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## Executive summary

### Note by the Secretariat

**Addendum**

Contents



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# II. Executive summary

## Croatia

### 1. Introduction: overview of the legal and institutional framework of Croatia in the context of implementation of the United Nations Convention against Corruption

Croatia signed the United Nations Convention against Corruption on 10 December 2003 and ratified it on 24 April 2005.

Article 134 of the Constitution of Croatia states that duly signed and ratified international treaties such as the Convention form part of the domestic legal order and take precedence over domestic law. Self-executing provisions of international treaties may be applied directly.

The implementation by Croatia of chapters III and IV of the Convention was reviewed in the first year of the first review cycle, and the executive summary of that review was issued on 2 May 2012 (CAC/COSP/IRG/I/1/1/Add.7).

Relevant authorities involved in the prevention of corruption and the recovery of assets include the Ministry of Justice and the Ministry of Public Administration,[1] the Council for the Prevention of Corruption, the National Council for Monitoring the Implementation of the National Anti-Corruption Programme of the Croatian Parliament, the Commission for the Resolution of Conflicts of Interest (CRCI), the Information Commissioner, the Ethics Commission in State Administration, the State Commission for the Supervision of Public Procurement Procedures, the State Audit Office, the State Election Commission, the Anti-Money-Laundering Office (AMLO) and the Office for the Suppression of Corruption and Organized Crime (the designated authority under art. 6, para. 3, of the Convention).

The implementing legislation for chapters II and V of the Convention includes the Criminal Code, the Criminal Procedure Act, the Civil Servants Act, the Act on State Officials, the Act on the Prevention of Conflicts of Interest, the Act on the Right of Access to Information, the Public Procurement Act, the Act on Countering Money-Laundering and the Financing of Terrorism, the Act on Mutual Legal Assistance in Criminal Matters and the Judicial Cooperation Act.

### 2. Chapter II: preventive measures

### 2.1. Observations on the implementation of the articles under review

*Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)*

In recent years, and driven in part by its accession to the European Union, Croatia has taken significant steps to enhance its corruption prevention regime and continues to implement new measures and policies identified as priorities in the multi-year anti-corruption strategies and corresponding action plans.

The Parliament adopted the strategy for combating corruption for the period 2015–2020 in 2015. Identified priorities include strengthening the areas of conflicts of interest, public procurement, governance at the national and local levels, the functioning of public administration and State-owned enterprises, access to information and the inclusion of civil society and the media in the fight against corruption. The strategy is supplemented by biennial action plans detailing specific activities, including several that are suggested by civil society, indicators relating to the implementation of those activities, the competent bodies, deadlines and the necessary financial resources. Each plan contains over 100 actionable goals.

The Council for the Prevention of Corruption is a working body of the Government and is responsible for preparing and monitoring the implementation and impact of the

[1] The Ministry of Justice and the Ministry of Public Administration were merged in July 2020.

action plans and the strategy. The Council is composed of high-level stakeholders from ministries, relevant public bodies, including CRCI, and non-governmental stakeholders.

The National Council for Monitoring the Implementation of the National Anti-Corruption Programme of the Croatian Parliament is a body of the Parliament. It is chaired by one representative of the largest opposition party and one representative of the ruling party, meets monthly and reports to the Parliament biannually.

Other legal instruments are not periodically evaluated.

The Sector for the Prevention of Corruption, which is a unit within the Ministry of Justice, coordinates the development and implementation of the anti-corruption strategy and action plans and is responsible for disseminating knowledge about the prevention of corruption. As a ministerial division, it is neither legally nor financially independent.

Croatia collaborates with other States, within the framework of the European Union, in developing and promoting measures to prevent corruption and participates in various anti-corruption forums, including the Open Government Partnership, the Group of States against Corruption of the Council of Europe and the Anti-Corruption Network for Eastern Europe and Central Asia of the Organisation for Economic Co-operation and Development. Croatia is also a member of the Regional Anti-Corruption Initiative, which is an intergovernmental regional organization that deals solely with anti-corruption issues in its nine member States, namely, Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Moldova, Montenegro, North Macedonia, Romania and Serbia. In addition, at the time of the country visit, Croatia had requested to join the Working Group on Bribery of the Organisation for Economic Co-operation and Development.

*Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)*

The recruitment, retention and retirement of civil servants is regulated by the Civil Servants Act and the Act on Pension Insurance. Vacant civil service positions may be filled by means of public vacancy competitions advertised online, prior internal vacancy announcements or the promotion or transfer of civil servants (sect. 45 (1) and (2) of the Civil Servants Act). Candidates are selected on the basis of their expertise, skills, previous work experience and performance, and through interviews and tests (sect. 45 (4) of the Civil Servants Act). Tests and minutes of interviews are retained. The recruitment, assignment or dismissal of a civil servant is subject to appeal to the Civil Service Board. The appeal has suspensory effect on the decision and must be decided within 30 days (sects. 53 (3) and 67 (2) of the Civil Servants Act). Separate provisions exist for public officials not subject to the Act.

No special procedures exist for positions potentially vulnerable to corruption, but a risk analysis in that regard was foreseen at the time of the country visit. Salaries of public officials are calculated by multiplying a baseline salary with a coefficient established for a specific position. At the time of the country visit, the establishment was under way of a new remuneration system and a new performance appraisal system that classified jobs into salary grades in accordance with uniform, standard and competency-based classification criteria.

Non-compulsory anti-corruption training is organized by the National School of Public Administration and is jointly developed by the Ministry of Justice and Public Administration and the State Attorney's Office.

Criteria and appointment procedures for elected or appointed public officials, including the President, ministers and parliamentarians, are established in the Constitution (arts. 45, 95 and 110) and various electoral laws. Criteria for local, national and European elections vary (such as the barring of candidates who have been convicted of criminal offences). For parliamentary and European elections, the

Ethics Commission establishes electoral codes of ethics for each election. Appointed by the Constitutional Court, the Ethics Commission promotes ethical and democratic principles in elections and monitors candidates' conduct during campaigns and elections. If candidates breach an electoral code of ethics, they must issue a public apology.

The funding of political parties; independent members of the Parliament and national minority members of the Parliament proposed as candidates by voters or national minority associations; members of the representative bodies of self-government units elected from a list of a group of voters; independent lists or lists proposed by a group of voters; and candidates is regulated in the Act on the Financing of Political Activities, Election Campaigns and Referendums.

Political parties, independent members of the Parliament, national minority members of the Parliament and members of the representative bodies of self-government units are obliged to submit annual reports to the State Election Commission and the State Audit Office within 60 days of the date of expiry of the reporting period (art. 52 of the Act on the Financing of Political Activities, Election Campaigns and Referendums), through the financial control information system operated by the State Election Commission, and to report biannually on donations (art. 21 of the Act).

Election campaign donations, costs and advertising in the media must also be reported (arts. 39, 40 and 58 of the Act).

All the above-mentioned financial reports are published on the web page of the State Electoral Commission on the first working day after the date of their submission.

Political parties use their regular bank account for the regular financing of their activities, while independent members of the Parliament and national minority members of the Parliament proposed as candidates by voters or national minority associations, as well as members of the representative bodies of self-government units elected from a list of a group of voters, must maintain a special account dedicated to the regular financing of party activities (art. 12 of the Act on the Financing of Political Activities, Election Campaigns and Referendums). Political parties, independent lists or lists proposed by a group of voters, and candidates must, depending on the type of election, maintain a separate account dedicated to financing election campaign costs for each individual election in which they participate.

The banks where such accounts are held must notify the State Election Commission of the opening and closure of the accounts and submit any information requested by the State Election Commission regarding transactions made.

The prohibition of financing and preferential treatment is regulated under article 46 of the Act on the Financing of Political Activities, Election Campaigns and Referendums. Financing and preferential treatment prohibited under that article should be reported to the State Election Commission and State Audit Office (when it comes to the financing of regular annual political activities) or solely to the State Election Commission (when it comes to election campaign financing) and the amount of such donation should be paid to the State budget.

The value of any donation made to finance regular annual political activities (art. 19) or to finance election campaigns (art. 29) that exceeds the prescribed amount should be reported to the State Election Commission and the State Audit Office and paid into the State budget no later than 15 days from the date of its receipt.

Articles 63, 64 and 87 prescribe administrative sanctions and misdemeanour fines for breaches of the Act on the Financing of Political Activities.

The prevention and management of conflicts of interest in the civil service are regulated in the Civil Servants Act (section 3, arts. 32–37) and the Ministry of Public Administration guidelines and related manual on managing conflicts of interest of public sector employees, which contains checklists to detect conflicts of interest and practical guidance on how to manage them.

High-level public officials are subject to the regulations of the Act on the Prevention of Conflicts of Interest and to supervision by CRCI, which is a permanent, independent and autonomous State body that is funded by the State budget and consists of a president and four members. The president and members of CRCI are elected by the Parliament by secret ballot by a majority vote of all deputies, following a public call for candidates. The law prohibits the exercise of any form of influence over the work of CRCI that could jeopardize its autonomy and independence in making decisions. CRCI reports to the Parliament on its work on an annual basis and is responsible for, inter alia, providing guidance and training on conflicts of interest, providing opinions, conducting conflict of interest proceedings and making decisions on infringements. It also issues administrative sanctions and misdemeanour penalties for violations (arts. 42–50 of the Act on the Prevention of Conflicts of Interest). Suspected acts of corruption are referred to the Office for the Suppression of Corruption and Organized Crime.

CRCI is also responsible for the financial disclosure regime to which the high-level officials covered by the Act on the Prevention of Conflicts of Interest are subject. That disclosure must include activities, assets, interests and liabilities and must be submitted by the officials upon entry to and departure from office, upon any significant change in assets, 12 months after termination of duty or dismissal, and upon re-election or re-appointment (art. 8 of the Act). Declarations are made electronically to CRCI and are publicly available (with the exception of personal data). New declarations are subject to verification by CRCI but must be checked manually and cross-checked with information available on the Internet and with several other registries managed by public administration, such as the tax office. Public officials who are not subject to the provisions of the Act are not subject to asset disclosure obligations.

The anti-corruption strategy is aimed at expanding the scope of officials subject to the Act on the Prevention of Conflicts of Interest to include positions considered prone to higher corruption risks, and at improving the capacity of CRCI. At the time of the country visit, those aims had not yet been achieved.[2]

Only gifts with a value of less than 500 kunas (approximately 80 dollars) may be retained by a State official; other gifts become the property of the State.

Codes of ethics apply to civil servants. Conduct in violation of the Civil Servants Code of Ethics and considered unbecoming and harmful to the reputation of the civil service constitutes a grave breach of official duty and is subject to sanctions (arts. 99 and 110 of the Civil Servants Act).

Public servants and citizens can report unethical conduct to an ethics commissioner, who is appointed from among civil servants in each State body and who investigates complaints and, in the event of a breach, proposes a sanction to the head of the body in which the civil servant works. The decision is subject to appeal to the Ethics Commission (art 22. of the Civil Servants Code of Ethics). The Ministry of Public Administration publishes annual reports on complaints filed regarding unethical conduct.

Acts of suspected corruption can be reported to the Office for the Suppression of Corruption and Organized Crime through the post, telephone, telefax or email, or in person. At the time of the country visit, the new Whistle-blower Protection Act was due to enter into force on 1 July 2019. The Act would establish confidentiality and protection measures and compensation for damages for any person reporting violations of a law or regulation or the mismanagement of public funds in the workplace through internal, external or public channels. Awareness-raising and education activities related to the new Act were planned to be conducted by the Ministry of Justice and the Ministry of Interior, the State School of Education and the

[2] After the country visit, a working group on this topic was established with a view to expanding the scope of addressees under the Act.

Judicial Academy. As the new Act had not entered into force at the time of the country visit, its implementation could not be assessed.[3]

To address perceptions of corruption in the judiciary, judicial reforms were carried out in 2018 with the aim of strengthening the accountability, transparency and independence of the judiciary through, inter alia, the introduction of an electronic case distribution system and financial disclosure obligations for judges and prosecutors, with electronic declarations being verified by the Judicial Council and made available to the public.

The Judicial Council appoints, dismisses and conducts disciplinary proceedings against judges (art. 124 of the Constitution) and is composed of judges, politicians – including from the opposition party – and academics. Judges are prohibited from performing any activity that may impair their autonomy, impartiality or independence (art. 89 of the Act on Courts; points 4, 5 and 8 of the Code of Judicial Ethics) and are subject to a Code of Judicial Ethics.

The country's State Attorney's service is independent (art. 121.a of the Constitution) and is subject to a code of ethics. The State Attorney's Council is in charge of appointing, dismissing and conducting disciplinary proceedings against prosecutors, as well as managing, verifying and publishing their asset declarations.

The Judicial Academy provides mandatory and voluntary integrity and judicial ethics training through interactive workshops on practical problems with Croatian and international trainers.

Background and security checks are conducted during the recruitment of judicial officers, with the intensity of those checks dependent on the bench or office a judge or prosecutor will occupy.

*Public procurement and management of public finances (art. 9)*

Procurement in Croatia is regulated by the Public Procurement Act, into which relevant European Union directives have been transposed.

The Public Procurement Act applies to all procurements the estimated value of which is equal to or higher than the amount referred to in article 12 of the Act (the supply of goods or services and the conduct of design contests with an estimated value equal to or higher than 200,000.00 kunas (approximately 32,500 dollars); and the supply of works with an estimated value equal to or higher than 500,000.00 kunas (approximately 81,000 dollars)).

The whole procurement process, including the appeal stage, is digitized. Information on all phases of the procurement process must be made available online through the electronic public procurement classifieds website, including procurement plans or framework agreements, e-consultations on draft tender documents, predetermined award criteria, calls for tender, tender documentation and award notices (art. 68 of the Public Procurement Act), in line with the selection criteria (arts. 283–286 and 251–262 of the Act). In open procedures, the Act gives tenderers a minimum of 35 days from the date on which the contract notice is published on the electronic public procurement classifieds website to submit tenders; in other procurement procedures (arts. 227–241), the period must not be below a minimum of 15 days, depending on the complexity of the procurement.

Aggrieved tenderers can appeal to the State Commission for the Supervision of Public Procurement Procedures, an independent national body assigned to review procurement award procedures (art. 398 of the Public Procurement Act). An administrative suit before the High Administrative Court may be initiated against the Commission's final decision (art. 434 of the Act). Public procurement is subject to

[3] The Act entered into force on 1 July 2019 and education activities commenced after the country visit.

audit by the State Audit Office and, in cases where procurement is financed through European Union funds, is subject to European Union controls.

Croatia has established a "professionalization scheme" for civil servants involved in public procurement, which consists of 50 hours of training and a written exam to obtain a public procurement certificate. Renewal of the certificate requires an additional 30 hours of training every three years. Conflict of interest regulations, in addition to European Union controls, exist for civil servants involved in procurement.

The national budget is prepared by the Ministry of Finance and approved by the Parliament (art. 37 of the Budget Act). The Government is required to submit half-yearly and annual reports on revenue and expenditure to the Parliament (arts. 109 and 110 of the Act), in accordance with the Rulebook on Financial Reporting in Budgetary Accounting. The reports are published online, in the National Official Gazette, or in the official bulletin of the local and regional self-government unit (art. 12 of the Act).

Budgetary accounting is carried out on the basis of the provisions of the Book of Rules on Budgetary Accounting and the Accounting Plan. Auditing and oversight are carried out by the State Audit Office in line with the State Audit Office Act. The Act on the Public Internal Control System regulates the internal auditing obligations in all State entities. The State Audit Office may issue orders and/or recommendations providing corrective action in the case of failure to comply with the requirements (art. 22 of the State Audit Office Act).

Original or electronic copies of accounting books and records relating to public expenditure and revenue must be kept for a minimum of seven years, while documents relating to salaries must be kept permanently (art. 12 of the Book of Rules on Budgetary Accounting and the Accounting Plan). The forgery or falsification of official or business documents is a criminal offence (arts. 278 and 279 of the Criminal Code). The Act on Archival Materials and Archives regulates the protection and processing of public documentary and archival material, the availability and use of material in archives, the protection of private archival material, the public archival service and the competencies and activities of archives.

*Public reporting; participation of society (arts. 10 and 13)*

To simplify administrative procedures and facilitate and expedite public service delivery, Croatia has launched several e-service systems that allow its citizens to submit electronic requests for personal records such as passports, birth, marriage and residence records, vehicle ownership documentation, insurance- and employment-related documentation and criminal records.

Public bodies and legal persons with public authority must consult the public in relation to legislation or strategic or planning documents when such legislation or documents affect the interests of citizens (art. 11 of the Act on the Right of Access to Information). Consultations by State institutions take place through a centralized online platform maintained by the Government Legislation Office. Following a 30-day consultation period, institutions must report on the public consultation, including responses to and reasons for the rejection of individual proposals and comments. Since the launch of the platform in 2015, over 400 consultations have been held and more than 1,700 persons and organizations have participated. E-consultations are promoted through, inter alia, social media and email notifications to registered platform users.

Public authorities are obliged to publish or inform the public of, inter alia, draft laws; annual plans, programmes, strategies, instructions, work reports and financial reports; times and agendas of meetings or sessions; decisions and measures affecting the interests of citizens, as well as the reasoning for these; and information and data on their activities, organization, costs of work and sources of financing (art. 10 of the Act on the Right of Access to Information). The freedoms of expression, assembly and association are enshrined in the Constitution (arts. 38, 42 and 43) and must be

guaranteed. Restrictions on the right of access to information must be proportional to the nature of the necessity for restriction in each individual case, be necessary in a free and democratic society and be prescribed by law (art. 38 (4) of the Constitution and the Act on the Right of Access to Information). Article 6 of the Act on the Right of Access to Information establishes the principles of publicity and free access and stipulates that information should be made available to any domestic or foreign natural person or legal entity under the terms and restrictions of the Act.

The Information Commissioner, in cooperation with a non-governmental organization, has created an online portal for the submission of information requests to any of the 5,900 public authorities in Croatia. Around 90 per cent of the roughly 20,000 annual requests are granted. Responses to requests for information must be provided within 15 days, with the decision being subject to appeal to the Information Commissioner and subsequently to the High Administrative Court (arts. 25 and 26 of the Act on the Right of Access to Information). Access to information may be restricted if provided for by law and following an assessment of proportionality and public interest. Access to certain categories of information, such as information on the management of public funds, cannot be restricted (arts. 15 and 16 of the Act).

Access to information is protected, monitored and promoted by the Information Commissioner, who is independent and enjoys functional immunity within the scope of his or her responsibilities. The Information Commissioner is elected for a term of five years on the basis of a public call by the Parliament for applications by experts with a recognized ethical and professional reputation and with experience in the area of human rights, media freedom and democratic development. The annual reports produced by the Information Commissioner are available online, with summaries provided in English.

While public bodies carry out occasional campaigns to promote governance measures, during the review it was unclear whether school and university curricula contained ethics and anti-corruption programmes. Following the country visit, Croatian authorities indicated that, with the aim of raising awareness among young people of the need to prevent and combat corruption, representatives of the Ministry of Justice and Public Administration, in cooperation with the anti-corruption commissions at the county level, held lectures in high schools on preventing and combating corruption. In addition, civic education classes held in primary and secondary schools provided anti-corruption education.

*Private sector (art. 12)*

No specific anti-corruption regulations exist with regard to the private sector. All persons, including legal persons, are obliged to report wrongdoing to law enforcement. The authorities confirmed that large companies tend to have corporate compliance systems in place, and a non-mandatory code of conduct that can be signed by private entities was created by the Chamber of Economy. The majority of companies in Croatia are small and medium-sized enterprises. The country indicated that it plans to introduce compliance frameworks for the private sector in the future, after research showed that corruption was perceived as a challenge by Croatian companies. Guidance on how to manage conflicts of interest in the private sector was developed by the Ministry of Public Administration. A “cooling-off period” of one year is imposed for high-level positions in the public service in situations in which a legal person who wants to employ an addressee of the law (addressees of the law are not only State officials but may be, for example, members of the management boards of State-owned enterprises) had a business connection with an institution in which the addressee was working. In such a case, CRCI can give an opinion allowing the addressee to work for that legal person during the cooling-off period (art. 20 of the Act on the Prevention of Conflicts of Interest).

A company register is available online and any data entered must be certified by a notary, who cross-checks that data with available data from other registries.

Accounting obligations, including book- and record-keeping, financial reporting and disclosure and auditing obligations, are set out in the Accounting Act. Financial statements of public interest entities and large and medium-sized enterprises are subject to annual audit (art. 20 (1)) by authorized audit firms. Original copies of annual financial statements are kept permanently (art. 19 (13)) and are publicly available (arts. 33 and 34). Books must be accurate, complete, verifiable, understandable and protected against damage and change (art. 7 (6)) and are to be kept for at least 11 years, with some documents having to be kept permanently (art. 10). Non-compliance with those obligations is a criminal misdemeanour (art. 42), while the concealment, damage or destruction of business books is criminalized (art. 318 of the Criminal Code).

Expenses that constitute bribes are not tax deductible.

*Measures to prevent money-laundering (art. 14)*

The Act on Countering Money-Laundering and the Financing of Terrorism and related ordinances issued by the relevant regulatory and supervisory authorities establish a comprehensive regulatory and supervisory regime against money-laundering and the financing of terrorism in Croatia. The Act also establishes AMLO, which is the financial intelligence unit of Croatia, as an independent unit within the Ministry of Finance.

The requirements of the fourth and fifth money-laundering directives of the European Union Parliament and the Council (Directive (EU) 2015/849 and Directive (EU) 2018/843 on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing) were transposed into Croatian domestic law through amendments to the Act on Countering Money-Laundering and the Financing of Terrorism in October 2017 and April 2019.

The Act on Countering Money-Laundering and the Financing of Terrorism requires reporting entities (financial institutions, money or value transfer services and designated non-financial businesses and professions, as specified in art. 9 of the Act) to identify and verify customers and to identify and take reasonable measures to verify beneficial owners (art. 15), to retain related records (art. 79) and to report suspicious transactions to AMLO (art. 56). Articles 81 and 82 of the Act designate the Croatian National Bank, the Financial Inspectorate, the Croatian Financial Services Supervisory Agency and the Tax Administration as money-laundering supervisory authorities and specify the categories of reporting entities supervised by each of those authorities.

Croatia conducted a national risk assessment of money-laundering risks in 2017. To address the findings of the assessment, the Action Plan on Mitigating Identified Money-Laundering and Terrorism Financing Risks in the Republic of Croatia was adopted in 2017. A second national risk assessment was finalized in 2019. Article 120 of the Act on Countering Money-Laundering and the Financing of Terrorism and the protocol on cooperation and the establishment of the inter-institutional working group on countering money-laundering and the financing of terrorism of March 2007 provide the framework for national coordination and cooperation. The working group comprises 11 government institutions and agencies, with a representative of AMLO as elected president.

AMLO cooperates with foreign counterparts on the basis of article 127 of the Act on Countering Money-Laundering and the Financing of Terrorism. Such cooperation is not conditional on the existence of a memorandum of understanding, but the principle of reciprocity may be applied in the case of States that are not members of the European Union. At the time of the country visit, AMLO had entered into 38 memorandums of understanding with foreign financial intelligence units. In addition, it has signed a regional protocol on money-laundering and the financing of terrorism with the financial intelligence units of Albania, Bosnia and Herzegovina, Montenegro, Serbia and Slovenia.

Croatia has a declaration system to detect and monitor the movement across its borders of cash and appropriate negotiable instruments with a value of 10,000 euros or more, or its equivalent in foreign currency, in line with European Union law (Regulation (EC) No. 1889/2005).

The European Union regulation on the obligation of payment service providers, including financial institutions, to accompany transfers of funds with information on the originator and to apply enhanced scrutiny to transfers of funds without complete information (Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015) is applied in Croatia.

Croatia is committed to implementing the Financial Action Task Force recommendations and is an active participant in the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism of the Council of Europe. The Committee most recently assessed the country's compliance with the Financial Action Task Force recommendations in 2013.

Croatia and its relevant bodies cooperate regionally and internationally to prevent and combat money-laundering. AMLO is a member of the Egmont Group of Financial Intelligence Units.

### 2.2. Successes and good practices

- With a view to improving their prevention regime, Croatian authorities continue to seek new ideas and inspiration from non-governmental stakeholders and from other States (art. 5, para. 1).
- The open call procedure for qualified candidates to apply for the several positions of Commissioner, and the composition of several of the commissions, which ensures that a broad range of stakeholders are represented, including from opposition parties, the private sector, civil society and academia (art. 5, paras. 1 and 2).
- The introduction of e-service delivery and the mandatory consultation process for legislation and strategic planning documents (art. 10 (a) and (b)).

### 2.3. Challenges in implementation

It is recommended that Croatia:

- Periodically evaluate other relevant anti-corruption legal instruments and administrative measures (art. 5, para. 3).
- Ensure that CRCI and private sector stakeholders are represented in the drafting and monitoring of the anti-corruption strategy and action plans (art. 6, para. 1).
- Develop communication strategies for the various bodies involved in combating corruption (such as the Council for the Prevention of Corruption, the Ministry of Justice, CRCI, the Judicial Council and the State Attorney's Council), with a view to better promoting their work and activities and raising awareness among the population (art. 6, para. 1).
- Continue to fully implement and monitor the anti-corruption strategy and action plans and, in particular, implement the goals on enhancing the capacity of CRCI and broadening the scope of the Act on the Prevention of Conflicts of Interest to include more officials (arts. 6, para. 2, and 7, para. 4).
- Continue to implement the envisaged reforms and legislative amendments to:
  - Identify public positions especially vulnerable to corruption and establish adequate procedures for the selection and training of candidates and their rotation, where appropriate (art. 7, para. 1 (b)).
  - Finalize and implement the new remuneration and performance appraisal systems with uniform, standard and competency-based classification criteria for public officials (art. 7 (c)).

- Make the anti-corruption training provided by the National School of Public Administration mandatory for public officials, in particular those occupying positions identified as being especially vulnerable to corruption (art. 7 (d)).
- Consider establishing dissuasive sanctions in cases of breaches of the Electoral Code of Ethics (art. 7, paras. 2 and 3).
- Fully implement and promote the Whistle-blower Protection Act, with a view to facilitating the reporting of acts of corruption (art. 8, para. 4).

• Continue to strengthen the verification procedures for asset declarations, including by enhancing the capacity of CRCI (art. 8, para. 5).

• Ensure that transparency in public procurement is provided, including through an appeal mechanism, in the case of procurement with a value below the national threshold (art. 9 (1)), and consider taking additional measures regarding personnel responsible for procurement, such as requiring a declaration of interest in particular public procurements and introducing screening procedures (art. 9, para. 1 (e)).

Croatia may wish to consider the use of offline forums for citizen consultations in order to maximize participation by interested citizens (art. 10 (a) and (b)).

It is recommended that Croatia:

• Continue to take measures to provide comprehensive guidance on the ethical conduct of judges and public prosecutors, particularly concerning conflicts of interest, and enhance transparency in the court process by facilitating public access to information through the websites of courts or prosecution offices (art. 11).

• Strengthen cooperation with the private sector, in particular by promoting cooperation between law enforcement agencies and the private sector and the development of standards and procedures to safeguard the integrity of relevant private entities (art. 12, para. 2 (a) and (b)).

• Consider the possibility of imposing extended cooling-off periods to public officials in positions that may involve a conflict of interest (art. 12, para. 2 (e)).

• Ensure that ethics and anti-corruption programmes continue to be included in school and university curricula (art. 13, para. 1 (c)).

## 3. Chapter V: asset recovery

### 3.1. Observations on the implementation of the articles under review

*General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)*

The country's legal and policy framework on asset recovery consists mainly of the Act on Mutual Legal Assistance in Criminal Matters, the Act on Judicial Cooperation in Criminal Matters with Member States of the European Union, the Criminal Code and the Criminal Procedure Code. The key institutions involved in asset recovery are the State Attorney's Office, which includes all regular State Attorney's offices at the municipal and county levels, the Office for the Suppression of Corruption and Organized Crime, the Ministry of Justice and the courts.

Croatia does not require a treaty to provide mutual legal assistance in asset recovery. However, in the absence of a treaty, the provision of assistance would be conditional on assurances of reciprocity.

Croatia is a party to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and is bound by relevant European Union legislation in the area.

Croatian judicial authorities may, without prior request and on condition of reciprocity, transmit to competent foreign judicial authorities information relating to

criminal offences or violations of the rule of law (art. 18 of the Act on Mutual Legal Assistance in Criminal Matters). No condition of reciprocity would be required in the case of States members of the European Union. Information can also be exchanged through dedicated networks such as the Secure Information Exchange Network Application of the European Union Agency for Law Enforcement Cooperation and the International Criminal Police Organization. AMLO may spontaneously disseminate financial intelligence to foreign counterparts.

Croatia has yet to receive requests for mutual legal assistance in asset recovery in corruption cases from foreign jurisdictions.

*Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)*

Articles 15 to 20 of the Act on Countering Money-Laundering and the Financing of Terrorism outline customer due diligence measures that must be applied by reporting entities. Those entities are required to identify and verify the identity of customers, determine the identity of beneficial owners and take risk-based enhanced due diligence measures (arts. 16 and 44–53 of the Act) when establishing a business relationship or carrying out a one-off transaction with domestic and foreign politically exposed persons, their family members and close associates (art. 46 of the Act). The definition of "close associates" does not include legal persons (art. 46).

Reporting entities are required to keep relevant records for at least 10 years following the end of the transaction or business relationship (art. 9 of the Act on Countering Money-Laundering and the Financing of Terrorism and Regulation (EU) 2015/847).

The Croatian Financial Agency administers the Centralized Account Register, an electronic database containing data on the accounts of all legal entities (since 2002) and natural persons (since 2011).

The Croatian Financial Agency also administers the Croatian Register of Beneficial Owners, which became operational on 1 January 2020. The data contained in the register are available to public authorities, including the financial intelligence unit, law enforcement agencies, anti-money-laundering supervisory authorities, tax and customs authorities; obliged entities for the purpose of carrying out customer due diligence measures; and, in a limited format, the general public through the e-citizens portal.

Article 43 of the Act on Countering Money-Laundering and the Financing of Terrorism allows the application of simplified identification measures (simplified customer due diligence) under certain circumstances. Detailed requirements and procedures for simplified customer due diligence and enhanced due diligence, including in relation to politically exposed persons, the identification of beneficial owners and the types of identification data and record-keeping are provided in relevant ordinances and decisions of the money-laundering supervisory authorities. Those ordinances contain specific instructions on the types of customers, accounts and transactions in relation to which reporting entities must apply enhanced due diligence measures. In addition, AMLO develops and publishes typology reports and annual reports that contain case studies from practice. Under article 119 of the Act on Countering Money-Laundering and the Financing of Terrorism, AMLO may issue an order to a reporting entity, including on the basis of a foreign request, to apply ongoing monitoring measures in relation to a customer or a customer's transactions.

The establishment of or a correspondent relationship with a "[..]financial institution […] which is not physically present in the country or territory in which it is established, nor has actual management or administration and which is not a member of a regulated financial group" (a "fictitious" or "shell" bank) are prohibited (art. 65 (6) of the Act on Credit Institutions and art. 54 (3) and (4) of the Act on Countering Money-Laundering and the Financing of Terrorism). Correspondent relationships with a financial institution that is known to allow its accounts to be used

by a fictitious bank must be prevented (art. 54 (4) of the Act on Countering Money-Laundering and the Financing of Terrorism).

AMLO is responsible for collecting, analysing and disseminating information received through suspicious transaction reports, and for disseminating financial intelligence both domestically and internationally. It can use relevant provisions of the Act on Countering Money-Laundering and the Financing of Terrorism to obtain information from other authorities and reporting entities to assist with the analysis and examination of intelligence. As a member of the Egmont Group, AMLO may exchange information with foreign counterparts using the Egmont secure portal.

As described above, the public officials specified in article 3 of the Act on the Prevention of Conflicts of Interest must submit declarations of their assets and the assets of their spouse and their minor children to CRCI. The declarations are subsequently made public (with the appropriate exclusion of data pursuant to art. 6 (1) of the General Data Protection Regulation) and any violations of the Act are subject to administrative and misdemeanour sanctions. However, there is no reporting requirement concerning signature or other authority over a foreign financial account.

*Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)*

In accordance with article 77 of the Civil Procedure Act, any natural or legal person, including a foreign State, may institute civil proceedings in a Croatian court of competent jurisdiction in order to establish title to or ownership of property. Claims for indemnification can also be submitted as part of criminal proceedings by any injured party, including a foreign State (arts. 153–162 of the Criminal Procedure Code). Croatian courts may order offenders to pay compensation to injured parties under article 77 of the Criminal Code. Lastly, Croatian courts cannot confiscate property belonging to the offender if it is property awarded in satisfaction of the pecuniary claims of injured parties.

Following formal recognition by the competent Croatian courts, confiscation orders from European Union member States may be directly enforced in accordance with articles 64 and 65 of the Act on Judicial Cooperation in Criminal Matters with Member States of the European Union. Although there is no legislation in place governing the execution of requests for confiscation from States that are not members of the European Union, the Croatian authorities stated that orders from such States could be enforced under applicable bilateral or multilateral treaties, including the Convention, or relevant provisions of domestic law. Owing to the lack of domestic procedure, it is unclear whether foreign orders must be conviction-based in order to be enforceable.

Croatia has established non-conviction-based confiscation in cases where a defendant has died, and where the proceeds amount to at least 60,000 kunas (approximately 9,000 dollars) when the defendant is institutionalized, permanently unfit to plead or unavailable to law enforcement (art. 78 of the Criminal Code; art. 560a–f of the Criminal Procedure Code).

Upon receiving a foreign request, Croatia may adjudicate money-laundering offences and confiscate proceeds as well as any assets forming the object of such offences (art. 265 of the Criminal Code).

In addition to the provisions of the Convention being directly applicable in Croatia, upon a foreign request, Croatia may issue a decision ordering provisional measures for the securing of evidence, the protection of endangered legal interests and other measures (art. 23 of the Act on Countering Money-Laundering and the Financing of Terrorism). Foreign seizure or freezing orders from European Union countries can be enforced on the basis of articles 44 and 45 of the Act on Judicial Cooperation in Criminal Matters with Member States of the European Union.

It is not possible to preserve property for confiscation on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

The manner of transmission of requests for assistance and their content is established in articles 5 to 8 of the Act on Mutual Legal Assistance in Criminal Matters and articles 5 and 6 and annexes 2 and 4 of the Act on Judicial Cooperation in Criminal Matters with Member States of the European Union. If a foreign request does not meet the requirements, Croatia will generally ask the requesting State for additional information, as provided in article 10 (4) of the Act on Mutual Legal Assistance in Criminal Matters.

Croatian courts may refuse to order confiscation if the value of the property to be confiscated is negligible (art. 77 of the Criminal Code).

Interests of bona fide third parties are protected under article 29 of the Act on Mutual Legal Assistance in Criminal Matters and articles 557f, 557h and 558 of the Criminal Procedure Code in the case of States that are not members of the European Union, and under article 65 of the Act on Judicial Cooperation in Criminal Matters with Member States of the European Union in the case of European Union member States.

*Return and disposal of assets (art. 57)*

Once a confiscation order from a European Union member State has been executed, the proceeds of any realization are disposed of pursuant to article 71 of the Act on Judicial Cooperation in Criminal Matters with Member States of the European Union. If the amount confiscated is greater than 10,000 euros, 50 per cent will be returned to the requesting State, unless agreed otherwise. There is no equivalent procedure for the return of confiscated property to States that are not members of the European Union and all such requests are dealt with under applicable bilateral or multilateral treaties, including the Convention, or relevant provisions of the Act on Mutual Legal Assistance in Criminal Matters. Croatia may, however, return seized assets on the basis of a foreign request (art. 29 of the Act on Mutual Legal Assistance in Criminal Matters).

The remuneration of costs incurred through mutual legal assistance cannot be claimed unless such costs are substantial or extraordinary (art. 19 of the Act on Mutual Legal Assistance in Criminal Matters) or if the issue is expressly regulated under an agreement (such as the agreement with Montenegro). Croatia may enter into ad hoc agreements or arrangements on the final disposal of confiscated assets, if necessary.

### 3.2. Successes and good practices

- The establishment of a public register of beneficial ownership information and a central register of banking information (art. 52, para. 1).

### 3.3. Challenges in implementation

It is recommended that Croatia:

- Consider introducing effective reporting requirements for appropriate public officials having an interest in or signature or other authority over foreign financial accounts (art. 52, para. 6).
- Adopt necessary legislative measures to establish clear procedures and requirements for the enforcement of confiscation orders issued by States that are not members of the European Union (arts. 54 and 55).
- In the absence of clear procedures, ensure in practice that authorities:
  - Can give effect to a confiscation order issued by a court of another State party (art. 54, para. 1 (a)).
  - Freeze or seize property upon receipt of a freezing or seizure order issued by a foreign court or competent authority (art. 54, para. 2 (a)) or upon receipt of a request in line with article 54, paragraph 2 (b).

- Consider taking additional measures to allow the preservation of property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property (art. 54, para. 2 (c)).
- Adopt legislative and other measures to allow the return of confiscated assets to States that are not members of the European Union under the circumstances set out in article 57 of the Convention.
- Consider concluding more bilateral and multilateral agreements or arrangements to enhance international cooperation in asset recovery (art. 59).