



Adopted on  
23 September 2005  
English

High Level Meeting of Ministers of Interior and of  
Security and Senior Officials of Governments and  
Administrations from South-eastern Europe

# **REGIONAL STRATEGY ON TOOLS AGAINST ORGANISED AND ECONOMIC CRIME WITH PROJECT AREA SPECIFIC ACTIONS**

23 SEPTEMBER 2005  
ISLAND OF BRIJUNI, CROATIA

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*This document has been prepared in the framework of the CARPO project (Development of Reliable and Functioning Policing Systems and Enhancing of Combating Main Criminal Activities and Police Co-operation) by experts from south-eastern Europe and the Council of Europe, with the support of consortium countries (Belgium, Hungary, Finland, Italy, Slovenia, Spain, Sweden). The CARPO project is jointly funded by the European Commission (90%) and the Council of Europe (10%).*

# 1 REGIONAL STRATEGY ON TOOLS AGAINST ORGANISED AND ECONOMIC CRIME

## 1.1 Crime analysis and criminal intelligence

*Prevention and control policies on organised and economic crime need to be based on an in-depth understanding as to what constitutes organised and economic crime according to international standards, what are the scope, the modus operandi and the trends of criminal markets in a particular country and the region - and in particular what are the cross-border and transnational ramifications of these phenomena. Comprehensive public policy and action against organised and economic crime need to be knowledge-based - rooted in intelligence gathered through a structured framework for systematic collection, analysis, and processing of data in accordance with European standards of personal data protection.*

*Accordingly, the following goals and measures will be pursued with a view to improving the legal framework and institutional capacities in the area of crime analysis and criminal intelligence:*

- Ensure a legal framework for systematic collection, analysis, management and exchange of data on economic and organised crime in line with European standards on Personal Data protection and provide for an adequate framework for exchange of relevant information and access to relevant sources of information.
- Secure relevant levels of confidentiality of access to data on organised and economic crime, in line with European standards on privacy and data protection.
- Develop a national strategy / plan to support crime analysis by:
  - setting up a national (unified) system or network of systems for collection of data and of criminal statistics which take into account the specific features of organised and economic crime;
  - using a common methodology for law enforcement agencies for data collection and of criminal statistics which takes into account the specific features of organised and economic crime;
  - ensuring that authorised institutions are required to report information, and that reporting be done according to standardized formats;
  - analysing, with scientific and academic communities the aspects of organised crime, trends, circumstances, groups and technologies, and publishing the analysis reports on a regular basis;
  - supporting research and institutions which carry out multidisciplinary research on organised and economic crime by providing relevant information and other support when possible;
- Systematically monitor the effectiveness of measures for the prevention and control of organised and economic crime.
- On a national level establish Units for Crime Analysis.
- Ensure systematic and sustainable training of relevant officials on crime analysis of economic and organised crime.
- Elaborate and adopt in the policing strategies against organised and economic crime the model of “intelligence led policing” and ensure that inputs and outputs of criminal intelligence are integrated in the work of police on national and local level;
- Facilitate international and mutual co-operation in the field of crime analysis and criminal intelligence by enabling legally and operationally the exchange of relevant information between

the competent law enforcement authorities for the purpose of gathering and sharing information, investigations and mutual legal assistance, in conformity with relevant rules relating to data protection.

- On the regional level support the determination and adoption of a common methodology for the collection of data and procedures for the sharing of data in the conduct of trans-border crime criminal investigations.

## 1.2 Financial investigations

*Serious crime is largely driven by acquiring economic benefits. Targeting proceeds of crime in combating corruption, organised crime, money laundering and other forms of economic crime through financial investigations leading to identification, seizure and confiscation of the proceeds of crime is therefore an integral part of any comprehensive strategy against serious crime. Countries and administrations of South-eastern Europe have made considerable progress in recent years in acceding to relevant international legal instruments, and in many cases their legislation provides for the confiscation of the instruments and proceeds of crime. However, it is recognised that major challenges to effectively implement this legislation remain in practice.*

*Accordingly, the following goals and measures will be pursued in view of implementing in the law enforcement and criminal justice system the concept of integrated financial and criminal investigation aimed at confiscation of proceeds from crime:*

- Strengthen the legal framework governing identification, tracing, freezing, seizing and confiscating proceeds of crime by:
  - providing for effective access to relevant sources of financial/banking information (e.g. lifting bank secrecy);
  - ensuring provisional measures available for early freezing or seizing of suspected proceeds of crime;
  - ensuring all serious crimes are predicate for the purposes of money laundering;
  - ensuring that the prosecutor or court may generate of their own motion a confiscation enquiry within court proceedings;
  - considering introducing reversal of the burden of proof provided for, in ECHR proportionate circumstances, in confiscation cases;
  - ensuring that the legislation and procedures for the confiscation of the proceeds of crime allow for value based confiscation and for the confiscation from *male fide* third parties having received the proceeds;
  - considering introducing an extended confiscation regime.
- Establish investigative strategies that target the assets of organised crime groups by integrating financial investigations into criminal investigations by:
  - ensuring that criminal investigations systematically be accompanied by investigations into proceeds from crime;
  - ensuring the systematic compilation of reliable statistics on all financial proceedings, demonstrating implementation of provisional measures and confiscation orders.
- Strengthen inter-agency co-operation by:
  - promoting a “task force” approach in investigating complex cases;
  - ensuring operational information exchange between police, prosecutors, financial intelligence units, customs and tax authorities and other relevant institutions;
  - ensuring international and bilateral co-operation and exchange of information in financial investigations, allowing institution to institution co-operation.
- Ensure specialisation of persons or bodies (e.g. relevant law enforcement authorities and prosecutors) in financial investigations by:
  - providing for appropriate means and comprehensive sustainable training programmes in financial investigations;

- ensuring effective access of law enforcement authorities and prosecutors to adequate human resources having financial expertise;
  - putting in place specialised units or networks of experts in asset tracing and identification;
  - putting in place a Financial Intelligence Unit for the receiving, analysing and disseminating of information related to the laundering of proceeds of crime.
- Develop to the widest extent possible international and mutual co-operation in this field by:
    - processing with the same priority as is given in domestic proceedings requests of mutual assistance which relate to asset identification, tracing, freezing, or seizing and confiscation;
    - introducing provisions in domestic law or in bilateral or multilateral agreements to enable asset sharing and asset recovery;
    - ensuring that financial investigation units meet Egmont Group standards and co-operate to assemble, analyse, and investigate relevant information as well as to exchange relevant information, spontaneously or on request, within the limits of the applicable national law.

### 1.3 Special investigative means

*If crime, in all its modern forms and variations, is to be adequately tackled, law enforcement needs to employ efficient tools and modern policing strategies in the process of detection, investigation and prosecution, including special investigative means (interception of telecommunications, electronic surveillance, undercover operations, etc.). However, given the intrusive nature of special investigative means (hereinafter: SIMs) on the rights and liberties of individuals, their use needs to be subject to strict principles of legality, proportionality and procedural safeguards. For an efficient application of these measures in accordance with European human rights standards, countries and administrations must develop a comprehensive legal framework and a proper institutional structure with effective control mechanisms, as well as secure trained personnel for the practical implementation of the measures. Furthermore, investigations and judicial proceedings of organised criminal activity often involve trans-border elements and co-operation of law enforcement and prosecution authorities in different countries and administrations. This calls for a high level of harmonisation (while giving due regard to specifics of different countries and administrations) of legislative regulation and especially evidentiary standards in different countries, as well as enhanced co-operation in cross-border investigations, in particular in the area of joint investigative teams and exchange of undercover agents. Much has been done in recent years in adopting and adapting the regulatory framework to European standards, however its implementation in practice is often limited by lack of modern surveillance and interception equipment as well as lack of internal regulations, guidelines and trained specialists.*

*Accordingly, the following goals and measures will be pursued with view of enhancing the capacities to utilise SIMs for the detection and investigation of serious criminal offences with due regards to human rights by constantly improving our institutional, regulatory and operational framework:*

- Provide for a comprehensive domestic legal framework governing the use of special investigative means with due respect of the principles enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) by:
  - enabling and regulating by law, which is publicly accessible and whose effects are foreseeable, the use of special investigative means (covert measures of surveillance and investigation) for serious offences, including serious organised and economic crime offences, corruption, trafficking in human beings and money laundering;
  - ensuring differentiation and foresee-ability of SIMs by specifying by law the nature and scope of particular technical (e.g. interception of communications, electronic surveillance, monitoring of financial transactions) and non-technical (e.g. deployment of undercover agents, covert human intelligence sources) covert measures;
  - introducing safeguards to ensure that the application of SIMs is limited to instances when such use is proportionate and necessary in relation to the gravity of the offence and

difficulties and dangers associated with gathering information and evidence by other, less intrusive, means;

- ensuring that a detailed regulatory framework governing the use and application of SIMs is in place (the regulations to be in legally binding form, differentiating among different types of measures as to conditions for their use, defining those subject to surveillance, specifying the offences that may attract surveillance, defining the permitted duration, scope and manner of surveillance, etc.);
  - adopting detailed regulations governing the handling and destruction of material and personal data obtained through the use of SIMs, as well as possible subsequent notification of targets of surveillance;
  - prohibiting and sanctioning by law the conduct of law enforcement officials and agents acting on their behalf that would amount to entrapment of individuals and provoke criminal activity;
  - ensuring accountability over authorisation and use of SIMs and its review and supervision within the law enforcement and prosecutorial structure.
  - ensuring judicial supervision over the process of ordering and implementing intrusive SIMs;
  - ensuring, allowing for ECHR safeguards, the court admissibility of evidence and information gathered by the use of SIMs while making inadmissible information and material gathered by SIMs in transgression of legal requirements for their use;
  - ensuring, in accordance with ECHR standards, the right of the defence to inspect the material gathered by SIMs and challenge its legality through court proceedings.
- Formulate and adopt regulations and guidelines for law enforcement bodies involved in the use and implementation of SIMs by:
    - adopting detailed internal guidelines / by-laws regulating internal authorisation procedures, record-keeping rules and rules on handling of the material obtained, measures securing confidentiality of investigations, and other guiding principles that law enforcement should apply while using such methods and their results;
    - adopting internal guidelines and regulations for conducting undercover operations including rules that must be observed by deployed undercover agents and law enforcement officials managing and directing undercover agents;
    - adopting internal guidelines for law enforcement officials working with registered informants.
  - Create a national reporting system on the use of SIMs by:
    - systematic collection and analysis of information on the use of SIMs;
    - ensuring that an independent high authority report annually on the use of all types of SIMs;
    - identifying best practices with respect to the role of the judicial and law enforcement authorities involved in the use of SIMs and its control;
    - making public annual statistical reports on the use of SIMs.
  - Regulate the use of financial resources in application of SIMs by adopting detailed (internal) regulatory framework governing the use of financial resources (e.g. in the form of specialised funds) in application of SIMs, especially in regard to financing undercover operations, agents and informers and ensure efficient supervision over the use of such funds.
  - Ensure that SIMs for the purposes of criminal investigations are implemented by specialised and trained personnel within law enforcement authorities by:
    - establishing specialised unit(s) / department(s) for the use of SIMs within the law enforcement authorities and ensuring its proper operational independence;
    - ensuring legal and institutional separation of surveillance conducted by law enforcement authorities for the purpose of criminal investigations and surveillance conducted by intelligence services for the purpose of national security and securing the public law enforcement authorities with technical and human resources to implement SIMs independently from state security resources or institutions.

- Introduce effective general national oversight mechanism (in addition to prosecutorial and judicial review/authorisation), on the use of SIMs, either through special judicial surveillance panels, special parliamentary committees, or Ombudsman.
- Ensure close co-operation between prosecutors, and police in the process of application and implementation of SIMs.
- Institutionalise and promote permanent vocational training regarding special investigative means and intelligence by:
  - institutionalising a comprehensive general training on SIMs for the relevant officials involved in the use of SIMs and in their control;
  - institutionalising specific training of undercover agents and law enforcement officials managing and directing undercover agents.
- Improve international and mutual co-operation in relation to the use of SIMs by:
  - optimising the use of the possibilities offered by existing international instruments in relation with the use of SIMs, in particular the European Convention on mutual assistance in criminal matters and its protocols;
  - making use of joint investigation teams and cross-border operations in relation with SIMs, including the possibility of exchange of undercover agents.

#### **1.4 Mechanisms to protect witnesses of serious crime**

*An elaborate system of measures enabling the effective protection of witnesses and collaborators of justice before, during and after criminal proceedings has proven to be an essential tool for the successful investigation and prosecution of serious crimes as well as being an obligation of the criminal justice system towards vulnerable victims of crime, such as victims of trafficking in human beings. A range of procedural and non-procedural measures of witness protection are necessary to ensure that witnesses may testify freely and without intimidation, and that their lives and those of their relatives and other persons close to them are protected before, during and after criminal proceedings. Admirable progress has been achieved in the last two years in South-eastern Europe where most countries and administrations have recently adopted witness protection legislation and have established witness protection units. The challenge now is to make those units fully operational and ensure that witness protection programmes achieve sustainable financing and are integrated in European and other international networks and systems of witness protection. Legislation providing for a range of procedural protective measures also exists in the region; strengthening its practical implementation would require further training of relevant actors of the criminal justice system as well as ensuring sufficient access to modern telecommunication systems for video-link testimonies.*

*Accordingly, the following goals and measures will be pursued with view of building a comprehensive system for the protection of witnesses, vulnerable victims and collaborators of justice:*

- Provide for a comprehensive legal framework of basic police protection and assistance, procedural and non procedural measures for witness protection by:
  - ensuring that the law enables and stipulates a duty on law enforcement officials to offer ad hoc protection and assistance to all witnesses and victims as necessary;
  - ensuring the existence of a range of procedural measures for witness protection during criminal proceedings and further ensure, according to ECHR standards, that its application is proportionate to the rights of the defence;
  - ensuring the existence of a range of non-procedural measures for the protection of witnesses before, during and after criminal proceedings, through a witness protection programme, including witness relocation/change of identity and urgent protective measures;
  - enabling access to and usage of modern communication technology for witness testimony;

- ensuring efficient investigation and prosecution of all forms of direct and indirect witness threat, pressure or intimidation;
  - ensuring collaborators of justice can benefit from procedural and non/procedural protective measures for regular witnesses as well as designing, as appropriate, special protective measures for collaborators of justice.
- Endeavour to adopt a comprehensive national strategy / programme for witness protection including international and bilateral co-operation in witness protection.
  - Ensure to witnesses, who are also vulnerable victims, safety, shelter, medical assistance, and access to legal advice.
  - Prioritise the development of sustainable financing of witness protection programmes.
  - Set up specialised witness protection units and ensure adequate initial training of its personnel.
  - Ensure necessary preconditions for specialised training of all law enforcement, prosecutorial and judicial personnel relevant in the implementation of witness protection and ensure sustainable and continuous training in this area.
  - Foster international and mutual co-operation in this field by:
    - facilitating the examination of witnesses and allowing witness protection programmes to be implemented across borders;
    - enabling access to and usage of modern means of telecommunications, assistance in the relocation and protection of witnesses abroad, exchange of information, etc;
    - entering into bilateral or multilateral agreements which include provisions that render domestic witness protection schemes/programmes available to foreign witnesses.

## 1.5 Co-operation in criminal matters

*Organised transnational crime is not a challenge that countries can meet alone. Hence international and mutual co-operation in criminal matters plays a key role in the general framework of relations between States both at the European and international level in this respect. This co-operation can take many forms, including operational co-operation between law enforcement agencies, mutual assistance in the investigation and prosecution of cases and the extradition of alleged offenders, each of them constituting an efficient tool for combating transnational organised and economic crime.*

*In recent years, countries and administrations of South-eastern Europe have made significant progress in acceding to European and international instruments which facilitate co-operation in criminal matters as well as in concluding a range of bilateral agreements. Nevertheless, it must be recognised that currently countries have differing capacities to engage in international and mutual co-operation and are yet to explore fully the potential of these forms of co-operation. The challenge is to set up a functional system of international and mutual co-operation by eliminating legal and practical obstacles, ensuring that their domestic legislation allows for fully meeting their obligations under relevant agreements, developing the operational capacity of judicial and law enforcement authorities, the exchange of information, enhancing the professionalism of relevant authorities through comprehensive training programmes, experiences and expertise. Furthermore, new legal developments at the level of the European Union in the field of international and mutual co-operation in criminal matters need to be taken into consideration when envisaging legislative and institutional measures to enhance international and mutual co-operation.*

*Accordingly, the following goals and measures will be pursued with view of further strengthening the capacities of a functional system of co-operation in criminal matters:*



- Sign and ratify as soon as possible the relevant international and European legal instruments aimed at fostering police and judicial co-operation with a view to extending the international system of co-operation in criminal matters between signatories.
- Seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of co-operation in criminal matters and undertake measures to facilitate that joint police and law enforcement operations may be carried out with the involvement of foreign liaison officers and magistrates and consider posting liaison officers and magistrates in other states and jurisdictions.
- Afford to one another the widest measures of mutual assistance in investigations, prosecutions and judicial proceedings.
- Develop and share good practices and expertise in the field of international and mutual co-operation in criminal matters against economic and organised crime.
- Fully implement international and European legal instruments governing international and mutual co-operation in criminal matters, by improving and approximating as necessary the national legislative framework, to eliminate obstacles hindering effective co-operation.
- Set up an efficient national co-operation system in order to ensure an effective police and judicial co-operation, exchange of information and co-ordination at national level
- Ensure that contact points are identified and established for judicial and police co-operation purposes by:
  - designating a central authority responsible for international and mutual judicial co-operation;
  - designating a central authority responsible for international and mutual police co-operation.
- Foster co-operation between central authorities by:
  - establishing and promoting operational networks between designated central authorities and their counterparts in other countries and jurisdictions and developing practical modalities of their co-operation;
  - establishing channels and methods of direct and swift international and mutual co-operation and information and intelligence exchange.
- Institutionalise a comprehensive training programme for practitioners involved in police and judicial co-operation.

## **2 SUMMARY OF PROJECT AREAS SPECIFIC OBJECTIVES**

### **2.1 ALBANIA**

#### ***1. Enhancing the capacities of crime analysis and criminal intelligence***

*Short / midterm objectives:*

Legal framework

- Implement provisions of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and trans-border data flows.

Institutional framework

- Strengthen crime analysis unit: provide training on crime analysis of economic and organised crime;
- Set up a national (unified) system or network of systems for collection of data and of criminal statistics which take into account the specific features of economic and organised crime;
- Develop a common methodology for law enforcement agencies for data collection and criminal statistics which take into account the specific features of economic and organised crime;
- Ensure that standard format contributions of information are mandatory by specified law enforcement institutions.

*Long term objectives:*

Policy

- Collaborate with scientific and academic communities (i.e., Police Academy and Faculty of Criminology) to analyse the aspects of organised crime, trends, circumstances, groups and technologies;
- Support development of independent research and institutions which carry out multidisciplinary research on economic and organised crime by providing relevant information and by other kinds of support when possible;
- Introduce regular monitoring of the effectiveness of measures for the prevention and control of organised and economic crime (i.e. annual reports, and specialized interagency and parliamentary oversight);

International co-operation

- Foster international co-operation in the field of crime analysis by enabling legally and operationally the exchange of relevant information between the competent law enforcement authorities for the purpose of gathering and sharing information, investigations and mutual legal assistance, in conformity with relevant rules relating to data protection.

## **2. Strengthening of financial investigations capacities aimed at the confiscation of proceeds from crime**

### *Short / midterm objectives:*

- Raise further awareness on the concept of financial investigations among police, prosecutors and judges;
- Increase the co-operation and exchange of information between police and prosecutors by signing bilateral agreements between the institutions that should specify in a detailed manner the ways in which police and prosecution function and cooperate in the area of financial investigations;
- Conduct joint training for judicial police officers and prosecutors focusing on a better understanding of the notion of financial investigations and the domestic legal framework and on other European and International legal instruments existing in this field;
- Create the Judicial Police Unit within the Tax Administration.

### *Long-term objectives:*

- Extend the competencies of the Agency on Administration of Sequestered and Confiscated Assets that should involve not only proceeds of organised crime, but also proceeds from other types of crime;
- Amend the Criminal Procedure Code to enable covert monitoring of financial transaction;
- Amend the Criminal Procedure Code making it mandatory for the Judicial Police to launch financial investigation aiming at identification and seizure of proceeds from crime in criminal investigation of serious criminal offences;
- Support the establishment of a regional network for the exchange of information related to the financial investigation, among the prosecution agencies that would foster regional co-operation in this field. Support direct contacts between investigative and prosecution institutions, and experts from different countries, especially in the field of customs-related crimes, organised crime, money laundering, etc.

## **3. Strengthening of the legal framework and implementation capacities regarding the use of special investigative means**

- Add a new provisions to the Criminal Procedure Code that would remove the restriction under which only judicial police officers can be deployed as undercover agents;
- Add a new provisions to the Criminal Procedure Code that would enable witness protection measures be applied to testimonies of undercover officers;
- Adopt internal guidelines / by-laws regulating internal authorisation procedures, record-keeping rules and rules on handling of the material obtained, measures securing confidentiality of investigations, and other guiding principles including standardised templates for the application and authorisation of special investigative means;
- Adopt internal guidelines and regulations covering: a) procedures for management of the undercover operations, including the rules on the selection of undercover agents, rules on their handling and their behaviour; b) standard measures in regard to executing simulated actions (pseudo-purchases, pseudo-corruption offences, etc.) in cases of organised crime and corruption;
- Adopt internal guidelines for law enforcement officials working with registered informants;
- Create a national reporting system on the use of special investigative means (SIMs);
- Adopt (internal) regulatory framework governing the use of financial resources in regard to financing undercover operations, agents and informers and ensure efficient supervision over the use of such funds;
- Study different models of external oversight mechanisms with aim to introduce systemic external oversight mechanisms for the use of SIMs (in addition to court supervision) either through special judicial surveillance panels, special parliamentary committees, Ombudsman or other forms;
- Institutionalise a general training on SIMs for the relevant law enforcement officials, prosecutors and judges;
- With the assistance of foreign experts and foreign specialised units train the trainers in the area of deployment and handling of undercover agents;

- Subject to material resources establish a national centre for surveillance for the purposes of criminal investigation which would be institutionally separated from the existing centre for preventive surveillance;
- Improve international co-operation in relation with the use of SIMs, in particular in the area of exchange of undercover agents and facilitate joint cross-border investigation teams, especially when special investigation means are implemented.

#### **4. Creation of effective mechanisms to protect witnesses of serious crime**

- Strengthen the existing witness protection unit by ensuring sustainable financing, equipment and training of personnel;
- Implement training for prosecutors and judges in the area of procedural protective measures;
- With the assistance of foreign experts and foreign specialised units, implement a set of train the trainers courses in the field of procedural and non-procedural measures in relation to the protection of witnesses and collaborators of justice;
- Facilitate the use of modern communication technology (especially of video-conference equipment) for distant testimonies of witnesses and collaborators of justice in practice by provision of equipment and training of relevant personnel;
- Set-up one or more locations for the use of video-conference equipment that would facilitate the questioning of the witnesses across borders;
- Foster international co-operation in this field, through the adoption of bilateral or regional agreements, and by facilitating the examination of witnesses, and by supporting witness protection programmes to be implemented across borders.

#### **5. Strengthening of capacities for co-operation in criminal matters, with a focus on the 2<sup>nd</sup> Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters**

##### Legal framework

- Abrogate the provision on dual criminality in regard to Mutual Legal Assistance in the Criminal Procedure Code;
- With respect to a request for mutual assistance adopt implementing legislation to facilitate the presence of officials of the requesting Party at the requested action;
- With respect to direct communications with foreign judicial authorities, consider making a declaration extending the judicial authority beyond the Ministry of Justice (and therefore consider the withdrawal of the reservation submitted by Albania, in regard to the Second Additional Protocol, according to which Albania acknowledges as "foreign judicial authority" only the Foreign Ministries of Justice);
- Consider adopting relevant legislation enabling the implementation of article 11 regarding spontaneous information.

##### Institutional capacities

- Conduct trainings for the relevant officials involved in co-operation in criminal matters;
- Ensure adequate financial resources that would ensure the proper effectiveness of the provisions of the Second Additional Protocol to the European Convention on Mutual Legal Assistance (ETS 182).

## 2.2 BOSNIA AND HERZEGOVINA

### **1. Enhancing the capacities of crime analysis and criminal intelligence**

Legal framework

*Short /midterm objectives*

- Ratify the provisions of the Convention for the Protection of individuals with regard to Automatic Processing of Personal Data and the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal data, regarding supervisory and cross border data flows;

Institutional framework

*Short / midterm objectives*

- Strengthen crime analysis unit by recruiting an adequate number of analysts and providing training on crime analysis of economic and organised crime;
- Set up a national (unified) system or network of systems for collection of data and criminal statistics which take into account the specific features of economic and organised crime;
- Develop a common methodology for law enforcement agencies for data collection and criminal statistics which take into account the specific features of economic and organised crime;
- Ensure that standard format contributions of information to the crime police data base are mandatory;
- Set up mandatory internal control in institutions/agencies where it still does not exist, and enhance this control in institutions that already have such control;
- Capacity building of staff of the competent ministries (Ministry of Security, Ministry of Justice, Ministry of Civil Affairs) and their entire affirmation in overtaking the foreseen competencies.

*Long-term objectives*

Policy

- Collaborate with scientific and academic communities (i.e. Police Academy and Faculty of Criminology) to analyse the aspects of organised crime, trends, circumstances, groups and technologies;
- Support development of independent research and institutions which carry out multidisciplinary research on economic and organised crime by providing relevant information and by other kinds of support when possible;
- Introduce regular monitoring of the effectiveness of measures for the prevention and control of economic and organised crime (i.e. annual report, and specialized interagency and parliamentary oversight).

International co-operation

- Foster international co-operation in the field of crime analysis by enabling legally and operationally exchange of relevant information between the competent law enforcement authorities for the purpose of gathering and sharing information, investigations and mutual legal assistance, in conformity with relevant rules of data protection.

### **2. Strengthening of financial investigations capacities aimed at the confiscation of proceeds from crime**

Legal framework

*Short / midterm objectives*

- Harmonisation of criminal legislation with Convention on laundering, search, seizure and confiscation of the proceeds of crime and the Criminal Law and Civil Law Convention on corruption, in the field where the harmonisation has not been done yet.

*Long-term objectives*

- Adoption of a separate Law on Confiscation of Proceeds of Crime aimed at clarifying and specifying proceedings outlined in the Code of Criminal Procedure regarding seizure and confiscation of proceeds from crime.

## Institutional framework

*Short / midterm objectives*

- Enhancing of co-operation between the State Investigation Protection Agency (Financial intelligence department and Criminal intelligence department) and the Entity Ministries of Interior, Police of Brcko District and Prosecutor's Office of BiH;
- Enhancing of co-operation between the Indirect Tax Administration (Department for enforcement of custom and tax regulations) and other institutions involved in financial investigations (SIPA, State Border Service, Entity Tax Administrations and Tax administration of Brcko District);
- Speed-up the establishment of unified data base about registration of enterprises into the court register; establishment of other uniform data bases which would be easily accessible to all mentioned institutions;
- Enabling specialisation of judges and prosecutors who will work on financial investigations of criminal offences in the area of organised and economic crime, and enabling education in this area;
- Organisation of trainings for authorized law enforcement officials, and officials in other agencies that work on financial investigations, including prosecutors and judges who work on financial investigations;
- Set up mandatory internal control in institutions/agencies where it still does not exist, and enhance this control in institutions that already have such control;
- Capacity building of staff of the competent ministries (Ministry of Security, Ministry of Justice, Ministry of Civil Affairs) and their full affirmation in overtaking the foreseen competencies.

*Long-term objectives*

- Establishing of a specialized Agency which would manage seized and confiscated proceeds from crime.

**3. Strengthening of the legal framework and implementation capacities regarding the use of special investigative means**

## Legal framework

*Short / midterm objectives*

- Adopt internal guidelines / by-laws regulating: internal authorisation procedures, approval of SIMs, record-keeping rules and rules on handling of the material obtained, measures securing confidentiality of investigations, and other guiding principles which should be applied by the Law Enforcement Agencies when applying such measures;
- Ensure the entire legal framework in domestic legislation respecting the ECHR principles, particularly in the segment of amending the Criminal Procedure Code (CPC) of BiH and entity

CPCs. Primarily harmonization of the entity legislation and precise definition of criminal offences (catalogue of criminal offences) for which the SIMs could be used;

- During the harmonization of the domestic legislation introduce the provision which would precisely regulate international co-operation related to use of SIMs, specially when it comes to joint investigation teams and cross border operations, in connection to the use of SIMs and possibilities for exchange of undercover agents;
- Adoption of internal guidelines for implementing of specific SIMs, including the procedure itself on procedures of undercover agents and of other law enforcement officers who work on mentioned jobs, as well as for the leading officials who govern and approve the engagement of some of officers;
- Adopt internal guidelines and regulations for law enforcement officials working with registered informants.

Institutional framework

*Short / midterm objectives*

- Provide that at the state level there is an independent body established which would systematically collect and analyze data on use of SIMs, identify the best ways of application of SIMs, having in mind all capacities at disposal; publish periodical and annual reports on use of SIMs;
- Institutionalize the segment of financing and use of financial means when applying some SIMs, with the aim of provision of efficient control over spending of budget means;
- Adoption of (internal) regulatory framework which governs the use of financial means for undercover operations, undercover agents and informants, which would ensure efficient supervision over the spending of these means;
- Consider various models of external supervision mechanisms over the use of SIMs (besides judicial control or through special supervisory committees, special parliamentary committees, Ombudsman or other ;
- Ensure close co-operation between the prosecutors, preliminary proceeding judges and law enforcement agencies in the process of application of SIMs, while the interagency co-operation and data exchange in BiH is regulated by the Laws of BiH, Entities and Brcko District;
- Establish specialised law enforcement departments/units for handling operations with undercover agents;
- Strengthen co-operation between the law enforcement agencies, particularly between SIPA and Entity Ministries of Interior. Brcko District Police and Prosecutor's Office of BiH;
- Set up mandatory internal control in institutions/agencies where it still does not exist, and enhance this control in institutions that already have such control;
- Capacity building of the competent ministries (Ministry of Security, Ministry of Justice, Ministry of Civil Affairs) and their full affirmation in overtaking the foreseen competencies.

*Long-term objectives*

- Improve the international co-operation related to the use of SIMs, particularly in the area of exchange of undercover agents in.

Education

- Institutionalize a general training on SIMs for relevant law enforcement officers, prosecutors and judges who are dealing with the activities related to the use of SIMs;
- Institutionalize specialized training of undercover agents and law enforcement officers managing and directing undercover agents.

#### **4. Creation of effective mechanisms to protect witnesses of serious crime**

##### Legal framework

###### *Short / midterm objectives*

- Ensure implementation of the Law on protection of endangered witnesses and witnesses under threat and of Law on program of witness protection; by implementation of these ensure legal implementation of procedural and non-procedural measures for protection of witnesses in Bosnia and Herzegovina, also provide financial prerequisites for implementation of programmes for protection of witnesses.

##### Institutional framework

###### *Short / midterm objectives*

- Ensure full functioning of the Unit for witness protection which has been established within SIPA (State Investigations and Protection Agency) (finish process of hiring of staff and achieve full operational capacity, provide financial means for equipping with technical equipment, complete general and specialized training for all employees of the Unit and provide financial sustainability of the Unit);
- Prepare adoption of rules and procedures about work of the Unit for protection of witnesses, using the best practices of the countries which has experience in carrying out the procedural and non-procedural measures for protection of witnesses and adjust these to the legal framework in Bosnia and Herzegovina;
- Establish permanent co-operation with the law enforcement agencies at the entity level (Ministry of Interior of RS, Ministry of Interior of Federation of BiH), state level (SBS, OSA, INTERPOL), as well as with the Police of Brcko District of BiH;
- Ensure and permanently continue the co-operation with the Registry, with whom the SIPA – Unit for protection of witnesses has made an agreement about co-operation and support;
- Provide technical capacities in courtrooms which would allow giving of testimonies by video-link, including practical training of judges and prosecutors for accepting the rules in accordance with the international procedures while using technical devices for testimonies by video-link;
- Establish the co-operation with Units for protection of witnesses in the region, in order to standardize and rules and procedures for witness protection measures, especially for the measure of relocation of the witnesses within the region of South eastern Europe;
- Provide the bilateral and multilateral agreements for co-operation in suppressing the organised crime, which means strengthening of the co-operation in the sense of quality implementation of witness protection programmes in the countries of the region and relocation of the protected witnesses to the third countries;
- Set up mandatory internal control in institutions/agencies where it still does not exist, and enhance this control in institutions that already have such control;
- Capacity building of staff of the competent ministries (Ministry of Security, Ministry of Justice, Ministry of Civil Affairs) and their full affirmation in overtaking the foreseen competencies.

##### Education

- Implement practical programmes of education for prosecutors, judges and defence lawyers in the field of procedural measures related to the programme of witness protection and measures of support to protected witnesses.



**5. Strengthening of capacities for co-operation in criminal matters, with a focus on the 2nd Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters**

Legal framework

- Adopt a Law on Legal Assistance in Criminal Matters. Provisions of the 2<sup>nd</sup> Additional Protocol on European Convention on Mutual Assistance should be implemented in this Law, with a special accent on the communication channel, including service by post, temporary transfer of detained persons, and presence of officials of the requesting party while providing legal assistance and similar;
- Make changes and additions to Criminal Procedure Code of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina, Republic of Srpska and Brcko District, especially in the part that relates to the possibility of hearing by video conference, service of direct information to foreign countries that were collected during own investigations, cross-border observations, controlled delivery, covert investigations, joint investigation teams and similar;
- Make changes to the Law on State Border Service, Law on State Investigation and Protection Agency, Law on State Intelligence and Security Agency, Law on Internal Affairs of the Federation of Bosnia and Herzegovina, Law on Internal Affairs of the Republic of Srpska and Brcko District of Bosnia and Herzegovina in the matter that relates to cross-border observations, controlled delivery and covert investigations.

Institutional framework

- Establish permanent co-operation between the Ministry of Justice of Bosnia and Herzegovina, Ministry of Justice of the Federation of Bosnia and Herzegovina, Ministry of Justice of the Republic of Srpska, NCB Interpol, and law enforcement agencies;
- Sign administrative agreements between competent institutions with a focus on implementation of this Protocol, especially in the part that relates to joint investigation teams;
- Ensure technical capacities in courts to make hearing by video conference possible;
- Organise seminars and workshops with a focus on education of judges and prosecutors in the area of legal assistance in criminal matters;
- Ensure financial resources for this purpose in budgets of Bosnia and Herzegovina, Republic of Srpska and Brcko District.

## 2.3 CROATIA

### **1. Enhancing the capacities of crime analysis and criminal intelligence**

*Short / midterm objectives:*

Legal framework

- Improve the implementation of the provisions of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows.

Institutional framework

- Strengthen crime analysis unit by providing an advanced training on crime analysis of organised and economic crime (strategic and operational) and undertake other measures in this regard according to the needs identified;
- Set up a national (unified) system or network of systems for collection of data and of criminal statistics which take into account the specific features of economic and organised crime;
- Develop a common methodology for law enforcement agencies for data collection and criminal statistics which take into account the specific features of organised and economic crime;
- Ensure that standard format contributions of information are mandatory by specified law enforcement institutions.

*Long term objectives:*

Policy

- Collaborate with scientific and academic communities (i.e., Police Academy and Faculty of Criminology) to analyse the aspects of organised crime, trends, circumstances, groups and technologies;
- Support development of independent research and institutions which carry out multidisciplinary research on organised and economic crime by providing relevant information and by other kinds of support when possible;
- Introduce regular monitoring of the effectiveness of measures for the prevention and control of organised and economic crime (i.e., annual reports, and specialized interagency and parliamentary oversight, etc.).

International co-operation

- Foster international co-operation in the field of crime analysis by enabling legally and operationally the exchange of relevant information between the competent law enforcement authorities for the purpose of gathering and sharing information, investigations and mutual legal assistance, in conformity with relevant rules relating to data protection.

### **2. Strengthening of financial investigations capacities aimed at the confiscation of proceeds from crime**

- As part of on-going reform of the Criminal Procedure Code consider the introduction of a legal obligation for the police and prosecutors to initiate and complete financial investigation in parallel to criminal one for serious criminal cases;
- As part of on-going reform of the Criminal Procedure Code revise the system of temporary measures for securing suspected proceeds from crime and ensure that those measures (freezing of proceeds, seizure) can be ordered in very early stages of police investigation;

- Adopt a by-law, implementing regulation detailing obligations, distributions of tasks, procedures, interagency coordination and co-operation in financial investigations;
- Create a special agency / institution mandated with executing seizure and confiscation orders and managing seized and confiscated property;
- Enhance and institutionalise co-operation and communication between units investigating economic crime and money laundering and units responsible for fighting organised crime and drug related crime by creating a specialized Units for Financial Investigations and Money Laundering (or on short term designating specialized police officers for this task);
- Raise awareness - through basic training - on the concept of integrated financial and criminal investigations among police, prosecutors and judges;
- Institutionalise continuous specialized training in conducting financial investigations for police, prosecutors and investigative judges.

### ***3. Strengthening of the legal framework and implementation capacities regarding the use of special investigative means***

- Amend the Criminal Procedure Code in accordance to already identified gaps to enhance the use of SIMs;
- Adopt detailed internal regulations regulating internal authorization procedures, record-keeping rules and rules on handling of the material obtained, measures securing confidentiality of investigations, and other guiding principles that law enforcement should apply while using such methods and their results;
- Regulate the use of financial resources in application of SIMs by adopting detailed (internal) regulatory framework governing the use of financial resources in application of SIMs, especially in regard to financing undercover operations, agents and informers and ensure efficient supervision over the use of such funds;
- Ensure institutional separation of surveillance conducted by law enforcement authorities for the purpose of criminal investigations and surveillance conducted by intelligence services for the purpose of national security and secure the public law enforcement authorities with technical and human resources to implement SIMs independently from state security resources or institutions;
- Provide equipment for the interception of communications via computer networks.

### ***4. Creation of effective mechanisms to protect witnesses of serious crime***

- Ensure further sustainable financing of the witness protection programme;
- Continue to raise awareness among police, prosecutors, as well as other relevant state institutions regarding the possibilities and limitations of the witness protection programmes;
- Finalise the equipping of the witness protection unit and training of its staff;
- Strengthen co-operation and communication between police and prosecutors in the area of implementation of procedural and non-procedural witness protection measures;
- Implement practical training programmes on for prosecutors and judges on procedural witness protection measures;
- Enhance the technical capacities of courts to make use of video-link testimonies;
- Ensure that bilateral agreements on co-operation in the area of suppressing organised crime include provisions enabling co-operation on witness protection.

### ***5. Strengthening of capacities for co-operation in criminal matters, with a focus on the 2<sup>nd</sup> Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters***

The Republic of Croatia has signed the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (hereinafter Sec. Add.) on 9 June 2004.

On the 1<sup>st</sup> of July 2005, the Act on Mutual Legal Assistance in Criminal Matters has entered into force (hereinafter: MLA Act).

The provisions of the MLA Act have been aligned in many aspects with the Sec. Add. such as:

- enlargement of the scope of the addressees to which the Sec. Add. is addressing to, in particular the legal entities,
- widening the MLA jurisdiction to the misdemeanour procedures brought by administrative authorities,
- entering the possibility of direct communication between judicial authorities and the possibility of serving the documents by post,
- presence of officials of the requesting party, on request, while executing the request,
- temporary transfer of detained persons to the territory of the requesting party,
- postponed execution of requests,
- spontaneous information, restitution, etc.

The Ministry of Justice is currently in a process of completion of the full harmonization of the MLA Act with the provisions of the Sec. Add. in respect of cross-border observations, controlled delivery, covert investigations, joint investigations teams, etc.

In addition the MLA Act is partially harmonized with the European Convention on MLA in Criminal Matters between the Member States from 2000, with the intention of the Ministry of Justice to complete the harmonization with this Convention and other related European Union's legislative instruments very soon.

## 2.4 SERBIA AND MONTENEGRO / MONTENEGRO

### 1. *Enhancing the capacities of crime analysis and criminal intelligence*

*Short / midterm objectives:*

Legal framework

- Sign and ratify the provisions of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows.

Institutional framework

- Complete the establishment of the crime analysis unit, recruit an adequate number of analysts and provide training on crime analysis of economic and organised crime;
- Set up a national (unified) system or network of systems for collection of data and of criminal statistics which take into account the specific features of organised and economic crime;
- Develop a common methodology for law enforcement agencies for data collection and criminal statistics which take into account the specific features of organised and economic crime;
- Ensure that standard format contributions of information to the crime police database are mandatory by specified law enforcement institutions.

*Long term objectives:*

Policy

- Support capacity development of scientific and academic communities (i.e., Police Academy and Faculty of Criminology) to analyse the aspects of organised crime, trends, circumstances, groups and technologies;
- Support capacity development of independent research and institutions which carry out multidisciplinary research on organised and economic crime by providing relevant information and by other kinds of support when possible;
- Introduce regular monitoring of the effectiveness of measures for the prevention and control of economic and organised crime (i.e., annual reports, and specialized interagency and parliamentary oversight).

International co-operation

- Foster international co-operation in the field of crime analysis by enabling legally and operationally the exchange of relevant information between the competent law enforcement authorities for the purpose of gathering and sharing information, investigations and mutual legal assistance, in conformity with relevant rules relating to data protection.

### 2. *Strengthening of financial investigations capacities aimed at the confiscation of proceeds from crime*

*Short / midterm objectives:*

- Conclude a Memorandum of understanding, communication and exchange of information involving police, Prosecutor's Office, Custom, Tax Administration and Financial Intelligence Unit, which would precise competencies, co-operation and exchange of information in cases of financial investigations;
- Conclude new bilateral agreements, or adapt existing ones, signed by the Ministry of Interior with police of other countries in the area of co-operation in the fights against

organised crime while ensuring that co-operation in financial investigations is covered with such agreements;

- Follow recommendations of evaluations mechanism in the area of money laundering, financing of terrorism and corruption (MONEYVAL, GRECO);
- Designate a number of inspectors in the Department of Economic Crime especially for financial investigations;
- Designate a number of prosecutors to specialise for financial investigations;
- Introduce an obligation for the police to initiate a financial investigation in parallel to criminal investigation for all criminal offences which involve a certain amount of suspected criminal benefit;
- Establish a network of police officers and prosecutors specialised in financial investigations;
- Establish a centralised registry of seized and confiscated property by the Court;
- Conduct training with assistance of foreign experts and foreign specialised police services of selected police officers and prosecutors to later serve as trainers for other Montenegrin officials;
- Organise and institutionalise basic training on financial investigations for police, prosecutors and judges.

*Long-term objectives:*

- Study the possibilities for introducing the extended confiscation approach to the legislation and if applicable prepare amendments to the Criminal Code;
- Prepare legislative amendments to the Criminal Procedure Code enabling Police and Prosecution to access direct bank information and bank transactions;
- Study the possibilities to amend the Criminal Procedure Code to enable the use of selected special investigative means for the purposes of identification of proceeds from crime;
- Study the possibilities to introduce into the legislation confiscation without conviction when certain conditions are met;
- Establish a central Agency outside the police tasked with managing and handing the seized and confiscated property;
- Study the needs and possibilities to establish a specialised unit within the Police which would focus only on financial investigations;
- Study the needs and possibilities to establish a specialised unit within the Prosecutor's Office which would focus only on financial investigations;
- Institutionalise continuous training of police, prosecutors and judges on financial investigations.

**3. Strengthening of the legal framework and implementation capacities regarding the use of special investigative means**

- Amend Art. 237 of the Criminal Procedure Code to address inconsistencies and gaps regarding the required threshold for ordering SIMs;
- Amend Art. 238 of the Criminal Procedure Code to enable the use of SIMs also for selected offences for which prescribed penalty is less than 10 years of imprisonment;
- Establish specialised police units for implementation of Special Investigative Means;
- Adopt internal guidelines / by-laws regulating internal authorisation procedures, record-keeping rules and rules on handling of the material obtained, measures securing confidentiality of investigations, and other guiding principles;
- Adopt internal guidelines and regulations for conducting undercover operations including for managing and directing undercover agents;
- Adopt internal guidelines for law enforcement officials working with registered informants;
- Create a national reporting system on the use of SIMs;
- Adopt (internal) regulatory framework governing the use of financial resources in regard to implementation of special investigative means, financing undercover operations, agents and informers and ensure efficient supervision over the use of such funds;
- Study different models of external oversight mechanisms with aim to introduce systemic external oversight mechanisms for the use of SIMs (in addition to court supervision) either through special judicial surveillance panels, special parliamentary committees, Ombudsman or other forms;

- Organise a general training on SIMs for the relevant law enforcement officials, prosecutors and judges;
- With the assistance of foreign experts and foreign specialised units train the trainers in the area of deployment and handling of undercover agents.
- Subject to financial capacities ensure police with technical and human resources to implement SIMs independently from state security institution.
- Improve international co-operation in relation with the use of SIMs.

#### ***4. Creation of effective mechanisms to protect witnesses of serious crime***

- Ensure the recently established WPU to become operational;
- Provide the WPU with adequate equipment through foreign assistance;
- Train the staff of the WPU;
- Ensure sustainable financing of witness protection programmes;
- Set-up and equip at least one location / courtroom in the country with telecommunication means enabling cross-border video-link testimony;
- Enhance international co-operation in this field by facilitating the examination of witnesses across borders and concluding bilateral agreements enabling relocation of witnesses and providing that domestic witness protection programme is available to foreign witnesses.

#### ***5. Strengthening of capacities for co-operation in criminal matters, with a focus on the 2<sup>nd</sup> Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters***

- Ratify the 2<sup>nd</sup> Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters;
- Establish a special body which will be responsible for co-operation and international legal assistance in organised crime matters.

## 2.5 SERBIA AND MONTENEGRO / SERBIA

### 1. *Enhancing the capacities of crime analysis and criminal intelligence*

*Short / midterm objectives:*

Legal framework

- Sign and ratify the provisions of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows;
- Pass a new Act on Protection of Personal Data which is in accordance with the Convention and Additional Protocol to Council of Europe Convention and Directive 95/46 of European Parliament and Council;
- Pass an Act on Data Secrecy which is in accordance with current European standards.

Institutional framework

- Set up a national (unified) system or network of systems for collection of data and of criminal statistics which take into account the specific features of organised and economic crime;
- Establish crime analysis units where there are no such units in all segments of crime suppression and provide a high-quality training on crime analysis, especially economic and organised crime (strategic and operational) and take into account the specific features of organised and economic crime;
- Develop a common methodology for law enforcement agencies for data collection and criminal statistics which take into account the specific features of organised and economic crime;
- Ensure that information are collected and stored in database in standardized and format way and that this is mandatory for crime police and specified law enforcement institutions.

*Long-term objectives:*

Policy

- Collaborate with scientific and academic communities (i.e. Police Academy and Faculty of Criminology) to analyze the aspects of organised crime, trends, circumstances, groups and technologies;
- Support development of independent research and institutions which carry out multidisciplinary research on organised and economic crime by providing relevant information and by other kinds of support when possible;
- Have regular monitoring of the effectiveness of measures for the prevention and control of organised and economic crime by representative of Parliament.

International co-operation

- Keep international co-operation in the field of crime analysis by enabling legal and operative exchange of relevant information between the competent law enforcement authorities for the purpose of gathering and sharing information, investigations and mutual legal assistance, in conformity with relevant rules related to data protection.

### 2. *Strengthening of financial investigations capacities aimed at the confiscation of proceeds from crime*

- Introduce into the Criminal Code the mandatory confiscation of proceeds from crime after conviction;



- Extend and strengthen provisions which enable confiscation of proceeds even from third parties and legal persons;
- Adopt legislation introducing corporate criminal responsibility - criminal-legal responsibility of legal persons;
- Change current legal framework in order to enable property confiscation and to move the burden of proof from prosecutor - state to accused;
- Consider introducing into legislation a separate procedure for confiscation of proceeds from crime in order to avoid delays in the criminal proceedings;
- By amending the Money Laundering Prevention Act enable the financial intelligence unit (FIU) a covert real-time monitoring of financial transactions and a temporary suspension of transactions;
- Review provisions of the Criminal Procedure Code in light of improving the efficiency of temporary measures for seizure of proceeds from crime;
- Adopt legislation governing in detail managing of seized and confiscated property and establish a specialised agency;
- Consider amending the Criminal Code and Criminal Procedure Code enabling the confiscation of proceeds from crime even without prior conviction in strictly limited cases (e.g. corruption cases, money laundering, death of perpetrator);
- Intensify work on the implementation of obligations taken when accessioning and ratifying international conventions relevant to this field;
- Take the necessary measures in order to eliminate all the defects of system given in the report from the first evaluation of the MONEYVAL Committee of Council of Europe;
- Introduce the concept of financial investigations into legislation and consider amending Criminal Procedure Code to enable the use of SIMs for the purpose of identification of proceeds from crime;
- Ensure specialization in the field of financial investigations within police, prosecution and courts;
- Ensure institutional framework for task-forces working on financial investigations and study the possibilities of establishing a specialised multidisciplinary unit for financial investigations;
- Create a centralised registry for seized and confiscated proceeds from crime;
- Conduct training for agencies responsible for conducting financial investigations, which would focus on opportunities in existing legislation pending the adoption of legislative changes.

### ***3. Strengthening of the legal framework and implementation capacities regarding the use of special investigative means***

- Officially adopt CARPO criteria on SIMs as relevant framework for further legislative changes;
- Within changes of the Criminal Procedure Code harmonize the provisions related to SIMs with European standards;
- Finalise and adopt the Executive Order on Telecommunication Operators' Duties regarding the lawful interception of telecommunications. Give Draft Provision on Obligations of Telecommunication Operators regarding lawful interception of telecommunications after the opinion of Council of Europe and OSCE to Government of Republic of Serbia for adoption;
- Implement the project on establishing and equipping the Centre for the telecommunication monitoring in Ministry of Interior, Republic of Serbia, ensuring institutional separation of telecommunication surveillance conducted by law enforcement authorities for the purpose of criminal investigations and surveillance conducted by intelligence services for the purpose of national security;
- Establish a specialised police unit for deployment of undercover agents;
- Institutionalise a continuous training for agency members on SIMs and provide legal control on use of SIMs;
- Institutionalise specific training of undercover agents and law enforcement officials managing and directing undercover agents;
- Adopt (internal) regulatory framework which will regulate the work of undercover agents, preparation of operations and especially use of financial resources in details (e.g. in the form of specialised funds) in application of SIMs, especially in regard to financing

undercover operations, agents and informers. It is necessary to ensure efficient supervision over the use of such funds with bylaw;

- Improve the systematic collection and analysis of information on the use of SIMs and improve the elaboration by an independent high authority's annual reports on the use of SIMs, with the obligation to respect secrecy principle;
- Made public annual statistical reports on the use of SIMs, with special review on number of applied measures and number of processed cases;
- Adopt internal guidelines and regulations for conducting undercover operations;
- Adopt detailed regulations governing the handling and destruction of material and personal data obtained through the use of SIMs, as well as possible subsequent notification of targets for use of these measures.

#### ***4. Creation of effective mechanisms to protect witnesses of serious crime***

- Adopt the law on witness protection, which will make all mechanisms of witness protection in criminal procedure precise;
- Institutionalise mechanisms of regional and international co-operation on witness protection in criminal procedure.

#### ***5. Strengthening of capacities for co-operation in criminal matters, with a focus on the 2<sup>nd</sup> Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters***

- Ratify the 2<sup>nd</sup> Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters;
- Establish a special body which will be responsible for co-operation and international legal assistance in organised crime matters.

## 2.6 SERBIA AND MONTENEGRO / KOSOVO

### **1. Enhancing the capacities of crime analysis and criminal intelligence**

*Short / midterm objectives:*

Legal framework

- Introduce provisions of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows.

Institutional framework

- Consider developing a local capacity (i.e., Kosovar police officers) for crime analysis of organised and economic crime (strategic and operational);
- Consider setting up a unified system or network of systems for collection of data and of criminal statistics which take into account the specific features of organised and economic crime;
- Consider developing a common methodology for law enforcement agencies for data collection and criminal statistics which take into account the specific features of organised and economic crime;
- Ensure that standard format contributions of information to the crime police database are mandatory by specified law enforcement institutions.

*Long term objectives:*

Policy

- Support capacity development of local scientific and academic communities (i.e., Police Academy and Faculty of Criminology) to analyse the aspects of organised crime, trends, circumstances, groups and technologies;
- Support capacity of development of independent research and institutions which carry out multidisciplinary research on organised and economic crime by providing relevant information and by other kinds of support when possible;
- Introduce regular monitoring of the effectiveness of measures for the prevention and control of organised and economic crime (i.e., annual reports, and specialized interagency and parliamentary oversight).

International co-operation

- Foster international and regional co-operation in the field of crime analysis by enabling legally and operationally the exchange of relevant information between the competent law enforcement authorities for the purpose of gathering and sharing information, investigations and mutual legal assistance, in conformity with relevant rules relating to data protection.

### **2. Strengthening of financial investigations capacities aimed at the confiscation of proceeds from crime**

- Allow disclosure of financial information orders to be issued by the public prosecutor and incorporate specific provisions in the Criminal Procedure Code which would allow investigators to obtain real-time financial information from financial institutions;
- Determine whether the Money Laundering Regulation's provisions regarding temporary and permanent confiscation of the material benefit obtained through criminal activity supersede the confiscation provisions in the Provisional Criminal Procedure Code;
- Establish a unit or similar entity, under the control of the Department or Ministry of Justice that will be responsible for the storage of evidence gathered during the course of a criminal

investigation, including items temporarily confiscated as the probable material benefits of criminal activity. The unit should have large, secure facilities in each of Kosovo's five administrative districts for the storage of movable property such as vehicles, furniture and goods and should have special bank accounts for securing money seized during criminal investigations. The unit should utilise a computerised system that is connected to a central registry that could provide instant, up to date information regarding the value and location of confiscated assets;

- The permanent establishment of a specialised police unit tasked with asset tracing and identifying the proceeds of criminal activity. This unit would conduct all financial investigations in major crime cases but would also participate in police and prosecutor training. Financial investigations in lower-profile cases would be handled by "liaison officers" in each administrative district who would, in addition to their other police duties, perform financial investigations and would assist necessary assistance to the investigators from the central unit;
- Specialised prosecutors in the fields of economic and financial crime and the creation of economic crime sections in each district public prosecutors office. These prosecutors would handle the material benefits portions all major criminal investigations. These prosecutors would also participate in police and prosecutor training;
- The permanent addition of a financial investigations course (which could be included as a module in an advanced economic investigations course) at the police school, which would include periodic refresher courses. Initially, this training would be conducted with the assistance of international experts and international police officers trained as financial investigators. As competencies develop, the training should be conducted by previously-trained (train the trainers courses) national financial investigators and public prosecutors who conduct financial investigations;
- The development of an accreditation system for professionals who wish to serve as experts. Those professionals who meet the accreditation standards would be put on a list to be consulted by courts and public prosecutors on an as-needed basis.

### ***3. Strengthening of the legal framework and implementation capacities regarding the use of special investigative means***

- Within the ongoing review of the Provisional Criminal Procedure Code (PCPCK) review existing provisions related to SIMs;
- Ensure the possibility of application of witness protective measures to testimonies given by undercover agents or informants by determining whether the witness protection provisions provided in the PCPCK are sufficient, and a change to police guidelines can assuage the current concerns; alternatively, it needs to be determined if any legislative amendment is required to resolve the issue;
- Review the current catalogues of offences in the PCPCK for which SIMs can to determine whether to bring additional offences within the scope of the threshold for certain SIMs;
- Develop a Standard Operating Procedure (SOP) devoted specifically to the handling and destruction of material and data obtained through SIMs;
- Finalise and adopt guidelines for informant handling and undercover agents;
- Introduce a systematic collection and analysis of information on the use of SIMs and ensure the elaboration by an independent high authority of annual reports on the use of all types of SIMs;
- Consider the re-establishment of the specialised unit for the use of undercover agents.
- Conduct further training on SIMs for the prosecutors and judges;
- Designate institutionalised training for officers working in a specialised organised crime departments in order to achieve two goals: 1) provide more comprehensive training on SIMs than can be accomplished by on-the-job training within specific units; and 2) compensate for the gap which will be created when the international staff are no longer in place, and the local staff who have thus far been trained are not yet in a position to become the trainers themselves;
- Continue entering into bilateral agreements which would include broaden the use of SIMs in international judicial co-operation.

### ***4. Creation of effective mechanisms to protect witnesses of serious crime***

- Within the ongoing review of the Provisional Criminal Procedure Code (PCPCK) review current provisions related to procedural protective measures;
- Prepare and adopt special legislation / regulation governing the non-procedural witness protection measures, formally establishing a witness protection unit, addressing *inter alia* permanent relocation, physical protection measures and change of identity;
- Ensure the adequate technical equipment for giving testimonies through technological measures as provided for in the PCPCK;
- Ensure that non-procedural measures of witness protection apply to cooperative witnesses;
- Conduct training of prosecutors and judges in the application of procedural protective measures;
- Continue implementing a transition strategy for the WPU, by recruiting and training KPS for work in the WPU;
- With the assistance of foreign experts and foreign specialised services train the trainers for the WPU;
- Continue pursuing bilateral Witness Relocation Agreement which would facilitate co-operation in the area of witness protection and witness relocation;
- Ensure that Agreements on Mutual Legal Assistance in Criminal Matters signed with countries include provisions enabling co-operation in the area of witness protection.

**5. Strengthening of capacities for co-operation in criminal matters, with a focus on the 2<sup>nd</sup> Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters**

- With regard to article 1(4), consider to amend the PCPCK with respect to the liability of legal persons for criminal offences;
- With regard to article 3, consider introducing a new article to the PCPCK with regard to the temporary transfer of detained foreign nationals;
- Revise article 533 of the PCPCK to state that temporary transfer can take place where (a) there is an international agreement in place permitting the transfer of a Kosovo resident to a foreign jurisdiction, unless sufficient guarantees have been made that the person's evidence is not sought in relation to a crime in which they are under investigation; and (b) where the prerequisites of proposed Article 517A have been met;
- Revise article 508 of the PCPCK to allow the External Relations Section of the Department of Justice to direct requests to the competent authority;
- With regard to article 5, introduce an article regarding costs;
- Review article 506 of the PCPCK to reflect the provisions on postponed execution of requests (article 7) and procedure (article 8);
- Amend the PCPCK to reflect provisions of article 11 regarding spontaneous information;
- Consider specific amendments to the general provisions for SIMS in the PCPCK to allow for controlled deliveries at the request of another Party;
- With regard to the implementation of article 20, amend the existing provisions to set the frame for the establishment and operation of joint investigation teams;
- Amend the PCPCK to reflect the substantive provisions of article 23 on the protection of witnesses;
- Amend the PCPCK to reflect the provisions of article 24 on provisional measures for the purpose of preserving evidence, maintaining an existing situation or protecting endangered legal interests;
- Amend the PCPCK to comply with the requirement of confidentiality;
- Amend the PCPCK to reflect substantive provisions on data protection (article 26);
- Strengthen operational and institutional capacities;
- Train legal officers and judges in the law on mutual legal assistance and in acquiring translation capacities.

## 2.7 “THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”

### **1. Enhancing the capacities of crime analysis and criminal intelligence**

*Short / midterm objectives:*

Legal framework

- Improve the implementation of the provisions of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows.

Institutional framework

- Strengthen crime analysis unit by recruiting an adequate number of analysts and provide training on crime analysis of economic and organised crime;
- Set up a national (unified) system or network of systems for collection of data and of criminal statistics which take into account the specific features of economic and organised crime;
- Develop a common methodology for law enforcement agencies for data collection and criminal statistics which take into account the specific features of economic and organised crime;
- Ensure that standard format contributions of information to the crime police database are mandatory by specified law enforcement institutions.

*Long term objectives:*

Policy

- Collaborate with scientific and academic communities (i.e., Police Academy and Faculty of Criminology) to analyse the aspects of organised crime, trends, circumstances, groups and technologies;
- Support development of independent research and institutions which carry out multidisciplinary research on economic and organised crime by providing relevant information and by other kinds of support when possible;
- Introduce regular monitoring of the effectiveness of measures for the prevention and control of organised and economic crime (i.e., annual reports, and specialized interagency and parliamentary oversight).

International co-operation

- Foster international co-operation in the field of crime analysis by enabling legally and operationally the exchange of relevant information between the competent law enforcement authorities for the purpose of gathering and sharing information, investigations and mutual legal assistance, in conformity with relevant rules relating to data protection.

### **2. Strengthening of financial investigations capacities aimed at the confiscation of proceeds from crime**

- Consider extending the illicit enrichment similar to those from the Law on the Prevention of Corruption from functionaries to all persons suspected of serious crimes, by introducing a reversal burden of proof regarding confiscation of proceeds from crime;
- Adopt a detailed regulatory framework (law and internal regulations) on execution of seizure and confiscation orders and on handing and managing seized and confiscated property and establishing a specialised agency for this task;

- Enhance co-operation among Organised Crime Department of the Police, Public Revenue Department, Financial Police, Custom Administration, Money Laundering Prevention Directorate and the State Corruption Prevention Commission in financial investigations, possibly by adopting memorandums of co-operation and communication, and institutionalising task force approach and regular strategic, tactical and operational meetings;
- In the interest of good use of limited resources minimize overlapping of competencies and jurisdiction, and pursue complementarily between Financial police in the Ministry of Finance and the Sector for Financial Crime in the Department of Organised Crime of the Ministry of Interior;
- Continue to raise awareness – though basic training and decision-makers seminars – on the concept of integrated financial and criminal investigations;
- Establish a centralised registry of seized and confiscated proceeds;
- Organise and implement specialised training for practitioners on all levels and relevant institutions in financial investigations.

### ***3. Strengthening of the legal framework and implementation capacities regarding the use of special investigative means***

- Following the adoption of the Law for Interception of Telecommunications establish the Unit for electronic surveillance and secure adequate technical and human resources for its work;
- Secure adequate technical and human resources for the Unit of Operational Informers and Collaborators;
- Adopt internal guidelines / by-laws regulating internal authorisation procedures, record-keeping rules and rules on handling of the material obtained, measures securing confidentiality of investigations, and other guiding principles;
- Adopt internal guidelines and regulations for conducting undercover operations including for managing and directing undercover agents;
- Adopt internal guidelines for law enforcement officials working with registered informants;
- Create a national reporting system on the use of SIMs;
- Adopt (internal) regulatory framework governing the use of financial resources in regard to financing undercover operations, agents and informers and ensure efficient supervision over the use of such funds;
- Institutionalise and implement specialised training for officers working in the Sectors for SIMs;
- Institutionalise specific training of undercover agents and law enforcement officials managing and directing undercover agents.

### ***4. Creation of effective mechanisms to protect witnesses of serious crime***

- Ensure the implementation of the recently adopted Law on Witness Protection by 2006 though following the adopted project aiming to make the Witness Protection Unit (WPU) to become fully operational by 2007 (the project identifies specific action regarding drafting and adopting internal regulations, recruitment of staff, acquiring equipment and in particular training of specialists);
- Prepare and adopt the Rules of Procedures for the Council on Witness Protection;
- Prepare and adopt internal regulations in relating to the functioning of the WPU: record and personal data keeping; financing; forms and questionnaires for the protected witnesses;
- Organise, with the assistance of foreign experts and services, specialised training for officers working in the WPU in the areas of: conducting interviews with the candidates for entering the programme, assessment of risks, necessary elements of the memorandum on the entry in the programme; psychological aspects of dealing with persons in the programme, etc.;
- Ensure sustainable financing for the WPU as provided for in the Law on witness protection;

- Ensure equipment for video-link testimonies and conduct training on its usage of prosecutors and judges.

***5. Strengthening of capacities for co-operation in criminal matters, with a focus on the 2<sup>nd</sup> Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters***

**Short term goals**

- In order to promote the joint institutional co-operation and the co-operation with the other security services on international area, it is necessary to organise seminars, workshops and other type of training aimed for the police authorities, the prosecution authorities and the judiciary for the purpose of more efficient application of the existing regulative.

This is best to be done as soon as possible, possibly during 2005 or eventually by August 2006 until it is planned for the CARDS Project to finish which is aimed to harmonisation of the legal regulative with the European regulations and standards.

**Long-term goals**

- As long term goals, it is necessary to adopt new legal regulations and to amend and supplement the existing one covering the previously discussed issues for their promotion.

**Time frame**

It is planned for this Strategy to be a short term one and maybe it is best for it to be for a period of three years, because all advantages and disadvantages from its practical implementation will be seen.