

# **ANNUAL REPORT 2004**

May 2005

## CONTENTS

I.	INTRODUCTION.....	1
II.	SUSPICIOUS TRANSACTION REPORTS (STR) .....	3
	2.1 - SUSPICIOUS TRANSACTION REPORTS RECEIVED SINCE 1 JANUARY 2000 .....	3
	2.2 - COMPARISON OF SUSPICIOUS TRANSACTION REPORTS RECEIVED IN 2003 AND 2004 .....	3
	2.3 - NUMBER OF CASES TRANSMITTED TO MONACO'S JUDICIAL AUTHORITIES SINCE 2000 .....	4
	2.4 - BREAKDOWN BY NATIONALITY OF THE MAIN SUSPECTS IN CASES TRANSMITTED TO MONACO'S JUDICIAL AUTHORITIES IN 2004 .....	4
	2.5 - BREAKDOWN OF SUSPICIOUS TRANSACTION REPORTS IN 2004 BY TYPE OF PROFESSION GOVERNED BY ACT 1.162 AS AMENDED .....	6
III.	SUPERVISION .....	7
	3.1 - SICCFIN'S ACTION TO SUPERVISE AND MAINTAIN THE AWARENESS OF MEMBERS OF THE PROFESSIONS GOVERNED BY ACT 1.162 AS AMENDED .....	7
	3.2 - CONTROL OF IMPLEMENTATION OF ACT 1.162 AS AMENDED .....	7
IV.	TRAINING .....	9
V.	INTERNATIONAL COOPERATION.....	10
	5.1 - MULTILATERAL COOPERATION .....	10
	5.2 - BILATERAL COOPERATION .....	10
	5.3 - EXCHANGES OF INFORMATION BETWEEN FINANCIAL INTELLIGENCE UNITS (FIU).....	12
VI.	DEVELOPMENTS IN LEGISLATION .....	14

## I – Introduction

This report covers 2004. Its publication in 2005 occurs during the period marked by the death of HRH Prince Rainier III on 5 April 2005 after a reign of 56 years.

2004 also saw the 10th anniversary of the creation of SICCFIN, the Financial Channels Information and Control Unit, established by Sovereign Order 11.246 of 12 April 1994 as amended.

Having grown, the unit moved into new, larger premises in the summer of 2004.

SICCFIN is a government agency, part of the Department of Finance and the Economy, and meets the international definition of a Financial Intelligence Unit (FIU).

In accordance with the Sovereign Order mentioned above, SICCFIN has two main tasks.

First, it receives suspicious transaction reports (STRs), analyses them and transmits them to the judicial authorities if they concern matters relating to drug trafficking, organised crime, terrorism, terrorist acts, terrorist organisations or the financing thereof.

SICCFIN has a right of opposition which enables it to freeze a transaction for 12 hours, a measure which may be followed by court-ordered sequestration.

As well as processing suspicious transaction reports, SICCFIN is responsible for supervising implementation of Act 1.162 of 7 July 1993 as amended.

SICCFIN also helps to train all the members of the professions governed by Act 1.162 as amended.

As regards money-laundering, Article 218.1 of Monaco's Penal Code states that "any person who knowingly, in any manner whatsoever, for himself or for another person, acquires movable or real assets by directly or indirectly using assets or funds of unlawful origin or knowingly possesses or uses such assets", and "any person who knowingly assists any transaction to transfer, invest, conceal or convert assets or funds of unlawful origin" is liable to imprisonment for five to ten years.

Under Article 218.1, paragraphs 2 and 3, any person who attempts to commit the abovementioned offences or conspires with others with a view to doing so is liable to the same penalty.

The offences referred to at Article 218 of Monaco's Penal Code are constituted even if the offence from which the laundered funds derive was committed in another country, provided that it is a criminal offence there.

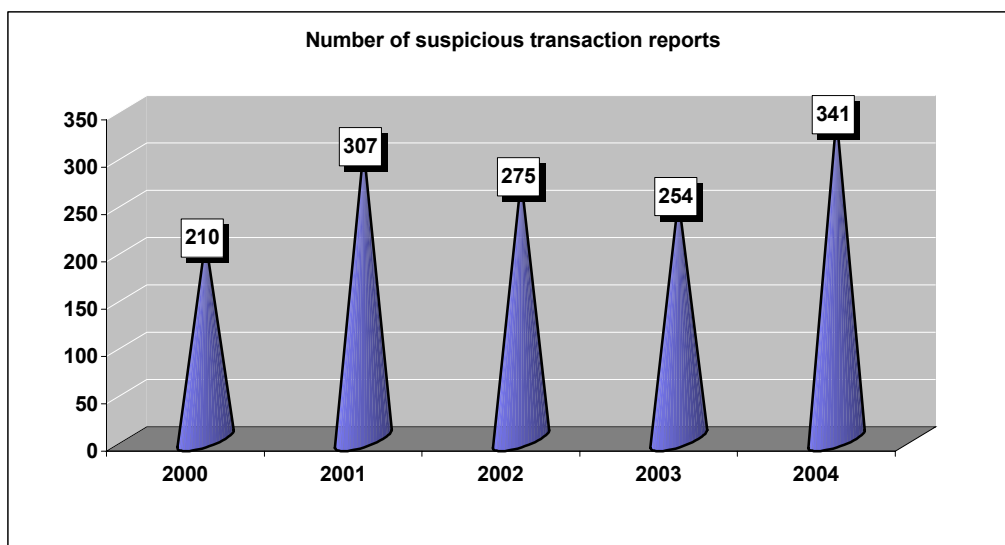
Attempt, conspiracy or complicity with a view to committing the abovementioned offences are also punishable under Article 218.1 of Monaco's Penal Code.

If the perpetrator of the money-laundering offence acts as a member of a criminal organisation, takes part in other international organised criminal activities, occupies a public office that helps him to commit the offence, takes part in other unlawful activities facilitated by perpetration of the offence, involves minors or has been convicted of a money-laundering offence by a foreign court, that is deemed to constitute an aggravating circumstance in Monegasque law and is punishable by a heavier sentence (Article 218.2).

Article 219 provides for the confiscation of assets and funds of unlawful origin and sets out the conditions of confiscation.

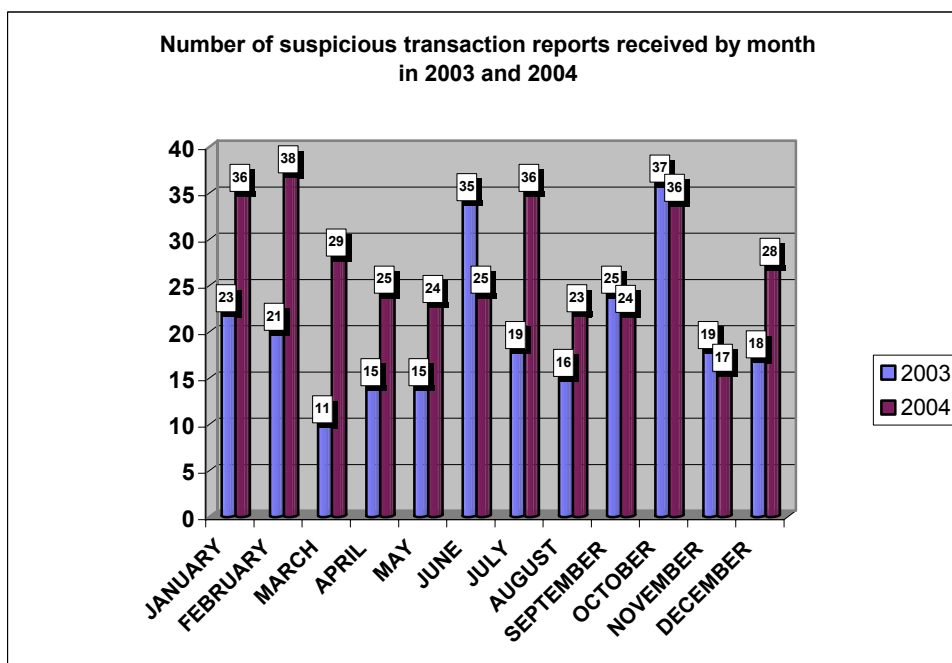
## II – Suspicious transaction reports (STRs)

### 2.1 – Suspicious transaction reports received since 1 January 2000

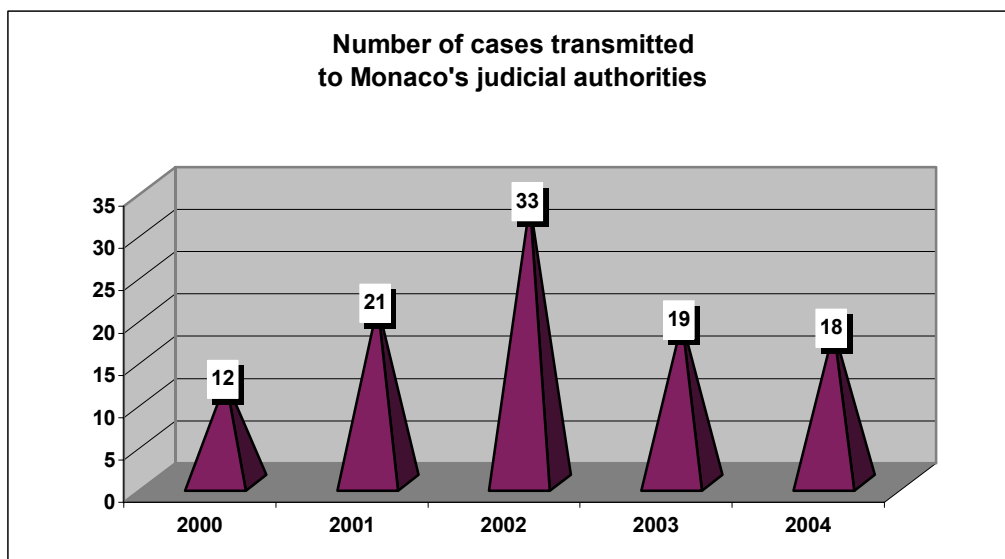


The number of suspicious transaction reports increased slightly in 2004, mainly due to a rise in reports from order transmitters. The quality of the information provided in suspicious transaction reports also improved.

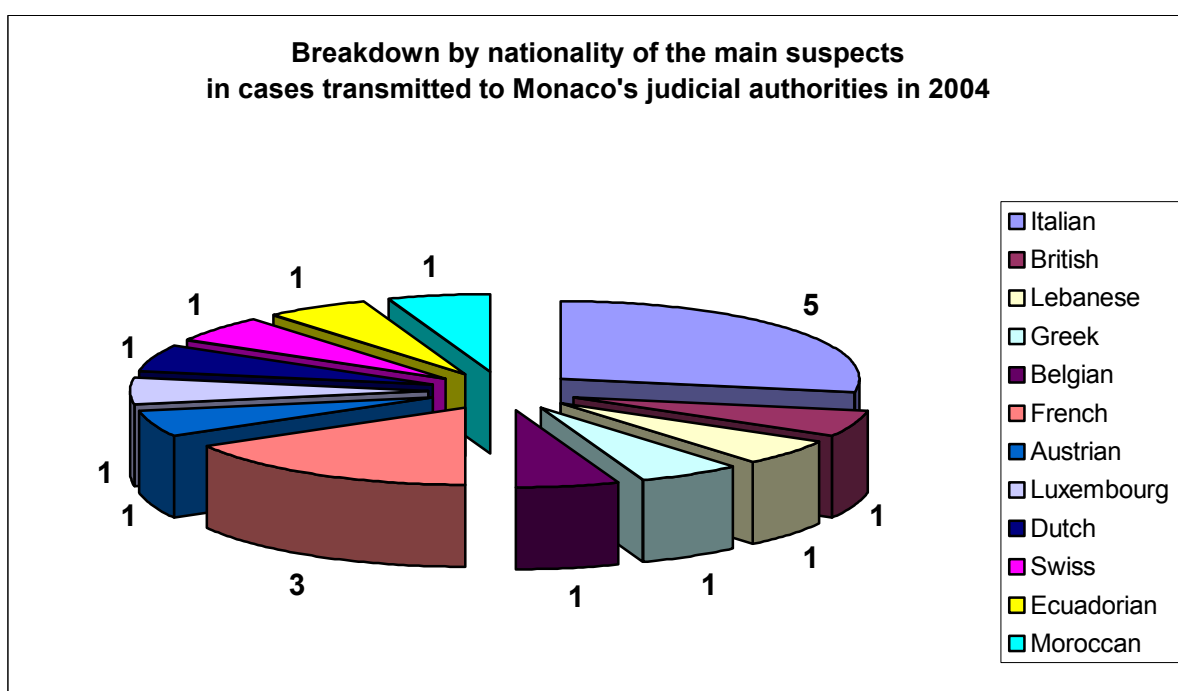
### 2.2 – Comparison of suspicious transaction reports received in 2003 and 2004



### 2.3 – Number of cases transmitted to Monaco's judicial authorities since 2000



### 2.4 – Breakdown by nationality of the main suspects in cases transmitted to Monaco's judicial authorities in 2004



The number of cases transmitted to the judicial authorities remained stable in 2004.

The fact that a report is analysed before a decision to transmit the case is taken means that there is a lag in relation to the reference year when counting the number of cases transmitted.

The typology of cases transmitted shows that the origins of criminal activity are very diverse, given that the predicate offences are almost always committed outside Monaco.

Cases transmitted by SICCFIN may also result in prosecutions on other legal grounds, such as handling the proceeds of crime.

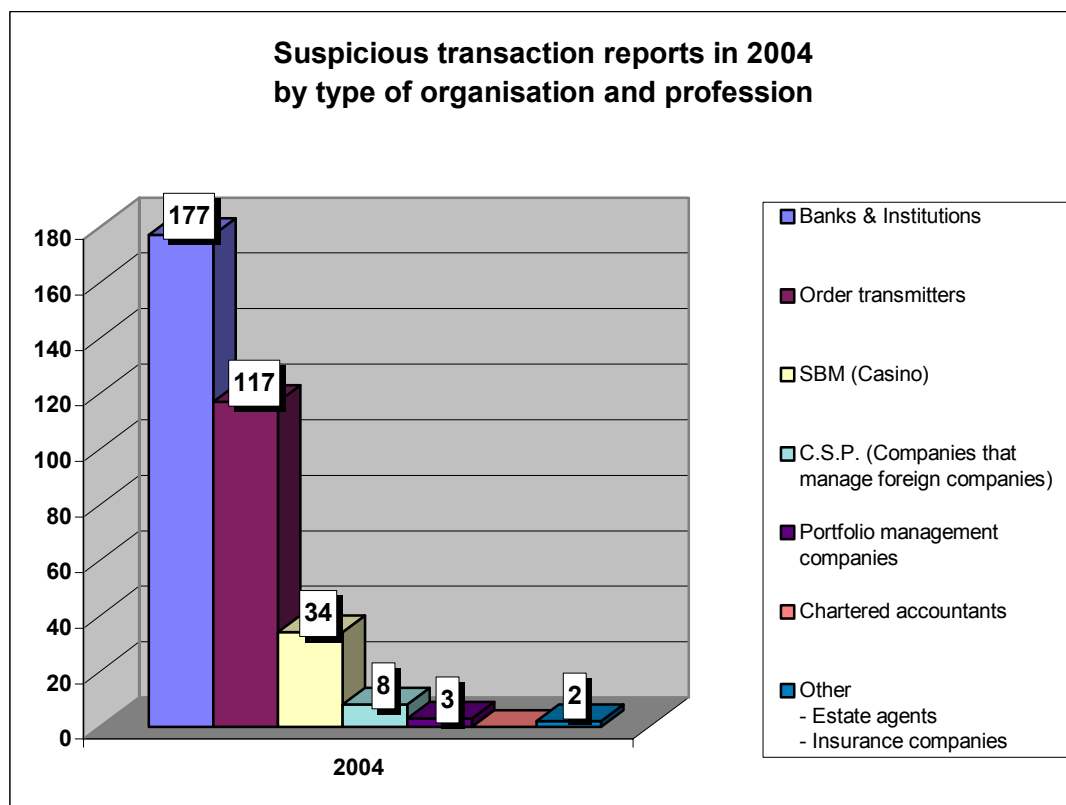
SICCFIN has received a total of 1,778 suspicious transaction reports since 1994, of which 205 have been transmitted to the judicial authorities after analysis, grouped into 120 cases, representing a percentage of 11.5%.

Of 19 cases transmitted to the judicial authorities in 2004, 9 are still in progress.

Article 28 of Act 1.162 as amended states that SICCFIN may communicate the information it receives to the Principal State Prosecutor. It is informed of judgments and of proceedings terminated without trial in cases that have been the subject of a suspicious transaction report.

SICCFIN may receive all relevant information from the Principal State Prosecutor, the supervisory authorities and government agencies.

## 2.5 – Breakdown of suspicious transaction reports in 2004 by type of profession governed by Act 1.162 as amended



It takes a certain length of time for analysis of trends to become meaningful; without sufficient distance it is difficult to reach any reliable conclusions.

However, four elements may be identified from the chart above:

- banks provide the majority of suspicious transaction reports,
- the number of reports from order transmitters is rising,
- the number of reports from casinos has started to rise since they started to apply certain criteria,
- the number of reports from other professions is still low.

SICCFIN's attributions have covered the financing of terrorism since 2002 but no report has been received in connection with names featuring on the lists published by ministerial order or on other lists.

The introduction of preventive measures has encouraged financial institutions to refuse to enter into relations with customers more frequently and to submit suspicious transaction reports to SICCFIN.

### III – Supervision

#### 3.1 –SICCFIN's action to supervise and maintain the awareness of members of the professions governed by Act 1.162 as amended

- Under the terms of Ministerial Order 2004-221 of 27 April 2004, SICCFIN prepares and circulates an annual questionnaire for banks, portfolio management companies and companies that administer foreign companies, and processes the replies.

- It verifies and monitors internal procedures communicated by banks.

#### 3.2 – Control of implementation of Act 1.162 as amended

In the framework of Act 1.162 as amended, especially Articles 26, 27 and 28, SICCFIN is responsible for controlling the procedures implemented by the financial undertakings referred to in Article 1 of the Act to ensure vigilance in countering money-laundering and the financing of terrorism.

The framework in which the controls are carried out is defined by Sovereign Orders 11.160 and 11.246 as amended. Sovereign Order 11.246 makes express reference to cooperation with foreign supervisory authorities.

Continuing the action taken in 2002 and 2003, on-site inspections and documentary controls were again carried out in 2004, adapted to the size and nature of the controlled institution.

Officials visit the premises and conduct interviews to assess the institution's commitment to countering money-laundering and the financing of terrorism, the resources devoted to such actions, the level of awareness and the involvement of the various players concerned.

From the start of the assignment, the management is asked to make files and other documents available to SICCFIN officials for examination. In compliance with Sovereign Order 15.454 of 8 August 2002, files and documents are selected according to various criteria and the institution's size and activities.

The register of precious metals transactions, the register of transactions in anonymous bonds and reports drawn up following the special scrutiny of a transaction in accordance with Article 13 of Act 1.162 as amended are also requested.

Particular attention is paid to the conditions under which suspicious transaction reports are made, especially when they relate to politically exposed persons or to sensitive countries or countries whose prevailing legislation or practice call for particular vigilance in countering money-laundering and the financing of terrorism.

Implementation of the procedure for monitoring accounts that are the subject of a suspicious transaction report is examined.

The quality of the system for internally monitoring the controls carried out by the institution is checked.

On-site inspections conclude with an interview with the management at which points of view are exchanged. A report is then prepared and sent, together with a letter stating the measures to be taken and setting a timetable. A follow-up control is scheduled for approximately one year later.

In 2004, three controls were carried out in banks, two in portfolio management companies and one in a company that manages foreign companies. Occasional visits were also made, especially to companies in the latter category.

As well as criminal penalties, and pursuant to Article 18 of Act 1.162 as amended, controls may result in the following administrative penalties:

- a warning,
- a reprimand,
- a ban on carrying out certain transactions,
- withdrawal of authorisation.

A warning was issued to one bank in 2004 after it was found to lack proper formal procedures, controls and updates.

In addition, memoranda calling for vigilance were sent to members of the professions referred to in Article 1 of Act 1.162, in the form of letters setting out the measures that ought to be put in place.

The Coordination Committee created in 2002 continued its work, holding three further meetings in 2004.

## IV – Training

Active partnership with members of the professions governed by Act 1.162 of 7 July 1993 as amended takes the form of:

- occasional actions with bank correspondents on the monitoring of files and provision of feedback,
- innovative, interactive training developed in 2004, especially for portfolio management companies, and participation in meetings and seminars organised by members of the professions and their associations.

This training is being dispensed in 2005 to the members of other professions subject to the due diligence obligations of Act 1.162 as amended, such as chartered accountants and foreign company service providers. A professional association for the latter category was set up in 2004, called the *Association monégasque des professionnels en administration de structures étrangères* (AMPA).

In 2004, awareness-raising for all professionals focused on the need to know the customer, including the capacity to detect any anomaly or unusual incident in the operation of an account or accounts, requiring knowledge of the real origin of such changes.

This is particularly important given that Sovereign Order 11.160 of 24 January 1994 as amended by Sovereign Order 15.453 of 8 August 2002 states that information relating to both legal entities and individuals must be monitored.

The Recommendations of the Association Monégasque des Banques issued in July 2004 also recommend that documentation on all customers should be updated at least every five years and more frequently for beneficial owners (BO) and politically exposed persons (PEP).

## V – International cooperation

### 5.1 – Multilateral cooperation

International cooperation plays a key role in countering money-laundering and the financing of terrorism.

Pursuing active cooperation, members of the Financial Intelligence Unit took part as experts in several working groups in 2004 under the auspices of:

- the Council of Europe Moneyval Committee,
- the Financial Action Task Force (FATF),
- the Committee of Experts on the revision of the Convention on laundering, search, seizure and confiscation of the proceeds from crime (PC-RM),
- the follow-up session to the Conference of Parties to the Convention against Transnational Organised Crime (TOC), organised by the United Nations.

At multilateral level, SICCFIN has been a member of the Egmont Group since 1995 and took part in several working groups during the year, as well as attending the Plenary Meeting on Guernsey in June 2004.

### 5.2 – Bilateral cooperation

Seven new bilateral agreements (Memoranda Of Understanding - MOU) were concluded in 2004, with:

- Malta,
- Poland,
- the Principality of Andorra,
- Mauritius,
- Slovakia,
- Canada,
- Peru.

A total of twenty such agreements were concluded between the creation of SICCFIN and the end of 2004.

Under the terms of the agreements, relations between the agencies concerned are placed on a definite and permanent basis.

**Agreements concluded from 1994 to 2004**

	<b>AGREEMENT</b>	<b>DATE</b>
1	- France (TRACFIN)	17.10.1994
2	- Belgium (CTIF)	20.10.2000
3	- Spain (SEPBLAC)	12.12.2000
4	- Portugal (DCITE/BIB)	21.03.2001
5	- Luxembourg (Parquet du Luxembourg)	03.04.2001
6	- United Kingdom (NCIS)	03.08.2001
7	- Switzerland (MROS)	24.01.2002
8	- Liechtenstein (EFFI)	05.09.2002
9	- Panama (UAF)	26.11.2002
10	- Slovenia (OMLP)	29.01.2003
11	- Lebanon (SIC)	20.05.2003
12	- Italy (UIC)	16.09.2003
13	- Ireland (MLIU)	13.11.2003
14	- Malta (FIAU)	05.02.2004
15	- Poland (GIIF)	16.04.2004
16	- Andorra (UPB)	04.05.2004
17	- Mauritius (FIU Mauritius)	22.06.2004
18	- Slovakia (UFP-SR)	24.06.2004
19	- Canada (FINTRAC)	25.10.2004
20	- Peru (UIF)	30.11.2004

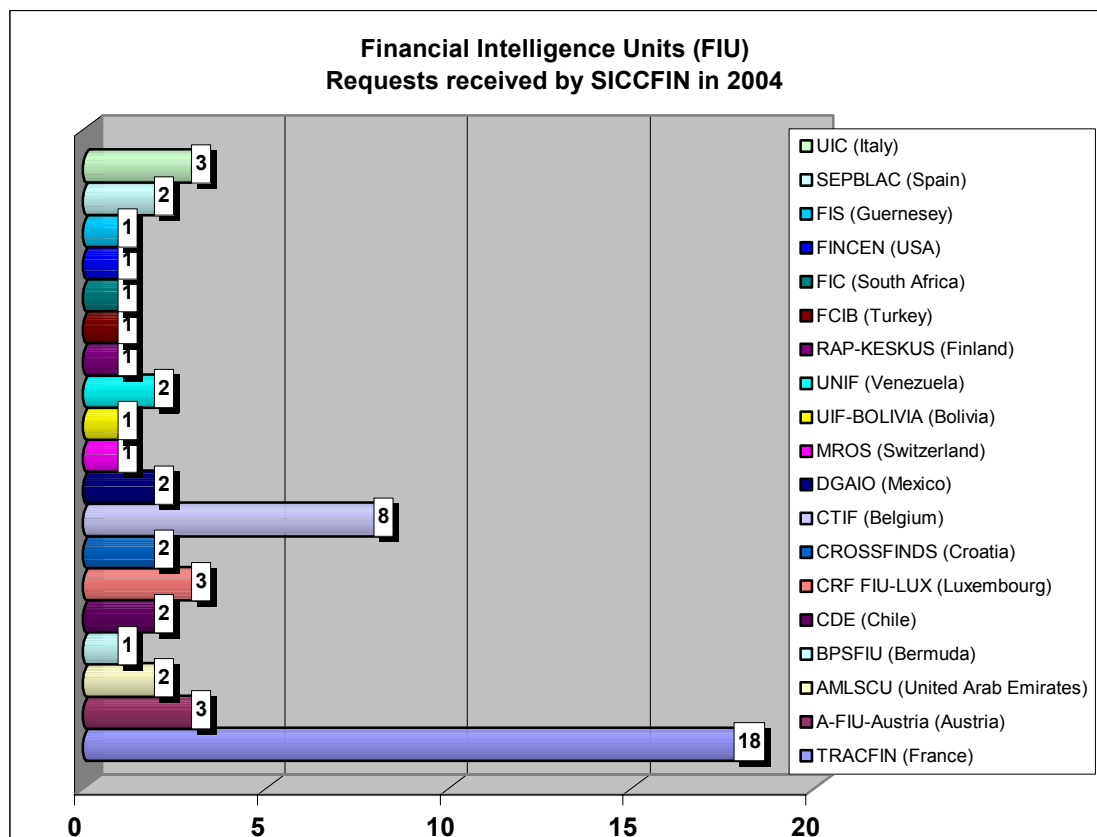
### 5.3 – Exchanges of information between Financial Intelligence Units (FIU)

Under Act 1.162, information may be exchanged subject to reciprocity. Consequently, exchanges take place with other Financial Intelligence Units on the basis of Article 31, alongside exchanges based on bilateral agreements (MOU).

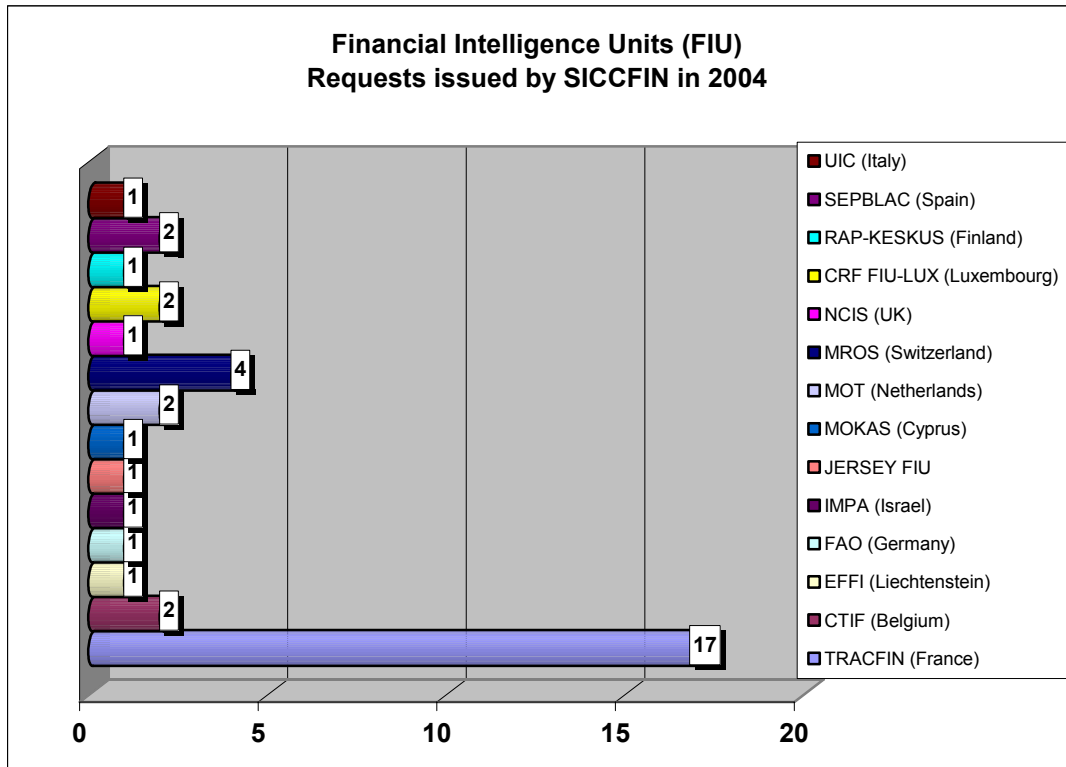
Article 31 of Act 1.162 as amended states:

"Subject to reciprocity, and provided that no criminal proceedings have already been instituted in the Principality on the basis of the same facts, the Minister of State may provide foreign competent authorities with information relating to transactions that appear to have a link with drug trafficking or organised criminal activity, with terrorism, terrorist acts or terrorist organisations or with the financing thereof."

In 2004, SICCFIN received 55 requests from other Financial Intelligence Units:



SICCFIN sent 37 requests to other Financial Intelligence Units in 2004.



## VI – Developments in legislation

Because of the constantly changing nature of the fight against money-laundering and the financing of terrorism, the Principality of Monaco has adapted its legal framework to supplement the measures already in place.

The following measures were introduced:

- Ministerial Order 2004-222 of 27 April 2004 following Ministerial Order 2003-503 of 29 September 2003 on due diligence obligations relating to cheques and electronic money for the purposes of countering money-laundering and the financing of terrorism,
- Ministerial Order 204-221 of 27 April 2004 setting the terms and conditions for the dissemination of questionnaires by SICCFIN in the context of supervision of implementation of Act 1.162 as amended,
- Sovereign Order 16.552 of 20 December 2004 creating a liaison committee for countering money-laundering and the financing of terrorism.

On the latter point, the Committee is designed to ensure that government agencies involved in countering money-laundering and the financing of terrorism and members of the professions governed by Act 1.162 of 7 July 1993 as amended share information. It also considers any matters of common interest with the aim of improving their participation in the measures in place.

The Committee has been welcomed by its professional partners who, at the first meeting on 24 March 2005, showed their interest in a forum where questions relating the practical application of laws and regulations could be discussed.

- SICCFIN: <http://www.siccfm.gouv.mc>
- FATF: [http://www1.oecd.org/fatf/index\\_fr.htm](http://www1.oecd.org/fatf/index_fr.htm)
- Egmont Group: <http://www.egmontgroup.org>
- Basel Committee: <http://www.bis.org/bcbs/publ.htm>
- Council of Europe Moneyval Committee: <http://www.coe.int>
- United Nations: <http://www.un.org>
- Association Monégasque des Banques: <http://www.monaco-privatebanking.com>