Understanding the Vatican's transparency test

John L. Allen Jr. | Jun. 22, 2012 All Things Catholic

Recently, two Italian newspapers reported that the Vatican will fail an upcoming transparency test by European anti-money-laundering experts while a third claimed the Vatican will pass. While such conflicting accounts are hardly new, the twist is that all three stories contained virtually identical information.

The difference wasn't the data, but the spin.

In all likelihood, it was a hint of things to come. Later this summer, a much-anticipated evaluation of the Vatican is to be released by Moneyval, the European arm of the Financial Action Task Force, the principal intergovernmental body in the fight against money laundering. The report is probably destined to trigger confusing and conflicting headlines about how well the Vatican did.

What follows is background to help put the looming report in context.

First of all, Moneyval and the task force do not issue a single result, like a credit score, nor is there an overall grade of "pass/fail." They do not maintain a "white list," though other monitoring bodies do. Instead, they issue assessments of 49 separate criteria, designed to represent best practices in tracking the movement of money.

This is the Vatican's first go-around. If recent reports are reliable, it will avoid being flagged as a problem nation, finishing somewhere in the middle of the global pack. Sources stress, however, that nothing's final until a Moneyval assembly in Strasbourg, France, in early July.

Why does it matter?

Two factors combine to make the evaluation a big deal.

One is the crisis shaped by the Vatican leaks scandal and the recent firing of Ettore Gotti Tedeschi as president of the Institute for the Works of Religion, the so-called "Vatican Bank." Several leaks have focused on Vatican finances, charging corruption and cronyism. Recent reports have also:

- Styled the Vatican Bank as a rogue "offshore bank," including purportedly "encrypted" and "secret" accounts;
- Raised questions about the Vatican's willingness to cooperate with international regulators trying to track suspect transactions;
- Exposed internal debates over whether a new Vatican financial watchdog agency is actually toothless.

The defenestration of Gotti Tedeschi certainly has created a sensation. He's apparently written an explosive memo about his travails, now in the hands of Italian civil investigators, and has even made cryptic references to fearing for his life.

Some observers can't help feeling the bad old days of Vatican Bank scandals from the 1970s and '80s have returned. The Moneyval report will offer the first independent assessment of where things truly stand.

The second factor concerns Pope Benedict XVI's legacy.

Benedict has been dogged by persistent criticism that he's a teacher, not a governor, and that his papacy is a managerial mess. Supporters insist that despite occasional missteps, Benedict has launched a historical program of purification and renewal on two critically important fronts: the sexual abuse crisis and financial transparency.

For the most part, that debate is impossible to resolve. Each side reads the record as they like, often influenced by their overall ideological views.

In that context, the Moneyval report marks a rare bit of objective data. These are secular evaluators wielding independent criteria, not theological or political prejudices. Their assessment can't settle the debate, but it might nudge it in one direction or the other.

Moneyval and the Financial Action Task Force

Moneyval is the European Arm of the Financial Action Task Force, sometimes referred to by its French name of *Groupe d'action financière*. Founded in 1989, it's an intergovernmental body launched by the G-7 to lead the fight against money laundering, and after 9/11, it added the financing of terrorism.

Of the task force's 49 benchmarks, 16 are considered "key" and "core," and a country's scores on those standards determine if it will be targeted for special follow-up review. Those "key" and "core" standards are:

- Criminalization of money laundering
- Confiscation and provisional measures
- Secrecy laws consistent with FATF recommendations
- Customer due diligence
- Record keeping
- Suspicious transaction reporting
- Regulation, supervision and monitoring
- The Financial Intelligence Unit
- Implementation of UN conventions
- Mutual legal assistance
- Other forms of co-operation
- Implementation of UN instruments
- Criminalizing terrorist financing
- Freezing and confiscating terrorist assets
- Reporting suspicious transactions related to terrorism
- International cooperation related to terrorist financing

Scores are expressed as one of four results, from worst to best: "non-compliant," "partially compliant," "largely compliant" and "compliant."

In general, every state comes up short somewhere. Even the United States and the United Kingdom had one blemish each on the key standards in their most recent evaluations. Among other countries generally considered to have highly evolved financial systems, the Czech Republic had low scores in six key areas; Italy and Israel, five; and Germany, seven.

If a country is judged "non-compliant" or "partially compliant" on 10 or more key standards, it is referred to the the task force's International Cooperation Review Group. That body conducts an intense review then publicizes the results.

As of early 2012, the task force listed two states as especially "high-risk and non-cooperating" -- Iran and North Korea.

It flagged 15 states with serious gaps that have not yet committed to an action plan:

1. Cuba
2. Bolivia
3. Ethiopia
4. Ghana
5. Indonesia
6. Kenya
7. Myanmar
8. Nigeria
9. Pakistan
10. Sao Tome and Principe
11. Sri Lanka
12. Syria
13. Tanzania
14. Thailand
15. Turkey

Twenty-two states were said to have a high-level commitment to remedy deficiencies, 19 of which are making progress:

1. Algeria
2. Angola
3. Antigua and Barbuda
4. Argentina
5. Bangladesh
6. Brunei Darussalam
7. Cambodia
8. Kyrgyzstan
9. Mongolia
10. Morocco
11. Namibia
12. Nepal
13. Nicaragua
14. Sudan
15. Tajikistan
16. Turkmenistan
17. Trinidad and Tobago
18. Venezuela
19. Zimbabwe

Four states in the same category, the task force said, are not making sufficient progress:

1. Ecuador
2. Philippines

3. Vietnam
4. Yemen

That's a grand total of 40 states that, in way or another, have had their knuckles rapped. Basically speaking, these are the lists you don't want to be on.

The Vatican's results

Assuming recent press reports are correct, the Vatican is set to receive scores of "compliant" or "largely compliant" on eight of the 16 key benchmarks, and "partially compliant" or "non-compliant" on eight others. The Vatican thus will avoid finishing on one of the lists above, since the threshold is low scores on 10 or more key standards.

If this were school, one might say the Vatican looks like it'll get, say, a B- or a C+. It's enough to pass, but the report card might not go up on the refrigerator door.

Sources say these reports seem basically accurate, likely based on a preliminary evaluation shared during a recent Financial Action Task Force assembly in Rome. They stress, however, that judgments can still evolve before the Moneyval plenary July 2-6 in Strasbourg.

A report Tuesday in *Corriere della Sera*, Italy's leading daily, suggested Moneyval evaluators will express special concern for three points:

- Whether the Vatican's new anti-money-laundering law creates a political "veto power" in the Secretariat of State over requests for international cooperation.
- The absence of regulations outlining how the Vatican's new financial watchdog agency, the Financial Information Authority, will perform inspections -- in particular, of the Vatican Bank.
- Whether Vatican law permits the watchdog unit to examine data from the period before it came into existence April 1, 2011. That's especially sensitive in light of an Italian probe of two allegedly suspect transactions by the Vatican Bank in 2010.

On the third point, Vatican sources say the Financial Information Authority does have the power to demand information on transactions before April 2011, including those currently under Italian review.

Officials also say Vatican courts can prosecute pre-2011 offenses.

"The judicial authority of the Vatican has the power to investigate suspect transactions in the period before April 1, 2011," said Vatican spokesman Jesuit Fr. Federico Lombardi on Feb. 9, "also in the context of international cooperation with the legal authorities of other states, including Italy."

Concerning the inspection powers of the Financial Information Authority, Vatican sources say they've always known that a detailed set of regulations is necessary and are working now to produce it.

The question of a "veto" may prove more complicated, as sources say that sometimes requests for cooperation may themselves be political -- intended, for instance, to benefit one nation's banks over another's. Somebody has to screen requests, sources say, to ensure that anti-money-laundering rules aren't being used to pry loose confidential information for other motives.

Observers say all states filter such requests, not just the Vatican, to ensure that they don't amount to an "information attack" on their financial institutions.

Six other bits of context

First, it's worth remembering that the Vatican itself requested the Moneyval evaluation. Given its long-standing obsession with sovereignty and autonomy, such willingness to court outside scrutiny is something of a novelty.

Second, a consistent theme in conversation with Vatican officials working on this process is irritation with press reports depicting an internal struggle between forces favorable to transparency and those opposed to it. There are debates over the details of policy, officials say, but fundamentally, nobody's against a strong supervisory system -- if for no other reason, because there's a serious real-world price to pay for not having one.

For instance, if outsiders believe the Vatican Bank isn't clean, some financial institutions could refuse to do business with it and others might impose a more stringent due diligence process, all of which means higher transaction costs. In that light, officials say, it's in the Vatican's own interest to have strong transparency measures.

Third, this will be the Vatican's first evaluation, while many other states are on their third or fourth. Observers say states often improve their scores in subsequent cycles.

Fourth, the Vatican is famously idiosyncratic. Moneyval evaluators made an unusual second visit, precisely to try to get their heads around its unique features. Sources say it might take more than one cycle to make the square peg of the Vatican fit the round hole of uniform global standards.

Fifth, the Vatican's anti-money-laundering statutes are new. Its law criminalizing money laundering and counterfeiting was adopted in December 2010, following a 2009 convention with the European Union, and that law also created the new Financial Information Authority. The law was modified in January.

Some low scores, observers caution, may be based primarily on the lack of a track record of seeing how these measures work in practice.

Sixth, the Moneyval evaluation is not focused primarily on the Vatican Bank. Team members took the entire legal system into view, studying the gendarmes, the tribunal system and other financial entities, especially the Financial Information Authority.

Sources say thousands of pages of documentation had to be translated, often from Latin, and that most of the work was accomplished in six months -- a lightning pace by the usual standards, and evidence, they say, of how seriously the Vatican takes the project.

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