savings Deposit Accounts of Residents with a Bank*<sup>82</sup> prescribes that if a natural person is not present at the opening of a foreign exchange account or foreign exchange savings deposit account, the bank should open these accounts on the basis of documents certified by the competent authority and no more than six months should elapse from the date of certification.<sup>83</sup> Pursuant to this Decision, bearer foreign exchange savings accounts or coded bearer foreign exchange savings deposit accounts shall not be permitted.

*The Decision on the Conditions for and the Manner of Opening and Managing Non-resident Bank Accounts*<sup>84</sup> prescribes that if a natural person is not present at the opening of a non-resident account or savings account, a bank may open the non-resident account or savings account on the basis of a document certified by the competent domestic or foreign authority, or on the basis of a document certified by a diplomatic or consular representative of a non-resident's country of origin or the Republic of Croatia, or on the basis of signature certification on the part of the correspondent bank, and no more than six months should elapse from the date of certification.<sup>85</sup> Non-resident bearer savings accounts or non-resident coded bearer savings accounts shall not be permitted.

The Foreign Exchange Act governs:

1. transactions between residents and non-residents in foreign currencies and in Kuna (Croatian currency);
2. transactions between residents in foreign currencies;
3. unilateral transfers of assets from and into the Republic of Croatia that cannot be considered transactions between residents and non-residents.

*Fit and Proper Criteria*

*The Act on Amendments to the Foreign Exchange Act (NW 140/05)* which entered into force on 6 December 2005 stipulates the procedure for issuing

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<sup>82</sup> NN 111/03, 138/03,176/04 and 122/05

<sup>83</sup> Item VII, paragraph 3

<sup>84</sup> NN 111/03, 176/04

<sup>85</sup> Item V, paragraph 3

and revoking authorizations to conduct exchange transactions as well as the eligibility criteria for owners of exchange offices (the fit and proper criteria) for the owners of the craft and members of the management board of the legal person of the foreign exchange offices who, in order to get a Croatian National Bank's licence to perform foreign exchange transactions, should not have been punished for a criminal offence prescribed by the Foreign Exchange Act nor for a criminal offence of money laundering. The Croatian National Bank shall refuse to issue authorization to conduct exchange transactions if the applicant does not fulfil the required conditions. Residents who are under the obligation to report to the Croatian National Bank on capital transactions with non-residents shall, at the request of the Financial Inspectorate, submit data on actual owners of the non-resident with which they are concluding transactions if the non-resident in question is an offshore undertaking.

*The Act on Amendments to the Foreign Exchange Act (NN 132/06)* which entered into force on 14 December 2006 brings a broader range of crimes into the context of fit and proper criteria. The eligibility criteria consists of a condition that qualified owners and members of the management board of foreign exchange offices, in order to get a licence to perform foreign exchange transactions, should be persons with no history of criminal offences against the values protected by international law, regarding payment transactions and operations security, document authenticity (referring to chapters 13, 21 and 23 of the Criminal Code) or of criminal offences as defined in the Foreign Exchange Act. Qualified owner, within the meaning of the Foreign Exchange Act, is a natural or a legal person directly holding a minimum 25% stake or 25% of shares or other rights on the basis of which it partakes in the management of the legal person.

#### *Internet Banks*

In the banking system of the Republic of Croatia there are no Internet banks and all the existing banks operate exclusively via their registered head offices in the Republic of Croatia. Some banks within the system provide for the possibility of Internet transactions, but since the establishment of a business relation and the opening of a bank account is possible exclusively on the condition of the business entity's identification, internet transactions can be executed only upon the opening of an account and business entity identification. Croatian legislation does not specifically encompass and regulate Internet banking. However, transactions executed via the Internet are not exempt from the relevant legislation and all that is prescribed by it applies to both transactions and entities involved in Internet banking.

Furthermore, as of 1 April 2002, the Electronic Signature Act<sup>86</sup> has been effective in the Republic of Croatia, regulating the use of electronic and advanced electronic signatures which reliably authenticate the identity of a signatory, which implies the use of asymmetric cryptographic methods, i.e. the public key infrastructure.

#### *Co-operation with Supervisors and Other Competent Authorities*

Domestic cooperation among financial supervisors is covered by different laws (e.g. Article 57 of the Banking Law; Art. 16 of the Law on Croatian Financial Services Supervisory Agency) and details of co-operation are included in the Agreement on Co-operation concluded in September 2006. In August 2006, the Croatian National Bank and the AMLD (FIU) concluded an Agreement on Co-operation and Exchange of Information in the Area of Anti-Money Laundering and Combating of Terrorism Financing,<sup>87</sup> and in April 2007 the Croatian National Bank and (at that time) the Foreign Exchange Inspectorate concluded Agreement on Exchange of Information and Co-operation in the Field of Supervision of the Foreign Exchange Act Implementation. Pursuant to Article 16 of the Act on the Croatian Financial Services Supervisory Agency (NN 140/05) and Article 57 of the Banking Act<sup>88</sup> (NN 84/02), the Croatian National Bank and the Croatian Financial Services Supervisory Agency<sup>89</sup> have signed an Agreement on Co-operation.<sup>90</sup>

#### **The Financial Inspectorate**

The Financial Inspectorate, within the Ministry of Finance, has been established as a new AML/CFT specialised, central on-site supervisory agency for ML/FT issues, which acts in this field autonomously or upon request of the FIU, which is also relevant for undertaking financial investigations within the payment system upon request of the prosecution or a judge

The Financial Inspectorate conducts supervision of compliance with the Act by all reporting entities, in accordance with the new Anti Money Laundering and Terrorist Financing Act and the Act on the Financial Inspectorate. The Financial Inspectorate is an administrative organization within the structure of the Ministry of Finance that supervises the implementation of the provisions in the area of the

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<sup>86</sup> NN 10/02

<sup>87</sup> <http://www.hnb.hr/supervizija/suradnja/e-sporazum-s-uredomza-sprjecavanje-pranja-novca.pdf>

<sup>88</sup> <http://www.hnb.hr/propisi/zakoni-htm-pdf/ezbanke-7-2002.htm>

<sup>89</sup> <http://www.hanfa.hr/index.php?LANG=ENG>

<sup>90</sup> <http://www.hnb.hr/supervizija/suradnja/e-sporazum-%20suradnja-hnb-hanfa.pdf>

prevention of money laundering and the financing of terrorism, and in the area of foreign currency operations and providing the services of payment operations and money transfers. The supervision of the reporting entities by the Financial Inspectorate is conducted on the basis of money laundering and terrorist financing risk assessment. The Financial Inspectorate is entitled to use assistance from other supervisory bodies in conducting supervision of the reporting entities in line with the signed agreements of understanding.

### **The Croatian Customs Directorate**

The Croatian Customs Directorate, within the framework of its authorities and scope of work prescribed by the Customs Service Act (NN 67/01) and according to the Customs Act of the Republic of Croatia (NN 140/05), performs the following activities:

1. Performs customs control of foreign goods, as well as domestic goods placed under transit procedure for the purpose of export or in a free zone or a free warehouse,
2. Performs procedures for determining customs approved treatment or use of goods,
3. Performs customs control,
4. Performs calculation and collection of special taxes (hereinafter 'excise duties') on goods imported or exported, when required by special regulations,
5. Implements measures of customs control and customs verification for the purpose of discovering customs offences and other criminal activities committed by violation of customs regulations, and files charges to the Public Prosecutor's office or other bodies responsible for initiation or implementation of criminal proceedings,
6. Determines taxation elements for calculation of customs duties, value added taxes, special taxes and other fees which, in accordance with special regulations, it is authorised to collect during import, export or transit of goods, and performs their collection and compulsory collection,
7. Performs control of entry in the customs territory and exit from the customs territory of domestic and foreign currencies in passenger cross-border transport, according to foreign exchange regulations,
8. Performs control of import, export or transit of goods for which special measures are prescribed for the purpose of safety, life and health protection of people, animals and plants, protection of national treasures, as well as of historical, artistic or archaeological values, protection of intellectual, industrial or commercial property.

Regarding the above mentioned, the Customs Directorate performs all measures of customs control in cross-border transport, firstly in relation to goods

as well as passengers and their luggage and other properties which passengers transport.

### *Cash couriers*

The bodies of the Customs Administration of the Republic of Croatia are obliged to immediately notify the AMLO of any declaration of cash entering or leaving across the state border of the amount equivalent to 10.000,00 € or more, no later than within three days from the date of cash crossing the state border. The bodies of the Customs Administration of the Republic of Croatia are obliged to immediately notify the AMLO of any cash entering or leaving across the state border in instances when such cash carrying was not declared to a customs body, no later than three days from the date the cash crossed the state border. The bodies of the Customs Administration of the Republic of Croatia are obliged to notify the AMLO within a maximum of three days from the date of the cash entering or leaving across the state border also in instances where such cash entering or leaving or an attempt thereof involves cash amounting to less than the equivalent to 10.000,00 €, should reasons be established for suspicion of money laundering or terrorist financing in relation to the person carrying the cash, the manner of carrying or other cash carrying circumstances.

### *Regulation of charitable organizations*

According to the Act on Endowments and Foundations (NN 36/95 and 64/01) any endowment or foundation (domestic or foreign) which operates in the territory of the Republic of Croatia must be registered at the state agency responsible for public administration. Article 6 of the Act regulates cases in which the establishment and registration of the endowment or foundation is permitted or forbidden according to the Act, on which decides the state agency responsible for public administration. Establishment of the endowment or foundation is forbidden if the purpose of the endowment or foundation is impossible or legally or morally impermissible. According to the relevant Acts and regulations in the Republic of Croatia, the non-profit sector can only perform its business in the Republic of Croatia through business accounts opened in the commercial banks (pursuant to the Article 18 of the National Payment system Act; "A business entity is obliged to maintain its funds in the accounts kept with banks and to execute all payments across these accounts"). In this way, banks are obliged to apply exactly the same methods of opening and maintaining their business accounts (customer due diligence measures, account monitoring, reporting to the FIU) as in the case of any other client (respecting all AML/CFT measures prescribed by the AML/CFT Act and regulations).

All non-profit organisations in the Republic of Croatia are obliged to maintain information on the purpose and objectives of their activities, list of activities, objectives, and general information on membership. This information is part of their statute (Article 11 of the Act on associations, and Article 18 of the Act on endowments and foundations).

#### *Institutional Structure and coordination*

As the state agency responsible for public administration - the Central State Administrative Office for Public Administration, together with its county branches - State Administrative Offices in Counties, is in charge of registering and maintaining register of associations, endowments and foundations in the Republic of Croatia. The register is maintained in electronic form and available on the Central State Administrative Office website (Register of associations, Register of endowments and Register of foundations). Mechanisms for non-profit sector supervision are established based on Acts regulating business of specific NPO (Act on associations, Act on Endowments and Foundations).

Administrative supervision in associations is done by the Central State Administrative Office for Public Administration while inspection is done by the Central State Administrative Office's county branches (for domestic associations) depending on the headquarter of each association (pursuant to the Article 26, of the Act on Associations) (depending on the headquarter of each association) and by the Central State Administrative Office for Public Administration for foreign associations (pursuant to the Article 26, of the Act on Associations). Supervision of endowments and foundations is being done by the Central State Administrative Office for Public Administration, State Audit and the Ministry of Finance (pursuant to the Article 30 of the Act on endowments and foundations). The central state Administrative Office for Public Administration is in charge of checking whether endowments and foundations perform their business according to their statute. The Ministry of Finance (Budget Supervision Department) and State Audit supervise the financial business of endowments and foundations if they are established by the state, state owned companies or local self government or in cases where state money had been transferred to endowments and foundations. Tax administration is also in charge of non-profit sector supervision in terms of the Income Tax Act and the Profit Tax Act and all other supervisory bodies are also in charge of supervision over the non-profit sector according to their scope of competence.

The non-profit sector is obliged to maintain business books and to create financial reports according to

Article 3 of the Ordinance on the NPO Sector Accounting. Pursuant to Article 87 of the AMLFT Act in instances where bodies in charge of conducting supervision of the activities of non-profit organisations establish during the conducting of supervision from their scopes of competence that there shall exist reasons for suspicion of money laundering or terrorist financing in relation to the activity of a non-profit organisation, its members or related persons, they are obliged to notify the AMLO thereof in writing and without any undue delay. In that case, the AMLO shall, if it judges that there are grounds for suspicion of money laundering or terrorist financing, start collecting and analysing data, information and documentation in keeping with its tasks and scope of competence. Although non-profit organizations are not defined as reporting entities according to the AMLFT Act, they are supervised by the Financial Inspectorate, since FI Act defines FI subjects of supervision as a legal person and subject equally to its provisions (where person equal to it shall be NGOs/associations, endowments, foundations and other legal persons which are not engaged in economic activity, as well as religious communities and NGOs/associations that do not have the property of legal personhood and other subjects who do not have legal personhood but act independently in legal transactions- Article 2 of the FI Act). FI shall supervise the aforementioned entities according to the risk assessment made by the Department for risk assessment, planning and IT system. AMLFT Act, Article 3, also defines NPOs as "other legal persons, i.e. the entities made equal to them". Reporting entities when doing business with afore mentioned NPOs are obliged, according to Article 21 of the AMLFT Act to: identify the person authorised and to represent, i.e. a representative and verify that representative's identity, obtain a power of attorney for representation purposes collect data according to the Act.

#### **Export and Import of Military and Non-Military Lethal Goods**

The Croatian Parliament adopted on 15 July 2008 the Act on the Export and Import of Military and Non-Military Lethal Goods (NN 86/2008), which entered into force on 1 January 2009. Since the field of the export and import control of military and non-military lethal goods was only partially regulated, the need arose for adoption of the act providing for integral supervision of export and import of goods of military and non-military lethal goods, as well as providing services for military goods. The Act provides for:

- Conditions of export and import of military and non-military lethal goods for commercial purposes,
- Authorization for issuing export and import licences for military and non-military lethal goods within the

competence of the Ministry of Defence and the Ministry of the Interior,  
- Providing of services referring to military goods,  
- Competences of the state administration bodies participating in its implementation,  
- Rights and liabilities of exporters, importers and service providers,  
- Conditions for carrying out the activities provided by this Act, as well as  
- Supervision and administrative measures applicable to persons violating the provisions of this Act when the national or foreign policy interests of the Republic of Croatia.

The definitions and terms adopted from the EU legislation have been incorporated into the provisions of the said Act, such as the definition of military goods, definition of services, broker's services and technical assistance. The military goods shall mean goods which are largely, but not exclusively, designed, made, assembled or modified for military use, including technology and software associated with these goods and specified in the Regulation on Military Goods, harmonized with the EU Military List. The List of Military Goods is an integral part of the Regulation Defining the Goods Subject to Export and Import Licences (Official Gazette 6/09) and is adjusted with the Common EU Military List on regular basis.

Pursuant to the Act on the Export and Import of Military and Non-Military Lethal Goods, broker's service and technical assistance providing the licence of the Ministry of the Economy, Labour and Entrepreneurship is needed. The Ministry is issuing its licences on the basis of the consent of the Committee for giving consent for the export and import of military and non-military lethal goods and services providing for military goods. The Committee is composed of the representatives of ministries responsible for defence, interiors and the economy. The Committee gives its consent on the basis of consensus of all the members of the Committee. The Minister adopts the Rule of Procedure on the work of the Committee.

Licences for import of goods intended for the Armed Forces of the Republic of Croatia and Police are issued by the Ministry of Defence or the Ministry of the Interior. Upon the consent of the Ministry of Defence, the Ministry of the Interior issues approval for transit of military and non-military lethal goods through the territory of the Republic of Croatia.

The export and import of military and non-military lethal goods may be performed by natural and legal persons – craftsmen registered in the Register of exporters and importers of military and non-military lethal goods for commercial purposes that is kept within the Ministry of the Economy, Labour and

Entrepreneurship. Prior to export or import activities performing these persons are obliged to demand entry onto the Register.

The Ministry shall deny a request for an export or import licence if the Committee establishes that the issuing of the requested licence would be contrary to the foreign affairs or economic interests of the Republic of Croatia and contrary to the principles of the European Union Code of Conduct for Arms Exports,

The Ministry of the Economy, Labour and Entrepreneurship keeps a database on requested, issued, realized and repealed licences and rejected requests for export and import of goods. By 30 April of the current year the Ministry is obliged to prepare an annual report on export and import of military and non-military lethal goods for commercial purposes for each previous year and submit it to the Government of the Republic of Croatia with an appropriate level of security classification. By 30 May of the current year the Ministry is obliged to publish the report referred to in paragraph 2 of this Article, except for confidential data, on its website.

Pursuant to the mentioned Act, the Minister of the Economy, Labour and Entrepreneurship has adopted secondary legislation prescribing licence forms and requests for licence issuing, as well as documentation to be enclosed within the request:

1. Ordinance on the Format and Content of the Service Provision Licence for Military Goods (NN 01/09);
2. Ordinance on the Application Form for Service Provision Licence (NN 01/09);
3. Ordinance on the Format and Content of the Export Licence or Import of Military of Non-Military Goods for Commercial Purposes (NN 01/09);
4. Ordinance on the Format and Content of the End-User Certificate for Import of Military and Non-Military Lethal Goods for Commercial Purposes (NN 01/09);
5. Ordinance on the Format and Content of the Application for Global Export Licence of Military Goods specified under category ML 13 (NN 01/09);
6. Ordinance on the Content and Method of Keeping of the Register of Exporters and Importers of Military and Non-Military Lethal goods (NN 01/09);
7. Ordinance on the Content and Method of Keeping of the Register of Services Providers for Military Goods (NN 01/09);
8. Ordinance on the Application Form for the Issuance of the Licence for Export or Import of Military and Non-Military Lethal Goods (NN 01/09).

## INSTITUTIONAL FRAMEWORK

The Republic of Croatia has developed a normative and institutional system for the exchange of information and international co-operation in the field of the suppression of international terrorism. The basic legal act regulating the provision of legal assistance that the Republic of Croatia is obligated to provide pursuant to international agreements (where terrorism is concerned this is, for example, Article 10 of the International Convention for the Suppression of Terrorist Bombings with Explosive Devices and Article 15 of the International Convention for the Suppression of the Financing of Terrorism) is the Act on International Legal Assistance in Criminal Matters that, *inter alia*:

- provides for international legal assistance in the broadest meaning in compliance with the principles of domestic law with respect to criminal acts;
- provides for legal assistance in criminal proceedings against legal persons;
- states that the domestic judiciary can fulfil special formalities and proceedings requested by the requesting country;
- provides that a request can be submitted in written form by any means;
- prescribes executing without delay, as well as the indication (without delay) of the time required for execution;
- provides for the possibility of mutual agreements on further acts and partial execution;
- states that information on the place and date of execution can be provided as well as the acceptance of the presence of a foreign official.

Article 3 of this Act regulates, among other things, the provision of international legal assistance in criminal matters that are conducted in the Republic of Croatia or in a foreign country (acquisition and forwarding of objects that will be presented as evidence, service of judicial documents and decisions, access to justice for persons in order to give testimonies and other actions necessary for the conducting of criminal proceedings). Pursuant to the provisions of the Security-Intelligence Services Act,<sup>91</sup> the security services may co-operate with foreign institutions with the approval of the Council for National Security on the basis of proposals from the Council for the Coordination of Security Services.

The Republic of Croatia has joined a series of regional initiatives, such as the Central European Initiative (CEI), the South-east European Cooperative Initiative (SECI), the Adriatic-Ionian Initiative and the Budapest Process, and international organisations such as the International Organisation for Migration (IOM). Croatia joined

these initiatives and organisations to achieve more efficient results in the exchange of information relevant for the suppression of terrorism. For the same reason, the Republic of Croatia joined the Regional Expert Group with the main goal of improving police co-operation.

The international agreement between the Republic of Croatia and the European Police Office was signed on 13 January 2006 and an official agreement on strengthening judicial co-operation between Eurojust and Croatia was signed in Brussels on 9 November 2007. The purpose of this agreement is to formalise and develop closer co-operation between Croatia and Eurojust, in order to increase the effectiveness of their response to combating serious forms of international, cross-border and organised crime.

The Republic of Croatia, as a member of Interpol, actively participates in exchanges of information on the fight against terrorism. This co-operation has been especially intensified by the exchange of information with the Interpol Expert Working Group for the fight against terrorism (FUSION TASK FORCE),<sup>92</sup> the aim of which is to identify terrorist organisations, groups and individuals, as well as their connections and sources of financing.

In order to improve international co-operation in the field of the suppression of organised crime, drugs and terrorism, the Republic of Croatia has so far signed 26 governmental and 9 ministerial bilateral treaties on police co-operation with other countries and international organisations. It has signed bilateral agreements with all its neighbouring countries, while additional bilateral agreements are in the pipeline and/or about to be signed.

In addition to the above, for the purpose of the exchange of data that may be important for investigative proceedings and security services activities on prevention, daily contacts with international partners are maintained through the Ministry of Foreign Affairs and European Integration and also through the direct co-operation of different ministries.

By acceding to the international anti-terrorist conventions, the European Convention on Extradition and both of its two protocols and signing numerous bilateral agreements on this topic, the Republic of Croatia has completely regulated the legal basis for the implementation of the *aut dedere aut judicare* principle.

<sup>91</sup> Articles 59, 96, 98 and 107

<sup>92</sup> Interpol's reference guide and a general information about Croatia's police and judicial system: <http://www.interpol.int/Public/Region/Europe/pjsystems/Croatia.asp>

## Memorandum of Understanding and Cooperation in Countering Terrorist Financing

Pursuant to the provisions of the Croatian National Bank Act<sup>93</sup> and of the Banking Act,<sup>94</sup> the CNB has signed several memoranda of understanding with their foreign counterparts concerning mutual co-operation in the area of banking supervision. The basic principles and the contents of the memoranda are based on the documents issued by the Basel Committee on Banking Supervision (Core principles for effective banking supervision - September 1997,<sup>95</sup> Essential elements of a statement of cooperation between banking supervisors – May 2001):<sup>96</sup>

- Memorandum of Understanding and Co-operation in Banking Supervision between the Croatian National Bank and the Central Bank of Bosnia and Herzegovina, Banking Agency of the Federation of Bosnia and Herzegovina and Banking Agency of Republika Srpska;<sup>97</sup>
- Memorandum of Understanding between the Croatian National Bank and the Austrian Federal Ministry of Finance and the Austrian Financial Market Authority concerning their Co-operation in the Field of Banking Supervision;<sup>98</sup>
- Memorandum of Understanding between the Banca d'Italia and the Croatian National Bank in the Field of Banking Supervision;<sup>99</sup>
- Memorandum of Understanding between the Hungarian Financial Supervisory Authority and the Croatian National Bank in the Field of Banking Supervision.<sup>100</sup>

## National Crisis Management

The political cornerstone document for crisis management in the Republic of Croatia is the National Security Strategy (Articles 70, 79, 80, 93 and 94) while the legal basis is the Act on Protection and Rescue (NN 174/04,<sup>101</sup> amendment 79/07<sup>102</sup>) which defines the consequences resulting from

<sup>93</sup> Article 27, NN 36/2001 -

<http://www.hnb.hr/propisi/zakoni-htmpdf/e-zakon-o-hnb.htm>

<sup>94</sup> Article 57, paragraphs 4 and 5, NN 84/2002 -

<http://www.hnb.hr/propisi/zakoni-htm-pdf/ezbanke-7-2002.htm>

<sup>95</sup> <http://www.bis.org/publ/bcbs30a.htm>

<sup>96</sup> <http://www.bis.org/publ/bcbs83.htm>

<sup>97</sup> <http://www.hnb.hr/supervizija/suradnja/e-bih-memorandum.pdf>

<sup>98</sup> <http://www.hnb.hr/supervizija/suradnja/e-austrija-memorandum.pdf>

<sup>99</sup> <http://www.hnb.hr/supervizija/suradnja/eitalija%20memeorandum.pdf>

<sup>100</sup> <http://www.hnb.hr/supervizija/suradnja/e-madjarskamemorandum.pdf>

<sup>101</sup> <http://www.nn.hr/clanci/sluzbeno/2004/3011.htm>

<sup>102</sup> <http://www.nn.hr/clanci/sluzbeno/2007/2494.htm>

terrorist acts with the term disaster (Article 3). It concretely regulates:

- the system for the protection and rescue of citizens, material and other goods in disasters and serious accidents;
- the manner of governance, management and coordination of protection and rescue activities in the event of disasters and serious accidents;
- rights, obligations, education and training of participants in protection and rescue;
- tasks and organisation of bodies for management and coordination of protection and rescue activities in the event of disasters and serious accidents;
- the manner for alerting and informing, and mobilisation for the purpose of protection and rescue.

The main operative coordination body for crisis management is the National Protection and Rescue Directorate (NPRD). As a contribution to the Partnership Work Programme (PWP) for 2007 and in close co-operation with the Euro-Atlantic Disaster Response Coordination Centre (EADRCC), the NPRD has so far organised the biggest Consequence Management Field Exercise - "IDASSA 2007"<sup>103</sup> in Croatia. The United Nations Office for the Coordination of Humanitarian Affairs (UN-OCHA) was actively involved. One of three scenarios included in this exercise was response to a terrorist threat using biological agents on board a passenger plane.<sup>104</sup>

The crisis management system satisfies the criteria of the Council Declaration of 13 July 2005 on the European Union response to the London bombings: free access to information and exchanges of information between countries; support to countries that do not have sufficient capacity and infrastructure for crisis management; ensuring the consistency of measures undertaken as part of the emergency situation; ensuring discussions on collective actions; and coordination concerning the provision of information to the mass media.

## Human Rights in Counter-Terrorism

Croatia believes that effective counter-terrorism measures and the protection of human rights are indeed complementary and mutually reinforcing. Serious infringements of human rights as well as a one dimensional approach to countering terrorism in past years has only helped terrorist propaganda. Therefore, Croatia stresses the need for counterterrorism compliance with international law,

<sup>103</sup> Zadar County, 21-24 May 2007

<sup>104</sup> Details of IDASSA 2007 are available at: <http://www.duzs.hr> and more specifically <http://www.nato.int/eadrcc/2007/05-idassa/index.htm>, and <http://www.duzs.hr/page.aspx?PageID=269>

especially with the UN Charter and relevant international conventions and protocols, in particular human rights law, refugee law and international humanitarian law.

Croatia fully supports the central role of the UN and its Global Strategy, and finds it vital that human rights issues were given needed attention throughout this document, especially in one whole Pillar (IV). As a Chair of the UNSC's Counterterrorism Committee - Croatia pays special attention to the global implementation of the 1624 resolution and is pleased to note that during its term of office CTC's Executive Directorate (CTED) has produced all Preliminary Implementation Assessments (PIA's) incorporating the human rights dimension. Croatia welcomes the adoption of the UNSCR 1822 (2008) relating to the work of the Al Qaeda and Taliban Sanctions Committee. However, further improvements should be explored.

Croatia is dedicated to giving its contribution to the counterterrorism activities of regional organizations and gives its full support to and acknowledgment of the work within the Council of Europe (CODEXTER, Dick Marty - CoE Rapporteur of the Committee on Legal Affairs and Human Rights, the White paper on intercultural dialogue etc.), the European Union (the EU Counter-terrorism Coordinator, the EU CT Strategy and the EU Strategy for Combating Radicalisation and Recruitment to Terrorism) and the OSCE (Action against Terrorism Unit and ODIHR).

In the recently adopted National Strategy for Prevention and Suppression of Terrorism Croatia has placed special attention on the protection of human rights, as it states following:

"In the Republic of Croatia, the highest standards of human rights and freedoms are guaranteed in the Constitution and other laws, and all relevant international conventions and protocols. The Republic of Croatia supports continued improvement of the standard of respect of human rights and freedoms, especially within the UN, OSCE, CoE and the EU. Terrorism is an extremely serious violation of fundamental human rights and freedoms, and therefore, from that point of view, it is an obligation and responsibility of the Republic of Croatia to take all necessary measures of prevention and suppression of terrorism.

Fully dedicated to the protection, promotion and improvement of human rights and freedoms, which do not jeopardise the rights and freedoms of others and community as a whole, the Republic of Croatia holds that all measures of prevention and suppression of terrorism should be in conformity with the accepted standards of human rights and freedoms. As one of the intentions of terrorism can

be the causing of excessive, non-selective repression by the authorities, with a view to compromising the authorities in the eyes of the public and justifying terrorist means and ends, counter-terrorism measures should be balanced and proportionate to the threat and in accordance with laws. They must not result in inequality of persons on the grounds of their race, nationality, ethnicity, religion, gender, social origin or legitimate political affiliation.

In its Constitution, laws and the relevant international treaties, the Republic of Croatia guarantees the freedom of expression of thought, in particular freedom of the press and other media, freedom of speech and public appearance, free establishment of the public media. The principles inherent in the said freedoms, and in the freedom of legitimate civil and political association and activity, are the foundations of any democratic and pluralistic society and a precondition for the progress of society and the further development of human rights.

Free and unhindered dissemination of information and ideas is one of the most effective means of promoting understanding and tolerance, which should yield its contribution in the prevention and suppression of terrorism. The public must be adequately informed about all forms of terrorism, about its criminal nature and the threats that it represents, as well as about the responsibilities of all in preventing and deterring terrorism.

However, at the same time, modern terrorism abuses that very same openness of our societies, the velocity, complexity and freedom of communication and information technology, especially the Internet, the great turnover of people and goods all over the world, to its own ends – with a view to disseminating its ideas, attracting extremists and conducting its activities.

Expansion of any terrorism ideology, criminal association and conspiracy to commit terrorist acts, its glorification and encouragement, and the terrorist offences themselves, do not in any way fall into the category of permissible human rights and freedoms, expression and association, but in the category of prohibited acts punishable by law, the negation of fundamental human rights and freedoms, individuals and the community as a whole. It is therefore necessary to take all measures to prevent the dissemination of terrorist ideas, by any means of transmission, and measures to supervise and prevent communication connected with the perpetration of the acts of terrorism."

Compensation of Damage Caused by Terrorist Acts

The Act on Responsibility for Damage Caused by Terrorist Acts and Public Demonstrations<sup>105</sup> stipulates that the Republic of Croatia is responsible for the compensation of damage caused by terrorist acts on the basis of the principles of solidarity and the proportional bearing of public burdens, as well as fair and swift compensation. This obligation exists whether or not the person responsible has been identified, criminally prosecuted or found guilty.

The injured party only has the right to compensation for damage that is the consequence of death, physical injury or damage to health. Additionally, the injured party is entitled to the compensation of 60% of the overall damage assessed, although the maximum amount of compensation cannot surpass 350,000.00 Kuna. The reimbursement of material damage is made in the territory of the Republic of Croatia through the reconstruction of damaged or destroyed property. The injured party can state his/her claim for compensation before the State Attorney's Office.

Out of court settlements for the compensation of damage made by the State Attorney's Office and the injured party have the power of an execution document. If the injured party decides not to accept the settlement proposed by the State Attorney's Office, or the State Attorney's Office does not make a decision on the claim within a period of 60 days, the injured party may seek its right to compensation in the case before the competent court. The court case for compensation is urgent by its very nature.

## INTERNATIONAL CO-OPERATION

### United Nations

The Republic of Croatia fully supports the UN Global Counter-Terrorism Strategy as it is an important act of reinforced commitment of global community in this field, and welcomes a recent review of its implementation held in autumn last year in New York. The Republic of Croatia also supports the work of the Implementation Task Force (CTITF), as it hopes that its activities will produce a long-desired and concrete system wide coherence in counterterrorism domain. Furthermore, the Republic of Croatia fully supports the work on the draft preparation of the Comprehensive Convention on International Terrorism.

Although it has ratified 14 out of 16 of the international legal counterterrorism instruments (ratification of remaining two SUA 2005 protocols is in the pipeline), and the fact that UN Security Council's resolutions, adopted under Chapter VII of the Charter are of the universal legally binding

nature, the Republic of Croatia strongly feels that the work on the Comprehensive Convention on International Terrorism should finish as soon as possible. This important document would not only add legal strength to global counter-terrorism efforts but it would also represent a ground stone of universal legal instruments.

Until this happens, the Republic of Croatia calls on all States, that have not yet done so, to become as soon as possible, parties to 16 conventions and protocols. Even more importantly, all UN entities, regional organizations and donor countries should continue to invest their efforts, to help States fully implement their international counterterrorism obligations. In this regard, Croatia especially welcomes those who have already proven themselves as key technical assistance providers and/or brokers.

In 2008 the Republic of Croatia began its two-year mandate as a non-permanent Security Council member and immediately took over the chairmanship of the Security Council's Counter-Terrorism Committee (CTC) and Vice-Chairmanship of the 1540 Committee (ended in 2008). Croatia remains fully committed to the work of the Committee and to achieving the goals set out in the Resolution 1373 (2001).

Croatia supports the work of the Security Council Committee established pursuant to Resolution 1267 and its Analytical Support and Sanctions Monitoring Team. Croatia firmly believes that only through the vigorous and strict implementation of measures imposed will the international community be able to achieve its goals in this domain of counter terrorism activities. At the same time, Croatia is of the view that a clear understanding of the problems and difficulties encountered by UN Member States in the implementation of the sanctions regime will facilitate the improvement of the sanctions regime and will prevent the occurrence of future possible non-compliance cases.

The Republic of Croatia fulfils its obligations under the UN SC resolutions, in particular RES/1267/1999 (Al Qaeda and the Taliban) and RES/1373/2001, and has so far submitted a total of four reports to the CTC (S/2001/1271,<sup>106</sup> S/2002/727,<sup>107</sup> S/2003/454<sup>108</sup> and S/2004/128)<sup>109</sup> which were estimated to be of a good quality. Also, in May 2006 the Analytical

<sup>106</sup> <http://daccessods.un.org/access.nsf/Get?Open&DS=S/2001/1271&Lang=E&Area=UNDOC>

<sup>107</sup> <http://daccessods.un.org/access.nsf/Get?Open&DS=S/2002/727&Lang=E&Area=UNDOC>

<sup>108</sup> <http://daccessods.un.org/access.nsf/Get?Open&DS=S/2003/454&Lang=E&Area=UNDOC>

<sup>109</sup> <http://daccessods.un.org/access.nsf/Get?Open&DS=S/2004/128&Lang=E&Area=UNDOC>

<sup>105</sup> NN 117/03

Support and Sanctions Monitoring Team of the 1267 Committee visited Croatia and met with the IWG representatives and discussed national measures for implementation of the SC R-1267.

## **NATO**

By depositing the national North Atlantic Treaty ratification instrument with the US State Department, on 1 April 2009 the Republic of Croatia officially became a fully-fledged NATO member. Having joined NATO, the Republic of Croatia has realized of its most important foreign-policy and security goals since its gaining of independence. As a full-fledged member, the Republic of Croatia took part in the 60th anniversary NATO Summit, held on 3 and 4 April 2009 in Strasbourg and Kehl.

By joining NATO, Croatia has joined the alliance which protects and promotes common values of freedom, peace, democracy, rule of law, free and social market economy, human and minority rights. The Croatian Government also expresses its undivided commitment to those values and readiness (...) to contribute to the preservation and promotion of the fundamental principles and objectives of the North Atlantic Treaty Organisation.

Croatia's participation in NATO's International Security Assistance Force (ISAF) (since 2003) is currently its biggest peace-support effort. As Croatia has gained experience, its national contingent has assumed more diverse and complicated tasks in the operation, and has expanded geographically. Following NATO's comprehensive approach to the stabilization and recovery of Afghanistan, Croatia is now present there with a diplomatic, police and military component. They are active in five different locations, in the Regional Commands Capital, North and West. The total number of Croatian soldiers in the ISAF is currently 200. During 2008 it will be further increased to 300 soldiers. To date, almost 900 soldiers, NCOs and officers have served in the ISAF mission on different duties in ten rotations. With the launching of the EU Police Mission (EUPOL) in Afghanistan, since July 2007 Croatian civilian police advisors have joined the EU mission.

## **Measures within the EU Framework**

The Republic of Croatia is committed to working with its partners in the EU to combat terrorism, and to prevent and deter terrorists from their criminal activities both on the territory of the EU and within its own borders. In this vein, Croatia makes every effort to strengthen its own national capacities and coordinate its actions with its international partners in order to address the factors which contribute to support for and recruitment into terrorism, and to

make all exchanges of relevant information in a timely, effective and secure manner

## **The Organization for Security and Cooperation in Europe (OSCE)**

Croatia participates on a regular basis in the events related to counter-terrorism that are organised under the auspices of the Organization for Security and Cooperation in Europe (OSCE). Croatia also welcomes the increased activity by the OSCE and its Action against Terrorism Unit (ATU) in this field, especially in regards to deliberation of new concepts in counterterrorism (public-private partnership, cyber-terrorism, protection of critical infrastructure against terrorist attacks, container-security, prevention of counterfeiting of travel documents etc.). Croatia also considers OSCE's endeavours to be an important contribution to enhancement of (inter-, sub-) regional cooperation in counterterrorism. Finally, a special recognition has to be also given to the potential of the Office for Democratic Institutions and Human Rights (ODIHR) in enhancing protection of human rights while implementing counterterrorism measures. Further, Croatia welcomes ATU's active contributions embodied in regular dissemination of valuable information through its monthly CT e-Newsletter.

## **Council of Europe**

Croatia is committed to contributing to the ongoing work of the CODEXTER in the sensitive area of countering terrorism and the protection of human rights. Croatia is a party to the relevant international legal instruments, such as the European Convention on the Suppression of Terrorism and the Council of Europe Convention on the Prevention of Terrorism. The Republic of Croatia is working on the adoption of other relevant Council of Europe's legal instruments. Furthermore, Croatian representative, Ambassador Ranko Viločić, was re-elected in his personal capacity as the Chair of the Council of Europe's Committee of Experts on Terrorism (CODEXTER) for 2009.

In conclusion, Croatia deems CODEXTER's concept of developing Country Profiles as a very good example of sharing national experiences and envisages an opportunity for this kind of exercise to become a model for future sharing of national best practices, not only within the framework of the Council of Europe, but also in a broader context.

<b>Relevant Council of Europe conventions - Croatia</b>	<b>Signed</b>	<b>Ratified</b>
European Convention on the Suppression of Terrorism (ETS 90)	07/11/2001	15/01/2003
Amending Protocol (ETS 190)	17/09/2003	10/05/2005
European Convention on Extradition (ETS 24)	-	25/01/1995 a
First Additional Protocol (ETS 86)	-	25/01/1995 a
Second Additional Protocol (ETS 98)	-	25/01/1995 a
European Convention on Mutual Assistance in Criminal Matters (ETS 30)	07/05/1999	07/05/1999
First Additional Protocol (ETS 99)	15/09/1999	15/09/1999
Second Additional Protocol (ETS 182)	09/06/2004	28/03/2007
European Convention on the Transfer of Proceedings in Criminal Matters (ETS 73)	23/06/2003	-
European Convention on the Compensation of Victims of Violent Crimes (ETS 116)	07/04/2005	04/07/2008
Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS 141)	06/11/1996	11/10/1997
Convention on Cybercrime (ETS 185)	23/11/2001	17/10/2002
Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS 189)	26/03/2003	04/07/2008
Council of Europe Convention on the Prevention of Terrorism (ETS 196)	16/05/2005	21/01/2008
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ETS 198)	29/04/2008	10/10/2008

