

ANNEX I



Department of Crime Problems
Directorate General I – Legal Affairs

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IMPLEMENTATION OF ANTI-CORRUPTION PLANS IN SOUTH-EASTERN EUROPE (PACO IMPACT)

Activity Report **(March 2004 – July 2006)**



PC-TC (2006)10

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1 INTRODUCTION

The PACO Impact regional project is fully funded by the Swedish International Development and Cooperation Agency (Sida) with up to an amount of EURO 1.5 million. The project is aimed at the implementation of anti-corruption plans and geographically covers countries of South-eastern Europe, namely: Albania, Bosnia and Herzegovina, Croatia, "the Former Yugoslav Republic of Macedonia", and Serbia and Montenegro¹. The project started in March 2004 and was initially to last until February 2006. In December 2005, Sida and the Council of Europe agreed to extend the project duration at no additional cost until 31 July 2006.

2 EXECUTIVE SUMMARY

2.1 Structure of reporting, the Workplan and Calendar

In order to help understanding progress made with respect to each output, the activities reported on in the past are again documented in this report. The specific activities which took place during the period from February to July 2006 are chronologically listed. This will allow the reader to understand the origin and context of actions initiated previously, or of reforms underway.

The substance of the Workplan of the PACO Impact project as the document guiding project implementation has not substantially changed since the inception phase. However, some activities have been merged, replaced, or added, in response to the needs and developments in project areas. The updated calendar also reflects the revised schedule of activities until 31 July 2006.

2.2 General Observations

The project is now reaching its final stages, and the results of certain reforms should become visible. This, combined with political commitment to on-going reforms, will provide a good basis for the sustainability of the actions and the reform process in this region.

It should be stressed again that the authorities of each project area continue to be fully involved within the framework of this project, and continue to seek the partnership and assistance provided through the project. Additionally, in Albania, Montenegro, Kosovo, Serbia and "the Former Yugoslav Republic of Macedonia", PACO Impact (and earlier PACO) interventions have made the project a true partner supporting technical level counterparts to pursue and lobby for the reforms which they deem necessary.

However, certain delays in institutional and legislative reforms have also caused delays in project implementation. It is hoped that the extension of the project until July 2006 will help make up for these delays and allow meeting all the undertaken commitments by this project and its counterparts in the region.

¹ The project area includes also Kosovo (Serbia and Montenegro), currently under the interim administration of UNMIK in accordance with the United Nations Security Council Resolution 1244 (1999).

3 REGIONAL THEMATIC SEMINARS

3.1.1 Anti-corruption Services

Main Goal: Facilitate regional networking and the exchange of lessons learned on specific aspects and tools used in designing anti-corruption strategies, policies, action plans and the establishment of Anti-corruption services. Make use of model guidance and advice on policy and institutional reform with respect to streamlining and modifying public services [licences/permissions] when provided by central and local government authorities.

Target Groups: Anti-corruption agencies/units/commissions/councils, central and local administration representatives involved in public service policy advice.

Output (1) & (2) & (3): Anti-corruption plans improved or elaborated; Output (2): Institutional mechanisms for the monitoring and management of anti-corruption plans strengthened; (3) Draft laws/amendments available to bring the criminal legislation on corruption in line with European standards

Activity 1: *First Regional Thematic Seminar & High-level meeting on Anti-corruption Services in South-eastern Europe, 31 March - 1 April 2005, Skopje, "the Former Yugoslav Republic of Macedonia".*

Among the main challenges with regard to anti-corruption measures in south-eastern Europe is the establishment, the strengthening and the proper functioning of independent anti-corruption services. Strong political commitment, along with training of staff and the provision of equipment and other resources, is essential to the success of such services. PACO Impact, therefore, pays particular attention to these institutions, and a number of activities have been and will be carried out accordingly in the framework of the project, including regional thematic seminars.

Two specific issues – a review of the current role of anti-corruption services on the one hand; and the need to review and improve these structures and the status of these services on the other hand - have been identified as very important and were dealt with in the framework of the first regional activity under PACO Impact, the "Regional thematic seminar & high level meeting on anti-corruption services in south-eastern Europe", which was held from 31 March to 1 April 2005 in Skopje in "the Former Yugoslav Republic of Macedonia".

The seminar brought together representatives from anti-corruption services/commissions, high-level officials from each administration of the PACO Impact project areas, as well as Council of Europe experts and Secretariat members.

Participants had prepared "Profiles on the existing Anti-corruption Services" for each of their respective areas, which were presented and discussed during the technical-level meetings, and for which recommendations for improvements and reforms were agreed upon.

The implementation of anti-corruption strategies and the functioning of effective anti-corruption services require strong political commitment and support. With regard to the regional seminar, it was therefore proposed to complement working sessions of anti-corruption bodies with a high-level segment, which would allow senior representatives to take stock of achievements, of reforms underway and of their compliance with European and other international anti-corruption standards; it also aimed to provide high-level participants with an opportunity for reconfirmation of a high-level political commitment by the governments of the region.

As a result of this, a Joint Declaration of Support (see Annex) was endorsed by high-level representatives from each project area participating in the PACO Impact project. The Joint Declaration was adopted by the following officials representing their governments/administrations: Albania-Deputy Minister of Justice; Bosnia and Herzegovina-Head of the PRSP Monitoring Unit at the Council of Ministers; Croatia-State Secretary of the Ministry of Justice; Kosovo-Director of the Department of Justice/UNMIK; Montenegro-Deputy Minister of the Interior; and Serbia-Assistant Minister of Justice, and the State Secretary of “the former Yugoslav Republic of Macedonia”.

The thematic seminar aimed at providing an overview over, and discussions and analysis of two issues:

- The role of anti-corruption services in anti-corruption plans of countries of south-eastern Europe: In recent years, most countries of south-eastern Europe have established anti-corruption services. Thus, the seminar analysed the role and impact of these services in the elaboration, implementation and monitoring of anti-corruption plans/strategies. Council of Europe experts also provided guidance on how to improve such services and on how to enhance their role and to lead to further reforms and improvements of anti-corruption strategies.
- Review of structures and status of anti-corruption services in south-eastern Europe: Different countries and areas have adopted different types of anti-corruption services. The seminar provided an opportunity to exchange experience and lessons learned among different countries; it encouraged reforms to make existing services more effective, and provided guidance for the creation of new anti-corruption bodies where they have not been established yet. It furthermore facilitated networking and improved cooperation between services of different countries and project areas.

Specifically, the seminar aimed at:

- 1) Providing – through discussions with stakeholders - recommendations for a further strengthening of the role and effectiveness of anti-corruption services in south-eastern Europe;
- 2) Encouraging and enhancing cooperation between anti-corruption services of south-eastern Europe and other countries;
- 3) Facilitating the documentation and dissemination of best practice and lessons learned regarding anti-corruption services in south-eastern Europe;
- 4) Encouraging and supporting the political commitment expressed by high-level officials to strengthen anti-corruption services and to implement anti-corruption plans in south-eastern Europe.

For the technical level meetings, participants presented and prepared “Profiles on the existing Anti-corruption Services” for each of their respective areas, which were discussed and for which recommendations for improvements and reforms which were agreed. A publication of the compendium of these Profiles for the current Anti-corruption services in each project area, as well as identified recommendations for further improvements, is now available².

During the high-level segment of the meeting, a Joint Declaration was adopted by the following officials representing their governments/administrations: (Albania)-Deputy Minister of Justice; (Bosnia and Herzegovina)-Head of the PRSP Monitoring Unit at the Council of Ministers; (Croatia)-State Secretary of Ministry of Justice; (Kosovo) - Director of Department of Justice/UNMIK; (Montenegro)-Deputy Minister

² See Compendium of Anti-corruption Services Profiles, TC-PC(2005)8, June 2005.

of Interior; (Serbia) Assistant Minister of Justice; and State Secretary of “the former Yugoslav Republic of Macedonia”.

It is hoped that the compilation will be a useful reference tool for stakeholders, and that it will provide the basis for follow up analysis of progress made – a second regional thematic seminar of this kind will take place in Belgrade, Serbia in September 2005 - and for the identification of assistance for future cooperation in this field.

Output (2) & (3): ***(2): Institutional mechanisms for the monitoring and management of anti-corruption plans strengthened; (3) Draft laws/amendments available to bring the criminal legislation on corruption in line with European standards***

Activity 2: *Second Regional Thematic Seminar on Anti-corruption Services in South-eastern Europe and issues of Conflict of Interest Laws, 18-19 November 2005, Belgrade, Serbia, (Serbia and Montenegro).*

The second regional thematic seminar of PACO Impact was organized in collaboration with the OECD and was structured in two parts. The first day was dedicated to a) stocktaking of progress made in the project areas since the first regional meeting in Skopje in April 2005 and b) discussing in the plenary and in breakout groups possible ways of establishing success indicators for anti-corruption agencies. The second day discussed recent developments with regard to project areas' conflict of interest legislation and policies. The Council of Europe, the OECD and the Serbian counterparts co-chaired the meeting on both days, while the main responsibility for the first part was with the Council of Europe and for the second part with the OECD.

With reference to the first day, the following issues were thoroughly discussed:

- a) Stocktaking of progress made in the project areas since the first regional meeting in Skopje in April 2005: issues of concern as well as status of certain reforms and policy issues were brought up and shared among participants from each project area. Peer review and recommendations were suggested from several participants from the region to each other. The details of the development in the respective progress areas will be reflected in a revised version of the booklet on 'Anti-corruption Services and Needs for Reforms in South-Eastern Europe'.
- b) Discussing success indicators for Anti-corruption Services: The necessity for establishing success indicators for anti-corruption services and the methodological and practical difficulties to address this need are now widely acknowledged. Specialized agencies are faced – against the background of little or no improvement, or even a worsening in levels of corruption - with increasing pressures to demonstrate that the work and activities they are performing are meaningful and are having an impact on the corruption situation. For these reasons, the meeting aimed at initiating a discussion on the following topics:
 - How can the success and impact of anti-corruption agencies be measured?
 - How can the success and impact of anti-corruption policies be measured?
 - How can the change in community attitudes be captured?
 - What are *meaningful* indicators of success of anti-corruption agencies?
 - What do stagnating or worsening statistics on corruption say about the efficiency of anti-corruption agencies?

In order to facilitate active reflection on the topic at hand, participants were split into four groups to discuss such issues through a case study situation.

As a result of this exercise, answers to the case study' objective settings and specific recommendations were prepared and presented by the working group members as a way of compilation of practices and answers in respond to this kind of analysis³.

The second day which – led by OECD experts - was dedicated to aspects of the implementation of conflict-of-interest laws. The aim of the discussions was to provide a summary, and to review the effectiveness of respective policies, legal frameworks and implementation practices in SPAI⁴ countries. In particular, it aimed at gathering evidence on progress made, mapping out areas and positions with a high potential for conflict of interest, and identifying suitable directions for supporting the implementation of conflict-of-interest laws and policies.

Furthermore, the seminar provided the participants with the unique opportunity to assess the effectiveness of conflict-of-interest measures in their own countries. Discussions also explored possible future steps for strengthening the implementation of conflict-of-interest laws and policies and monitoring progress in relation with the institutional and legal reforms undertaken within the framework of anti-corruption services in the region.

3.1.2 Legislative Reform

Main Goal: Facilitate regional networking aimed at reaching a common understanding of ways to harmonise national level legislation with treaty law provisions of Anti-corruption-related international instruments. This activity was carried out in partnership with SPAI in accordance to SPAI/RSLO Workplan for 2005.

Target Groups: Codification departments of Ministries of Justice, Departments of European Integration, Legal Advisor's Offices at Ministries of Foreign Affairs, Parliamentary Committees.

Output (3): *Draft laws/amendments available to bring the criminal legislation on corruption in line with European standards*

Activity 1: *Second Regional Thematic Seminar on the Application of Treaty Law: Legislative Reforms for the application and implementation of Council of Europe and UN Conventions against Corruption, 10-11 June 2005, Durrës, Albania.*

An issue of importance for the South-east European countries is the transposition into national legislation of international standards set by the corruption-related Council of Europe and UN Conventions and other instruments. Strong political commitment, along with the signature and ratification of treaties in each project area are essential to the success of sustainable legal reforms to prevent and combat corruption. However, the application of special treaty law represents a challenge because differences of legal systems and the different pace of legislative reforms in each country of SEE need to be considered. Furthermore, there is a need for establishing and sharing certain guidelines related to constitutional and legal questions of applicability of international law vs. domestic law.

³ See, Activity Report, PC-TC (2005) 17.

⁴ The Stability Pact Anti-Corruption Initiative (SPAI) was established in February 2000. The SPAI brings together Albania, Bosnia and Herzegovina, Croatia, the 'Former Yugoslav Republic of Macedonia', Moldova, Montenegro, Serbia, Romania and donor and international organisations, including the Organisation for Economic Co-operation and Development (OECD) and the Council of Europe.

The seminar – which was organised under PACO Impact, in cooperation and coordination with the SPAI Regional Liaison Office in Sarajevo and included also participants from Moldova and Romania - paid particular attention not only to the process of signature and ratification of corruption-related conventions, but also to necessary guidelines and tools that need to be considered prior to the application and implementation of treaties into domestic legislation. Thus, in addition to some similar in-country project activities, a regional thematic seminar dedicated to this issue took place in Albania with a regional participation from all seven project areas and with the additional participation of the Romanian and Moldavian delegations as a part of the framework of Stability Pact Anti-corruption Initiative⁵. This Seminar brought together about 55 participants from the SEE' region.

This regional thematic seminar dealt with three issues specifically:

- **Application of Treaty Law concerning Council of Europe and UN Conventions against corruption:** Participants reached a uniform and in-depth understanding of the signature and ratification of treaties, issues related to dualist vs. monist systems, and aspects of implementation of treaty law and other international instruments by domestic institutions.
- **Drafting aspects of primary and secondary legislation in line with Council of Europe and UN Conventions against corruption:** Issues covered were guidelines and tools for the interpretation of international standards and notions facilitating legislative reform in line with the Council of Europe Civil Law Convention on Corruption; the Council of Europe Criminal Law Convention on Corruption, and other texts such as the Council of Europe Resolution (97) 24 on the Twenty Guiding Principles for the Fight against Corruption, and the United Nations Convention against Corruption.
- **Aspects of preventive and legislation--recommendations for the implementation of Council of Europe and UN Conventions against corruption:** Topics of discussion were the civil, criminal and criminal procedure laws, as well as legislation related to conflict of interests and declaration of assets.

The seminar also discussed 'Compliance Matrixes' prepared by each country prior to the seminar. The Matrixes covered implementation requirements under the Treaty Law, and the specific Working Groups identified the following strategies for necessary action:

Council of Europe Criminal Law Convention on Corruption

1. Ensure the inclusion in the domestic law of all material elements/components of the criminal offences of active and passive bribery (e.g. in relation to the different punishable actions and the concept of undue advantage);
2. Establish as a criminal offence the bribery (at least active bribery) of foreign public officials, and to provide for a definition of "foreign public official", which covers the respective categories of persons under the Convention;
3. Establish the trading in influence as a criminal offence;
4. Establish bribery in the private sector as a criminal offence, and to ensure clear understanding of the conceptual differences between private and public sector bribery;

⁵ The Council of Europe (PACO Impact) and the SPAI/RSLO were co-organisers and shared the costs of this regional activity. UNODC and ABA/CEELI assisted and provided additional (including in-kind) funding for this activity as a part of their contribution to RSLO.

5. Establish liability of legal persons and to provide for effective, proportionate and dissuasive sanctions in accordance with the standards of the Convention;
6. Provide continuous specialised training and adequate resources for those officers in charge of investigation and prosecution of corruption and corruption-related offences.

Participants also identified areas where the information available through each country's Compliance Matrixes⁶ could be shared usefully with other countries in order to ensure cooperation, to seek assistance and to exchange best practices of countries and experts of the region. These areas are as follows:

- Exchange of experience, establishment of relevant regional arrangements and provision of effective protection for witnesses and victims;
- Exchange of experience and cooperation on the use of special investigative techniques;
- Exchange of experience among authorities in charge of extradition and mutual legal assistance, establishment of working contacts and identification of obstacles to cooperation in the region.

Council of Europe Civil Law Convention on Corruption

1. Raise awareness among judges, lawyers, and other practitioners specialised on civil and labour law on the objectives pursued by the Convention and the obligations entailed therein for the country, as well as on provisions of the domestic civil law that could be utilised to the effect of the provisions of the Convention;
2. Raise general public awareness on the applicability of the Civil Law Convention on Corruption, in particular with regard to who can be considered a victim of corruption, on the rights of seeking compensation for damages resulting from civil as well as public corruption, the civil liability of the State, and responsibility for the protection of whistleblowers;
3. Review the legislation in the field of civil and labour law and identify gaps and opportunities with the aim to give better effect to the requirements of the Convention; accordingly strengthen and cross-reference - for higher visibility- relevant existing provisions of civil and labour law through special legislation on prevention of corruption if such legislation exists in the country;
4. Ensure the protection of whistleblowers through legislation in the field of labour law in addition to the protection of witnesses in criminal proceedings;
5. Ensure that the validity of contracts and clauses concerning corruption can be challenged not only by parties to the contracts and third interested parties, but also by specialised anti-corruption services in the area of repression and prevention of corruption.
6. Where applicable, ensure that provisions on Free Legal Aid in civil and labour proceedings apply also to persons seeking compensation for damages resulting from corruption;
7. Pursue a broad interpretation of the concept of "victims" of corruption in legal proceedings, where the interpretation would be based on the purpose of the Convention;
8. Consider establishing a special State fund for the compensation of victims of public corruption;

⁶ All regional and in-country compliance matrixes are available at: www.coe.int/paco-impact

9. Study good practices from other countries on the implementation of the Civil Law Convention on Corruption, especially on the issue of identification and definition of a victim, just compensation, causal link, and protection of employees-whistleblowers.

United Nations Convention against Corruption

1. States that have not yet done so should proceed with ratifying the Convention;
2. States should screen the relevant preventive mechanisms and measures in place domestically, and complement them with measures required and recommended under the Convention;
3. States should, as a minimum, establish the criminal offences mandated by the Convention, including money laundering, with respect to the widest range of Convention offences and the liability of legal persons;
4. States should review the application of international cooperation mechanisms and Convention offences, and improve their effectiveness, in particular with respect to mutual legal assistance;
5. States ensure that powers and mechanisms are in place to freeze, seize and confiscate assets domestically and upon request from other countries.

3.1.3 Prosecutorial and Law Enforcement Reform

Main Goal: Facilitate regional networking aimed at reaching a common methodologies and implementation ways of criminal law and criminal procedure legislation when investigating and taking criminal proceedings against corruption related offences in line with the international standards.

Target Groups: Ministry of Interiors and Prosecutorial Services

Output (2) & (3): ***Output (2): Institutional mechanisms for combating and prevention of corruption strengthened; (3) Draft laws/amendments available to bring the criminal legislation on corruption in line with European standards***

Activity 1: *Regional Thematic Seminar "Strengthening anti-corruption prosecutorial services in South-east Europe", Hamburg, 20-21 April 2006*

The activity was organized with the Ministry of Interior of Hamburg (Department of Internal Investigations). It brought together 40 participants from all project areas, representing prosecutorial specialized services on economic and organized crime, and the respective economic crime/corruption bureaus of the Ministries of Interior. The issues discussed during the two-day activity were:

- Review of existing structures and methodologies of anti-corruption and economic crime services within prosecutorial and law enforcement agencies;
- Review of best practices and identification of issues of concern with respect to investigation and prosecution of economic and organized crime/grand corruption cases; and
- Recommendations to improve the existing legal bases with respect to structures, work methodologies and co-operation aspects for and between law enforcement and prosecutorial services.

As a result of assessment, reviews and discussions held between participants and the two Council of Europe experts, the participants concluded that there is a need to identify common approaches and solutions (given that there are also international instruments setting standards that countries have agreed to fully implement), as follows:

- An efficient implementation of existing relevant legislation is only possible if the political will and support is ensured;
- There is a need for mandatory tools and bases for the 'submission of information' between relevant agencies both at national and at regional level;
- There is a need for legal certainty on police and law enforcement structures (currently, there are too many changes in too short a time, causing confusion with respect to authorities and task management);
- There is a need for stronger legal and operational capacities to efficiently conduct cyber-crime investigations;
- There is a need for specific legislation on interception that would include clear guidelines on the categories of criminal offences that could be subject of such special investigative measures;
- There is a need for the respective governments to increase their support to the law enforcement and prosecutorial services by allocating special budgetary resources for operations and education;
- There is a need to identify and implement clearly the legal bases and international guidelines when handling bank secrecy/foreign entities-related cases;
- There is a need to provide legal implementation and practical guidelines in order to ensure that the freeze and seizure of proceeds of crime (as an injunction order) should create the basis of an efficient confiscation procedure, which appears to be currently one of the key problem at the end of criminal proceedings;
- There is a need to seek and obtain technical guidelines for the appropriation of the corresponding value and how and what measures can be used in order to prove the amount of proceeds from a specific crime;
- There is a need for training on investigation and prosecution of crimes related to a) securities regulation and b) insider trading.

4 PROJECT AREA ACTIVITY REPORT

4.1 Albania

4.1.1 Project Orientation

Main Goal: Improvement of the Anti-corruption Plan and its implementation with particular focus on the improvement of monitoring based on indicators of success, and an increased accountability and responsibility for all involved institutions.

Expected actions: Improved Anti-corruption Plan, consolidated and comprehensive measurable Anti-corruption actions; Implementation of specific and crucial measures under the Action Plan, strengthen monitoring and managing mechanisms through the inclusion of tangible indicators of success in the Action Plan. Strengthen capacities of the prosecutorial services to fully carry out criminal proceedings against corruption-related offences, by professionally equipped officers and prosecutors.

4.1.2 Activities by Outputs

Output (1) & (2): *Anti-corruption plans improved or elaborated; Output (2): Institutional mechanisms for the monitoring and management of Anti-corruption Plans strengthened*

Activity 1: *Expert Review: Monitoring and Improvement of Indicators of Success in the Anti-Corruption Action Plan, Strasbourg, September-October 2004.*

In late September 2004, a written expert opinion (Policy Advice Paper)⁷ on "Improving the Indicators of Success of the Albanian Anti Corruption Plan 2003-2004" was commissioned and submitted to the Anti-Corruption Unit in October 2004. The review was dictated by the need to critically examine the existing indicators of success in the Action Plan of 2003-2004, and to suggest improvements. In addition, the opinion and its guidelines were aimed to be used as the core tool in the Anti-Corruption Monitoring Group and other institutions' Round Table Review of the Action Plan. Several changes made in the current draft of the Action Plan 2005-2006 reflect recommendations issued with respect to measures and indicators of success.

Activity 2: *Roundtable on the Effectiveness of the revised Action Plan, based on the expert opinion and the three main pillars of the strategy, Tirana, 25 October 2004.*

The objective of the roundtable was to discuss –guided by the written expertise- with the relevant institutions the overall improvement of the Action Plan and more specifically, the introduction of success indicators and specific anti-corruption measures. In addition, the roundtable discussed how to better draft, simplify, monitor and implement an Anti-corruption Plan.

By the end of the roundtable review, stakeholders agreed that the structure of the Action Plan should not be altered. However, the new Action Plan 2005-2006 should and would include priorities and concrete measures, and well as well defined objectives and success indicators as suggested in the Policy Advice Paper and during the discussions by the participants. It was also decided timeframes in the current Action Plan are too short and often unrealistic, and therefore must be extended to allow for the completion of the objectives. Additional measures such as conducting of perception surveys to measure

⁷ See, also Policy Advice Paper, TP-46 (2004).

corruption in the central administration were suggested to be added to the Action Plan of 2005-2006. Finally, there was agreement that all institutions should be recommended the following steps prior to the endorsement of the Final Action Plan for 2005-2006:

There has to be a different approach to the continuity of Action Plan Policies:

- Deadlines for anti-corruption measures must be better identified: Short-term measures vs. mid-term (2-3 years) measures;
- Conduct regular and periodical inventories on objectives reached and analysis of the adequateness of indicators used.

The structure of the Action Plan and its contents need to be improved:

- Provide simplified and clear measures;
- Provide an explanation and methodology of measures.

The Action Plan's Indicators of Success need to be improved:

- Ensure a clear link between a 'Measure' and its respective success indicator;
- Ensure a causal link between 'Objectives' and 'Individual Measures' taken in order to achieve the 'Objective';
- Provide clear explanations for the success indicators used.

Activity 3: *The Fourth National Conference on the Fight against Corruption 2005, Tirana, 9-10 December 2004.*

The Fourth National Conference on the Fight against Corruption brought together some 80 representatives from all relevant state institutions and from independent institutions, and, to a lesser extent, from civil society. The aim of the Conference was to review and discuss the progress reached so far in the institutional and operational efforts to fight against corruption, and to review the Draft Anti-corruption Action Plan for 2005-2006, and the setting up of priorities for the government.

The Conference was opened by the Minister of State for Coordination, and representatives from the State Supreme Audit, the High Inspectorate of Declaration and Control of Assets, and the Prosecutor's General Office. Institutional cooperation was discussed as an issue of concern, stressing the need for better coordination, and for an intensification of joint efforts to investigate and try corruption cases. The Head of the Technical Cooperation at the Crime Problems Department of the Council of Europe pointed out some of the priorities which could be restated in the new Action Plan 2005-2006 such as: the approval of the new Law on Conflict of Interest, the issue of immunities of high-level officials, the review of the Law on Political Party Funding, the restructuring of the Triangle Commission, as well as the revision of the status and structure of the Anti-Corruption Monitoring Group (ACMG) and the Anti-Corruption Unit (ACU).

Participants discussed and agreed that the structure of the Action Plan would have to be changed to some extent, in order to become clear drafting and division of objectives, measures and indicators of success. Yet, measures of the new Draft Action Plan 2005 would be further elaborated with the assistance and under the leadership of the ACU. The final draft of the Action Plan 2005 is expected to be discussed and approved by the meeting of ACMG Board in mid February 2005. The lack of sufficient representation of civil society in the Conference resulted in no measures or actions being suggested or addressed on their behalf in the current Action Plan, except those foreseen by the government institutions themselves.

The conference finalised its working sessions by issuing the following observations, recommendations and urgent instructions to all institutions and specifically to the ACMG and the ACU:

- The Inventory of Achievements covering the period from June 2003 to November 2004 shows a long list of measures achieved; these achievements concern mainly enforced legislation, rather than analysing their impact in the fight against corruption. In addition, measures that should have, but actually have not been taken at all should be reflected as a matter of urgency (after revision) in the Draft Action Plan 2005;
- There are some improvements in the work of the ACMG Board, and significant improvements on the work carried out by the ACU. Yet, there is a concern about the technical cooperation with and the quality of reporting from the Institutional Contact Points. Therefore, one of the main priorities for the next year should be the re-composition of the ACMG Board with new, more adequate members, in order to improve the quality of participation and reporting/monitoring of the Action Plan.
- A review of the Action Plan 2005 structure is necessary; specifically, objectives to be reached should be added, and their coherence should be maintained; this should be complemented by a) specific measures to be undertaken to reach these objectives, and b) by setting up a classified system with useful and realistic success indicators.
- Follow-up with a series of consultative meetings of the ACU with the institutions involved in the Action Plan need to be taken as urgent steps in order to improve and consolidate institutional monitoring and cooperation in order to improve and later monitor the implementation of the Action Plan 2005.
- Meetings with civil society representatives and the public - not only with and through the Albanian Coalition against Corruption should be initiated, in order to provide further elements/measures for the third part of the Action Plan 2005 on issues related to Public Education, Perception and Participation.
- A database should be created within the ACU office, which would be aimed at maintaining the institutional memory as well facilitating/improving the cooperation of the ACU with all institutions and counterparts when reporting measures and progress made.

Activity 4: *Purchase of the Albanian Jurisprudence Program (Jurist), Tirana, February 2005.*

In mid-February 2005, the new series of the legal program “*Jurist*” were made available to the Anti-corruption Unit. Funding for this computer database program for legal research was requested by the Anti-corruption Unit. It is expected to facilitate and provide updated information on all relevant Albanian legislation, especially with respect to legal research related to analysis of legislation undergoing legal reform within the framework of anti-corruption efforts. Two programs were purchased, at a total cost of 630.00 Euro.

Activity 5: *Publication of the Strategy and Action Plan for the Prevention and Fight against Corruption 2004-2005, Tirana, July 2005.*

Although with delays in formalising the final text of the Strategy and Action Plan for the Prevention and Fight against Corruption (2004-2005), as foreseen in the Workplan, the project financed the publication

of 300 copies of the Strategy and Action Plan in booklet format⁸. The Anti-Corruption Unit and the ACMG are now the institutions in charge to ensure a wide institutional and public distribution. The Action Plan for the Prevention and Fight against Corruption has been published in both English and Albanian, and as in the past last 4 years, is expected to be used as the only official working and reference document for all involved institutions when implementing the Task Chart and reporting on progress made.

Activity 6: *Roundtable with Albanian Anti-corruption Services, Strasbourg, 2-3 February 2006.*

This roundtable brought key representatives of the Albanian anti-corruption services and Council of Europe experts and the Secretariat together, in order to discuss the legal framework and the terms of reference for the newly established Department of Administrative Internal Control and Anti-corruption (DIAC).

The main issues covered by the meeting concerned a) the new anti-corruption objectives/reforms – spelt out in the “check list” and corresponding to a 6-months programme of the new government -, b) the abolishment of the ACMG and the ACU, and the creation of a new Anti-corruption Task Force (ACTF) and c) the creation and ways of strengthening of the Department for Internal Administrative Control (DIAC). The meeting also discussed possible types of assistance that could be provided in the framework of PACO Impact in support of the government’s objectives.

Both Council of Europe experts made a number of general comments, and provided basic guidelines concerning the terms of reference and stressed the importance of a legal basis for the new Department for Internal Administrative Control and Anti-corruption, in line with European and international standards.

In addition to that, a number of practical issues were discussed, including:

- The impact of anti-corruption policies on the relevant institutional structures;
- The interrelations between the Anti-corruption Task Force mechanism and the newly established DIAC, as well as with other relevant institutions;
- The terms of reference (functions and duties) and the draft legal basis of DIAC;
- Short and medium-term anti-corruption priorities;
- Identification of actions, quantitative and qualitative indicators of success and impact of anti-corruption measures;
- Ensuring the government’s transparency and accountability in the fight against corruption; collaboration with civil society;
- Measures to strengthen DIAC, including identification of training needs, human and other resources;
- Areas of expertise to be provided through technical assistance.

The roundtable helped to clarify the rationale behind the newly established anti-corruption mechanisms, and provided input into the reform process.

Following the request of the Albanian delegation, the Council of Europe experts submitted their views and recommendations in writing for considerations.

With reference to the way forward, and in light of the discussions/brainstorming sessions held, it was concluded that the current legal basis for the Anti-corruption Task Force, as well as its correlation with DIAC should be reviewed; equally, the legal basis of DIAC should be reviewed and expert

⁸ See, available publication.

recommendations should be considered; the activities planned to take place in the framework of PACO Impact until 2006 should be reviewed and support the implementation of recent reforms.

Activity 7: *Expert Opinion: Current Anti-corruption Reforms in Albania: Establishing the Department of Internal Administrative Control and Anti-corruption, Strasbourg, 2 March 2006.*

As a follow-up to the experts roundtable on current anti-corruption services in Albania, held in Strasbourg in early February 2006 (see activity 6 above), a written expert opinion on "Current Anti-corruption reforms: Establishing the Department of Internal Administrative Control" prepared by two Council of Europe experts was commissioned and submitted to the Albanian Government. The Expert Opinion provided comments and suggested recommendations for improvements in the current legal basis (Decision of the Council of Ministers) of the Anti-corruption Task Force and the Draft Order of DIAC. Furthermore, the opinion aimed at raising a number of issues of concern related to: a) the specific functions of both structures, b) their internal decision-making processes and in particular c) their intra- and inter-institutional relations, as well as d) indicators of success and policy design and e) potentially overly wide competencies and functions of DIAC.

It is expected that the suggestions/recommendations will be taken into consideration in order to further improve the current anti-corruption legal framework, as well as to help a better functioning of these mechanisms.

Activity 8: *Consultancy workshop on reviewing the existing legal basis and drafting of the Terms of Reference for DIAC, Tirana 18-19 May 2006*

In view of the Expert Opinion on "Current Anti-corruption reforms: Establishing the Department of Internal Administrative Control and Anti-corruption" (see activity 7 above) submitted two months earlier to the Albanian authorities, this activity aimed at a) reviewing operational and methodological issues that DIAC needs to clarify in order to efficiently carry out its tasks and provide the necessary input as required in the current legal basis of DIAC, Decision No. 94 of 15.02.2006 and) at drafting of Internal Rules of Procedure for this structure. The two-day activity brought together 11 members of DIAC and other interested actors, and involved two Council of Europe experts. The experts' recommendations addressed issues related to the modalities and tools that could be provided in the format of a Manual of Operations for DIAC, enabling it to carry out system and individual inquiries into public administration institutions. In addition, the two experts provided an overview of risk assessment options, and a model check-list that could be followed in order to determine which institutions could be internally controlled by DIAC with the goal of conducting system analysis and providing recommendations on prevention of corruption.

Activity 9: *Manual on "Guidelines and Procedural Rules on the Operations of the Department of Administrative Internal Control and Anti Corruption (DIAC)", Strasbourg, 30 May 2006*

As a follow-up to the consultancy workshop held in mid-May 2006, and based on an agreement with the Albanian authorities, the Manual on "Guidelines and Procedural Rules of the Operations of DIAC" was commissioned and submitted for consideration and use to the Albanian authorities (DIAC) at the end of May 2006.

The Manual provides for a clear roadmap that DIAC should follow while carrying out audit and inquiries, specifying what would be the key outputs of such inquiries, how actions and findings should be

processed in line with the existing relevant legal framework, and what the interrelations with other institutions/agencies should be.

The Manual proposes a long-list of procedures/methodologies and operations to be undertaken with regard to system and individual inquiries, together with basic criteria and guidelines how to pre-select institutions for audit, conduct it, communicate findings and follow-up on implementation of recommendations. Along with that, two standard types of agreement/cooperation (Memorandum of Understanding on exchange of information between other relevant bodies and DIAC; Protocol permission/Agreement between independent institutions and DIAC) on exchange of information with the institutions where auditing will be conducted are proposed.

Comprehensive check lists on how to start the inquiry together with basic methodological guidelines about the inquiry/audit process, implementation and follow-up are provided with respect to: a) individual violations inquiry and b) institutions/organizations audit. Along with that, a "Sample Risk Assessment Questionnaire" provides the opportunity to evaluate the level of risk in different institutions, how much they are prone to corruption/what is their risk index, as well as to facilitate the selection of organizations that would be subject to an anti-corruption audit.

Output 3: ***Draft laws/amendments available to bring the criminal legislation on corruption in line with European standards***

Activity 1: *Expert review on the amendments to the existing legal framework on conflict of interest, as provided by the study of the ACU, Strasbourg, 20 October-20 December 2004⁹*

In 2004, the Anti-Corruption Unit¹⁰ has been involved in drafting and coordinating efforts of the government and civil society in proposing, through a new law, the rules governing conflict of interests. In view of this and as per request of the Albanian authorities, a joint written expert opinion of the Council of Europe and OECD/SIGMA experts was commissioned and then submitted for consideration to the Albanian authorities during the period of October-December 2004. The joint experts' opinion has been used for improving the Draft Law in accordance with specific recommendations per each provision, as provided, prior to its endorsement by the government and then its submission to Parliament which is expected to take place during February-March 2005. A roundtable to provide a wider spectrum of ideas and opinions before the Parliamentary Commission's Discussions is scheduled to take place in February 2005.

Activity 2: *Training seminar for public information officers at the local government offices on issues of implementing the Law on Freedom of Information, Tirana, 5- 6 May 2005*

This training – aimed at strengthening transparency and accountability of the government to the public - provided additional information and interpretations of certain legal concepts to 40 officers from different local government offices who are involved in the implementation of specific aspects of the right to information about official documents.

The Albanian Council of Europe expert provided a thorough explanation of the main features of the law and other relevant legal provisions, as well as best international and regional practices in guaranteeing the proper implementation of this law. Furthermore, tools and guidelines on the application of this law

⁹ See, also Expert Opinion, TP-48 (2004).

¹⁰ This initiative had started since November 2003 under PACO Albania 2 project.

based on the distinction between the functioning of a Public Information Office and of the Office of Media and Public Relations were provided to all participants.

One of the main issues of concern discussed by participants was the low visibility and awareness by the public on the existence and the role of these offices, resulting in a general hesitance by the public to approach them. This has an impact on the implementation of this law. It was concluded that central and local governments would have to put more emphasis on the education and information of the public on their rights to information with reference to official documents.

Following the discussions, and the sharing of some existing good practices, participants took the opportunity to network group and exchange information on the following issues:

- Possible models and tools to avoid unnecessary delays (and which could leave room for the abuse of power) during procedures that are not of an important decision-making nature, such as the requirement of signatories from the Mayor or his/her Deputy;
- Possible ways of communicating with the public and increasing its awareness with respect to the rights that are provided by this law, including using simple tools and terminology when explaining legal terms to the public;
- The idea of initiating a new strategy for setting up standard regulations and standard forms to be used in a unified way by all practitioners in this field. Participants also noted that in setting up such a strategy, further advice, cooperation and support should be sought from the Office of Ombudsman in Albania, which is the body in charge of assuring the full implementation of the Law on Freedom of Information.

A second activity of this kind – a training court clerks and judicial officers of the courts in Albania - is scheduled to take place already in early September 2005. Participants also decided to forward the issues discussed and the recommendations resulting from these events to the Office of Ombudsman in order to secure continuity and follow-up of the reform process and education in the field of implementing the existing law.

Activity 3: *Roundtable discussion on Aspects of Implementation of the new Law on the Prevention of Conflict of Interests in the Exercise of Public Functions, Law Nr. 9367, dated 7 April 2005, Tirana, 13 June 2005*

Following a long political debate within the government and in the relevant parliamentary commission[s], and after protracted drafting procedures led by the Anti-corruption Unit, the Ministry of Justice, and the Albanian Coalition against Corruption, lasting more than a year, the Albanian parliament passed, on 7 April 2005, the new Law on the Prevention of Conflict of Interests in the Exercise of Public Functions” (Law Nr. 9367).

The new law provides the rules, means, methods, procedures, responsibilities and competences for the identification, declaration, registration, handling, and the penalties for cases of the conflict of interests. During its drafting stages, the Council of Europe (PACO Impact) in cooperation with OECD/SIGMA provided a joint analysis and assessments of the draft law during the first phase of the project. It should be mentioned that the majority of recommendations provided were taken into consideration by the Albanian authorities. Other international organisations such as the OSCE, the World Bank, and USAID have also provided additional comments and recommendations to previous drafts, which are reflected in the final text.

Given the novelty of the law, and in accordance with the Workplan, a roundtable discussion on issues related to its implementation and on identification of areas that require secondary legislation took place

on 13 June 2005, organised jointly by the Council of Europe (PACO Impact) and OECD/SIGMA.¹¹ The event brought together 50 participants, mainly law co-drafters and experts from responsible institution[s] that are now in charge of implementation of this new law. Representatives from civil society and other central government and independent institutions took an active part in the event.

Participants and actors that were involved in its drafting, as well as an OECD/SIGMA expert presented and discussed concrete steps for the implementation of this new material law. The Minister of State for Coordination and the Chief Inspector of the High Inspectorate of Declaration and Control of Assets highlighted the successful work in drafting such material law and also stressed the fact that the implementation process should be as successful and efficient as the drafting one. Furthermore, the emphasis was put on the transparent, efficient and comprehensive way of implementing this law that will ensure the strong basis of a successful governing.

While presenting and discussing concrete steps to be undertaken, the mechanisms in place and roles of the actors involved in the implementation of the legal obligations stemming from the Law on Conflict of Interests, the OECD/SIGMA expert highlighted the fact that the whole process should be seen as a policy cycle involving three phases:

- Implementation;
- Evaluation; and
- Any necessary amendment.

Furthermore, the necessity of providing guidelines, carrying out training and analysis and assessment of risks, as well as the need to review substantive legislation was stressed.

The following recommendations and follow-up actions were addressed and agreed:

- The first steps for implementing the new law should be taken by each institution. As a new law and as the basis of good governance, it should ensure a coherent continuity of the Albanian legislation rather than a confusion;
- There is a need for both the Code of Administrative Procedure and this new law to be implemented in parallel. An improper implementation of such legal tools will cause the failure of the implementation of the new law itself;
- The law itself aims at increasing transparency and good governance and at preventing corruptive and abusive cases in the central and local government. Therefore, efforts should be made in reducing the possible perception of this law being “against” the public administration officials and civil servants;
- Training and massive education of civil servants and the entire administration need to be scheduled and secured as soon as possible. Also, cooperation and coordination of these activities with civil society need to be assured in order to raise public awareness of this new law;
- The High Inspectorate of Declaration and Control of Assets, in addition to its tasks is now also in charge of the monitoring of the implementation of this law and should provide the necessary instructions and guidelines by defining and explaining the procedures concerning its implementation; and

¹¹ The Council of Europe (PACO Impact) and OECD/SIGMA have agreed since the beginning of this project to cooperate and act jointly in all relevant activities that have to deal with legal reform and training on issues of Conflict of Interests. Therefore, in all events, activities, legislation assessment Council of Europe and OECD/SIGMA are partners and co-share expenses.

- As there are several obligations to be fulfilled under this law, the process of its implementation should start as soon as possible by considering carefully immediate secondary legislation necessary to complement the law.

Finally, it was agreed that should the High Inspectorate of Declaration and Control of Assets need additional expertise and assistance during the process of drafting of secondary legislation, the Council of Europe (PACO Impact) and OECD/SIGMA would be able to provide their support and assistance on this matter.

Activity 4: *Expert opinion on the Draft Law on “Corporate Liabilities of Legal Persons”, Strasbourg, July 2006*

In the beginning of 2006, the draft law on Corporate Liabilities of Legal Entities, which was still pending in Parliamentary Commissions since the last legislature, and which was re-send for consideration to the Ministry of Justice, which in early 2006 proposed a new draft law. By the request of the Albanian Ministry of Justice, and in accordance with the PACO Impact Workplan, an expert opinion on the draft Law on “Corporate Liabilities of Legal Entities” was initiated in mid-June 2006. The expert opinion provides comments and analysis on several issues of concern such as: the type of criminal offences committed by the legal person, execution of the criminal decision, in correlation with the draft law if it is necessary to have amendments to the Criminal Code or to the Law on Commercial Registry, etc., with specific recommendations per each provision and also in light of having this important piece of legislation in line with European instruments such as the Council of Europe Civil Convention on Corruption. The expert opinion was submitted for consideration to the Albanian authorities in late July 2006.

Output (4): *Pilot activities supported*

Activity 1: *Identification and elaboration of an Action Plan for a Pilot Activity with respective counterpart on Initiating and Implementing the Case Management Reform Aiming to Prevent Corruption within the Prosecutorial Services., Tirana, July 2004- July 2006.¹²*

Pilot Activity	Initiating and implementing the case management reform aiming to prevent corruption within the prosecutorial services
Objective	Enhance the accountability of case tracking, monitoring, reporting and control mechanisms by supporting and allowing an efficient and accurate final reporting and analysis of crime and case management
Start-up	November 2004
Duration Period	November 2004- July 2006
Estimated Cost	41,000.00 Euro
Available Funds	Pilot Activity allocated funds:45,000.00 Euro
Beneficiaries	Prosecutor’s General Office Appellate Instance Prosecutorial Offices District Instance Prosecutorial Offices
Implemented by	PACO Impact Management Team Unit Prosecutor’s Working Group on Case Management Prosecutor’s General Office (Research and Analysis Department)

¹² The initiation and the idea of this Pilot Activity originates from the PACO-Albania II project. The first initial “Forms” are already part of PACO-Albania Technical Papers.

Outputs	Prevention of corruption and unprofessional conduct; Accountability and better monitoring of the prosecutors' work; Improvement and upgrading of the tracking system, enabling a more comprehensive analysis and accurate reporting; Increase of transparency based on reliable updated data base system;				
Inputs	Technical assistance to the first stage of start up (Action Plan and standard forms to be applied); Creation and application of a specific software for the case management (PG's Office); Technical assistance and funding to the regional activities on the implementation of the new system (PG's Office and District Prosecutors' Offices).				
Actions/Activities	Time-line	Venue	Estimated Cost	Expected Results/outcomes	Notes
Establishment of the WG for the Case Management by an Order of the Prosecutor General	November 04	Tirana, Albania	N/A	Enforced Prosecutor General Order WG established and organizes its first meetings; Persistence in requesting the visit on best practices in Germany.	√
Drafting of the Calendar of Activities and discussion on the operational and implementation issues of the new system	December 04 - January 05	Tirana, Albania	N/A	Clear timetable of steps to be taken for the implementation Formulate/draft master forms to be used	√
WG discussion on issues of operational and implementation of case management system (2 consultative meetings)	January 05	Tirana, Albania	N/A	Printed master forms to be distributed in the region;	√
WG visit on best practices of German case management system	30 June-1 July	Celle, Germany	8,000 - 12,000 €	Postponed dates of the visit; Decision to organize the visit delayed.	√
Final Master Plan for the New Case Management	October 05	Tirana, Albania	N/A	Delays in finalizing it.	√
Two technical meetings on standard forms	January 06	Tirana, Albania		Delays in organization	√
Approval of the Action Plan by a PG Order and its normative acts	May 06	Tirana, Albania	N/A	Methodologies and procedures of implementation are not clear to the WG members	√
Preparation of final standard forms	January – February 06	Tirana, Albania	TBD	Final standard forms are not ready yet	√

Initiation and preparation of the software	May – June 06	Tirana, Albania	5,000-7,000 €	Technical and logistical resources are not in place Difficulties in introducing and implementing the centralised database
Preparation of the Manual on the Case Management implementation	May – June 06	Tirana, Albania	7,000 €	Delays in finalising new administrative procedure Delays in drafting
Regional seminar to present the new Case Management	June – mid-July 06	Shkoder; Durres; Vlore; Gjirokaster; Albania	15,000 €	Comprehensive training Successful start up of the process Difficulties in understanding and applying the process
Impact Expected in July 2006 and in the future				
Other general data	Strengthened capacities to discover and fight corruption in the prosecutorial system			
Quality Indicators	Effective and sufficient data to determine realistic grounds of each criminal proceedings (suspended, pending, on going)			
Quantity Indicators	Decrease of corruptive cases due to efficient way of Case Management usage compared to the previous year; Number of violations identified through the new system compared to previous year data (violations) Number of processed and analysed criminal proceedings and their data; Number of monitored criminal proceedings as compared to previous years.			
Number of Users	Centralised database will be used as an efficient tool to prevent corruption and unprofessional conduct as well as will facilitate the monitoring of other prosecutors' work (both in PG's Office, Appeal, and other District Prosecutors' Offices).			

Activity 2: *Establishment of the Working Group for the start up of the preparatory phases, Tirana, August-October-November 2004.*

In late August 2004, the Prosecutor General of Albania drafted and issued his Order No. 244 On the Establishment of the Working Group for the Case Management System in the Prosecutorial Services. Based on this Order, the Working Group would have the following composition:

- Prosecutor, Head of the Studies Directorate, Prosecutor General Office (Head of the WG);
- Prosecutor at the Directorate of Organised Crime, Prosecutor General's Office (member);
- Prosecutor, Chief Prosecutor of the Vlora Appeal Prosecution Office (member);
- Prosecutor, Chief Prosecutor of the Durres District Prosecution Office (member);
- Prosecutor, Chief Prosecutor of the Shkodra District Prosecution Office (member);
- IT Expert of the Office of the Prosecutor General's Office (member).

In late October 2004 and in early November 2004, the Working Group had its two consultative meeting and approved in principle the above Action Plan for the implementation of the Pilot Activity. The members were provided with the essential information and an overview of this pilot project. The preparatory phases were discussed as well as the way ahead for the implementation of this new system.

However, certain activities such as the foreseen workshop in Germany have first to be approved by Sida before moving ahead.

Activity 3: *Workshop and Visit of the Working Group on Best practices of case Management System, Celle, Germany, 30 June-1 July 2005.*

In the framework of this Pilot Activity, the six members of the Albanian Working Group visited the Federal Prosecutor's General Office in Celle, and the District Office in Lüneburg, Lower Saxony, Germany on a two-day study visit.

During the first day, Working Group members reviewed and consulted the existing proposed forms¹³ in light of the latest changes recommended by the Working Group, and as well as the two Council of Europe experts who participated at this workshop. Certain changes were discussed and then agreed in terms of adding two more new forms, and inclusion of additional information. In the end of the day, the working group and the Council of Europe experts agreed on the final changes and adjustments that ought to be taking place in the existing forms. Thus, the final report containing these revised forms is expected in light of the German model as well as the follow up discussions that took place are expected to be presented in September to the Prosecutor General for his formal approval as presented now in the updated Action Plan of the Pilot Activity¹⁴.

The Working Group also visited and was informed of practical arrangements in place for case reporting, monitoring, and management at two-level offices: the Federal Prosecutor's Office in Celle, and the District Prosecutor's Office in Lüneburg. More specifically, the members of the Working Group were introduced to the following systems and their legal frameworks:

- Forms and models on case reporting, assignment, monitoring, and management throughout different instances;
- The modus of follow-up and reporting of the final status of the cases in the hierarchic structure;
- The running and the technology of the Case Management Data Base (centralised and local ones);
- The procedure and the legal framework of the entire process of Confiscation of Crime Proceeds; and
- The practical and regulatory arrangements of handling crime proceeds, especially the financial aspects of their incomes at the Office of the Prosecutor General.

The following conclusions were drawn:

- Review and finalize the "Standard Forms" taking into considerations the recent proposals¹⁵;
- Presentation of the Final Master Plan for the New System of Case Management to the Prosecutor General of Albania for approval;
- Issuance of an Order of the Prosecutor General of Albania on the implementation of the New Case Management and normative acts regulating the process ahead; and
- Setting up of a centralised database, which is expected to process the standard in-coming forms from all prosecutorial levels, and which is hoped to be serving as the main tool in the process of case tracking, monitoring, reporting and analysis.

The Working Group and the German Federal Office of the Prosecutor General also agreed that all models and forms as introduced and presented during these two days (not only those related to case management), would be sent as model packages to Albania for potential consideration, and in view of other necessary reforms (especially management in general) at the Offices of Prosecutors in Albania. A

¹³ See, PACO – Albania II, Technical Paper on "Case Management Forms", February 2003.

¹⁴ See, Revised Forms and Recommendations as finalised at PC-TC (2005)11, Technical Paper, July 2005.

¹⁵ *Id.*

special interest was shown with regard to all legal and practical frameworks in handling confiscated proceeds from crime; a system which does not currently exist in an efficient way in Albania, although the relevant legislation is in place.

The Federal General Prosecutor of Lower Saxony (Celle) also offered to look upon the possibilities of seeking funding through the European Commission or through Council of Europe voluntary contributions to create a twinning partnership between his offices and the Office of the Prosecutor General of Albania aimed at two areas: 1) cooperation and exchange of practices in the field of confiscation of crime proceeds, and 2) mutual legal assistance in criminal matters.

Activity 4: *Final Master Plan submission to the Office of PG, production of the final forms of case management: Tirana, 20 October 2005*

In late October 2005, according to the Workplan, a Technical Paper on the finalization of the case management forms and recommendations for further implementation of the case management system was submitted to the Prosecutor General Albania and to the Working Group.

In accordance to the discussions at this meeting it was envisaged that two technical meetings with prosecutors from all prosecutorial levels will take place during the period December 2005 – January 2006, aiming at the final technical approval of the standards forms to be used as well as the way ahead for the implementation of the system. Furthermore, the Prosecutor General of Albania committed himself to undertake the initiation of a new “Order of the Prosecutor General” with regard to the necessary implementation steps, specifically modalities (including a list of legal and technical elements) and practical modus of using the standard forms. However, this was decided to take place upon the approval from all prosecutorial level representative meetings that were envisaged to take place in December and January 2005.

Activity 5: *Technical meeting for the approval of the final case management standard forms, Tirana, 30 January 2006*

In the framework of the Pilot Project, a technical meeting brought together 40 participants - the working group on case management and relevant district and appellate prosecutors – with the aim to discuss and eventually decide on the modus of initiation of the Pilot Activity on Case Management.

The activity was chaired by the Prosecutor General. He elaborated on the advantages of having such a system, and the results it can have in the fight against corruption within prosecutorial services. Furthermore, he highlighted the fact that through this new system, the work of the prosecutor will be made more transparent and efficient, and can easily be monitored. A roadmap (which had been prepared by the working group, and which included what had been done so far) spelling out future actions to be undertaken for the implementation of this new system was presented to participants. The representative of the Council of Europe urged for concrete and immediate steps to be taken, taking into consideration that the first implementation phase, including the distribution of standard forms, preparation and production of software and the database, and also gathering of information was due to be completed by the end of June 2006.

The participating prosecutors contributed actively to the workshop, and raised many relevant practical questions. Issues of concern repeatedly raised were: a) the way in which the forms would be filled, b) the exact information each form will contain, c) the way in which they will be sent to the Prosecutor General’s Office, etc. Also, a number of suggestions on the content of the forms were made, and the Working Group will seek to reflect them in the final version, pending the issuance of an Order of the Prosecutor General.

At the end of the meeting, the following outcomes were identified:

- A Prosecutor General Order in launching the new procedures/forms is expected to be issued soon, covering initially the implementation in 3 prosecutorial services, namely: the District Prosecution Offices of Tirana and Durrës (including the Prosecution Office for Serious Crimes) and the District Prosecution Office of Shkodra;
- Suggested changes will be inserted in the standard forms; and
- The number of criminal offences for which the standard forms will be applicable will be reduced.

4.2 Bosnia and Herzegovina (BiH)

4.2.1 Project Orientation

Main Goal: Consolidation and coordination of the monitoring and the implementation of a comprehensive Anti-corruption Plan; support the implementation of the Anti-corruption Plan.

Expected actions: Improve and coordinate actions related to the review and monitoring of the Anti-corruption Plan; consolidation and comprehensive measurement of anti-corruption actions; strengthening monitoring and managing mechanisms, and inclusion of measurable indicators of success into the Action Plan.

Initiate and support the establishment of an Anti-corruption and Monitoring Commission; propose/initiate and participate in drafting of all necessary and appropriate regulations, e.g. laws and by-laws/acts in order to accelerate establishment of the final legal framework for successful monitoring and fighting against corruption.

Influence the relevant State-level institutions of BiH related to signature/ratification of appropriate European, UN Conventions that govern issues of corruption.

4.2.2 Activities by Outputs

Output (1) & (2): ***Output (1): Anti-corruption plans improved or elaborated; Output (2): Institutional mechanisms for the monitoring and management of anti-corruption plans strengthened***

Activity 1: *Workshop/Policy Discussion regarding the Coordination of Anti-corruption Issues and Monitoring Body, Sarajevo, 7-8 December 2004.*

The objective of the workshop was to discuss the current situation of the Anti-corruption measures under the Anti-corruption Strategy which is a part of the Strategy for Poverty Reduction (PRSP) in Bosnia and Herzegovina, as well as the existing policies for coordination and monitoring measures under this strategy. Representatives from all relevant institutions participated in this activity in addition to the representatives from PRSP Coordination Board for economic development and EU integration, an inter-ministerial body within the Council of Ministers (CoM), a state level executive body.

Discussions of the workshop could be split in two major parts: discussion on the existing Strategy for the Fight against Corruption, which is the part of the Poverty Reduction Strategy Paper; and discussion on the agency/institution which would be in charge of the implementation of the anti-corruption strategy and in general of anti-corruption activities.

With reference to the way forward with respect to the Strategy for the Fight against Corruption, the following issues were addressed:

- Presentation of the objective of the PACO Impact project, with the emphasis on the fact that the CoE is ready to assist the BiH authorities rather than to impose the solutions to be implemented;
- Within the BiH Council of Ministers there is a newly established Unit for the Implementation of all strategies, including the Strategy for the Fight against Corruption. This Unit should release the report on implementation of the PRSP soon, which should then be combined and consulted with the efforts of all participating and relevant institutions;

- Attention should be given to the fact that certain measures set forth in the Strategy are fully implemented, while others are implemented only in part;
- A thorough evaluation is necessary to be carried out by the Working Groups composed of representatives from relevant BiH, entity, canton-level and municipal institutions, as well as international organisations and NGOs;
- Attention should be paid to the results of the report made by Transparency International, according to which the perception of corruption of the population in BiH is very bad.

The discussions referring to the possibilities of establishing an agency/institution which could monitor, and manage the institutional efforts in the fight against corruption were mainly focused as follows:

- Reviewing and analysing best practices with respect to the modalities of the establishment of anti-corruption bodies in Europe;
- State budgetary consequences that have to be considered when moving towards the establishment of such mechanisms;
- The existence and the role of SIPA and of the Ministry of Security in BiH as newly established institutions, whose mandate is, *inter alia*, the fight against corruption;
- Ongoing review of the reform of the police structure in BiH, which could affect other reforms, such as that of establishing specialised anti-corruption mechanisms, and which could affect the modus of establishing other new agencies.

Since this was the first technical activity under these two outputs, all participants provided several recommendations, and agreed to broaden the level of detail when discussing the above mentioned issues. In view of this, it was decided that a "Policy Paper", analysing and recommending the way ahead, should be submitted for future reviews, discussions, and later on Policy Decisions.

Activity 2: *Policy Advice: Implementing and Monitoring Future Anti-corruption Efforts in Bosnia and Herzegovina-Policy Advice Paper, Strasbourg, December 2004-January 2005.*

Following recommendations and issues discussed during the workshop which was held in November 2004 (see above 'Activity 1'), and several meetings with all relevant counterparts and technical staff members, a Policy Advice Paper on "Implementing and Monitoring Future Anti-corruption Efforts in Bosnia and Herzegovina"¹⁶ has been submitted to the BiH authorities. The Policy Advice Paper gives analysis of the current situation and anti-corruption related efforts, and provides recommendations for different phases of the process.

The recipients of the Policy Advice Paper are members of the PRSP Coordination Board for Economic Development and EU Integration, an state-level, executive inter-ministerial body within the Council of Ministers (CoM).

It is expected that, during February 2005, a second workshop on reviewing the Policy Advice and previous issues in line with the ongoing reforms in BiH, will be organised in order to clarify and determine the highlighted recommendations for reform in the filed of implementing and monitoring Anti-corruption efforts in BiH.

¹⁶ See, also Policy Advice Paper, PC-TC (2005) 3, January 2005.

Activity 3: *Advisory Workshop on Anti-corruption Knowledge and Policy Advice for the Relevant Bodies, Sarajevo, 23 February 2005.*

The objective of the advisory workshop was to follow up on discussions from the workshop held in December 2004, by discussing models of anti-corruption agencies in Europe and by addressing best practices and aspects of monitoring and evaluating anti-corruption strategies.

With regard to the establishment of an Anti-corruption Body it became clear that there was no consensus among participants on whether or not to establish an independent agency. However, the Council of Europe was informed that the Ministry of Security has undertaken own steps on the establishment of an anti-corruption agency, and by responding to an offer of the German Government to fund such an agency¹⁷, is planning to create a working group which would work on drafting the law needed for the establishment of such an agency.

The workshop was attended by 23 representatives from the following institutions: Ministry of Security, State Border Service, State Investigations and Protection Agency, and Ministry of Finance.

During the workshop, the following issues relevant to the policies in the fight against corruption were raised:

- The immediate need to define ways to (re-)build the trust of the public in state institutions;
- The complexity of the existing administrative system and its discretionary powers, which makes it more difficult to identify those institutions that are, or should be, in charge of designing anti-corruption policies and legislation;
- The lack of good coordination among institutions themselves; and
- The existing vacuum between anti-corruption policies that are supposed to be regulated and those which need to be implemented.

During the session on best practices and various models of anti-corruption agencies, participants found that the model that might fit best was probably the Slovenian model. Following the presentation of best practices on Anti-corruption services and polices made by the experts from the Council of Europe, participants agreed to take time to reflect and to provide follow up advice and comments to the Economic Policy and Planning Unit (EPPU), which is in charge of monitoring the Anti-corruption Strategy for BiH as a part of the Poverty Reduction Strategy¹⁸.

The following concrete steps were agreed upon:

- The EPPU would forward to all participants and to the Council of Europe experts the Strategy and Action Plan for their comments and suggestions by 4 March 2005;
- Participants would get back with their comments and suggestions to the EPPU by 31 March 2005; and
- Council of Europe experts would submit their comments and recommendations to the EPPU by early April 2005.

In view of this, the Council of Europe (PACO Impact) initiated the review of the Anti-corruption Strategy and Action Plan aimed at providing comments, recommending improvements and reforms that would need to be taken and reflected in this document and its relevant measures.

¹⁷ It should be noted that, after many attempts of the Council of Europe (PACO Impact) to receive more information about the German assistance, it found out that so far there is no official confirmation that such assistance is going to be provided. This issue of what kind and which German government institutions will provide assistance remain as yet unclear.

¹⁸ See, also Policy Advice Paper, PC-TC (2005) 5, February 2005.

Activity 4: *Advisory Paper: Comments on the Anti-corruption Strategy and Action Plan (MTDS) of BiH, Strasbourg, April 2005.*

The Advisory Paper (Technical Paper) was a follow-up to the workshop which took place in February 2005, and the direct response to a request for technical assistance by the EPPU to the Council of Europe.

Specifically, the EPPU requested that PACO Impact expert[s] provide comments and suggestions on the following three documents¹⁹:

- The Strategy for Combating Crime and Corruption/part of the Medium-Term Development Strategy (MTDS) 2004 – 2007;
- The Progress Report on the implementation of the measures from the MTDS of BiH (PRSP) for the period from August 2003 to November 2004 (part related to the Strategy for Combating Crime and Corruption);
- The Action Plan of the MTDS of BiH for the period from December 2004 to December 2005, where it refers to the Strategy for Combating Crime and Corruption.

The three documents submitted to the PACO Impact Secretariat were in the local language version and in an English translation. However, discrepancies in the translation, and lack of some consistent information were found between the two texts, making it impossible to relate them to each other. Eventually, the expert comments and recommendations were made on the basis of the local language version. In addition to the Advisory Paper, specific comments were made on the text of the Progress Report and the Action Plan for 2004 – 2005.

In 10 April 2005, the PACO Impact submitted the final Advisory Paper²⁰ to the Head of the EPPU as per their request, and considerations.

In summary, the Advisory Paper recommends the following actions for consideration and reform:

- Ensure continuity of policy documents: work on the basis of one document to be up-dated, instead of creating a multitude of documents that stipulate priority activities that are seemingly not followed through.
- Consider increasing efforts in, and seeking donor support for, collecting, processing and analyzing corruption-related data and for the development of in-house monitoring and evaluation skills. Data collection is a long-term effort and needs to be sustained.
- Consider increasing efforts in, and seeking donor support for, training of staff charged with overseeing the implementation of the anti-corruption strategy on key concepts of project planning and implementation.
- Rethink presentation of the Action Plan - as the format stands now, a lot of information might not find its way into it, contributing to a sense of confusion over whether the EPPU is in the lead on the Strategy's/Action Plan's implementation.
- Introduce realistic deadlines, sub-measures, inputs/outputs/outcomes and risk indicators.

¹⁹ The text of these documents is available at <http://www.eppu.ba>

²⁰ See, Advisory Paper, PC-TC(2005)6, April 2005.

- Consider measures to improve intra-governmental co-ordination and co-ordination with the international community on priority activities; introduce relevant information into the documents.

Activity 5: *Consultative Workshop: Initiation of Revision of Anti-corruption Strategy and Action, Sarajevo, 24 June 2005.*

The objective of the Consultative Workshop was to present and discuss all comments received on the existing Anti-corruption strategy and Action Plan, as well as consult with the EPPU and other key institutions' representatives the initiation of the revision and improvement of the Strategy and its Action Plan. At the same time, it was re-confirmed to the Council of Europe that the EPPU intends to make a revision of the entire Medium-Term Development Strategy, whose integral part is the Anti-corruption strategy, in the near future.

During the discussions led by the Council of Europe expert and secretariat members, the participants (10 in total from all relevant institutions) agreed that given the shortcomings of the current Action Plan, the revised document should include a variety of indicators and categories so as to account for visibility, transparency, accountability, and continuity of the anti-corruption reforms. More specifically, BiH should consider using a template for the revised action plan modelled on one that is already widely used amongst the countries in the region and the EU, which was circulated at the workshop. The template, which was presented and elaborated during the workshop, was also provided directly to the EPPU representative along with guidelines for the inclusion of the following issues:

- **Clear categorization of different sectors** which anti-corruption reforms should be targeted including optional sub-categorization within each sector so as to achieve full visibility and clarity of tasks, including preventive and public outreach efforts;
- **Clear identification of institutions** involved in the implementation so as to ensure transparency, accountability, and coordination;
- **Risk factors** which may be involved in the implementation to ensure accountability and better monitoring;
- **Timelines and state of play of the implementation** to ensure accountability and better monitoring as well as visibility of the continuity of anti-corruption efforts; and
- **Indicators of success** to measure the impact of the reforms on the actual level of corruption.

Participants suggested that there is a need to expand the composition of the current EPPU Working Group on anti-corruption, so as to improve knowledge on the substance of anti-corruption reforms in different sectors as well as in order to improve the accuracy of progress made in the implementation of the reforms. Given that the permanent membership of such an expanded working group may be difficult to achieve, it was suggested that other options that do not require permanent membership should be explored.

In terms of improving the institutional capacity to fight corruption, there is a need to develop evaluation skills of those who monitor the strategy implementation, which is currently a task of the EPPU.

It was preliminary agreed that the Council of Europe could, if requested, provide assistance during the practical process of revising the strategy and the Action Plan, as well as provide and suggest the additional tools in monitoring, measuring, and evaluating the impact of anti-corruption measures in line with the above comments and the expert opinions already provided;

Following this, the EPPU held a meeting on 1 July 2005, to discuss the methodology of the revision of the anti-corruption strategy and action plan; this meeting – which was held behind closed doors and open only to EPPU staff members – was also to discuss the revision of the reported guidelines and recommendations made in all relevant Advisory Papers.

Activity 6 : *Expert Opinion on the BiH Draft Strategy for Fighting Organized Crime and Corruption, March 2006.*

On request of the Delegation of the European Commission to Bosnia and Herzegovina, CoE provided the written expert opinion and recommendation of first Draft of the BiH Strategy for Fighting Organized Crime and Corruption.

The expert opinion was structured in two parts: first part dealt with the Anti-corruption part of the Strategy and Anti-corruption plan, while the second part was focused on Organized Crime part of the Strategy and Organized Crime Action plan.

The major remarks could be summarized in relation to the following: lack of vision; structure of the documents; level of analysis and inconsistency of causes of organized crime and corruption; insufficient link between organized crime and corruption; unrealistic deadlines for implementation of particular measures; too general formulation of measures and of responsible institutions, etc.

Activity 7: *Advisory Workshop: Recommendations for the Improvement of the BiH Strategy for the Fight against Organized Crime and Corruption, Sarajevo, 3 May 2006.*

The objective of this Advisory Workshop was to present to the members of the working group and to the coordinator from the Ministry of Security (which drafted the BiH Strategy for the Fight against Organized Crime and Corruption), the comments on the Draft Strategy earlier prepared by the CoE experts in writing, and to give them additional recommendations and guidelines in order to improve the Strategy before its official adoption. The Workshop was attended by 29 participants, out of which 20 belonged to the Working Group and who represented various BiH law enforcement agencies.

In the introduction, the Council of Europe stressed that the advice offered through its projects is based on the standards of the organization, while it is ultimately the Working Group and the BiH authorities that decide to accept or decline the advice and recommendations, and whether to incorporate it into the respective policy documents.

After a presentation of the process of drafting of the Strategy by the Assistant Minister and the Deputy Minister of Security, the Council of Europe experts made a thorough review of the Strategy. The experts commented the Action Plan in its entirety by going through every item for which they considered improvement was needed, and which were not clear or appeared redundant. Recommendations made were mainly very specific; while the major concern voiced by the experts was that the draft Strategy was heavily slanted towards law enforcement, while prevention and education aspects were almost completely missing.

The following general recommendations were made and Working Group members, as well as the Coordinator from the Ministry of Security, were advised to seriously consider them. Otherwise, the Strategy would not achieve its goal i.e., reduction of levels of organized crime and corruption:

- The Strategy should prevention and education aspects. As there is a time pressure imposed on the members of the Working Group to complete the Strategy, it was advised to mention in the Strategy that additional parts on prevention and education would be elaborated subsequently.

- In the Strategy, provisions to monitor its implementation have to be specified, including which institution will be in the lead for this task.
- In order to avoid misinterpretation, the Action Plan should be as precise as possible, in order to avoid misinterpretation. This would include that the implementation of measures be clearly allocated to institutions.
- Success indicators should be included in the Action Plan.
- Indications should be given regarding the implications the Action Plan has on the budget, and that budgetary allocations would be one of the keys to its successful implementation.
- A revision of the legislation in force should be carried out, in order to clearly define what has already been done, and which measures remain outstanding. In the current draft Action Plan, a number of measures foreseen are already covered by certain provisions. In case there are legal provisions in place, but their application is lagging behind, practical measures should be defined through by-laws, and through additionally clarifying some ambiguous provisions.

Output (3) Draft laws/amendments available to bring the criminal legislation on corruption in line with European standards

Activity 1: *Workshop: Criminal Investigations and Criminal Proceedings of Corruption-related Offences, Sarajevo, 9 February 2005.*

The objective of this workshop – which was attended by 29 representatives from the prosecutorial and Judiciary services in all levels of BiH legal system - was to discuss the provisions of new criminal legislation in BiH related to corruption and economic crime; difficulties and constraints encountered in their application in practice, and corruption-related international instruments and Council of Europe Conventions.

Issues discussed were as follows:

- The role of the prosecutor in light of the new criminal procedure codes in Bosnia and Herzegovina with regard to corruption related offences;
- The need for a clear interpretation of the (new) supervisory role that the prosecutor has in the execution of investigation;
- Time constrains to provide a full inclusion of participation among police and other judicial (authorised) officers;
- Granting of immunity from criminal prosecution, which is found to be very useful and which speeds up the procedure and contributes to effectiveness of the procedure;
- Criminal proceedings against legal entities – introduction of special procedures according to international standards;
- Criminal liability of physical persons within a legal entity;
- Elaboration of newly introduced criminal offences related to corruption;
- Prosecution of money-laundering and tax-evasion; and
- Evidence-gathering when linked to the non-existing possibility for the use of simulated acts by undercover agents.

The Council of Europe expert made particular comments on the relevant articles linked to these issues and the way in which they are addressed in the Criminal Code and Criminal Procedure Code of Bosnia and Herzegovina. As a result, certain articles were found to be not fully in line with international standards, and amendments need to be considered by the BiH authorities.

In summary, the Council of Europe expert provided the following recommendations:

- The Criminal Codes and Criminal Procedure Codes need to be further harmonised in order to become easily applicable;
- Prosecutors should assure the use of the European Convention on Human Rights and the Constitution in parallel to these codes;
- As for the use of Special Investigative Means (SIMs), there is an urgent need to adopt new legislation/bylaws in order to introduce and allow their use as appropriately and in accordance to the Council of Europe Conventions;
- In addition, once a legal framework has been provided for the use of SIMs, a criminal offences catalogue determining and guiding the application of SIMs should be elaborated in order to avoid any potential abuse or miscarriage of investigation procedures when using these tools.

Activity 2: *Training Seminar: "Application of Corporate Liability according to BiH Law and International Standards", Sarajevo, 29 July 2005.*

The objective of this Training Seminar which had 37 attendees from prosecutorial and judicial services of Bosnia and Herzegovina was to review and discuss issues of application of the provisions of the criminal law provision which regulate liability of the legal entities for criminal offences. Practical issues and difficulties encountered so far, were also issues which were raised in form of the questions to the two Council of Europe experts (1 local and 1 international).

More specifically, participants addressed questions, and commented along with the experts on several questionable issues of practical and legal interpretations as follows:

- Applicable provision of substantive laws;
- Applicable provisions of procedural laws;
- Legal entities which can not be liable for criminal offences;
- Territorial application of provision of Criminal Code of BiH;
- Grounds for liability of legal entities for criminal offences;
- Contribution of managing and supervising bodies of legal entity in committing of criminal offence;
- Conditions for liability; and
- Criminal sanctions for legal entities.

In addition issues related to the principles, and the development of the institute of corporate liability, as well as the relevant international instruments that are applicable in case of Bosnia and Herzegovina were elaborated as well mainly from the experts.

Participants and the Council of Europe experts agreed that certain issues/provisions relevant to the corporate liability in accordance to the Criminal Code and Criminal Procedure Code appear and in many cases have proven to be ambiguous and may need special attention for future revisions/amendments to the existing legislation. As such the following issues were agreed to be addressed as concerning ones:

- Definition of legal entity and its current ambiguity when attempted to be interpreted;
- Coverage of the definition by the criminal legislation at all;
- Liability of legal entity in case when all the elements of the criminal offence are not established (however, there are clearly conflicting opinions on this matter);
- Unclear formulation of Article 124/a of the Criminal Code of BiH and of Article 127 of the Criminal Code of Republika Srpska;
- Ambiguity of Article 125/5 of the Criminal Code when applied on tax evasion;
- Execution of criminal sanctions pronounced towards legal entities, in particular execution of fines;
- Rights of third parties in case of criminal sanction of confiscation of property, in particular in light of ECHR;
- Difficulties related to confiscation of economic gain from legal entities, in particular related to the Article 110/3 of the Criminal Code of BiH; and
- Criminal policy aspect of parallel criminal prosecution of legal entities and physical persons.

Output (4): Pilot activities supported

Activity 1: *Identification and Elaboration of an Action Plan for a Pilot Activity with respective counterparts: Preparation of a Manual on Practical Tools and Guidelines on Criminal Proceedings against Corruption-related Offences – (Tools Manual), Sarajevo, January 2005.*

Pilot Activity	Preparation of the “Manual on the Practical Tools and Guidelines on criminal proceedings against corruption related offences – (Tools Manual)”.				
Objective	To provide a written document / guidelines in a format of a “Manual of Road Map for Prosecution of Corruption in BiH”, aimed at assisting prosecutors and increase the effective prosecutions of the corruption related offences.				
Start-up	May 2005				
Duration Period	May – September 2005				
Estimated Cost	12,600.00 Euro				
Available Funds	Pilot Activity allocated funds: 45,000.00 Euro				
Beneficiaries	Prosecutor’s Office of Bosnia and Herzegovina; Prosecutor’s Office of Federation of Bosnia and Herzegovina; Prosecutor’s Office of Republika Srpska; Prosecutor’s Office of Brcko District; Cantonal Prosecutor’s Offices in Federation of Bosnia and Herzegovina; Regional/District Prosecutor’s Offices in Republika Srpska; State Investigations and Protection Agency; Ministries of Interior of Federation of Bosnia and Herzegovina and Republika Srpska; Financial Police Departments of the Ministries of Finance of Federation of BiH and RS; Tax Administrations of the Federation BiH and RS; Centres for Training of Judges and Prosecutors.				
Implemented by	PACO Impact Management Team PACO Impact LPO –Coordinator of the Team Three consultants: one international (Slovenian Prosecutor), and two national (Bosnia and Herzegovina- Prosecutors)				
Outputs	Providing of tools with practical reference on Criminal Proceedings against of corruption related offences; Road-Mapping best practices and legal approach in criminal proceedings; Existence of reliable and up to date guidelines for institutions directly and indirectly involved in prosecution; Increased effectiveness of prosecution of corruption related offences.				
Actions/Activities	Time-line	Venue	Estimated Cost	Expected Results/outcomes	Notes
Meeting with potential consultants (preferably prosecutors)	Early March 2005	Sarajevo, BiH	N/A	Agreement on engagement for execution of the Pilot Activity ;	√
Signature of contract and of ToR for Consultants	May 2005	Sarajevo, BiH	2,000–3,000 Euro		√
Inception Meeting	11 -12 May 2005	Sarajevo, BiH		Definition of Tasks and exchange of	√

			50-100 Euro	views with regard to outlook of the manual.	
Technical Meeting	30 July 2005	Sarajevo, BiH	50-100 Euro	Revision of performed activities.	√
Technical Meeting	Mid- August, 2005	Sarajevo, BiH	50-100 Euro	Revision of performed activities.	Merged w/3 rd one
Technical Meeting	Early October 2005	Sarajevo, BiH	50-100 Euro	Revision of performed activities.	√
Final Meeting	End January 2006	Sarajevo BiH	50-100 Euro	Submission of finalised materials.	√
Finalisation and Proofreading of draft Manual/translation and approval by the Project Management Team	February-March 2006	Sarajevo, BiH	1000-2000 Euro	Finalised and Proofread text of Manual. Translation of Manual	√
Printing, publishing, promotion and distribution of the manual.	June 2006	Sarajevo	5000-7000 Euro	1000 Available copies to all beneficiary institutions	√
Impact Expected					
Quality Indicators	Increased number of users when prosecuting corruption related offences Increased number of Quality of Cases based on the use of set up legal practices and standards. Same model to be used as a good practice sample by the Serbian Prosecutors. Requests for such have already been made, when final product is available for distribution in the local language.				
Quantity Indicators	Increased number based on quality reviews of prosecuted corruption related offences.				
Number of Users	Manual being used by the institutions listed in category beneficiaries.				

Activity 2: *Inception Meeting of Consultants Team for drafting the Manual on Practical Tools and Guidelines on Criminal Proceedings against Corruption-related offences – (Tools Manual), Sarajevo, 11-12 May 2005.*

The purpose of the inception meeting was to discuss and determine the outline, structure, and issues of the “Tools Manual”. To this end, all the necessary pieces of legislation, including the Criminal Code of Bosnia and Herzegovina, the Criminal Code of the Federation of Bosnia and Herzegovina, the Criminal Code of Republika Srpska and the Criminal Code of Brčko District of Bosnia and Herzegovina, and the Law on the Prevention of Money-Laundering.

The first Draft Outline of the Manual was submitted on 19 May 2005.

Activity 3: *Second Meeting of the Consultants Team for drafting the “Manual on the Practical Tools and Guidelines on criminal proceedings against corruption related offences – (Tools Manual)”, Sarajevo, 29-30 July 2005.*

The purpose of the second meeting among the three consultants was to discuss some aspects of the First Draft of "Tools Manual", particular provisions related to economic crime and corruption and agree on the outlook of the Second Draft of the Manual.

During the meeting the three consultants reviewed and agreed on changes and amendments of the existing First Draft of the Manual and discussed issues related to the application of certain provisions that vary depending on whether they are applied at the BiH State Prosecutor's Office or Prosecutor's Offices in Republika Srpska. In particular the criminal offence of Tax evasion and Money Laundering connected to it was discussed, since there is a different interpretation whether only the Tax Evasion could be prosecuted or both Tax Evasion and Money Laundering. It was agreed that these issues needs further research and elaboration, because of some particular modalities of execution of criminal offence of Tax evasion in Bosnia and Herzegovina.

With regard to outlook of the Second Draft it was agreed that the initial, proposed outline should be slightly modified. Thus, the Second Draft of the "Tools Manual" would be divided as follows:

- Introduction of Guidelines for Use;
- Substantive and Procedural Provisions (re: criminal offences of economic crime and corruption);
- Modalities of the use of mechanisms and institutes of substantive and procedural laws for prosecuting economic crime and corruption related offences:
 - Road-Map of the course of Investigation and Proceedings
 - Possibilities for use and application of financial investigations within the framework of the Criminal Procedure Codes;
 - Modalities of the use of interim security measures; and
 - Assessing and confiscating of crime proceeds.

The submission of the Second Draft to the secretariat of the Council of Europe is foreseen for August 2005.

Activity 4: *Third Meeting of the Consultants Team for drafting the "Manual on the Practical Tools and Guidelines on criminal proceedings against corruption related offences – (Tools Manual)", Sarajevo, 21-22 October, 2005.*

The purpose of the third meeting was to discuss in detail the text of the Second Draft of the Manual submitted to the CoE, as well as review the comments prepared by the PACO Impact Secretariat on the Second Draft.

A series of comments and suggestions on the Second Draft of the Manual were handed over to the Consultants, who considered and agreed to revise the draft in light of the discussions and of the text of the Manual accordingly. This meeting served also as an editorial and reading of the text session for the Second Draft in order to ensure the in line consistency on right interpretation of various provisions.

There were many debatable issues opened, which took a lot of time of discussions. The Consultants agreed that it would be necessary to meet one more time before submitting the final text of the Manual. In the meantime they would provide additional inputs and adjust the text in accordance to the Comments of the PACO Impact Secretariat.

Activity 5: *Submission of the Final (third) Draft by the Consultants, Sarajevo, 16 January, 2006*

The Consultants finalized the Draft Manual taking into consideration the previously discussed issues of concern. The third version of the Draft Manual has now been submitted for a general review to the Council of Europe. In meantime a translation in English language has been initiated in order to allow a

final revision in both languages, in order to assure systematic editorial revision prior to the Manual's Approval and subsequently its publication.

Activity 5: *Fourth Meeting of the Consultants Team for drafting the "Manual on the Practical Tools and Guidelines on Criminal Proceedings against Corruption-related Offences" – (Tools Manual), Sarajevo, 3 May 2006.*

The purpose of the fourth meeting was to finalize and edit the final draft of the "Manual on Practical Tools and Guidelines on Criminal Proceedings against Corruption-related Offences", after its first review and editorial process.

The consultants, together with the LPO, reviewed the final text of the Manual and made necessary corrections. Following this last meeting, the Manual will undergo a second proofreading and then be submitted for its publication and dissemination as a final product.

Activity 6: *Proofreading, publication, promotion and distribution of the 'Manual on the Practical Tools and Guidelines on Criminal Proceedings against Corruption-related Offences', Sarajevo, June and July 2006.*

The final texts of the Manual in Bosnian and English languages were proofread and given to the printing house in June. Promotion and distribution of the Manual to the Prosecutor's Office, Courts, Police and other law enforcement agencies dealing with corruption and economic crime offences is going to be carried out during the month of July 2006.

4.3 Croatia

4.3.1 Project Orientation

Main Goal: Review and adjust (update) national anti-corruption program; assist in creating an action plan matrix identifying measurable anti-corruption actions and indicators of success; improve preventive anti-corruption capacities including public awareness and education of civil servants and public officials.

Expected actions: Initiate the establishment of a clear anti-corruption strategy and its action plan; consolidate comprehensive measurable anti-corruption actions; strengthen the respective monitoring and managing mechanisms as provided by law; assist law enforcement agencies in strengthening their capacities to investigate and repress corruption related offences, increase the public awareness campaign capacities as provided by law.

4.3.2 Activities by Outputs

Output (1) & (2): *Anti-corruption plans improved or elaborated; Output (2): Institutional mechanisms for the monitoring and management of anti-corruption plans strengthened*

Activity 1: *Initiation of the Policy Dialogue on the establishment of the Working Group for drafting the National Programme for the Suppression of Corruption, Zagreb, September-October 2004.*

During the reported period the Country Project Director and the Local Project Director in Croatia, held several meetings and discussions with respect to necessary actions that need to be taken in accordance to the workplan as proposed and agreed by the Croatian authorities. Following these meetings, a coordination and policy dialogue meeting of the PACO Impact Project Manager took place in late September with the Senior Representative on Anti-corruption at the Ministry of Justice and Office for Suppression of Organised Crime and Corruption (USKOK).

As a result of the issues addressed and agreements reached during this policy dialogue with Ministry of Justice representatives and USKOK representatives it was decided that the following actions will be taking place on step by step basis:

- Establishing through the coordination of the Ministry of Justice of a multi-disciplinary Working Group composed of representatives from all relevant institutions which will be working on *Redefining a National Programme for the suppression of Corruption*;
- Drafting (and proposing to the government) of the *National Programme for the suppression of Corruption*); and
- Establishing a "Preventive" *Anti-corruption Inter-governmental Body* (instead of the planned parliamentary commission as foreseen by the previous National Strategy, by playing also at some stage the role of the two USKOK's departments);

Activity 2: *Establishment of the Working Group for the Review and Update of the Anti-corruption Programme, Zagreb, 9 December 2004.*

On 9 December 2004, a Working Group was formed in accordance to Article 39, of the Law on State Administration, the Ministry of Justice assigned to draft the **new National Anti-corruption Strategy**. The working group is composed of the representatives from the relevant in line Ministries, USKOK office,

judiciary, civil society, media, unions, and other institutions and agencies. The Working Group consists of 16 members.

The Working Group foresees that the National Anti-corruption Strategy will be including three elements: Main Government Objectives; Evaluation of the Current Status/situation; and main measures for suppressing corruption.

It is expected that during January-April 2005 the working group will be meeting on regular basis to review and draft different parts of the National Programme, and by the end of April 2005 to finalise its work. Council of Europe expertise will continue to be provided during some of the working sessions, and in assessing the final draft version of the National Programme for the suppression of corruption.

Activity 3: *First meeting of the Working Group to discuss/propose measures for the Review and Update of the Anti-corruption Strategy, Zagreb, 11 March 2005.*

The main objective of this first meeting was to discuss the initial draft outline as prepared by the Working Group in view of proposing a new version of the National Anti-corruption Strategy for Croatia.

During the discussions the following issues were addressed:

- There should be a task list where all representatives of the relevant institutions are assigned to draft and consult issues with their respective institutions concerning their role and involvement in the National Anti-corruption Strategy;
- Each member of the Working Group representing the relevant institution/area of the strategy and its action plan, needs to submit on behalf of their own institution the proposed relevant measures, identified risks, and the necessary legislative inputs or other reforms that will be required in order to implement these anti-corruption measures;
- The representative of the Ministry of the Interior stressed the need for preliminary analysis and reports (jointly prepared by USKOK and the Ministry of the Interior) about the status of the criminal and other relevant legislation related to corruption offences, in order to avoid overlapping of reform requests in the future text of the Strategy. In addition, the same representative proposed that the Ministry and USKOK would need to seek ways of increasing their cooperation (when criminal proceedings are initiated against corruption-related offences); such cooperation would need to be part of Strategy measures.

Activity 4: *Final meeting of the Working Group to Propose Measures for the Review and Update of the Anti-corruption Strategy, Zagreb, 18 March 2005.*

At the second meeting, members of the Working Group submitted proposals for specific and relevant measures based on each sector/area they were tasked to cover. While many measures were inserted in the draft outline, other issues of concern related more to the operational point of view; it was suggested that those should be given priority in the Strategy. In summary, these issues are as follows:

- The Head of USKOK proposed that emphasis should be put on such measures that may cause inappropriate responses to the initiation of criminal proceedings against corruption, namely: low salaries of USKOK staff; very limited number of skilled staff within the Department of Suppression of Corruption and Organised Crime; limited access to different kinds of databases and high-level equipment (i.e. SIMs equipment and analytical software, which should be compatible with those of other bodies of state authorities for the investigation of relevant criminal acts).

- With regards to the judiciary system, the most pressing issues seem to be the backlog of cases; and the lack of a case management system and the supervision of progress made in given criminal proceedings/files. However, many relevant measures related to these issues will require legal reform, for example the passing of a Law on the State Judicial Council;
- Relevant Ministries and other State Administrative Bodies submitted proposals for measures which should aim at: a better execution of all relevant inspections; the reform and strengthening of the administrative boards; the strengthening of internal controls within the Ministry of the Interior; the strengthening of the service of the internal revision, especially within the Ministry of Health and Social Welfare, and the Ministry of Science;
- The Croatian Journalist Association proposed that guidelines be provided in the form of a handbook for journalists on how to handle and process information related to allegations of corruption, with additional information on elements of investigative journalism; and
- Almost all members agreed that many relevant and important laws such as the Law on Access to Information, the Law on Prevention of Conflict of Interest, the Law on State Servants and Employees, and the Law on Public Procurement Procedures – would need to be reviewed under special measures in order to present harsher disciplinary actions and penalties, as well as clearer proceedings.

Activity 5: *Follow up meeting of the Working Group to Propose Measures for the Review and Update of the Anti-corruption Strategy, Zagreb, 18 April 2005.*

During the third and final meeting of the group, a first draft of the National Anti-corruption Strategy was distributed to all members of the Working Group and shortly discussed. The Head of the working group, who has been mainly in charge of collecting and elaborating further the information and proposals, stressed that the follow up period will be dedicated to improve the existing document (which is as yet a working document), and to allow Council of Europe expertise and assessment to be issued prior to its submission to a larger audience (institutions and government), and prior to its endorsement.

However, it should be mentioned that since 18 April 2005, the Working Group has not meet again. The latest version of the draft National Anti-corruption Strategy dates 29 May 2005, and even though it is considered by the working group and its Head as a non-final version, apparently there are concerns that the authorities of the Ministry of Justice are considering it as a final version.

Although the Working Group has done a laudable job in identifying the weaknesses of the previous strategy and proposing relevant measures accordingly, the draft (version of 29 May 2005) does not reflect the three main elements of the strategy as agreed before by all members of the working group, which are: 1) Main Government Objectives; 2) Evaluation of the Current Status; 3) Situation and Main Measures for Suppressing Corruption. In addition, since all members of the Working Group consider the document as a non-final version, they have agreed that during the end of August or early September 2005, the working group and representatives of the Ministry of Justice organise a Round Table Discussion on the text with the assistance and advice of Council of Europe experts.

It is hoped that the current planning will bring the protracted process of preparing and submitting a new Anti-corruption Strategy for Croatia to a successful closure.

Activity 6: *Meeting of the Working Group to discuss the policy and issues proposed through the new draft of the National Program for Suppression of Corruption, Zagreb, 8 October 2005*

In early October 2005, it was the Minister of Justice of Croatia, Ms. Vesna Skare-Ozbolt who headed the Working Group meeting which took place in order to discuss issues of finalisation and policy related to the text of the Draft National Program on Suppression of Corruption, and also set deadlines to when the draft should be made ready. Furthermore, it was agreed that Council of Europe expertise review and expert meeting with the working group should take place prior to the submission Draft National Program on Suppression of Corruption to the Ministry of Justice. Comments and improvements on the existing drafts were discussed, and decided to be inserted and approved to another follow up meeting prior to the finalisation of the text, and its submission to the Council of Europe experts for their evaluation.

Activity 7: *Final meeting of the Working Group and the Ministry of Justice to finalise recommendations on the draft National Program for Suppression of Corruption, Turopolje, 28 October 2005*

The members of the working group together with the Special Adviser to the MoJ and State Secretary of the MoJ met on 28 October 2005 in order to submit and discuss the last recommendations to the draft National Program on Suppression of Corruption. This draft was then published and made available to the public for comments at the web site of the Ministry of Justice, as well as it was sent for an evaluation and expert review to the Council of Europe experts. The expertise of the Council of Europe was provided from two Council of Europe experts, and it took place in writing between October and November 2005. The official submission of the experts' opinion to the Minister of Justice of Croatia and the working group took place in November 2005.

Activity 8: *Final meeting of the Working Group on the new draft National Program on Suppression of Corruption and submission of the guidelines and tools when defining additional prevention and educational initiatives that need to be included in the existing Anti- Corruption framework, Zagreb, 9 November 2005*

This was the final meeting which allowed the presentation in detail of the proposed now new National Program on Suppression of Corruption for Croatia. The Head of the Working Group stressed that in this National Program the accent is on the implementation of the laws and no longer on adopting new legislation since that phase is now passed for Croatia. The aim of the new program is to lower corruption on the level in which it will not present the obstacle for normal functioning of the society and of the rule of law.

This meeting was also moderated and facilitated by the Council of Europe expert Mr. Goran Klemencic who presented his remarks and further on introduced the Council of Europe expertise comments in general with respect to the Draft National Program on Suppression of Corruption.

The meeting was attended also by the representatives of the European Commission delegation in Croatia who addressed as an important momentum the issue that now is also the time that Croatian authorities would need to set up a clear time frame in establishing the National Council on Anti-corruption.

Following the expert discussions and comments, the following issues were addressed as final remarks on the document:

- The Program generally is good as it brings measures of prevention and repression;
- The language of the Program is not so technical, thus it is more closer to the public, what eventually is positive, however it may sound populist;
- The necessity to stress the continuity in fighting against corruption; for example there was no continuity-related concept in the previous national strategy 2002. There is a need to ensure that evaluation of what has been accomplished or not accomplished constitutes an important tool of implementing and monitoring government policies;

- Special attention should be given to question related to the available funds and resources (e.g. USKOK issues of additional departments being introduced remains still open and unclear);
- The sections dealing with issues of international co-operation need to be more clear and pragmatic;
- Attention should be given to foreseen deadlines, as some may be unrealistic especially those covering measures that are generally introduced;
- The most concerning issue, remains to be the question of implementation of the program; there is a clear need to defining an authority, its mandate. Also, the activity of the body as proposed by the program remains still unexplained.

Also specific comments and recommendations for improvements were made with reference to specific sections and chapters dealing with issues of funding of political parties and their monitoring; suppression of conflict of interest; the official secret ("test of public interest"); transfer of powers; the existing strategy for the judiciary and its relevance; health sector; privatization and public procurement; freedom of competition market; investigation and sanctions; and implementation and monitoring of the Program

At the end of this meeting the following actions were agreed to take place:

- The Council of Europe expertise recommendations and opinions will be accompanying the text of the National Program when being introduced to the Council of Ministers as submitted by the Council of Europe secretariat;
- The National Program for Suppression of Corruption will be submitted to the Council of Ministers of Croatia in December 2005, and upon its endorsement will be then submitted to the parliament of Croatia;
- The government of Croatia (initially the Ministry of Justice) will urgently submit and propose the establishment of the National Council to monitor and prevent corruption; and
- As concerning the financing and resources, each institution proposed as the responsible one for the tasks should ensure; and propose before the adoption of the State Budget the necessary financial and human resources that will be needed in order to provide the necessary inputs for the implementation of the National Program for the Suppression of Corruption.

Activity 9: *Printing and Publishing of the adopted version of the National Program on the Suppression of Corruption, 7 July 2006*

After the adoption by the Croatian Parliament on 31 March 2006 of the National Program (NP), technical assistance through PACO Impact facilitated its translation and publication, thus contributing to present the NP to the broader public/civil society as well as to urge the citizens to report on the corruption related offences.

The distribution of at least 500 copies of the CD with the text of the National Program in English and Croatian, 500 portfolio brochures and 500 posters would cover all prosecutorial and court offices throughout the country, the Ministry of Justice, the Ministry of the Interior, the Ministry of Finance, the Office for the Suppression of Money Laundering, the Police Academy, all universities in the country, as well as relevant public associations.

Output (3)***Draft laws/amendments available to bring the criminal legislation on corruption in line with European standards******Comments:***

In February 2005, changes and amendments were made and adopted to the existing Law on Office for Suppression of Organised Crime and Corruption (“USKOK Law”). Accordingly, these amendments provide the re-organisation of some departments within the USKOK, by including provisions for a new department - the Department for International Co-operation and Joint Investigations (DICJI).

The inclusion and the establishment of DICJI is expected to improve the quality of many complex criminal proceedings and also to strengthen the cooperation between police and USKOK. By means of this law and its recent amendments, the authority of the USKOK’s role during the preliminary investigations and scope of jurisdiction (number of types of criminal offences) has increased substantially.

In addition, since the beginning of 2005, the authorities of the Ministry of Justice have been discussing and informing international forums that an Anti-corruption Law is going to be drafted soon in order to establish an Anti-corruption Office. However, until now there has been no institutional awareness raising or open discussion with the public about this intent; this issue has also not been raised as a necessary measure to be included in the draft of the National Anti-corruption Strategy. It appears that this idea is still under discussion, only, within the Ministry of Justice.

Further amendments and changes to the Criminal Code were in principle accepted by Parliament in November 2005 and have been forwarded to the Ministry of Justice, which is in charge of drafting the final law. The law was yet again discussed by the Parliament on 17 May 2006; once adopted, the amendments will strengthen the sanctions for corruption-related offences, introduce changes pertaining to the criminal offences of embezzlement and tax fraud and strengthen the respective sanctions; also, it is proposed to introduce changes to Article 82 (Seizure of Illegally Gained Property) extending the definition of ‘illegally gained property’ in line with international legal standards.

Activity 1:

Training on the application of treaty law and standard-setting in accordance with relevant European and UN anti-corruption Conventions and Instruments, Zagreb, 3 March 2006

This training brought together members from the different law enforcement institutions, who are involved in either investigating or prosecuting criminal offences related to economic crime and corruption. The aim was to discuss the harmonization and implementation issues of the Croatian Criminal Law with the relevant CoE and UN Anti-corruption Conventions, and to discuss the benefits and problems occurring in investigating and processing corruption-related offences.

The two experts of the Council of Europe addressed the following issues:

- the current Criminal Code of Croatia foresees rather mild punishment for certain corruption-related offences, namely for offering and giving a bribe;
- There should be a separate reference within the Law introducing criminal responsibility of third persons acquiring benefit by committing a bribery offence;
- A definition of corruption should be included in the existing legislation;
- The civil legislation is insufficient in that it is not prescribing the responsibility for damage compensation when the act was committed by a third person;
- A separate law on the protection of “whistle blowers” be introduced, as until now, the issue is covered only through a provision within the Labour Law;

- Furthermore, the difference between whistleblowers and collaborators of justice needs to be clarified especially in terms of interpreting/implementing the existing provisions which allow misinterpretation.

Following the expert comments, participants raised the following issues:

- Representatives of the Police stressed two problems related to investigation of the corruption related offences, a) as regards to witnesses who usually are not keen to give their statements before or during the criminal procedure; and b) the evidence procedure is problem-laden, in particular when evidence is gathered using SIMs: sometimes, court does not accept such evidence, or it is necessary to wait for the investigative judge to issue the order for the use of SIMs, which causes delays.
- Judges commented on the provisions of the Law on Criminal Procedure, pursuant to which court panels are determined when procedures for corruption-related offences are determined. Namely, the Law stipulates a panel of three professional judges for all criminal offences related to corruption. It would be of great help if certain changes within the Law on Criminal Procedure were introduced whereby it would be sufficient that one professional judge deals with certain cases - e.g. bribery up to a certain amount of money given or taken; this would accelerate the entire procedure.

At the end of the training, the following conclusions were reached:

- The seminar managed to provide a better understanding of the conventions in question;
- The seminar was useful in that it provided not only information on the Conventions, but in that it also connected participants and emphasized the similar nature of difficulties they are facing during their work where it concerns the fight against corruption;
- Lack of the awareness remains a problem, as well as the perception of corruption, irrespective of the transposition of the relevant international instruments into the domestic legislation. Attention should be put on greater prevention and education;
- The main focus should be on the full implementation of the necessary legislation, as opposed to its mere adoption or discussion.

Output (4): Pilot Activity Supported

Activity 1: *Identification and Elaboration of Action Plan for Pilot Activity with respective counterparts on “Strengthening technical and operational capacities during criminal proceedings against corruption related offences”, Zagreb, January 2005.*

Pilot Activity	Strengthening technical and operational capacities during criminal proceedings against corruption related offences
Objective	Strengthen investigative and operational capacities which can increase the quality, quantity, and the speed of investigation and networking procedures when initiating criminal proceedings and evidence gathering for corruption related offences.
Start-up	November 2005
Duration Period	November - December 2005
Estimated Cost	SIMS Equipment: 10,800.00 EURO Equipment- Notebooks and Portable Printers: 16,040.00 EURO
Available Funds	Pilot Activity allocated funds: 45,000.00 EURO Other Office Equipment allocated funds: 10,000.00 EURO Total Available Funds: 55,000.00 EURO
Beneficiaries	USKOK HQ Office and Three County Offices (Rijeka, Split, Osijek) Department for Economic Crime and Corruption at the Ministry of Interior
Implemented by	PACO Impact Management Team Unit; USKOK HQ; Ministry of Interior and DECC.
Outputs	Increased and Efficient Criminal Proceedings against corruption and economic crime; Prevention of crime, and other actions due to the use of preliminary investigative techniques; Full technical implementation of the SIMS legislation in place; Ability to operate and initiate criminal proceedings through a technical network which allows participation of other officers in charge of investigation; Reduced cost of criminal proceedings by avoiding travels in different regions in country; Possibility to gather sufficient evidence which currently is not fully possible due to lack of funds in purchase of equipment. Strengthen investigative and operational capacities, which can increase the quality, quantity, and the speed of investigations in general, and especially when special investigative measures for investigating corruption-related offences are taken.
	Purchase and donation of eight notebooks and eight portable printers

Inputs	Equipment for USKOK HQ County offices; Assert training needs for use of these equipment (if there is any). Purchase and providing SIMS equipment for Ministry of Interior (Department of Economic Crime and Corruption) Audio System Micro 2tHP Audio Monitoring Unit for mobile targets				
Actions/Activities	Time-line	Venue	Estimated Cost	Expected Results/outcomes	Notes
Meeting w/USKOK and Mol authorities to re-confirm the need for such equipment.	27 September 04	Zagreb, Croatia	N/A	Continues Persistence on the need of these equipment as the most needed technical assistance; Confirmed lack of state funds.	√
Estimating cost of Requested Equipment	Nov. 2005	Zagreb, Croatia	N/A	16,000€ 13,000 €	√
PMU Consults with Sida re: Decision for Purchase	March - June 05	Strasbourg, France	N/A	Decision not to purchase due to limited funds; Receipt of potential additional funds;	√
Order of Equipment	Dec. 2005 Jan. 2006	Croatia, and region	N/A	Purchase Order Confirmed	√
1 st Purchase and Purchase Delivery	Jan. 2006	Zagreb, Croatia	15,119.92 EURO	Equipment Installed in Zagreb, and 4 districts	√
2 nd Purchase and Purchase Delivery	February 2006	Zagreb, Croatia	10,609.12 EURO	Equipment Installed in Department of Economic Crime, Police Directorate, Ministry of Interior, Zagreb	√
Assert needs for training on Equipment Use	through the period	Croatia	3000 Euro	Training already provided by other institutions, while no equipment has been available	Not carried.
Impact Expected in June 2006 and in the future					
Other general data	Strengthened law enforcement capacities in the fight against corruption				
Quality Indicators	Evidence gathered and criminal proceedings quality has increased with 2-3 years ago				
Quantity Indicators	Number of successful criminal offences due to valid evidence (b/c of use of equipment have increased with 2-3 years ago; Number of prevented (offence in attempt) has increased due to initial signals received in preliminary stages and due to speedy networks of joint operations with other district offices.				
Number of Users	Equipment being used as practical tools by many officers (other institutions, departments) in charge of investigation and criminal proceedings against corruption and economic crime.				

Activity 2: *Purchase of equipment for USKOK HQ Office and three County Offices (Rijeka, Split, Osijek), Zagreb, December 2005-January 2006*

At the end of December 2005 through the Pilot activity “Strengthening technical and operational capacities during criminal proceedings against corruption related offences”, the purchase of eight notebooks and eight portable printers for USKOK Zagreb Headquarters and its three County Offices (Split, Rijeka, Osijek) took place in accordance to Council of Europe rules of procurement and on the basis of the specific needs as established from the USKOK HQ offices in Zagreb during the implementation of the project.

In total, eight notebooks and eight portable printers were purchased; two of each were distributed to the above mentioned offices. The ordered equipment was delivered in late January 2006 to the relevant offices. The total amount of purchased equipment was 15 119,92 Euros

The purchased equipment will assist and improve administrative and technical capacities of the offices, and more specifically the proceedings of corruption-related cases when carried out in the field and through missions of designated prosecutors.

Activity 3: *Procurement and provision of SIMs equipment for the Ministry of Interior (Department of Economic Crime and Corruption)*

In December 2004, the Ministry of Interior proposed that professional servers consisting of two different configurations for the relevant Department should be purchased through a PACO Impact Pilot Activity. This equipment was, however, purchased in December 2005, using other sources of funding. The Ministry of Interior therefore proposed the procurement of other necessary equipment, consisting of two audio monitoring systems.

The ordered equipment was delivered to the Ministry of Interior at the end of February 2006, at a total cost of 10.609,12 Euros. The purchased equipment will enable the Department of Economic Crime and Corruption to strengthen its investigative and operational capacities, which can increase the quality, quantity, and the speed of investigations in generally, and especially in cases in which special investigative measures for the investigation of corruption-related offences are applied.

4.4 Kosovo (Serbia)

4.4.1 Project Orientation

There are several issues of concern linked with the UNMIK's reserved powers covering the preventive and repressive measures against corruption and organized crime. Such an arrangement possesses a challenge in adequately addressing and contributing to preventive measures against corruption in the short and medium term.

Main Goal: Support the drafting and then implementation of a new Anti-corruption plan for Kosovo, by supporting the institutional building of an opted anti-corruption agency, and its legal framework.

Expected actions: Initiate, develop, strengthen and implement the Anti-corruption Plan for Kosovo based on the newly introduced Anti-corruption Strategy. Assist and support the creation of anti-corruption mechanisms in Kosovo and their legal framework, which will ensure monitoring and reporting as well as provide the policy advice with respect to anti-corruption efforts in Kosovo. Support the current working Group by training and office equipment in order to increase their capacities and enable them to independently embrace anti-corruption reforms in Kosovo.

4.4.2 Activities by Outputs

Output (1) ***Anti-corruption plans improved or elaborated***

Activity 1: *Launching of the Anti-corruption Strategy for Kosovo: Pristina, 24 May 2004.*

Following the endorsement of the Anti-corruption Strategy for Kosovo by PISG institutions, a launching Anti-corruption Conference organised by PISG institutions, mainly the Advisory Office for the Good Governance, Human Rights and Equal Opportunities took place on 24 May 2004. The Conference brought together about 50 participants from all different relevant institutions of UNMIK, PISG, and other international organisations in Kosovo, but also representatives from anti-corruption services from, Croatia, "the Former Yugoslav Republic of Macedonia", Bulgaria, and Slovenia as main counterparts in the process exchange of experiences and twinning during the proves of drafting the Anti-corruption Strategy.

References and *modus operandi* on European and international standards for a way forward to this new Strategy were made during the speeches held by Wolfgang Rau, GRECO Executive Secretary, on behalf of the Council of Europe. Other opening statements were delivered by Bajram Rexhepi, former-Prime Minister of Kosovo, Jean Christian Caddy, Deputy of the UN Special Representative of the Secretary General, and Thiery Bernard Guile, Head of Center of the European Agency for Reconstruction.

The finalisation and the launching of the Anti-corruption Strategy for Kosovo, was considered as one of the most successful cooperation activities (initiated and followed up by Council of Europe PACO Programme since 2002), and later on in coordination with the assistance of UNMIK and GTZ.

The Conference concluded that an Anti-corruption Plan and an Anti-corruption Law to establish mechanisms necessary for monitoring and preventing corruption will be the next steps in the agenda of PISG in cooperation with UNMIK and through the assistance of PACO Impact project.

Activity 2: *The establishment of the working group to draft the Anti-corruption Action Plan, Pristina, 27 August 2004.*

The aim of this activity was to initiate the policy dialogue and encourage UNMIK and PISG authorities on establishing an inter-ministerial working group which will carry on for drafting the Anti-corruption Action Plan based on the Anti-corruption Strategy of Kosovo. The meeting brought together 10 representatives from UNMIK and PISG institutions.

Issues discussed and agreed in this meeting were as follows:

- PISG and UNMIK Institutions acknowledge now the final Document of the Anti-corruption Strategy for Kosovo and for its implementation there is a need to initiate the drafting of its Action Plan;
- The establishment and endorsement of the 10 member Working Group in drafting the Anti-corruption Action Plan;
- The members of the Working Group discussed and agreed upon the Workplan calendar of activities that sought to be carried out starting during September-October 2004; and
- Issues related to the preparations for the anti corruption campaign which will start officially on August 31, 2004 in cooperation with UNDP.

The outcome of the meeting was the decision that members of the new inter-ministerial working group, which was initially involved in drafting the Anti-corruption Strategy for Kosovo since October 2003, will be the responsible group for reviewing and drafting the Anti-corruption Action Plan. The working sessions will be led and coordinated by Kosovar experts in cooperation with Council of Europe expertise and assistance (when needed).

Activity 3: *First workshop of the Working Group to initiate the drafting of the First Part of the Anti-corruption Action Plan, Pristina, 25-26 October 2004.*

The aim of the workshop was to provide the opportunity to all members of the Working Group to discuss tools and guidelines, as well as best practices. The Council of Europe expert and other representatives of UNMIK institutions as well as PISG presented their ideas about the modalities that need to be followed in the way forward for writing a comprehensive Action Plan. However, lack of action and need for a better coordination and commitment within the Working group itself was identified among several workshop attendees.

In view of this, during the month of November 2004 a different approach was agreed considering the conclusions of the workshop. The new approach which was concluded in agreement between the PACO Impact Management Team and the Advisory Office for the Good Governance, Human Rights and Equal Opportunities agreed on the following actions:

- Nomination of three local experts in Kosovo tasked to Draft the Anti-corruption Action Plan by the end of January 2005;
- Presentation of the Draft Action Plan by local experts to all working group members for review during 1-20 February 2005;
- Workshop to discuss the first Draft of Anti-corruption Action Plan on 21-22 February 2005.
- Inclusion of additional amendments and second review following the workshop of February 2005.
- Assessment and evaluation of the Second Draft of the Anti-corruption Action Plan by Council of Europe experts in March 2005.
- Finalisation of the Anti-corruption Action Plan in April 2005.

During December 2004 and January 2005, three local experts were identified by the Advisory Office for the Good Governance, Human Rights and Equal Opportunities, as experts and through the assistance of PACO Impact Management Team initiated the drafting of the Anti-corruption Plan to be later on

presented and then reviewed by the Inter-ministerial Anti-corruption Working Group which is now scheduled for 21-22 February 2005.

Activity 4: *Second workshop for discussion of the draft of the Anti-Corruption Plan, Pristina, 21 – 22 February 2005.*

As of early November 2004, the two local consultants (representing two very pro-active NGOs in Kosovo) were engaged on drafting the Anti-corruption Action Plan for Kosovo, by cooperating and interviewing, as well as compiling feed back from all relevant institutions the inclusion of which was foreseen to be provided in the forthcoming Anti-corruption Action Plan. Following this three months exercise, the first draft of the Anti-corruption Action Plan for Kosovo, was submitted to the Inter-governmental Working on Anti-corruption.

In view of this, a workshop with the participation of all relevant institutions from PISG, UNMIK, independent bodies, as well as representatives from civil society and media was held to review and provide the initial comments to the first Anti-corruption Action Plan for Kosovo.

The two days workshop which brought together about 60 participants created the possibility of the exchanges of the opinions, and recommendations from all involved institution representatives in terms of the technical content of specific measures as included in the draft Anti-corruption Action Plan.

In the final conclusions of the workshop, all participants agreed that, a second review from the consultants working group need to be made over the first draft by the inclusion of the following items:

- Incorporate all the specific institutional recommendations/changes and the feedback as received and suggested during the discussions of the workshop;
- Incorporate and provide additional changes that may be raised during other forthcoming communications with relevant institutions of PSIG and UNMIK with reference to additional measures that need to be inserted within the Draft Two of Anti-corruption Action Plan;
- Identify and indicate within the text of the Action Plan all UNMIK *Reserved Power* and *Transfer Power* related measures; and
- Incorporate additional sections/chapters in the Action Plan covering the Public Finance and Economy related anti-corruption measures.

In addition, it was decided that once the Second Draft of the Anti-corruption Action Plan is finalised and approved by the Office of Good Governance (as the body in charge to coordinate all this process), the text will submitted to Council of Europe (PACO Impact) for an expert assessment not later than 15 April 2005.

Activity 5: *Advisory Paper—Comments and Recommendations on the Second Draft of the Anti-corruption Action Plan of Kosovo, Strasbourg May 2005.*

Following the submission of the Second Draft of the Anti-corruption Action Plan for Kosovo by the Office of Good Governance to the Council of Europe, an advisory paper commenting/assessing and providing recommendations for improvements of the Draft was prepared by two Council of Europe experts/consultants during the month of May 2005.

The Advisory Paper²¹ provides an evaluation and recommendations for improvements for each chapter/sector of the Anti-corruption Action Plan in relation with the Anti-corruption Strategy of Kosovo, which was endorsed only by the government of the PISG in May 2004.

²¹ See, Advisory Paper, PC-TC(2005)7, May 2005.

In their conclusions, the experts express the following opinion:

“...Due to the fact that the draft Action Plan is substantially not following the structure of the draft strategy, not all measures from the draft strategy are handled in the draft Action Plan – the number of measures in the draft strategy is 151 and the number of measures in the draft Action Plan is only 110. That basically means that not all of the measures given in the draft strategy will be implemented. Therefore, the most serious problem of consistency appears which can be solved only through a thorough comparison on measures provided by the draft strategy and by the draft action plan and with the inclusion of all measures provided by the draft strategy into the draft action plan.

The fact that parallel reading of the draft strategy and of the draft Action Plan and their comparison is impossible could cause serious problems in understanding of the general approach of Kosovo towards corruption.”

After submission of the Advisory Paper to the PISG and UNMIK authorities, it is expected that issues of concern as specifically listed in this paper, will be taken into consideration in order to further improve the Second Draft of the Anti-corruption Action Plan. In view of this, the planned Round Table Discussion has been now postponed to take place in September 2005. This delay is also linked to other restructuring and reforms that are taking place currently within the PISG and their recently increased “transferred powers” as well as legislative developments in relation to anti-corruption efforts.

Activity 6: *Round Table Discussion to seek the approval of all involved institutions on the Final Version of the Anti-corruption Action Plan, Pristina, 8 December 2005*

A Round Table Discussion to introduce and seek approval from the PISG on the final version of the Anti-corruption Action Plan took place on 8 December 2005, in Pristina. The activity was co-organised by the Office of the Good Governance and PACO Impact project. The aim of the Round Table Discussion was to provide the final opportunity of introducing and commenting on the final text of the Anti-corruption Action Plan among all relevant institutions of PISG. Under the moderation of the Council of Europe and Office of the Good Governance, and through this activity, the commitment of PISG to provide the timing of the endorsement of this important document, which by the end of this activity was promised to be January 2006 was sought by both Council of Europe and Office for the Good Governance.

Furthermore, this activity created also the opportunity to address other issues of concern, such the ongoing delays for the nomination of the Head of the Anti-corruption Council. It was stated that without the nomination of the Head of the Anti-corruption Council and the meeting and nomination of the other members, the initial establishment of Anti-corruption Agency would risk severe delays. PISG representatives committed that by mid-February the Head of the Anti-corruption Council will be nominated from the Assembly of Kosovo, and accordingly the Anti-corruption Council will constitute its initial meetings.

Output (2) *Institutional mechanisms for the monitoring and management of anti-corruption plans strengthened*

Comments:

The one activity under this output has merely been of a policy discussion nature and consisted also of support to the increase of the capacities of the Financial Investigation Unit (FIU). Since the beginning of the project, this issue has been attempted many times to be addressed to the office of the SRSB to Kosovo, in order to initiate a policy dialogue, but so far no results have been obtained. Nevertheless, it should be acknowledged that the FIU mandate was extended beyond February 2006. However, during the mid-term review was suggested and agreed that this activity be replaced with another activity which

could be supplementing the Output 4 activities aimed at providing assistance to the establishment of the Anti-corruption Services for Kosovo. This proposal had been initially supported by both Project Co-Directors in Kosovo.

As a result of this, the drafting of the Internal Rules of Procedure of the newly established Anti-corruption Agency in accordance with the Anti-corruption Law in Kosovo were prepared with the full assistance and support of the Council of Europe experts as a supporting tool under Output 4.

Output (3): ***Draft laws/amendments available to bring the criminal legislation on corruption in line with European standards***

Activity 1: *Round Table Discussion on issues of implementing the newly introduced Anti-corruption Law which provides the legal framework of for establishing the Anti-corruption Agency for Kosovo, Pristina, 19 August 2005*

Following the promulgation of the Anti Corruption Regulation No 2005/26 by the UN SRSG on 12 May 2005, a Round Table Discussion among representatives from all relevant local and international institutions, to discuss the primary issues of implementation of the new law took place on 19 August 2005, with the participation of Council of Europe expert Mr Drago Kos.

The activity was opened and praised as a good and forward step in the fight against corruption through the opening remarks of Mr Soren Jessen Petersen, UN SRSG, and Mr Bajram Kosumi, the Prime Minister of Kosovo.

Following the discussions and expert comments among all participants and representatives of the relevant institutions, the final conclusions and recommendations suggested that the following actions be taken into consideration by the inter-ministerial working group:

- The Office of Good Governance should remain to be the leading institutions and the liaising office with the Assembly with reference to all initial actions that need to be taken prior to the establishment of the new Anti-corruption Agency and in accordance to the new law;
- A budget proposal on the future Anti-corruption Agency was discussed and proposed to be followed up by the Office of Good Governance with reference to its submission and approval within the Kosovo Consolidated Budget Funds;
- A series of meetings and networking need to be taking place in order to increase the interaction between the Office of Good Governance and the Assembly of Kosovo and the relevant public institutions in order to finalise the nomination of the future members of the Anti Corruption Council in accordance with the new law;
- To initiate the drafting of secondary legislation and the terms of reference for all future staff members of the Agency and its other operational capacities in accordance to the new legislation;
- To establish, maintain and overview in a transparent way the criteria for the nomination of the Anti-corruption Council members in accordance with the requirement as set by the new law and the international standards.

Following this activity, and upon the elaboration and issuance of a "Scheme of Actions" it was agreed that the above listed proposals and ideas be taken into consideration and concrete actions take place in parallel with a continuous policy dialogue in order for pushing forward the nomination of the Anti-

corruption Council members. These actions were both committed from the side of UNMIK/PISG authorities and Council of Europe/PACO Impact.

Output (4): Pilot Activity Supported

Activity 1: *Provide assistance and support to the establishment of the new office of ACA in Kosovo (including the purchase of equipment): Pristina, April 2006-July 2006.*

Pilot Activity	Provide assistance and support to the establishment of the new office of ACA in Kosovo (including the purchase of equipment)				
Objective	The technical assistance with the purpose of establishing the Anti Corruption Agency of Kosovo and its human resources, with preventive and law enforcement tasks, which will ensure the implementation of the anti corruption strategy.				
Start-up	April 2006				
Duration Period	April 2006 – July 2006				
Estimated Cost	20,000.00 Euro				
Available Funds	Pilot Activity allocated funds: 45,000.00 Euro				
Beneficiaries	<ul style="list-style-type: none"> ▪ The Office of Good Governance, Human Rights, Equal Opportunities and Gender Issues; ▪ The newly to be established Anti-corruption Agency (ACA) 				
Implemented by	<ul style="list-style-type: none"> ▪ PACO Impact Management Team Unit; ▪ The Office of Good Governance, Human Rights, Equal Opportunities and Equal Gender Issues / Kosovo Government 				
Outputs	<ul style="list-style-type: none"> ▪ Purchase of Equipment ▪ Available tools for the establishment of ACA office as a specialised anti-corruption agency (services); ▪ ACA starts to become operational as one of PISG/UNMIK Institutions by July 2006. 				
Inputs	<ul style="list-style-type: none"> ▪ Purchase and donation of Office Equipment necessary for a start up of the Anti-corruption Agency; ▪ Technical Advice on drafting the necessary internal procedures and other acts in line with the Law on Anti-corruption (still to be enforced), and international standards; ▪ Provide initial training and rules for the staff of ACA. 				
Actions/Activities	Time-line	Venue	Estimated Cost	Expected Results/outcomes	Notes
Pre-assessment of needs and drafting of Action Plan for Pilot Activity with the Office of Good Governance, Human Rights, Equal Opportunities and Gender Issues	April 2006	Pristina	N/A	<ul style="list-style-type: none"> - List of pre-assessed needs. - Draft of Action plan for Pilot Activity 	The list of needs was prepared jointly with the Office of Good Governance. The list contains technical

					equipment (11 PC, 3 laptops, 2 fax, 2 printer, 11 UPS, 1 projector, 1 camera, 3 USB flash)
Preliminary estimation of cost	May 2006	Pristina	15,000.00 Euro		done
Procurement Decision for Purchase	May 2006	Pristina	N/A	Joint decision for the purchase of <u>selected equipment</u>	The decision to purchase the technical equipments was made on 11 May 2006
Order, Purchase and Delivery of Equipment	June 2006	Pristina	11, 995,00 Euro	Purchase Order Confirmed	The purchase and delivery of equipments was finalized at the end of June 2006.
Draft Internal Rules of Procedure for ACA	May 2006	Pristina	1,500.00 Euro	Rules of Procedure and other acts in place	The rules and procedures of ACA were submitted to the Office of Good Governance on 07 May 2006
2-3 Induction Training Course on ACA management for ACA staff	July 2006	Pristina	3,000.00 Euro	Initial training accomplished	Pending on the Official decision for the creation of the ACA
Impact Expected in June 2006 and in the future					
Other general data	Strengthened ACA capacities in the fight against corruption together with other law enforcement agencies in Kosovo				
Quality Indicators	The effective work of ACA in suppression of anti corruption				
Quantity Indicators	Number of employed and strained staff of ACA, number of reports, and activities carried out from the day of becoming operational.				
Number of Users	The equipment and the office of ACA will be used by its sole personnel in service to the anti-corruption services in Kosovo in accordance to the legal framework. Expected number of employees which will be operating in these offices will be: 10-15 staff members.				

4.5 Montenegro

4.5.1 Project Orientation

Main Goal: Capacity building in drafting, monitoring, and coordinating anti-corruption programme and an action plan. Also, ensure capacity building in applying preventive corruption measures such as public education and debates, and other targeted workshops to increase substantive understanding of both repressive and preventive anti-corruption reforms carried out by ACIA while reported and monitored by the National Anti-corruption Commission (NAC).

Expected actions: Improved (and separate) Anti-Corruption Programme and draft action plan with comprehensive and measurable anti-corruption actions; support ACIA and establishment of NAC by strengthening their monitoring and managing capacities while providing the and inclusion of measurable indicators of success in the action plan; increasing policy and reform advising capacities, support institutional memory and information, as well as support production and publication of anti-corruption programme and its action plan.

4.5.2 Activities by Outputs

Output (1) *Anti-corruption plans improved or elaborated*

Activity 1: *Consultancy workshop for the working group under the coordination of the Ministry of Interior in order to finalize necessary changes in the Anti-corruption and Organised Crime Programme, Podgorica, 13-14 September, 2004.*

The main aim of this activity was to restructure and review the Programme on Combating Corruption and Organized Crime in Montenegro which has been in the status of reviewing since late December 2003. The two-day activity brought together all the members of the Working Group and representatives from the civil society, while involving two CoE experts (one under PACO Impact Project and one under CARPO project). The expert' recommendations during this workshop address issues related to the content and final form on how the Programme should be composed. Furthermore, the matrix form was presented to the 10 members of the WG and it was agreed that the form should be part of the new draft. As a result of this, a new form and outline of the Programme, by considering the insertion of a comprehensive Matrix later on were agreed and decided. Also the preliminary deadlines for finalising the draft Programme upon the recommendations and issues as agreed on this workshop were established and follow up review on line from both experts was agreed prior to a broader Round Table Discussion on this issue which took place in November 2004.

Activity 2: *Round Table Discussion on the Finalization of the Draft Programme of Anti-corruption and Organized Crime for Montenegro: Podgorica, 15 November 2004.*

The main aim was to discuss the final draft of the Programme on Combating Corruption and Organized Crime for Montenegro following its the recent changes based on the recommendations issued during the month of September and October by the working group in consultancy on line with the two Council of Europe experts.

The Round Table Discussion on the Finalization of the Draft Programme of Anti-corruption and Organized Crime for Montenegro, brought together about 20 participants, and involving a CoE expert. The activity was opened and attended by the Deputy Prime Minister of Montenegro (and the Minister of Interior)

Furthermore, the members of the Working Group, and all other representatives from other institutions civil society as well as representatives of the international organisations largely contributed with their views to further improving the new structure of the draft Programme. The CoE expert explained which parts of the Programme should need a last review/improvement, putting the emphasis on the Public Finances and the Private Sector. Furthermore, the special attention was given to the discussions related to the need for having a Matrix/Action Plan—especially issues related to the indicators of success.

Finally it was decided that the working group will reflect the last changes based on the Round Table Discussions and suggestions. In addition a policy advice paper²² on addressing specific issues with respect to those necessary improvements that needed to be made was submitted after the activity by the two Council of Europe experts for their considerations. In light of this, it was agreed that the final version, will be submitted to the Government by the end of December. The drafting of the Anti-corruption Matrix will initiate on February 2005, and later on will go through the same procedures until it becomes a solid part of the AC and OC Programme.

Activity 3: *Training Seminar on the tools and guidelines of “Implementation, monitoring and management of the Programme of Anti-corruption (and Organized Crime) for Montenegro: Podgorica, 16 November 2004.*

The Seminar was aimed at discussing tools and guidelines which should lead a successful implementation, monitoring and management of an Anti-corruption Programme, with special attention toward the efficiency of Anti-corruption measures. This activity brought together 25 participants which included the working group members for drafting the programme and representatives from all relevant institutions which will be tasked under the current draft Anti-corruption Programme to take necessary institutional measures, and monitor the programme such as the Office for Anti-corruption Initiative (OACI).

Participants were provided guidelines and overview by two Council of Europe experts. Issues discussed and addresses were as follows:

- General analysis of the (draft) Programme’s section with the emphasis on the anti-corruption specific measures;
- The legal and practical approaches that were followed in other countries (re-assurance of the political commitment; efficient law enforcement; good governance; and full participation of civil society);
- Assessing the needs and elements that need to be considered in and by a clear strategy on combating corruption that would, as its starting point, have an equal assessment of each case of corruption no matter who committed it – high level official or the ordinary citizen;
- Crucial items that need to be considered when drafting a Matrix of Action Plan with specific anti-corruption measures.

In addition, following this seminar and upon the request of the participants, and especially of the working group (which drafted the Programme), the one of the Council of Europe experts was asked to provide in written the specific guidelines as discussed in the seminar. In view of this, a Policy Advisory Paper²³ on “Issues and practical implementation of a national anticorruption programme: methods of measuring its progress” was submitted to the Montenegrin authorities and for the consideration of the working group tasked to draft the Anti-corruption Matrix as scheduled during February 2005.

²² See, also Policy Advice Paper, TP-51 (2004).

²³ See, also Policy Advice Paper, TP-50 (2004).

Activity 4: *Drafting of the Anti-Corruption Plan for Montenegro, Podgorica, 16-19 March 2006.*

The objective of this event was to discuss among involved/relevant actors the elaboration of an operational-level Action Plan for the implementation of the Program against Corruption and Organized Crime. The four-day activity brought together about 15 participants, members of the Montenegrin National Commission in charge of drafting the Action Plan and involved 2 Council of Europe experts. The event aimed at discussing and elaborating further on the content of the initial draft of the Action Plan which was submitted prior the meeting.

Both Commission and the experts went together through all substantive issues of the draft and discussed possible amendments and improvements by trying to reduce redundancies, inconsistencies and overlaps to the largest extent possible. Suggestions made by the experts were accepted and instantly incorporated into the draft. All the actors participated actively in the process of reformulation and finalization of the Matrix by providing valuable comments and suggestions.

In view of this, a Technical Paper on "Drafting the Action Plan for Montenegro" suggesting the way forward and implementation steps to follow, comprising also the latest version of the Draft Action Plan which reflects all the amendments/changes was submitted to the responsible Montenegrin authorities.

Based on the discussions held and suggestions/amendments already inserted in the Draft Action Plan the following conclusions were drawn at the end of the meeting:

- The implementation and the monitoring of different aspects of the Action Plan should be overseen by the existing structures in the respective institutions. Creating new/parallel bodies risks to cause continuous overlapping of responsibilities and tasks;
- There is a need to further strengthen the capacities of the Directorate for Anti-corruption Initiative as the key institution to implement the Action Plan. Furthermore, DACI should become the institution in charge of preparing regular analysis and recommendations for future anti-corruption initiatives. DACI will be the main institution to provide feedback and regular reports to the National Commission that will be in charge of monitoring the implementation of the Action Plan;
- The Action Plan should be further improved and a special emphasis should be put on:
 - a) prioritization of the measures (by importance);
 - b) budgetary aspects and funds available for proper implementation;
 - c) realistic and sustainable deadlines for each measure; and
 - d) risk factors to be identified and reflected for each area/measure.
- There is a need to have an independent, reliable and sustainable Anti-corruption Unit within the Police;
- There is an argument for establishing a new specialized structure in the Police (possibly within the Economic Crime Division) in order to properly deal with financial investigations and the administration of assets of crime, seizure of property, and temporary freezing of money flows. Such a structure will propose to the prosecution necessary measures to undertake final confiscation. This new Unit will also give valuable inputs to other relevant departments including here the Organized Crime Department.
- Tangible measures should be undertaken that result in a fair and transparent privatization process;
- There should be concrete measures in the field of public procurement as well as support to the Public Procurement Commission in terms of human resources and funding;

- Enforcement of the Conflict of Interest law and also efficient measures that tackle the monitoring of incomes and declaration of assets is key;
- The measures in the action plan should be extending to include also the local level (self-government); and
- There is a need for participation and involvement of the private sector and the media in the final drafting of the Action Plan.

Activity 5: *Roundtable Discussion on the Finalization of the Draft Action Plan of the Programme Against Corruption and Organized Crime, Podgorica, 28 June 2006*

Following the drafting and elaboration process of the Action Plan of the Program Against Corruption and Organized Crime for Montenegro, a roundtable discussion on “Finalization of the Draft Action Plan” took place in Podgorica on 28 June 2006. This event brought together 43 participants from the relevant institutions and interested actors and involved one Council of Europe expert. This meeting was opened by Mr. Jusuf Kalamperovic, Minister of Interior and Mr. Veselin Veljovic, Director of the Police. They endorsed this strategic document, highlighted the progress and results achieved, as well as the need to intensify the joint efforts in tackling, preventing, investigating and fighting organized crime and corruption.

The main objective of this roundtable was to discuss – guided also by the Council of Europe technical paper on “Drafting the Action Plan for Montenegro” (activity above) – with all the involved actors the improvement of the draft Action Plan, issues of concern with regard to its updated version, problematic in relation to tangible anti corruption measures and clear/concrete indicators of success, realistic timeframes and possible burdens with the budgeting resources, jurisdiction of different institutions regarding the implementation phase, etc., as well as final recommendations on changes that need to be reflected in this ‘living’ document. All the institutions were encouraged (if they deem necessary) to provide suggestions or improvements in order to make this document as more comprehensive as possible.

Council of Europe expert made a number of general remarks in relation to specific measures and also stressed that in overall, the draft Action Plan was a very substantial and important document. He also emphasized that the Directorate of Anti Corruption Initiative should have the key role in monitoring the implementation of the anti-corruption measures foreseen in the Action Plan.

Several representatives from public institutions provided written suggestions to the Working Group with respect to specific measures and indicators of success.

Comments:

It should be noted that activities foreseen under this output have all been carried out as reported. Since February 2005, the government authorities repeatedly expressed their commitment to the endorsement and adoption of the *Programme of Anti-corruption (and Organized Crime) for Montenegro* as prepared by the working group. Only on 28 July 2005, the government of the Republic of Montenegro endorsed the Programme, thereby creating the precondition for the drafting of the Anti-corruption Action Plan which was one of the short term priorities set up by the European Partnership report of 2006.

Output (2)***Institutional mechanisms for the monitoring and management of anti-corruption plans strengthened*****Activity 1:**

Assistance on strengthening the capacities of Office of the Anti-corruption Initiative to monitor and coordinate anti-corruption efforts and establish the PR component, Podgorica, July 2005.

Following the Initial meeting and discussions in early July between the OACI Director and PACO Impact management team with regard to this activity, and considering the limited resources that OACI receives from the state budget, finally it was decided that the modus of providing such assistance to OACI will be as follows:

- PACO Impact will fund at the amount of 4000 € the recruitment of a PR Officer who fully will be working under the auspices of OACI, and will report to both the Director of the OACI (PACO Impact Director) and PACO Impact management team/Council of Europe Office in Podgorica;
- The recruited officer (under OACI's rules of recruitment) will be fully supported and trained by Council of Europe in terms of PR strategy and implementation;
- OACI and PACO Impact will initiate and finalise the terms of reference for the PR strategy of OACI until September 2005, which will serve as terms of reference for the work of PR Officer; and
- The recruitment of the PR officer will take place during the month of September, and the period of recruitment will be until February 2006. Prolongation of such recruitment and assistance will be subject to the PACO Impact project continuation and its potential prolongation beyond February 2006.

Activity 2:

1st National Anti-corruption Conference, Podgorica, 19 October 2005.

The Conference (that was jointly organized with the UNDP and OACI) brought together about 63 participants from all responsible institutions and representatives from civil society and independent institutions. The conference involved one Council of Europe expert, to review and discuss the progress reached so far in the institutional and operational efforts in the fight against corruption in accordance to the new Programme of Anti-corruption (and Organized Crime). One of the main objectives of the Conference was to emphasize the importance of the Anti-corruption Action Plan that is needed in order to specify and provide the specific steps on the priorities of the government with reference to established policies in the fight against corruption. The activity was opened and attended by the new Deputy Prime Minister, of Montenegro who highlighted the government's recent efforts in the fight against corruption also stressing the fact that the Ministry of Interior as the authorised institution will initiate the drafting of the Anti-corruption Action Plan. The working group composed of different experts, and led by this institution and assisted by OACI will be in charge of the drafting process.

The conference was programmed into three panel sessions and respectively putting the emphasis on:

- a) measures that will influence the fight against corruption in economic development and poverty;
- b) measures and policies with reference to European and regional integration; and
- c) recent priorities concerning national anti-corruption initiatives.

Each session was facilitated by a presentation from experts representing different international organisations (i.e., Council of Europe, Transparency International, UNODC, UNDP and OSCE).

Furthermore, participants from the relevant national institutions (different ministries, Office of Supreme Public Prosecutor, courts, NGOs) actively took part in the discussions that followed the experts'

presentations. The CoE Expert delivered two presentations with relevance to anti-corruption measures and policies, as well as tools and guidelines while drafting the Action Plan.

As a conclusion of the activity the following topics were addressed and highlighted as priorities in a short term:

- Designed joint efforts in drafting and (later on the implementation process) of specific anti corruption measures and policies;
- The need for laying down the concrete actions that will transform the Programme Against Corruption as a “living document” with commitments and responsibilities;
- The specific requirements on anti-corruption measures and action planning that will constitute the priorities and standards for a successful European integration;
- The sample of specific measures that must be undertaken by the relevant institutions in the fight against corruption;
- Ways and approached that need to be considered in order to further improve and cooperate with the NGO community; and
- The urgent need of actions which should increase public awareness and promote the fight against and the role of public in this process.

Activity 3: *Finalise selection of the PR Officer for OACI aimed at strengthening capacities of OACI to monitor and coordinate the implementation of the Anti Corruption Programme under the Public Relations component, Podgorica, 9 November 2005.*

Following to the Memorandum of Understanding with OACI for the recruitment of the PR officer, during the month of November 2005, the recruitment process took place. The newly established PR component has already started to be fully operational as of 15 December 2005. This new sector within the Office of Anti Corruption Initiative will aim not only to strengthen and enhance the public relations component, through liaising with all relevant non-governmental organizations, and serving as the interfacing liaison between OACI and the public on lodging complaints and addressing them to relevant institutions, but also will conduct national and global research about ongoing efforts to develop impact and success indicators for anti-corruption reform that will contribute to the development of an operational level Action Plan for the implementation of the National Anti-corruption Program. The support of OACI on this initiative will continue until the end of July 2006, through the funding of PACO Impact.

Activity 4: *Roundtable on tools of operation between DACI, the Prosecutor's Office, the Department for Combating Organised Crime at the Ministry of the Interior, the Ombudsman Office, the Commission for Preventing Conflict of Interest, through delineating their tasks with respect to monitoring, prevention and repression of corruption, Podgorica, 2 February 2006.*

A roundtable discussion to introduce the newly established Public Relations component of DACI as well as to coordinate between the relevant institutions and law enforcement agencies such as the Prosecutor's Office, the Ombudsman, the Department for Combating Organised Crime, etc. took place on 2 February 2006 in Pogdorica. The objective of this meeting was to provide the opportunity of setting up contacts and networks, as well as to discuss the possibility of establishing focal points in each of the above mentioned institutions. These appointed persons would be in the future the direct contact with DACI's PR Officer and would assist and facilitate the upcoming institutional cooperation and

collaboration. Also, means of cooperation and coordination among all the actors in the roundtable were discussed and agreed upon.

In addition to that, the representatives of the police and the prosecution stated that they are ready to provide assistance to the PR Officer in terms of record keeping and reporting on corruption related offences (providing assistance in drafting/preparation of specific reporting/complaint forms which will comprise all necessary information and data) aiming at better monitoring, reporting and investigation of the corruption offences. A closer cooperation between the PR Officer and these institutions will also aim at prevention and repression of the phenomenon.

Activity 5: *Strengthening of the capacities of the Directorate for Anti-Corruption Initiative – Publishing of promotional material with regard to the newly established Public Relations component, Podgorica, May 2006.*

Within the framework of strengthening the capacities of DACI and promoting the anti-corruption initiative through the newly established PR component, the project financed several awareness raising materials: the renting and printing of 1 big billboard, publication of 500 leaflets and 500 posters, as well as advertisement of such initiatives in one of the pages of the daily newspaper “Vijesti” for the next 3 months. The aforementioned materials are published in Serbian. These materials are expected to be used as a direct message to the public for:

- Encouraging the report of corruption-related offences;
- Raising awareness on anti-corruption initiatives undertaken by DACI and supported by the Council of Europe (through the PACO Impact Project); and
- Aiming at an effective prevention and repression of the corruption phenomenon.

Useful contacts of the PR component and DACI in order that the public can address their issues of concern, complaints and/or denouncements as well as the way they are processed are available in each of the promotional materials. Also, the support the PACO Impact project is providing to the PR component and DACI’s anti-corruption public awareness initiatives is extensively presented.

The Directorate for Anti-corruption Initiative is the institution in charge to ensure a wide institutional and public distribution.

Output (3): *Draft laws/amendments available to bring the criminal legislation on corruption in line with European standards*

Activity 1: *Seminar on Implementation Issues of corruption-related offences in Accordance with the newly adopted Criminal Code and Criminal Procedure Code, Podgorica, 8 February 2005.*

The seminar aimed at providing a possibility for discussion among local practitioners and the Council of Europe expert of aspects and issues related to the implementation of the newly introduced criminal offences, and amendments to the criminal proceedings for corruption-related offences/violations.

The activity brought together 18 participants. The opening remarks on the implementation of the new Criminal Code and Criminal Procedure Code were given by the Supreme Public Prosecutor, who addressed issues of concern faced so far in practice when implementing the new provisions during criminal proceedings against corruption and other economic crime. Similar remarks were presented by other representatives of the Montenegrin public institutions (such as Ministry of Justice, Ministry of Interior, and representatives from the judiciary).

The Council of Europe expert (a Slovenian prosecutor) stressed the fact that the political commitment as well as the efficient law enforcement were of crucial importance for anti-corruption initiatives. With regard to Criminal Code, he put the emphasis on the lack of legal regulations regarding the corruption in the private sector. In relation to the Criminal Procedure Code, he explained that the use of SIMS should be clearly provided for by the law and be used in a unified way. He also addressed as a concern the lack of sub-legal acts and by-laws, which need to lead the proper use of SIMs. Special attention was given to the existing models and practices in the region and other western countries in view of implementing the standards set by international conventions in this field.

Participants stressed that additional and specific training is needed to be provided on the basis of recent changes of the legislation for law enforcement officers, and financial investigators as well as for prosecutors and judges.

Activity 2: *Expert review on the Conflict of Interests Draft Law, Strasbourg, 1- 2 September 2005 in cooperation with OECD/SIGMA.*

During the year 2005, the Parliamentary Working Group on Conflict of Interest was involved in drafting and then proposing a new draft law on the Conflict of Interests. The previous law has been subject to many critics and concerns with regard to meeting the international standards and the lack of tools of its implementation in practice. Therefore, following to the request of Montenegrin authorities and the submission of the first draft law from the Parliamentary Working Group, a joint written expert opinion of the Council of Europe and OECD/SIGMA experts commenting and assessing and the new draft took place during August – September 2005. The expert opinion was then finalised in September 2005 and submitted for consideration to the Parliamentary Working Group.

Activity 3: *Round Table on reviewing the Draft Law on Conflict of Interest, Becici, 30 September – 1 October 2005.*

In accordance with Workplan, the first roundtable discussion on necessary changes needed to be incorporated in the Draft Law on Conflict of Interests in order to make the law fully compatible with the Council of Europe and European standards was organized jointly by the Council of Europe (PACO Impact) and OECD/SIGMA. This event brought together about 10 participants and was opened by the Head of the Parliamentary Working Group on the Conflict of Interests Law presenting the following changes that were incorporated in the Draft Law:

- The extension of the list that will be covering the “public officials” and its broad definition;
- A broader definition of obligations of public enterprises;
- The obligatory transparency of the Governmental investments into private enterprises;
- The criteria for involvement of public officials in public companies and legal and physical persons that do business with government entities at any level;
- The establishment of the Commission for Prevention of Conflict of Interest, its composition, mandate and the sanctions that Commission is entitled to pronounce.

Furthermore, the Head of the Working Group addressed the problems in the implementation of the existing law which were mostly reflected in the inefficient work carried out by the current Commission (i.e. lack of power to enforce the existing legal provisions, vague definition of its mandate, etc.). In general, the Working Group tried to put the emphasis on the transparent, efficient and comprehensive implementation mechanism tools that should be expected to ensure the strong basis of successful governance through this law.

The OECD/SIGMA experts presented some of the models of different countries and highlighted the practical implementation of the legal framework of conflict of interests. Moreover, the experts expressed their concerns regarding the scope of the law, its possible overlapping with some other laws, as well as certain contradictions and legal inconsistencies. Therefore, they reviewed the draft law “article by article” and together with the Working Group members reformulated the final draft law on Conflict of Interests. Finally, it was decided that the Working Group members will reflect the last changes/recommendations suggested by the experts and submit the draft law for its reading to the respective Parliamentary Commission.

Activity 4: *Round Table Discussion on the Draft Law on Criminal Liability of Legal Entities, Podgorica, 17 February 2006*

This roundtable (jointly organized with the OSCE) brought together 55 participants, including law co-drafters, responsible institutions, as well as representatives from central institutions that will play an active role in the effective implementation of such law. The main aim of the activity was to provide a forum for discussion among members of the Working Group, and local and international experts on the Draft Law on Criminal Liability of Legal Entities in order to make the law fully compatible with European and international standards, while at the same time anticipating possible constraints thought could arise in the application of this legal act in the future.

The activity was opened and attended by the Minister of Justice of Montenegro and the Head of the Council of Europe Office in Podgorica. They both stressed the importance of introducing the concept of criminal liability of legal entities in the Montenegrin legal system. In that regard, the subsequent adoption of this law in Montenegro would create the right momentum for the successful implementation of the CoE legal instruments in this field.

Participants and actors that were involved in its drafting presented and discussed concrete steps for the implementation of this new material law. With regard to this, the presentations held by the Head of the Working Group and the Council of Europe expert were focused both on the articles of the draft law and their practical implementation. While presenting and discussing the concrete steps to be undertaken, the mechanisms in place and roles of the actors involved in the implementation of the legal obligations stemming from the Law on Corporate Liabilities of Legal Entities, the Council of Europe expert highlighted the following issues:

- corporate liability has a very specific *natura juridica*, this concept is differently defined/regulated in each country with a continental law system, therefore it is almost impossible to have a completely consistent solution, which is, at the same time, in accordance with the international legal instruments and not in collision with the existing national laws;
- the terminology in the text of the draft law was not fully consistent which could, at a certain point, lead to a misunderstanding of the concept of *corporate liability*. Namely, it should be clearly defined the threshold when a legal entity has *commit criminal offence* (Article 4) and when *only an executive of the legal entity has committed the offence* (Articles 17, 18, 22)—thus clearly determining when the legal entity may responsible for the same criminal offence; and
- Articles 5 and 7 regulating the ‘grounds for liability of legal entities’ and ‘liable person’ should be reconsidered since their substance does not reflect the requirements defined in the valid international documents (CoE Criminal Law Convention on Corruption, Second Additional Protocol of the EU on the Protection of the Financial Interests of European Communities).

At the end of the roundtable discussion it was agreed that the current draft of the law needs further improvement and should be consolidated prior to its submission for approval to the Parliament. Also, the following conclusions were reached:

- Another technical meeting of the Working Group would be held shortly, in order to reflect in the draft law all the comments/suggestions that came out of the roundtable discussion, as well as recommendations provided in the Expert Opinion;
- Parts of the law, especially the general part, needs to be reviewed and further elaborated by the Working Group and possible changes should be inserted.

Activity 5: *Review of the legislation on Financing of Political Parties, Podgorica, 27 June 2006*

In accordance with the Workplan, a fact finding mission to review and assess the current legal framework on financing of the political parties took place in Podgorica, on 27 June 2006. During this one-day mission, meetings with key counterparts and representatives of the relevant state institutions (such as Directorate for Anticorruption Initiative, Parliamentary Commission for Finances, Economy and Environment, Ministry of Finance and municipal authorities) were held. The main objective of the mission was to assess and identify the problems imminent from the implementation of this piece of legislation, and loopholes and necessary changes to bring this legislation in line with European standards. The assessment mission also intended to give advice on the technical assistance that could be provided in this framework. Key meeting was organized with the Directorate for Anticorruption Initiative and NGO "CEMI" where the draft amendments to the existing law (that were submitted by CEMI and supported by the Directorate for Anticorruption Initiative) were discussed.

A Council of Europe expert opinion on the current legal situation, needs for review and suggestions/observations with regard to proposed amendments to the Law on Financing of Political Parties was commissioned and formally submitted for consideration to the Directorate for Anticorruption Initiative, Parliamentary Committee for Financing and Budget and NGO "CEMI" in the end of July 2006.

Output (4): *Pilot Activity Supported*

Activity 1: *Provide assistance and support to the Strengthening operational capacities and increasing effectiveness of the Special Prosecutor Office. Podgorica, February-April 2005.*

Pilot Activity	Strengthening operational capacities and increasing effectiveness of the Special Prosecutor Office
Objective	Capacity building and support of the efficient functioning of the new structure aimed at efficient criminal proceedings related to economic crime and corruption offences
Start-up	June 2005
Duration Period	June-December 2005
Estimated Cost	30,350.00 Euro ²⁴
Available Funds	Pilot Activity allocated funds:45,000.00 Euro Other Office Equipment allocated funds: 10,000.00 Euro Total Possible Funds: 55,000.00 Euro
Beneficiaries	Office of the Supreme Public Prosecutor, and the Office of Special Prosecutor

²⁴ This estimate is done without the inclusion of some other requested equipment (related to SIMs) which are still subject of estimation of price, and decision on the decision whether or not they should be purchased.

Implemented by	PACO Impact Management Team Unit; Office of the Supreme Public Prosecutor/Office of the Special Prosecutor				
Outputs	<ul style="list-style-type: none"> ▪ Increased and Efficient Criminal Proceedings against corruption and economic crime; ▪ Drafted and implemented Internal Rules of Procedure that will increase the quality and quantity of work performed; ▪ Efficient internal organization of the Special Prosecutor Office; ▪ Increased office equipment capacities and number of users. 				
Inputs	<ul style="list-style-type: none"> ▪ Purchase of the office equipment for the Office of Special Prosecutor; ▪ Drafting/training and legal expertise on the Internal Rules of Procedure for the newly established structure. 				
Actions/Activities	Time-line	Venue	Estimated Cost	Expected Results/outcomes	Notes
- Provide legal expertise and assessment concerning the application of the Law on Supreme Prosecutor/ and on Organised Crime Law - Advice on the process of drafting the Internal Rules of Procedure and the institutional set up of the newly established Office of Special Prosecutor	July 2005	Podgorica	4,000.00 Euro 3,000.00 Euro	- Recommendations for Improvement of the current system; - Implemented new Rules of Procedure; - The new structures are ready to be operational.	√ √
Publication and Informative Session to the staff on Internal Rules of Procedure	May 2006	Pogdorica	1,500.00 Euro	Published Internal Rules of Procedure Informed Staff Members through sessions held	
Order of Equipments for the Office of Special Prosecutor	July-September 2005	Podgorica	16,850.00 Euro	Fully use of the equipment; Increase of the effectiveness of the staff work	√
Additional training/actions that will be determined after the assessment/recommendations report has been agreed upon by the Montenegrin authorities.	June 2006	Podgorica et al	5,000.00	Increased capacities of Prosecutors, law enforcement as well as Money Laundering Agency in investigating economic crime and corruption related offences.	√
Impact Expected in June 2006 and in the future					
Other general data	Increased efforts/law enforcement in fighting corruption and economic crime				
Quality Indicators	Enforced and implemented Internal Rules of Procedures				

Quantity Indicators	Number of investigations and criminal proceedings compared to previous years; Number of Structures and Units at the office of SP that are fully operational, equipped, effective and sustainable.
Number of Users	Increased number of users at the SP Office in charge of investigation and criminal proceedings against corruption and economic crime.

Activity 2: *Expert assessment/recommendation mission for the launch of the Pilot Project for Montenegro: Podgorica 4-6 July 2005.*

The initial activity scheduled to be held under the Pilot Activity was an expert assessment mission to determine the current situation of the institutional and legislative set-up of those structures that would be the activity's beneficiaries. The assessment mission also intended to give advice on more specific assistance that could be provided during the course of the Pilot Activity.

Within the framework of the Montenegro Pilot Project, PACO Impact is expected to support the Supreme Public Prosecutor's Office, and more specifically, the Special Prosecutor on the following:

- Legal expertise and review of the existing legislation and system (recommending necessary new provisions and/or legal acts) with regard to drafting a new Law on Organised Crime for Montenegro;
- Advice on the implementation of the relevant provisions related to the work of Supreme Public Prosecutor's Office in relationship with the Special Prosecutor's Office;
- Advice on the on-going drafting process of the Internal Rules of Procedures;
- Discuss and agree on the purchase of office equipment in order to assist the furnishing of the newly established Department; and
- Advice on what specific technical assistance needs to be provided through the implementing phases such as: training of staff, publications, follow-up legal expertise, etc.

During the mission, the experts' team provided comments, analysis, and recommendations for future actions on:

- Issues concerning the prosecution of organised crime;
- Issues concerning the prosecution of corruption and money laundering;
- Issues concerning the Department of the Special Prosecutor; and
- Issues concerning the Internal Rules of Procedures.

The recommendations as provided on the Assessment and Recommendations report suggest follow up actions which require the approval of the Supreme Public Prosecutor, political will, and accordingly, could be implemented under the framework of the Pilot Activity by adding some additional items, within the allocated funds.

The Council of Europe Experts' Report on the "Assessment and Recommendations regarding the Strengthening of the Prosecutorial Services in Montenegro"²⁵, will be formally submitted by the Council of Europe to the Office of the Supreme Public Prosecutor in late July 2005, and it is hoped that feedback will be received in order to revise the Action Plan of the Pilot Activity for the continuation of any additional action.

Activity 3: *Purchase of office equipment for the newly established Office of Special Prosecutor, Podgorica, July-August 2005.*

²⁵ See, Council of Europe experts' Report, PC-TC(2005) 12 July 2005

This main goal of this activity is to provide and assist the newly established Office of Special Prosecutor with material support in order to enhance operational capacities and increase effectiveness of their work. In view of this the following equipment were purchased under Council of Europe procurement rules:

Equipment	# of Units	Expenses
Purchase of file cabinet	2	960.00
Purchase of mobile phones	2	320.00
Purchase of printer	1	390.00
Purchase of scanner	1	255.00
Purchase of laptops	2	2,620.00
Purchase of shredder machine	1	93.00
Purchase of photocopying machine	1	4,515.92
Purchase of DVD system	1	289.06
Purchase of video recording camera	1	526.15
Purchase of digital camera	2	340.17
Purchase of video recorder	1	76.92
Purchase of TV set	1	277.78
Purchase of fax machine	1	295.75
TOTAL		10,959.75€

Activity 4: *Submission of the Advisory Paper on the Assessment and Recommendations regarding the Strengthening of the Prosecutorial Services in Montenegro, Podgorica, 17 October 2005.*

The Advisory Paper was a follow up of experts' assessment/recommendations mission within the Pilot Project for Montenegro conducted in early July 2005. The report was delivered to all relevant institutions in mid October 2005.

Accordingly, this report provides an assessment and recommendations on strengthening the prosecutorial services and highlights specific issues related to organized and economic crime such as: the existing definition of organized crime, search, seizure and confiscation of crime proceeds, criteria on the use of SIMs when corruption and money laundering investigations are taking place. Other parts of the report were dedicated to the proper functioning of the newly established structure of Public Prosecutor Office and guidance to drafting the Internal Rules of Procedure in order to further improve the prosecutors' work performance.

After its submission, it is expected that issues of concern namely the Council of Europe specific recommendations on the above issues will be taken in consideration during the procedures on drafting the amendments to the Criminal and Criminal Procedure Codes and the Rules of Procedure for Prosecutorial Services.

Activity 5: *Submission of the Technical Paper (Model) on Case Management for Prosecutorial Services as good practices from the region to Ministry of Justice, 8 November 2005.*

A Technical Paper of the Council of Europe on "Case Management Reform Aiming to Prevent Corruption within the Prosecutorial Services" which represents a proposed system of reform for case management for prosecutorial services on one of other project areas as a Pilot Activity was delivered to the Montenegrin Ministry of Justice upon their request in early November 2005. The document provides some good practices and aims at prevention of corruption and non-professional conduct within the prosecutorial services and will be of help to the Ministry of Justice and to the assigned Working Group while drafting the Internal Rules of Procedure for Prosecutors.

Activity 6 : *Joint training for prosecutors, customs, FIU and police on investigating corruption- related offences, Podgorica, 16 June 2006*

Within the framework of the Pilot Activity a “Joint training of prosecutors, customs, FIU and police in investigating corruption-related offences” was organized - in collaboration with the OSCE - in Podgorica on 16 June 2006. This activity brought together 36 participants, and involved one local expert and one OSCE expert.

The Chief State Prosecutor, Ms. Medenica, chaired this activity. She stressed the importance of investigating corruption-related offences and the need for an enhanced and fully operational inter-institutional co-operation in the fight against corruption.

The OSCE expert provided an overall picture on the relevance of Montenegrin provisions of the Criminal and Criminal Procedure Codes in light of international and European Conventions and instruments as well as gave numerous examples of best practices from other countries on how to tackle such cases, the procedures that should be followed during the investigation phase, cooperation and exchange of information between specialized agencies, etc.

Constructive debate characterized this meeting, where ideas and comments on provisions of Criminal and Criminal Procedure Code with regard to implementation of corruption and economic crime related provisions, difficulties encountered, issues of concern on investigation of corruption, use of special investigative means, role of the specialized law enforcement agencies in this area and challenges ahead were shared and discussed between participants. During the working session a practical case study was discussed and solutions were elaborated together with the experts.

- The capacities of the law enforcement institutions (i.e., the Supreme Public Prosecutor, the Special Prosecutor for Organised Crime, Police, the Office for the Prevention of Money Laundering) still need to be strengthened to implement the new legislation in place.

4.6 Serbia

4.6.1 Project Orientation

Main Goal: Drafting of anti-corruption strategy and an action plan. Educating and raising awareness amongst legal drafters and stakeholders in anti-corruption reforms about international and European standards and practices in repressing and preventing corruption.

Expected actions: Drafted anti-corruption strategy and an action plan; strengthened capacities of the anti-corruption services, improved understanding of substance of international and European standards and practices in repressing and preventing corruption.

4.6.2 Activities by Outputs

Output (1) ***Anti-corruption plans improved or elaborated***

Activity 1: *Establishment of the Working Group to draft the National Anti-corruption Strategy under the coordination of the Ministry of Justice: Belgrade, July-August 2004.*

The aim of this activity was to initiate firstly the political dialogue among all relevant institutions in establishing a working group with major membership from the Anti-corruption Council (ACC), but at the same time be coordinated and led by the Ministry of Justice as the institution in charge for reform in the field of anti-corruption. Thus, during July several individual meetings took place between Ministry of Justice and ACC, which concluded on the issuance of a Decision from Ministry of Justice appointing members to the very first Working Group to be in charge of drafting the National Anti-corruption Strategy (and later on the Action Plan). The Working Group is composed of competent officers from various relevant institutions namely: Ministry of Justice, ACC, Ministry of Interior, Ministry of Finance, Public Procurement Office, Association of Judges, and civil society. The Working Group is now composed of 15 members, and initiated its work in the end of August 2004.

Activity 2: *Constituting Workshop to initiate the Drafting of the National Anti-corruption Strategy. Belgrade, 22-24 September 2004.*

Following initial reviews of potential approaches on writing the National Anti-corruption Strategy, the working group organised its first Constituting Workshop which aimed at the following issues:

Main objective was assistance to the WG re drafting of the National Strategy (NS). The issues to be addressed in particular:

- Presentation of the proposed guidelines to be decided and then followed in the drafting process;
- Elements that need to be included in the outline of the NS, as well as headings / sub-headings ;
- Methodology of drafting;
- Monitoring of the drafting process; and
- Finally exchange views and opinions with the Council of Europe expert on drafting the very first outline of document.

The three day activity brought together 22 participants which represented all relevant institutions, and participated actively through out the entire exercise in deciding the modalities, and approaches of writing a strategy. As a result of this exercise, an outline (skeleton) of how the future National Anti-corruption Strategy will be composed was produced and agreed upon all participants. As such the outline was decided to be the leading headline document for the Working Group drafters on certain sections. A calendar of work and necessary Technical Workshops with Council of Europe experts assisting the preparatory and

information phase for the carrying out of the process of drafting within the framework of the PACO impact project was also decided among all members of the Working Group.

Activity 3: *Technical Workshop (no.1) on the guidelines that could be used during the drafting of the Anti-corruption Strategy: Belgrade, 6-7 October 2004.*

This technical workshop brought together 15 the members of the drafting Working Group and was aimed to provide discussions and advice focused on the following issues:

- the content, methodology and format of approval of the Strategy;
- the approach of drafting a technical document as such where multi-disciplinary input is required;
- the relation between the National Anti-corruption Strategy and Action plan as closely linked and if they will be two separate documents, than the Implementation Chapter in the Strategy should contain clear specification who / which body will be in charge of monitoring the implementation as well as the composition and jurisdiction of that body;
- the inclusion of risk assessment regarding the implementation process and its status;
- the issue of responsibility and accountability of various state bodies/organs/authorities tasked to implement and report on the Action Plan measures;

During this workshop, the issue of methodology was accentuated as the most important one considering the stage of the drafting process for the working group. It was decided that a uniform methodology needs to be applied, and that the Strategy must not be too excessive. In addition attention was given to the fact that each Chapter should or may start with general principle/s based on the international standard/s, and then be followed by brief analysis of the current state of play and than forwarding the necessary strategic plans, and recommendations. While as per the issue of Action Plan it agreed that as such it need to be as the one of making the Strategy operational and effective. The fact that some duplication may be foreseen in the implementation phase, requested to stress one more time the need to have the body in charge of monitoring the implementation of the Strategy and Action Plan. Finally it was decided that as per importance of such document, the ooption of a Parliamentary submission, discussion and then adoption of the National Anti-corruption Strategy should be the most preferable one.

Activity 4: *Technical Workshop (no 2) on the legal framework and the mandate of the ACC: Belgrade, 9 October 2004.*

This technical workshop brought together 25 participants from the relevant institutions including here all the members of the drafting Working Group and was aimed to provide discussions and advice focused on the following issues:

- current status/position of the ACC;
- potential needs for a specialised body;
- the ACC's role and position in relation to other already existing bodies, and the future Strategy; and
- the role of bodies which are tasked on monitoring and reporting the implementation of the Strategy (and the Action Plan).

Under the moderation and guidance of the Council of Europe experts all participants agreed on the following issues and as such they should be taken into consideration during the process of drafting the National Anti-corruption Strategy and its Action Plan, and be presented to the government for its approval:

- that there is an evident need for separate, specialized, independent body;
- that the legal framework regulating such body, shall be only by law and not by regulation or other secondary acts;
- that further particularities and potential features of the "specialized body" need to be further addressed and discussed in depth;

- that the modus operandi of enacting a separate Law on corruption, like in some other European states, needs to be tackled in view of the constitutional law safeguards.

In conclusion, it was decided that the above agreed issues among experts will be addressed throughout the Strategy drafting process and more in depth and appropriate analysis will have to serve as policy advice to the government in order to approve such new reform.

Activity 5: *Technical Workshop (no.3) on the issues related to Prevention of Corruption: Belgrade, 19-20 October 2004.*

This technical workshop brought together 20 members of the drafting Working Group, which with assistance of the Council of Europe experts analysed thoroughly the following prevention strategy related issues:

- Seven basic requirements and their inter-relation aimed at a comprehensive and efficient preventive anti-corruption strategy, namely: political will, values in the law, distinction between good governance and anti-corruption measures, co-ordination of the efforts, public support, resources, and endurance.
- The relation between enforcement, prevention and community relations;
- The concept of prevention and its subsystem[s];
- Possible procedures and modalities that need to be taken into consideration in order to eliminate the possibilities for corruption, and make every part of the system corruption-proof.

During this technical discussion workshop, the working group members were provided with the necessary basic tools and guidelines on the requirements that need to be fulfilled in order to manage and provide a successful National Anti-corruption Strategy. In addition, the members of the working group were provided with the knowledge and practices of establishing the linkage (within the Strategy and its implementation) on enforcement – prevention – community relations, as well as the ways in gaining public support and participation throughout the process.

In view of the above stated issues, and upon the request of the members of the Working Group, the Council of Europe expert provided a Policy Advice Paper²⁶, were more in depth analysis and the way forward aimed at ensuring the inclusion of these issues during the process of drafting as made available.

Activity 6: *Technical Workshop (no.4) on the issues related to the role of Law Enforcement Agencies in the fight against corruption: Belgrade, 30 October 2004.*

This technical workshop brought together 15 members of the drafting Working Group, which with assistance of the Council of Europe experts analysed thoroughly the following law enforcement strategy related issues:

- Current practical and legal capacities of the law enforcement agencies to fight corruption in Serbia;
- The status of the existing department for combating organized crime at the Ministry of Internal Affairs;
- The issues of the obsolete Law on Police which is non existent yet;
- The relation between police and prosecutors (plus the Criminal Procedure Code aptitude); and
- The potential relation of the police with a new specialized body whose establishment had been proposed and technically agreed at the previous technical workshops.

²⁶ See, also Policy Advice Paper, TP-47 (2004).

Participants agreed that the law enforcement issue needs to be re-visited again especially in light of the new upcoming Law on Police. In addition participants addressed the issue that the police and the investigative power with respect to corruption probably should stay within police, but upon the condition that improvement in the number of areas need to be assured. Finally, with respect to this topic there has been no definite position reached as far as it deals with the authorization of the new specialised anti-corruption body to monitor, coordinate, and have secondments from and with police structures at the Ministry of Internal Affairs.

Activity 7: *Working group session to review the first draft of the National Anti-corruption Strategy of Serbia. Palić, 12-14 December 2004.*

During 12 to 14 December 2004 the Working Group established to draft the National Anti-corruption Strategy met in Palić and through lengthy discussion sessions, reviewed the first integral draft of the Serbian Anti-Corruption Strategy on the basis of submitted proposals from different Serbian authorities.

The technical review with the assistance of the Council of Europe expert included that every specific item of the strategy, especially the anti-corruption measures needed, was discussed in length and checked according to its compliance with other parts of the strategy. Certain unnecessary parts were deleted in order to prepare as precise and concise document as possible. There was an unanimous agreement with all parts of the document.

In addition to the technical review of the given draft text, the following preliminary issues were addressed and agreed:

- the first draft of this strategy when finalised technically will be submitted to all the relevant ministries and the parliamentary political parties for additional proposals and comments;
- after the inclusion of the relevant proposals, the final draft will be prepared and submitted to the government (by early February 2005) for approval;
- since the format of texts delivered by different ministries had considerable differences, the structure of the draft was discussed first and some guidelines in this concern were adopted – basically already accepted structure was agreed upon again;
- having in mind conclusions from the October 2004 meeting in Belgrade probable form, position, authorities and powers of the future central anti-corruption institution in Serbia were discussed;
- the decisions brought were almost the same as those during the October meeting, thus they were included in the text of the strategy.

At the end of the Working Group Session it was agreed that the Ministry of Justice of Serbia will make the last reading of the document which then will be submitted to the ministries and political parties for their comments and inputs if necessary.

Activity 8: *Conference to present and review the Final Draft of the National Anti-corruption Strategy of Serbia: Belgrade, 31 January 2005.*

The conference, opened by Deputy Minister of Justice of Serbia Mr. Branislav Bjelica, and was attended by members of the ACC, officials from various ministries, judges, and private sector and NGO representatives. The purpose of this conference was to discuss and comment on each of the sections of the final draft of the National Anti-corruption Strategy, with the assistance of the two Council of Europe experts, and to agree on the way forward.

After brief opening statements by the representatives of the Council of Europe and the OSCE, participants commented on each section of the Strategy. The two Council of Europe experts added their comments as necessary.

Even though the final draft was considered as such the certain issues were addressed as important for further improvement by the Council of Europe experts on the following way:

- Anti-corruption and good governance
- Application of the National Anti corruption Strategy
- Features of the independent anti-corruption body
- Policy decision not to give the anti-corruption body an investigative mandate
- Relationship with the Anti-Corruption Council
- The way forward and next steps

In addition during the discussions it was envisaged that the addressed issues in accordance to the above topics will be improved/included and after the endorsement of the Strategy by the Legislature, the Government will be asked to approve the Action Plan. The draft law amending the penal code and establishing the new body will then be introduced into the Legislature. While the draft law is under consideration in the Legislature and in anticipation of its enactment, the identification and selection of the head of the new body, his/her deputy and the senior personnel should be done. Appointment can then immediately follow the promulgation of the new law.

Finally, according to all this process, progress in the development and implementation of Serbia's national anti-corruption strategy has been now described as steady but hardly rapid. Also, it has been difficult to gauge the strength of political will to get to grips with the problem. The final draft of National Anti-corruption Strategy following this conference and its further agreed improvements is to be considered by the Government before the Legislature's approval is sought. This is expected to give some indication of the Government's determination to take effective steps.

Comments:

All activities planned under this output have been implemented. At its 74th Session, held on May 26, 2005 the Government of Serbia adopted its Decision on the "Endorsement of the National Strategy for the Fight against Corruption". This Decision has been interpreted by the Government as a step forward to becoming an EU member. The Strategy has been sent to the National Assembly as a "first document to provide mechanisms for the fight against this (corruption) evil".

Further on, the National Anti-corruption Strategy has been finally adopted by the National Assembly on 8 December 2005, almost a year after its public presentation (January 2005) and 7 months after the endorsement by the Government (May 2005). The Strategy was adopted in the form of Parliament Decision as "Decision on determining the National Strategy" in its integral version.

Prior to the adoption of the Strategy from the Parliament a number of actions had been undertaken with the aim to provide additional impetus for the Parliament to adopt the Strategy in due course. Meetings and dialogue facilitated by the Council of Europe, and other international and local partners (i.e., the Judges Association, the Prosecutor's Association, the Department for Organised Crime at the Ministry of Interior, Transparency International, BETA News Agency, and especially the office of the EC Delegation in Belgrade) have been taking place as planned to contribute to an acceleration of the process of endorsement. This process also included special meetings of experts with the Parliamentary Committees and Party Groups to explain and increase the information on strategy and its importance of being adopted.

When presenting the National Strategy to the Parliament, the Minister of Justice reminded the MPs that the "adoption of the Strategy is the obligation determined and listed in the Action Plan for the Accession to the EU and its aim is to prevent i.e. diminish corruption to the bearably level that will not jeopardise the society and its institutions".

Through twinning projects between the Ministry of Justice on the one hand, and Slovenian and German counterparts on the other hand, the drafting of the Action Plan in accordance with the Strategy has now reached its final stage. Therefore, the Ministry of Justice decided to initiate the setting-up of a Commission for the implementation of the National Strategy and GRECO recommendations. The Commission should be established by a Government decision and tasked with drafting/developing area-specific action plans. Thus it will be composed of representatives of all key/relevant institutions: the Ministry of Justice, the Ministry of Interior, the Ministry of Finance, the Ministry of State Administration, the Secretariat for Legislation, the Judiciary, the National Assembly, the media and NGOs.

Output (2) ***Institutional mechanisms for the monitoring and management of anti-corruption plans strengthened***

Comments:

Various activities held in the first half of 2005 under Output 1, but also associated to Output 2, contributed to the progress, although this was only small in relation to the establishment of a mechanism for implementation and monitoring of the National Anti-corruption Strategy. The Parliamentary “Decision on determining the National Strategy” envisages the enactment of the legislation of an independent and autonomous anti-corruption body. The drafting of the Law is undergoing under the Output 3, thus clearly showing that all Outputs within PACO are interwoven. It is worth while mentioning that the possibility of discussing and elaborating on different models of Anti-corruption services in SEE during the Regional Thematic Seminar on “Strengthening anti-corruption services and their role in implementing national anti-corruption strategies” in Spring 2005, as well as the distribution of the Council of Europe publication on the “European Models of Anti-corruption Services” provided a good background for all interested parties in Serbia. The same goes for the Regional Thematic Seminar dedicated to the Anti-corruption Services and implementation of Conflict-of-Interest Laws, held in Belgrade, November 2005. The later activity, created a new momentum for the Project Areas and those services: namely enabling them to learn on the on-going experiences and best practices by also introducing another level of monitoring tools--indicators of success and guidelines in asserting attitude and perception surveys with relation to corruption.

Having in mind that the above mentioned Commission is still not in place, and that it is also conceptualized as being in charge only of area-specific action plans and respective GRECO recommendations, it remains to be seen how broad its mandate, once established and operation, eventually will be.

Output (3) ***Draft laws/amendments available to bring the criminal legislation on corruption in line with European standards***

Activity 1: *Expert opinion²⁷ on the “Law on Prevention of Conflict of Interests in Discharge of Public Office” (Published in the “Official Gazette of the Republic of Serbia” no. 43/2004, 20 April 2004. Strasbourg, October-December 2004.*

By the request of the Ministry of Justice and in accordance to the workplan of activities under PACO Impact an expertise opinion of existing new legislation in place on Conflict of Interests was initiated during October –December 2004. More specifically, a joint written expert opinion of CoE and OECD/SIGMA experts was submitted for consideration to the Serbian authorities in the end of

²⁷ See, also Expert Opinion, TP-49 (2004).

December 2004. The joint experts' opinion provides comments and analysis of several issues of concern for the Serbian authorities with respect to the implementation of this law.

In short the expertise opinion findings are as follows:

- That the law represents a solid base for the establishment of a higher level of integrity of Serbian functionaries;
- A strict implementation of the law would represent a major achievement in the country where public functionaries were never perceived as the most ethical profession
- Also that some major flaws can be found in the law and that they can cause the law to become meaningless through its implementation.
- The rules on the establishment and functioning of the Republic Board somehow seem to be rigid and the Republic Board has too many discretionary powers, especially related to procedural issues

The expertise opinion concludes with the recommendation that the functioning of the Republic Board or other institutions with similar powers should be considered as the most significant element in the proper implementation of the law. In addition recommended possible solutions for further improvement of the law itself may need to be soon addressed in order that the law is brought to life as soon as possible.

Comment:

Although the Law has been passed in April 2004, the Republican Board started functioning in January 2005. In its information on the activities undertaken from January till December 2005, the Board specified also the co-operation with the Council of Europe, among other regional and international institutions, as well as the initiative to amend the existing Law. Council of Europe's expertise, as well as Regional Thematic Seminar that addressed the Implementation of Conflict-of-Interest law, held in Belgrade, November (in co-operation with the OECD, with participation of two additional delegations Moldova and Romania) helped the Board to formulate its proposals with respect to the amending of this Law.

At the moment, due to the fact that Anti-corruption Law is in preparation, the issue of relationship and competences, and the role of an Anti-corruption Body and the existing Republican Board are still not resolved and needs to be defined. Currently, the Republican Board as involved to participate in this process has submitted its suggestions and proposals believing this to be the adequate moment to initiate changes.

On a number of occasions, the Board reiterated its willingness to closely cooperate with the Council of Europe in order to improve the Law, but also with the aim of reaching consensus with other interested/involved partners on the future status and role of the Board.

Activity 2: *Expert opinion²⁸ on the "Law on Financing of Political Parties" (Published in the "Official Gazette of the Republic of Serbia" No. 72/2002, 18 July 2003; Strasbourg, December 2004-January 2005.*

By the request of the Ministry of Justice and in accordance to the workplan of activities under PACO Impact an expertise opinion of existing new legislation in place on Financing of Political Parties was initiated during December 2004-January 2005. The expert opinion was submitted to the Serbian authorities for their consideration in the end of January 2005.

In short the expertise opinion findings are as follows:

²⁸ See, also Expert Opinion, PC-TC (2005)4.

- That the “Law on financing of political parties” of the Republic of Serbia is a good piece of legislation in general;
- unequal position of political parties seem to need further improvements;
- that there is a potential that despite of having this law, a weak enforcement system due to the non-existing Commission can generate.

The expertise opinion concludes by drawing the attention to the fact that the addressed deficiencies should be considered as essential requirement for the improvement of the general value of the political parties and electoral financing in the Republic of Serbia.

Therefore, the Serbian authorities have been urged to consider the idea of reviewing/amending/improving the law, also in order to introduce as soon as possible the *Commission* or any other institution responsible for the monitoring of financing of political parties and financing of electoral campaigns. The text of the law itself will not bring any changes by itself. The rules have to be followed by their implementation in practice. This can be ensured only through an efficiently functioning institution, which will set the standards and monitor their implementation. The establishment of such institution is important also because through its functioning other possible deficiencies of the system will be identified and then further improvements could be introduced. Until then, the financing of political parties and electoral campaigns in Serbia will be far away from the theoretical goals set by this current law.

Comments:

With regard to the expert opinion on the existing “Law on Financing of Political Parties”, the opinion has now been reviewed by the Ministry of Justice and the National Assembly’s Committee for Finance for consideration and action. In spring 2005, the National Assembly’s Committee for Finance established a Working Group to initiate amendments aimed at improving the existing law. It has been already requested to the Council of Europe PACO Impact, that once the draft amendments are finalised in accordance with the suggested recommendations by the expert opinion, a second expert opinion would be needed to assess the new draft.

Unfortunately due to the burdensome year for the Serbian Parliament (hundreds of laws and decisions adopted) the Working Group did not achieve a substantive progress to manage in initiating the discussions for the review and amendments as suggested by Council of Europe experts to this law. It is hoped that, such initiative will be taken upon during this year.

The Committee for Finance, although voting again in favour of keeping the Working Group to deal with the Law on Financing of Political Parties, thus reaffirming its position/commitment from before, still did not manage to come up with any official proposal regarding desirable amendments.

Activity 3: *Drafting of the Anti-corruption Law, Belgrade, September - December 2005 – April 2006*

Following the adoption of the National Strategy a working group, led by the Ministry of Justice was tasked to initiate the draft the Anti-corruption Law. Members of the Working group are representatives of the Ministry of Justice, Anti-corruption Council, prosecutors, judges, Organized Crime Department within Ministry of Internal Affairs (SBPOK), NGOs, media, and the Republican Board for the Conflict of Interest.

Prior to the drafting sessions of the working group, the Council of Europe expert Mr Drago Kos, prepared and discussed “The Guidelines for Drafting the Anti-corruption Law”, in order to facilitate the work of the working group. Those Guidelines were discussed on 3 September 2005.

Guidelines outlined two options that could be possible when drafting the Law considering the legal framework and the institutional setting in Serbia:

- Option one: to focus on the status / role, authority, composition and budget of the new body with the minimal changes in other laws; or
- Option two: to regulate the whole area / field of the prevention of the corruption.

The possibility to combine two options was also debated. During the presentation the importance of having truly independent and autonomous body was agreed upon. In addition the emergent need to determine and clearly define the relation between the existing relevant anti-corruption bodies in particular The Republican Board for the Conflict of Interest and Anti-corruption Council was emphasized.

In view of this, during the month of December 2005, upon the request of the Ministry of Justice, a draft outline of the new Law on Anti-corruption was prepared with the full assistance of the Council of Europe expert Mr Drago Kos. By the end of December 2005, the draft law was distributed to all members of the Working Group (established and led by the Ministry of Justice), for review and preparations for discussions in the upcoming month of January 2006. Subsequently, five technical and small expert's meeting of the Working Group took place to review and analyse the draft law thoroughly.

In January 2006, a larger expert Working Group meeting took place with the Council of Europe expert, in order to exchange options and different approaches after the review of the first draft from all members of the Working Group and representatives from the relevant institutions. At this meeting it was decided that specific provisions covering issues of the Conflict-of-Interest Law and Financing of Political Parties which for the moment are regulated by specific laws need to be put in line with recommended improvements by Council of Europe experts. In view of this, another follow-up meeting with local and Council of Europe experts to address the issue of transfer of the provisions of the two separate laws and their potential abolition has been proposed to take place in February 2006.

Instead of meeting with the Council of Europe experts, a meeting with the Anti-corruption Council and the Republican Board for the Conflict of Interest took place in February. The purpose was to determine the progress achieved and future actions/measures to be taken. Both the AC Council and the Republican Board expressed their discontent with way in which the future Agency has been envisaged / conceptualized. They believe that the Government needs to take a position in which direction the Draft law should go – towards dissolution of existing institutions/bodies, or their incorporation and consolidation into a new body. The meeting of all anti-corruption institutions and the Council of Europe experts presenting different models/options was seen as a step forward.

As a result, and Expert Discussion Table took place from 6 to 7 April 2006. A number of issues were discussed:

- Agency-to –be: its concept, structure, mandate, appointment, budget;
- Relation between the Agency and existing bodies/institutions;
- Conflict of Interest provisions in the working version of the Anti-corruption Law;
- Financing of Political Parties provisions in the working version of the Anti-corruption Law.

The meeting showed that there is no common ground between the Board and the ACC on the one hand, and the Ministry of Justice on the other hand. The Board and the ACC opposed the “omnibus” Law concept, as well as the idea/concept leading to their dissolution. Their reasoning is that the new Law should be based on their experience – good and bad - as well as on their results. They are willing to discuss modalities of their incorporation into a new body. The Ministry of Justice accentuated that both institutions had their representatives in the WG, which had the status of full members, therefore having a forum for expressing their opinions and that the AC Council should have provided some concrete

proposals as to how to solve the problem during one of the 15 meetings that were held prior to the 6 April Expert Discussion Table. In the meantime, the Board on its session on 26 April adopted “Basic postulates regarding an independent and autonomous Anti-corruption Body to be established by a separate Law” and submitted the paper to the Government.

It remains to be seen which path will be chosen by the Ministry of Justice/Government regarding a future/new anti-corruption body.

Output (4): Pilot Activity Supported

Activity 1: *Developing the Pilot Activity Action Plan for establishing and introducing a new Integrity Plans Manual for judiciary: (District Court and District Prosecutors Office), Belgrade, June 2005.*

Pilot Activity	Developing new Integrity Plans Manual for judiciary				
Objective	Establishment of the “Integrity Plans” as a preventive anti-corruption measure, consisting also as a part of the National Anti- corruption Strategy.				
Start-up	January 2006				
Duration Period	January- July 2006				
Estimated Cost	12,000.00 EURO				
Available Funds	Pilot Activity allocated funds: 45,000.00 EURO				
Beneficiaries	<ul style="list-style-type: none"> ▪ The District Court and the Office of the District Prosecutor in Belgrade ▪ Whole judiciary ▪ Civil Society and Public/relevant NGOs 				
Implemented by	<ul style="list-style-type: none"> ▪ The Anti- corruption Council ▪ The District Court in Belgrade ▪ The Office of the District Prosecutor in Belgrade 				
Outputs	<ul style="list-style-type: none"> ▪ Increased efficiency of preventive measures that will contribute to the implementation of the Anti-corruption Strategy; ▪ Drafted and implemented internal plans aimed at reducing and preventing corruption within judiciary; ▪ Decrease of the officials’ unprofessional conduct and improvement of the prevention; ▪ Trained /educated officials with ability to help the other state courts and offices of prosecutors in drafting and implementing the “plans of integrity”; and ▪ Model to be used by other courts and prosecutors office. 				
Inputs	<ul style="list-style-type: none"> ▪ Initial expert assistance with regard to assessment of the current framework and suggesting standard guidelines used with respect to designing integrity plans; ▪ Drafting the guidelines and master plan for integrity plans; ▪ Compilation and publication of Integrity Plans package; ▪ Initiation of application of Integrity Plans within the District Court of Belgrade and District Prosecutor’ Office of Belgrade; and ▪ Training of the users and monitors of integrity plans. 				
Actions/Activities	Time-line	Venue	Estimated Cost	Expected Results/outcomes	Notes
Expert assistance to evaluate current framework and situations with respect	February/ March 2006	Belgrade	3000 EURO	Expert Assessment Report containing recommendations for actions and	√

to the corruption within judiciary; Issuance of guidelines and suggestions for action.				guidelines.	
Establishment of a consultancy local group to initiate the drafting of the integrity plans in accordance to the given guidelines; Drafting of integrity plans, by setting of rules for the conduct in accordance to the existing legal framework-(User Instructions)	March 2006 April 2006	Belgrade	3500 EURO	5 Member Consultative Working Group is established; Draft of Integrity Plans	√
Workshop on finalising the Manual of Integrity Plans and issuing any necessary recommendations with respect to the existing legal framework.	June/ July 2006	Belgrade	1000 EURO	Final Manual of Integrity Plans is approved Follow up recommendations are submitted for endorsement to the relevant authorities	√
Publication of the Manual along with instructions for use. Dissemination in general and to other Courts/Prosecutorial offices as a sample.	July 2006	Belgrade	1500 EURO	Manual published in 400 Copies. All relevant authorities receive the copies.	
Informative Session to the officials on "integrity plans".	July 2006	Serbia 3 cities	1000 EURO	Information disseminated, but also other offices of Judiciary initiate similar initiatives.	√
Training the trainers in order to encourage sustainability of information and knowledge for similar initiatives	July 2006	Belgrade	2000 EURO	2 Activities held, and trainers are equipped with knowledge, capacities and guidelines for continuation of reform.	√
Impact Expected in June 2006 and in the future					

Other general data	Strengthened internal and autonomous capacities of judiciary in the fight against corruption
Quality Indicators	Increased effectiveness in through new policies and regulations by preventing corruption
Quantity Indicators	<ul style="list-style-type: none"> ▪ Number of judges and prosecutors at the mentioned offices included in the integrity plans; ▪ The number of effected judges and prosecutors by such plans; ▪ Number of “plans of integrity” applied during the first year and compared to the second year of its application; ▪ Number of trained personnel
Number of Users	<p>Number of judges and prosecutors at the mentioned offices;</p> <p>Session being attended and manual being used by judges and prosecutors interested in these activities or representatives</p> <p>Number of other Courts/Prosecutors offices which initiated the application of Integrity plans</p>

Activity 2: *Expert assistance to evaluate the current framework and situation with respect to corruption within judiciary, Belgrade and Pančevo, February/March 2006*

Preliminary negotiations with potential partner institutions commenced before actual / formal meetings that took place on April 19-20. Those talks resulted in slight changes within the Pilot activity. Instead of having both the court and the prosecutor’s office at the Belgrade District level, it was agreed to keep Belgrade District Court, but to use the Municipal Prosecutor’s Office in Pančevo. The reasoning behind this decision was twofold – to have one small (up to 50 employees) and one large institution (up to/or more than 100 employees), but also to include institutions outside Belgrade that might offer a slightly different perspective to the discussion. Experts presented the concept of integrity plans, i.e. their purpose and goals, in order to enable relevant institutions on the one hand to decide if they will (formally) accept to be part of the Pilot activity, and, on the other hand, to enable them to fully accept and incorporate the logic of the work to be done by them.

Activity 3: *Establishment of a local consultancy group to initiate the drafting of integrity plans in accordance with given guidelines, Belgrade and Pančevo, 19 – 20 April 2006*

Experts met with heads of institutions that not only accepted to be part of the Pilot activity, but had also designated members to the consultancy / working group(s). The Working group in Pančevo is comprised of three employees, while the one in Belgrade has five members. At the initial meeting, all employees were also invited. The aim was to inform and familiarize them with the integrity plans concept, but also to gain their co-operation and participation in the forthcoming activities. Tasks were assigned among working group members, and a timetable set. Experts sent the questionnaire to working groups, thus starting the first phase of the Pilot project. The Working groups expressed their eagerness to start with the project, as they believe that it is of great benefit for their present and future work. The pace of the Pilot project needs to be accelerated due to the shortage of the implementation time. A good sign appears to be the willingness of the local group to do its utmost and the momentum should be maintained, in particular having in mind prior delays.

Activity 4: *Drafting of the Integrity plans, Belgrade and Pančevo, 22-23 May 2006*

The previous activity that enabled working groups to get acquainted with the idea / importance of integrity plans, but also equipped them with the tool to start their own assessment of the potential weaknesses within their institutions, lead to fulfilment of all agreed tasks. A questionnaire has been filled, and the list of possible vulnerable spots (either in terms of process or actions/activities undertaken)

has been made. The working groups were satisfied with the level of responsiveness from the employees and eagerness to improve working conditions. The second task allocated to the working groups was more technical, since it was dedicated to gathering of all relevant provisions (laws, by-laws) in order to have an insight into the entire legal framework regulating the functioning of the organisation/s (its structure, operation, systematization of jobs etc.). This task was also successfully completed. This enabled experts and working groups to commence with preparation of the model integrity plans, at least the general outline.

Activity 5: *Drafting of Integrity plans, Belgrade and Pančevo, 23 - 26 June 2006*

This stage of the drafting was committed to mapping of the resistance mechanisms within organisations against breaches of integrity, fraud and corruption. Resistance has two major components: organisational *structure* – formal set of rules and regulations, and organisational *culture* – social climate, social relations both within and outside organisation. In order to map out resistance mechanisms, experts discussed and assessed together with working group members interviews done, questionnaires filled, as well as human resources policies, from the angle of integrity risks/ vulnerabilities. A survey of the rules / regulations collected/ prepared under previous stage of drafting was also done. Now the working groups are expected to prepare/ write a proposal for the resistance mechanism/s to be applied within their institution, in order to prevent corruption, mismanagements and other activities disrupting institution's integrity.

4.7 “The Former Yugoslav Republic of Macedonia”

4.7.1 Project Orientation

Main Goal: Streamlining and consolidation of the Anti-Corruption Programme and its matrix of actions; strengthen its monitoring and implementation. Increase the capacities of the Commission to better perform its educational and preventive role, and preserve its institutional knowledge through comprehensive reporting and training tools.

Expected actions: Improve (simplify) Anti-Corruption Programme and its analytical structure; consolidate comprehensive measurable anti-corruption actions; strengthen monitoring and managing capacities of the Commission and assist in the inclusion of measurable indicators of success in the Anti-corruption plan; production and publication of the Commissions findings and recommendations.

4.7.2 Activities by Outputs

Output (1) *Anti-corruption plans improved or elaborated*

Activity 1: *Annual Conference on the Review of the implementation of the State Programme for Prevention and Repression of Corruption for 2003 and identification of further activities for 2004, Ohrid, 23-25 June 2004.*

The purpose of the Annual Conference which brought together 50 members from different institutions was to evaluate the work of the State Anticorruption Commission and the implementation of the Anticorruption Programme by identifying achieved objectives and future actions that need to be taken within the framework of the State Programme. The Participants provided a thorough overview of the reforms that have been achieved or are still in progress since June 2003 when the State Program for Prevention and Repression of Corruption and an Action Plan Matrix were adopted. Despite a variety of assessments of the anti-corruption reforms achieved so far, which ranged from disappointing to satisfactory, it is clear that Macedonia and its institutions, such as the State’s Commission for Prevention of Corruption, have made notable first steps to fight corruption. In addition, and within the framework of twinning actions, two representatives from the Serbian Anti-corruption Council were invited to attend and participate the works of the Conference, but using modalities of this Conference (as appropriately) on their initial work for drafting the Anti-corruption National Strategy for Serbia.

Nevertheless, the tangible results in terms of reduced corruption so far have been lacking. This is why dissatisfaction of some participants linked to their high expectations is somewhat understandable since only a sustained implementation of the anti-corruption legal and institutional tools over a period of time, such as in the area of conflict of interest, can bring tangible results in reducing corruption.

Participants agreed somehow that It was, thus, clear that the “first phase” of the implementation of the anti-corruption Programme: acknowledging existence of corruption; uncovering and identifying institutional and legislative failings that offer opportunities for corruption; and initiating systemic reforms in the judiciary, criminal justice system, public administration and in the economic and financial system, has been actively pursued. In addition participants agreed that the “second phase” poses new challenges by testing a full commitment and resolve of all the stakeholders: their cooperation and perseverance in fighting corruption. In other words, the emphasis in the “second phase” will be on horizontal integration of the recently changed institutions necessitating their close cooperation in applying new legal tools against corruption.

Based on the three days discussions, reports and debates, recommendations²⁹ aimed at improvements and change of modalities were provided to the State Commission by the Council of Europe experts as follows:

- Consider the adjustment of the Action Plan Matrix so to fully reveal the achievements in different sectors and identify actors associated with those achievements so to mark the close-to-completion first phase of the Programme implementation;
- Consider the adjustment that focuses on further implementation and fine-tuning of the existing reforms, such as drafting bylaws and other secondary legislation to define the terms of implementation, would also serve to more comprehensively present the “second phase” of the Programme implementation;
- Consider to improve a lay out of the Action Plan Matrix so to have a clear distinction between: sectors that are subject to reform with clearly identified priorities; objectives of the reform; measures and actions to be taken to achieve the desired reform; institution(s) responsible for the reform (e.g., drafting a law); timing; indicators of success, and issues of concern;
- Consider updating the Action Plan Matrix by drawing on the Judicial Reform Strategy (currently in draft as explained at the Conference), but focusing on anti-corruption measures in the judicial sector that are planned or are missing;
- Consider establishing regular communication with a business community to get feedback on specific corruption – related problems they encounter in their activities; and
- Consider strengthening horizontal links between institutions within a particular system by establishing a follow-up mechanism (paper trace, working groups, and recourse to an oversight mechanism) that maps out actions taken by institutions within a system.

It should be noted that certain recommendations were taken on board by the commission, however not all of them. In view of this, follow up on review for improvement on the existing State Programme will be considered during the implementation period of the project.

Activity 2: *Regional conference on Drafting the Annex to the National Anticorruption Programme on the Implementation of Anticorruption Measures Related to the Local Level, in compliance with the new Law On Local Government, Ohrid, 13-14 May 2005.*

The aim of this event was to draft an Annex to the State Programme for the Prevention and Repression of Corruption, which would address preventing and combating corruption at local level in alignment with the recently enforced legislation for that level of government. According to the Workplan, three regional events were planned to take place on the same subject. However, following a proposal of the Country Director and aiming at more efficient sessions, these three activities were merged into a bigger event, bringing together 45 participants representing the three main regions in "the Former Yugoslav Republic of Macedonia". Local experts from "the Former Yugoslav Republic of Macedonia" had been commissioned by PACO Impact to provide the necessary advice and guidelines on subject of the Conference.

After reviewing the newly adopted legislation on local government with respect to legislation in place on preventing and combating corruption, participants submitted a series of recommendations to be included

²⁹ See, also Policy Advice Paper, TP-44 (2004)

into the Annex to the State Programme for the Prevention and Repression of Corruption. Discussions were also held on the following issues:

- Measures related to municipal administration and local governance;
- Measures related to public information issues;
- Measures related to the financial management and control of local governance units; and
- Issues related to accountability of competencies between national and local authorities.

The recommendations resulting from these discussions were submitted to the State Anti-corruption Commission, and have now been included into the State Programme for the Prevention and Repression of Corruption as a separate chapter, which would specifically deal with measures for the prevention and repression of corruption at the local level. These provisions will be monitored as part of the regular monitoring of the Programme.

Activity 3: *Annual Conference on the Review of the Implementation of the State Programme for Prevention and Repression of Corruption for 2004 and Identification of Further Activities for 2004, Ohrid, 29-30 June 2005.*

This event aimed at evaluating the work of the State Anti-corruption Commission and the implementation of the Anti-corruption Programme and at reviewing the impact of the relevant recently introduced corruption-related legislation over the past twelve months, and to initiate follow-up activities for the period to come.

The evaluation on the implementation of the Anticorruption Programme and of the overall work of the Commission was led by the inputs and opinions of the 60 invited participants from governmental, non-governmental and academic institutions, which are regular partners of the work of the Commission. The Council of Europe's experts provided an overview analysis and assessment, and recommendations for follow-up measures for work of the Commission.

The government authorities have made substantial progress on many of the items of the State Programme. As was to be expected, much of that progress had been in the preparation and enactment of laws. Some of these laws have focused on anti-corruption, such as the amendments to the Criminal Code, the Criminal Procedure Code and the Law on the Prevention of Corruption, and the protection of witnesses and informants. Others laws concerned primarily good governance issues.

Participants observed that the time has come to put these laws into practice and to take into consideration the resource implications of doing so: as resources are limited, there is a need to prioritise. It is also necessary to measure more precisely the progress being made in the fight against corruption.

However, the main issue of concern as raised by local and international partners was the recurring lack of full implementation and impact that had already been noted at the 2004 Annual Conference. The negligibly small number of persons charged and/or convicted for corruption offences was cited as a case in point.

The Commission itself addressed issues of cooperation as an obstacle for its work. In view of impact when implementing the Programme where the cooperation with the Office of Chief Public Prosecutor seems suffer from lack of communication and coordination. In fact, although invited, the Prosecution Service was not represented at the meeting. There are also problems in the coordination and cooperation with various line ministries and other governmental bodies, which pose a substantial problem for the Commission to carry out its tasks.

The Council of Europe expert evaluation and recommendations were specifically given on three points:

- Setting up Priorities;

- Strengthening the State Programme; and
- Assessing Progress.

A full advisory paper/report³⁰ on the guidelines and the approaches that could be followed was submitted to all Conference participants, and for considerations to the State Anti-corruption Commission members.

Activity 4: *Corruption Perception Survey from State Commission for the Prevention of Corruption, nation-wide, December 2005 – 1 March 2006*

On the initiative of the State Anti-corruption Commission (and as a part of its public perception and relation component), a Survey on Corruption Perception was initiated in early December 2005 with funds and technical assistance from PACO Impact. The Survey research has been commissioned to a Macedonian Institute of political and sociological research, accredited regionally and internationally.

The purpose of the survey/research was twofold:

- To measure public attitudes and perceptions of corruption;
- To evaluate the scope of corruption in the administration.

Furthermore, the research focused on the perception of citizens and their experience with reference to cases of alleged corruption, and looked at and covered different groups, and segments of public life, according to their role and position in the social and professional life.

Research on perception is the necessary starting point in preventing and combating corruption. The project encompassed the attitudes regarding corruption of different members of the public and will provide information and data about:

- Most common attitudes and estimations regarding corruption;
- Most frequent reasons that cause corruption;
- The level of credibility of institutions in charge of preventing and combating corruption; and
- Ways and methods that could be used in combating corruption.

This approach combined different methodological techniques (quantitative and qualitative). The process of data collection was not narrowed down only to a public opinion poll, but also included in-depth interviews and focus group discussions. Based on such an approach, the survey research provided relevant background information that would have been impossible to obtain only through a public opinion poll.

Furthermore, from the viewpoint of the content, or the most “corruption affected or corruption prone areas”, the public opinion poll among the general public (citizens from 18 to 60 years) focused on the following sectors:

- public health;
- the judiciary;
- public education;
- the state administration;

On the other hand, the *victimological* poll, where citizens described their experience with corrupted behaviour, focused on two levels of corruption:

³⁰ See, Advisory Paper/Report, PC-TC(2005)10, June 2005.

- bribing public servants in order that they carry out a procedure which is anyway a legal right of the citizens; and
- bribing public servants in order to gain something that can not be acquired through a legal procedure.

The scope of corruption was measured through the experience of the citizens on two levels of victimization:

- five year level (2001 - 2005)
- one year level (2005)

The survey report research will be analysing the results based on different methodological techniques. It is expected that the report on the results of the survey research, as the first activity of its kind carried out by the State Anti-corruption Commission, will serve as the starting point for directing any further campaign and policy advice in preventing and combating corruption in "the Former Yugoslav Republic of Macedonia". The results of the Survey research have been obtained by the end of March, and the Analysis Report and Results are expected to be introduced through open media, government, political parties and public discussions that will be organised and moderated by the State Anti-corruption Commission on 26 May 2006.

Activity 5: *Round Table Discussion: "The new Electoral Code and the relevant legislation in view of upcoming elections", Skopje, 15-16 May 2006.*

The purpose of the activity was to bring together all relevant agencies from the government and the non-governmental sector to discuss and analyse the recently adopted Electoral Code in correlation with the Law on Financing Political Parties, the Law for the Prevention of Corruption, the draft Law on the Prevention of Conflict of Interest, and other relevant legislation. Participants of the event were representatives from the State Electoral Commission, the State Commission for the Prevention of Corruption, the Supreme Court, the coordinators from all parliamentary groups, the President of the State Assembly Legislative Commission, the Ministry of Justice, the Ministry of Foreign Affairs, Prosecutors, the National Broadcasting Council, the Association of Municipalities, mayors, as well as representatives from local NGOs. The event was organized in cooperation with the European Commission for Democracy through Law (the Venice Commission),

The session on 16 May 2006 was solely devoted to the representatives from the State Electoral Commission for reflections on their particular role in the upcoming elections.

This activity was co-organised with the Venice Commission of the Council of Europe.

Output (2) *Institutional mechanisms for the monitoring and management of anti-corruption plans strengthened*

Activity 1: *Purchase of Computer Equipment and other technical equipment necessary for the State Anti-corruption Commission in order to enhance further their capacities and efficiency. Skopje, November 2004.*

The aim of this activity is to further assist and strengthen the State Anticorruption Commission's technical equipping in order to enhance the efficiency of its work by also taking into consideration the increase of its competencies and number of employees as of 2005. In view of this the following equipment were purchased under Council of Europe procurement rules:

- 5 PC desktop;
- 4 Laptop computers;
- 1 Scanner;
- 1 LCD Projector;
- 1 Printer LaserJet;
- 1 Software backup;
- Upgrade of the Copy Machine.

Activity 2: *GRECO Plenary Session on the First Round of Evaluation for "the Former Yugoslav Republic of Macedonia", Strasbourg, December 2004.*

The aim of this activity was to support the participation of one of the members of the State Anticorruption Commission (specifically the PACO Impact Project Director) to the GRECO plenary session as a country delegation member during the evaluation of the "the Former Yugoslav Republic of Macedonia" in order to ensure follow up and a close multilateral cooperation during GRECO evaluation, as well as ensure a feed back process with the State Anti-corruption Commission. The participation of the member from the State Anti-corruption Commission ensured support and more information exchange during the GRECO plenary sessions, as well as setting up contacts and networking with other country delegations at the GRECO sessions.

Activity 3: *Enhance publication and dissemination capacities of the State Anti-corruption Commission. Skopje, December 2004.*

The aim of this activity was to support the State Anti-corruption Commission and enable its members to publish, produce, and disseminate several report documentation which are linked directly to their work. Such an activity will also increase the visibility in public as well as to national and international institutions of their work and legal standards which guide their activities. In view of this, the following documentation and reports were made available in both languages (English and Macedonian):

- The State Program for Prevention and Repression of Corruption;
- The Action Plan Matrix;
- Law on Prevention of Corruption;
- All relevant anti-corruption Council of Europe, UN, and OECED conventions and recommendations.

Activity 4: *Funding of the Publication of an Information Package on the SACC, reports/framework for public and institutional use and information dissemination, and other promotional activities for the SACC, May through June 2005.*

The pressure increasingly put on the State Anticorruption Commission by other services such as the Chief Public Prosecutor (reflecting the problematic relationship between the two institutions), provided one more reason to quickly initiate an efficient campaign for raising citizens` awareness on the role and competencies of the Commission in the prevention and repression of corruption. This campaign is also a part of the Commission`s strategy to reach itself out to the public and to increase its networking capacities with citizens.

This anti-corruption campaign has the following features:

Reach out to the public through independent media broadcasting:

- Meeting for Chief Editors of all major nation-wide media where the State anti-corruption Programme and its public awareness strategy is announced; invitation to a cooperation aimed at wide-reaching effects and all-embracing inclusion of citizens and institutions in the fight against corruption;
- Regular Press Conferences of the Commission, where information and findings as well as reports are disseminated and explained;
- A public hearing on the current position of the State Anti-corruption Commission with the country's civil society, where competencies and the status of relationship between the Commission and other institutions is presented. Also, information on comparable indicators of other Anti-corruption Services in the region is provided;
- A TV-broadcasted tribune (90 minutes) on Kanal 5 TV (nationwide broadcaster), where the members of the Commission will enter into a dialog with representatives of the Judiciary and Prosecutorial Services to address issues of concern with regard to the impact expected by the public on the fight against corruption.

Enhancing visibility:

- The design of the formal logo of the Commission presenting it as a recognizable brand-name to be associated with its crucial role in the fight against corruption.
- The production of a public portfolio brochure for the Commission presenting its competencies/mandate, composition, and a *Frequently Asked Questions* section on its work, and its association/relationship with governmental and non-governmental institutions;
- Publication of informative and educational supplements to daily newspapers containing general information on the fight against corruption in the country, and the ways of preventing corruption;
- Publication of advertisements in daily newspapers bearing the message on the necessity to accelerate the country's anti-corruption efforts and calling on citizens to report corruption cases to the Commission.

Due to the Commission being over-burdened with too many activities while still being understaffed, the finalisation of this activity has been postponed by some months. This situation also impacts on the intensity of the implementation of this activity, which is not satisfactory; additionally, there is a lack of financial resources available to conduct costly PR activities. The activity is now foreseen to be finalized in autumn 2005.

Activity 5: *A large dissemination of 460 copies of "The Compilation of CoE instruments on Corruption, Good Governance and Economic Crime" in Macedonian, Skopje, 15 January 2006*

Following the publication of "*The Compilation of Council of Europe instruments on Corruption, Good Governance and Economic Crime*", a massive distribution of the publication took place in early January 2006 to the following institutions: all prosecutorial and court offices throughout the country, the Ministry of Justice, the Ministry of the Interior, the State Anticorruption Commission, the Financial Police, the Directorate against money laundering, the Police Academy, and all universities in the country. The purpose of the distribution of the publication is to raise the awareness in professional circles of the Council of Europe and other international standards on Corruption, Good Governance and Economic Crime.

Activity 6: *Funding of translation in local language, printing, and dissemination of 500 copies of "Model initiatives package on public ethics at local level", Skopje, June/July 2006*

Translation into the local language of the "Model initiatives package on public ethics at local level", a publication of the Council of Europe Steering Committee on Local and Regional Democracy, was undertaken in June 2006. The printing of 500 copies of the publication is due by mid-July followed by its dissemination to all 86 Municipalities, the country's Association of Local Government Units (ZELS), the Ministry of Local Government, public libraries, and NGOs. The aim of the publication into local language is to raise local awareness on CoE standards of public ethics at local self-government level.

Output (3) *Draft laws/amendments available to bring the criminal legislation on corruption in line with European standards*

Activity 1: *Training Seminar on the implementation of the recent amendments to the Criminal Procedure Law with respect to criminal proceedings against corruption related offences, Skopje, 22-23 December 2004.*

The aim of the two days seminar was to discuss, and share experiences among practitioners and Council of Europe experts on the application based on international standards of the recent changes on the Criminal Procedure Law. The activity brought together about 32 participants which were representatives from the following institutions: Ministry of Justice; Ministry of Interior; High Public Prosecution Offices in Skopje, Bitola, and Shtip; Prosecution Offices from eight other cities; the Supreme Court, Municipal Courts from eight other cities; the Courts of Appeal in Skopje, Bitola, and Shtip; the Bar Association; and the State Anticorruption Commission.

Participants furthered their acquaintance and knowledge from practical and international standard point of view in line with the new legislation on the following issues:

- Implementation of SIMS in accordance to European criminal procedure and human rights standards in order to enhance the disclosure and reporting of perpetrators of criminal acts and in particular, perpetrators of corruption and organized crime;
- The role of the Public Prosecutors within the Prosecutorial Unit for Fighting Corruption and Organized Crime in the framework of the amended Criminal Procedure Code and the new Law on the Public Prosecution Service;
- Measures for an efficient protection of witnesses, collaborators of justice and victims in order to stop the risks and the implications that may arise from their decision to cooperate with justice and for an increased efficiency in the fight against corruption and other heavy forms of crime;
- Implementation of the measures for enabling the presence of the convicted person and for a successful undertaking of the criminal procedure; competent institutions for the enforcement of those measures and review of their implementation;
- Implementation of the procedure for establishing a criminal responsibility and drawing penalties and other measures towards legal entities as perpetrators of criminal offences;

Activity 2: *Training Seminar on the Implementation issues on Corruption-Related Offences in Accordance with the newly enforced Criminal Code, Skopje, 9-10 February 2005.*

The aim of this workshop was to train - as part of their continuous judicial training - about 50 members of the judiciary issues related to the practical implementation and legal interpretation of newly introduced corruption-related amendments (offences) to the Criminal Code. The participants at the seminar had the possibility to address their issues of concern and seek explanation, as well as to exchange opinions in terms of the application of these new provisions.

The discussions covered:

- Criminal Responsibility of Legal Entities;
- The application of the Penalty System including financial obligations;
- Alternative Measures;
- Confiscation of Crime Proceeds;
- Customs Fraud, Tax Evasion and Smuggling

The Council of Europe commissioned two local experts - academic staff of the Law Faculty at Skopje University, who had also been involved in the drafting process of these amendments -as trainers for this event.

The training event presented a welcome opportunity to practitioners for sharing first hand experience with the implementation of the recently amended Criminal Code, while receiving explanation with regard to the application of international standards concerning these amendments. Participants noted the need for further trainings of this kind, as well as for training on analysis and crime policy issues.

Activity 3: *Workshop on the Newly Established Unit for Combating Corruption within the Public Prosecutors' Office, Mavrovo, 16-17 March 2005.*

The aim of this workshop was to provide guidelines and best practices from other countries in the inception of the recently established Unit for Combating Corruption and Organized Crime within the Public Prosecutor's Office. The unit itself was established since November 2004.

In view of this, sample practices, guidelines, recommendations and some feedback were provided by two Council of Europe experts concerning the application of the relevant national legislation as well as European and international practices in the inception of similar bodies. In addition, issues related to international standards on money laundering were covered upon request by participants. The workshop took a case study approach on the basis of which participants discussed criminal proceedings against economic crime when carried out against similar offices within the domestic legal system of "the former Yugoslav Republic of Macedonia".

Activity 4: *Three training seminars for court administration staff (law clerks) on anti-corruption legislation and policies within the administration of the judiciary: Skopje, 6 June 2005; Stip, 14 June 2005; Bitola, 15 June 2005.*

The purpose of the three serial seminars was to provide initial training and information on the existing anti-corruption legislation and policies in "the Former Yugoslav Republic of Macedonia". This training for the much neglected court and prosecution service administration staff in the country was the first of its kind. The three seminars were moderated by members of the State Anti-corruption Commission.

Each seminar had about 50 participants, who represented the court and prosecutorial services administration staff of the respective Courts of Appeal (Skopje, Stip, and Bitola). The large number of participants (exceeding the number of those invited) and the lively participation in the discussion

confirmed the expected need for the inclusion of the administrative staff in the anti-corruption policies within the judicial reform process.

In addition, the following issues were addressed:

- The administration staff of the court and prosecutorial services need to be provided with the possibilities of giving their own inputs/recommendations when reforms take place (i.e., anti-corruption judicial reform-related actions);
- The employment status of the staff of the administration needs to be revised; and
- The lack of an appraisal system if not urgently introduced, will deepen the possibilities of abuse of power and violation of the code of ethics, as well as further increase nepotism within the existing system.

Output (4): Pilot Activity Supported

Activity 1: *Twining partnership consultative cooperation between the State Anticorruption Commission and their homologue institutions in Estonia and Italy. October 2005 and December 2005.*

Pilot Activity	Twining partnership consultative cooperation between the State Anticorruption Commission and their homologue institutions in Estonia Twining partnership consultative cooperation between the State Anticorruption Commission and their homologue institutions in Italy.
Objective	Acquisition of best practices and exchange of experience in prevention of corruption from countries which have advanced and compatible experiences in prevention and monitoring of corruption. Italy and Estonia have been identified as potential countries due to their similarities at the specialised anti-corruption services (based on policy advice and law enforcement elements)
Start-up	13 – 16 February 2006 2006 – Partnership and consulting workshop in Estonia 8-10 May 2006 – Partnership and consulting workshop in Italy
Duration Period	4 working days for each workshop
Estimated Cost	Travel costs to Estonia (9 persons x 300.00 EURO) = 2,700.00 EURO Travel costs to Italy (8 persons x 270.00 EURO) = 2,160.00 EURO P/diems for 2 countries: (16 prs/ x 8 days x 169 EURO) = 21,632.00 EURO Misc/Local expenses/expert = 2,500.00 EURO Total: 28,992.00 EURO
Available Funds	Pilot Activity allocated funds: 45,000.00 EURO
Beneficiaries	State Anticorruption Commission
Implemented by	PACO Impact Management Team Unit State Anticorruption Commission
Outputs	<ul style="list-style-type: none"> ▪ Share of know-how and best practices from compatible experiences from Estonia and Italy with respect to prevention, and monitoring of corruption; ▪ Setting up partnership and twining agreement; ▪ Exchange of expertises on other relevant issues and legislations concerning prevention and combating of corruption
Inputs	<ul style="list-style-type: none"> ▪ Organisation of theme workshops and individual meetings with main counterparts in Estonia and Italy; ▪ Travel expenses covered for 8 participants from the SACC (4 members

of the Commission and 4 members of its Secretariat) for each study visit.					
Actions/Activities	Time-line	Venue	Estimated Cost	Expected Results/outcomes	Notes
Meeting with SACC to re-confirm the need for such activity.	17 Nov 2004	Skopje	N/A	Need for activity re-confirmed	√
Coordination with the Estonian and Italian counterparts on the precise agenda of the study visits.	August 2005	Skopje	N/A	Concrete dates of the activities confirmed and study visits` agendas defined	√
Workshop held in Estonia	13 – 16 February 2006	Tallinn, Estonia	11,305.00 EURO	Acquisition of best practices and exchange of experience in prevention and monitoring of Corruption. Twinning of Offices	√
Workshop held in Italy	8 – 10 May 2006	Rome, Italy	2,160.00 EURO	Acquisition of best practices and exchange of experience in prevention and monitoring of Corruption. Twinning of Offices	√
Impact Expected as of June 2006 and in the future					
Other general data	Increased capacities of the State Anticorruption Commission through twinning activities				
Quality Indicators	<ul style="list-style-type: none"> ▪ Foreign experiences considered and modelled where appropriate in the implementation of national measures for suppression and prevention of corruption; ▪ Increased knowledge and information at disposal of SACC in managing their offices and initiating legislative and policy advice reforms related to anti-corruption. 				
Quantity Indicators	<ul style="list-style-type: none"> ▪ Number cooperation activities in the future between the two offices with each country; ▪ Number of contacts with members of those offices on individual cases as per topic when being dealt by the SACC 				
Number of Users	8 persons per study visit (4 members of the SACC and 4 members of its Secretariat + one interpreter, when needed). The Commission's Secretariat members are also scheduled for participation to these activities as they are the permanent staff of the SACC that can stream institutional memory to the future members of the SACC once the current members` term finishes.				

5 ANNEX I: LIST OF TECHNICAL PAPERS

Version of 5 July 2006

TP Number	Date	Project Area/Title	Prepared by: Expert/Consultant
TP-44 (2004)	28 January 2004	Montenegro : The 1 st Draft Programme for Combating Corruption and Organised Crime in Montenegro	Ms. Kristina Hemon, United Kingdom Mr. Goran Klemencic, Slovenia
TP-45 (2004)	30 August 2004	PACO Impact: Analysis Report on Gender and Corruption in SEE countries	Ms. Kristina Hemon, United Kingdom
TP-46 (2004) Eng Alb TP-46 (2004) Annex	18 October 2004	Albania: Improving Success Indicators of the Albanian Anti-corruption Action Plan Matrix 2004	Ms. Vera Devine, Belgium
TP-47 (2004)	20 October 2004	Serbia : Prevention and Public Awareness Issues of the National Anti-corruption Strategy for Serbia	Mr. Bertrand de Speville, United Kingdom
TP-48 (2004) Annex OECD/SIGMA	25 November 2004	Albania: The draft Law on Prevention of Conflicts of Interest In the Exercise of Public Functions	Ms. Vera Devine, Belgium + OECD/SIGMA
TP-49 (2004) Annex OECD/SIGMA	20 December 2004	Serbia : The Law on Prevention of Conflict of Interests in Discharge of Public Office	Mr. Drago Kos, Slovenia + OECD/SIGMA
TP-50 (2004)	20 December 2004	Montenegro : Issues and practical implementation of a national anti-corruption programme: methods of measuring its progress	Mr. Bertrand de Speville, United Kingdom
PC-TP-51 (2004)	20 December 2004	Montenegro : The 2 nd Draft Programme for Combating Corruption and Organised Crime in Montenegro	Ms. Kristina Hemon, United Kingdom Mr. Goran Klemencic, Slovenia
PC-TC(2005) 2	11 January 2005	PACO Impact: Inception Report (March-July 2004) and workplan guiding project implementation	Project Management Unit
PC-TC(2005) 3	13 January 2005	BiH: Implementing and Monitoring Future Anti-corruption Efforts	Ms. Vera Devine, Belgium Ms. Kristina Hemon, United Kingdom

PC-TC(2005) 4	31 January 2005	Serbia : The Law on Financing of Political Parties of the Republic of Serbia	Mr. Drago Kos, Slovenia
PC-TC(2005) 5	23 February 2005	BiH : Policy advice for the Relevant Bodies	Ms. Kristina Hemon, United Kingdom Mr. Drago Kos, Slovenia
PC-TC(2005) 6	10 April 2005	BiH : Advisory Paper. Comments on AP + ACS & Progress Rep.	Ms. Vera Devine, Belgium
PC-TC(2005) 7	30 May 2005	Kosovo : The 1 st Draft Advisory Paper Kosovo. Com on AP of Kosovo	Ms. Kristina Hemon, United Kingdom Mr. Drago Kos, Slovenia
PC-TC(2005) 8/PI	April-June 2005	Compendium of AC Services in SEE : Strengthening Anti-corruption services and efforts in South-East Europe	Project Management team + Ms Vera Devine, Belgium
PC-TC(2005) 9/PI	June 2005	BiH : Initiation of revision of the anti-corruption strategy chapter and its action plan for BiH.	Ms Kristina Hemon, United Kingdom
PC-TC(2005) 10	24 June 2005	"the Former Yugoslav Republic of Macedonia" : Evaluation and recommendations on the implementation of the State Programme for the prevention and repression of corruption. National Conference, Ohrid, June 2005	Mr Bertrand de Speville, United Kingdom
PC-TC(2005) 11	June-July 2005	Pilot activity (Albania) : Initiating the implementation of the case management reform aimed at preventing corruption within the prosecutorial services, Celle, Germany	Ms Elizabeth Nochlin, United States Mr Harald Range, Germany
PC-TC(2005) 12	July 2005	Pilot activity (Montenegro) : Assessment and Recommendations regarding the strengthening of the prosecutorial services in Montenegro	Ms Elizabeth Nochlin, United States Mr Bostjan Penko, Slovenia
PC-TC(2005) 13	31 July 2005	PACO Impact : 2 nd Semi Final Report (February-July 2005)	Project Management Unit
PC-TC(2005) 14	8 September 2005	Montenegro : Expert Review on the Draft law on Conflict-of-Interest	Ms Vera Devine, Belgium (CoE) Mr Howard Whitton (OECD) Ms Anke Freibert (OECD)
PC-TC(2005) 15	20 September 2005	PACO Impact : Summary of Expert Report on the Mid-term Review Meeting of PACO Impact (30 August 2005)	Project Management Unit Ms Vera Devine Mr Bertrand de Speville

PC-TC(2005) 16	30 November 2005	Croatia: Expert Opinion and Comments on the Draft Program for Suppression of Corruption of the Republic of Croatia	Ms Vera Devine, Belgium Mr Goran Klemencic, Slovenia
PC-TC(2005) 17	15 December 2005	PACO Impact: Summary of Group Discussions during the 3 rd Thematic Seminar on Anti-corruption Services and Conflict-of-Interest Laws	Project Management Unit
PC-TC(2006) 3	31 January 2006	PACO Impact: 3rd Semi-Annual Report (August 2005 – January 2006)	Project Management Unit
PC-TC(2006) 4	February 2006	Albania: Expert Opinion on Current Anti-corruption Reforms in Albania-- Establishing the Department for Internal Administrative Control and Anti-corruption	Ms Vera Devine, Belgium, Mr Goran Klemencic, Slovenia
PC-TC(2006) 5	January 2006	Serbia: Guidelines for Drafting Anti-corruption Law and Draft of the Law on Anti-corruption in Serbia	Mr Drago Kos, Slovenia
PC-TC(2006) 6	March 2006	BiH: Expert Opinion on the BiH Draft National Action Plan/Strategy against Organised Crime and Corruption	Mr Drago Kos, Slovenia (CARPO Project), Ms Vera Devine, Belgium (PACO Impact)
PC-TC(2006) 7	March 2006	Montenegro: Technical Paper on Drafting of the Anti-corruption Action Plan	Ms Vera Devine, Belgium, Mr Bostjan Penko, Slovenia
PC-TC(2006) 8 PC-TC(2006) 8A	April 2006	Kosovo: Suggested procedural rules and work method of Kosovo anti-corruption Agency	Institute of Policy and Legal Studies
PC-TC(2006) 9	May 2006	"the Former Yugoslav Republic of Macedonia": Expert Opinion on Political Finance System in "the former Yugoslav Republic of Macedonia"	Dr Marcin Walecki, United Kingdom
PC-TC(2006) 10	May/July 2006	PACO-IMPACT: Final Activity Report (5 July 2006 version)	Project Management Unit
PC-TC(2006) 11 PC-TC(2006)11/A	May 2006	Albania: Guidelines and Procedure Rules on the operations of the Department for Internal Administrative Control and Anti-Corruption (DIAC)	Dr. Quentin Reed, United Kingdom <i>with contributions from</i> Mr Constantine Palicarsky, Bulgaria

PC-TC(2006) 12	April May 2006	Serbia: Financing of Political Parties Provisions in the working version of Anti-corruption law of Serbia <i>(Confidential)</i>	Dr Marcin Walecki, United Kingdom
PC-TC(2006) 13	April May 2006	Serbia: General Provisions and Conflict of Interests in the working version of the "Prevention of Corruption Act" <i>(Confidential)</i>	Dr Marcin Walecki, United Kingdom
PC-TC(2006) 14	June 2006	Montenegro: Technical Advice to the Final Draft of the Anti-corruption Action Plan	Mr Bostjan Penko, Slovenia
PC-TC(2006) 15	July 2006	PACO IMPACT: Anti-corruption Services in South-eastern Europe -current status and needs for reform-	Project Management Unit
PC-TC(2006) 16	July 2006	PACO IMPACT: Anti-corruption Services in South-eastern Europe -current status and needs for reform-	Project Management Unit
PC-TC(2006) 17	July 2006	PACO IMPACT: Economic and Organised Crime Services in South-eastern Europe -current status and needs for reform-	Project Management Unit
PC-TC(2006) 18	July 2006	Serbia: Final Recommendations on the last draft law on "Prevention of Corruption Act" <i>(Confidential)</i>	Dr Marcin Walecki, United Kingdom Mr Drago Kos, Slovenia
PC-TC(2006) 19	July 2006	PACO IMPACT: Draft of Final Narrative Report of PACO Impact	Project Management Unit
PC-TC(2006) 20	July 2006	Albania: Expert opinion on the Corporate Liability of Legal Entities in Albania	Mr Bostjan Penko, Slovenia
PC-TC(2006) 21	July 2006	Montenegro: Expert opinion on the existing legal framework and proposed amendments on the Financing of Political Parties in Montenegro	Dr Quentin Reed, United Kingdom