Planning workshop on corruption, organised crime, money laundering

Council of Europe

Directorate General I –Legal Affairs

Strasbourg, 15 January 2000

Organised by the Council of Europe in cooperation with the

Office of the High Representative

Technical

Paper 1

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1 Introduction

1.1 Purpose of the workshop

Corruption, organised crime and money laundering – often in connection with economic crime and fraud – are considered major threats to democratisation and the development of a market economy in Bosnia and Herzegovina (BiH). Authorities in BiH and a number of bi- and multilateral organisations have started to tackle these problems. Among other things, an Anti-Fraud Unit was established under the Office of the High Representative and a 'Comprehensive anti-corruption strategy for Bosnia and Herzegovina' was adopted. Several other initiatives are underway or envisaged. In order to determine the assistance required from the Council of Europe and to ensure coordination with other stakeholders it was therefore proposed to carry out a two-day needs assessment/planning workshop.

The Council of Europe disposes of a comprehensive system of measures against corruption, organised crime and money laundering which includes the setting of European standards (conventions and recommendations based on the expertise of its member States), monitoring mechanisms (PC-R-EV for money laundering measures and GRECO for corruption) and technical cooperation programmes (Octopus). With a view to the Stability Pact for South-eastern Europe, the Council of Europe has begun to develop a 'Programme against corruption and organised crime in South-eastern Europe' (PACO). The results of this workshop were also to provide inputs into the planning of PACO.

The purpose of the workshop thus was the following:

1. To obtain the elements of a plan for COE assistance against corruption, organised crime and money laundering in BiH

2. To facilitate coordination and cooperation with other institutions working in these fields

3. To contribute to the planning of measures under the Stability Pact.

1.2 Programme

The workshop was held in Banja Luka from 16 to 17 December 1999. Following opening statements by Ms. Heike Alefsen (representative of the Council of Europe in BiH), Ms. Kristina Hemon (on behalf of the Anti-Fraud Unit/Office of the High Representative), Mr. Suljo Babic (Prosecutor of the Federation) and Mr. Vojislav Dimitrijevic (Prosecutor of the Republica Srpska), Mr. Alexander Seger (Council of Europe) explained the purpose and methodology of the workshop.

A matrix to guide and provoke discussions and to visualise their outcome was put on the walls of the meeting room. It covered the following steps and gradually moved from presentations to interactive discussions and group work:

1. Framework of reference for measures against corruption, organised crime and money laundering (Council of Europe, European Union, United Nations, OECD and other international instruments). Presentation by a representatiave of the Council of Europe followed by presentations by experts from Slovenia showing how these instruments are implemented in Slovenia.

2. Corruption, organised crime, money laundering in BiH - overview. Introduction by the head of the Anti-Fraud Unit/OHR followed by discussions in the plenary.

3. Inventory of existing and planned measures. Discussions in the plenary.

4. Identification of stakeholders. Discussions in the plenary.

5. Problem analysis. Discussions in the plenary. Participants were subsequently divided into four working groups according

to categories of problems identified: Legislation, interagency cooperation and specialised units, prevention, cross-border/-line cooperation.

6. Possible strategies and entry points. Discussions in working groups and presentation in the plenary.

The methodology worked very well. Representatives of the Federation, the Republika Srpska and the international community participated in a very active, constructive and open manner throughout the workshop.

Unfortunately, heavy snow and reports on difficulties along the road forced participants from Sarajevo to leave early on Friday afternoon. The second day of the workshop thus had to be cut short.

1.3 Participants

More than 40 participants represented different institutions of the Federation and the Republica Srpska as well as the international community. The Council of Europe made three experts available, namely Ms. Vida Seme Hocevar (Slovenia), Mr. Vid Jakulin (Slovenia) and Mr. Henrik Stiernblad (Sweden). The workshop was moderated by Mr. Alexander Seger (Council of Europe, Strasbourg).

Participants

Alan Wilson CAFAO
Alexander Seger Workshop moderator, Council of Europe, Strasbourg
Asim Sakovic Federal Ministry of Finance
Britt Tryding CAFAO
Catherine Marchi Uhel United Nations
Christopher Fry UNMIBH Banja Luka
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Dragan Veselinovic Director of Financial Police of the RS
Dragoljub Tomic Criminal Police, Federal Ministry of the Interior
Dragomir Jovcic Ministry of Interior of the RS

Drasko Popovic
Dzermaludin Mutapcic Ministry of Justice
Edin Vranj Criminal Police, Federal Ministry of the Interior
Fedor Klimtchauks UNMIBH Civil Affairs Coordinator
Franz Brüner OHR
Giovanni Nicotera United Nations Centre for International Crime Prevention, Vienna, Austria
Goran Vukmir UNDP
Hajrudin Hajdarevic President of the Association of Judges of the Federation
Henrik Stiernblad Council of Europe expert (Office of the Prosecutor General, Stockholm, Sweden)
Humbert de Biolley Council of Europe, Secretariat, Strasbourg
Iver Huitefeldt OSCE
Jovan Spajc Deputy Public Prosecutor of the RS
Jovo Rosic President of the Supreme Court of the RS
Karl-Hans Schlossstein Office of the German Embassy in Banja Luka
Kjell Bjornberg UNJSAP
Kristina Hemon OHR
Marina Coblenz OSCE
Michael Crook CAFAO
Milorad Jelisavac Ministry of Interior of the RS
Nedeljko Marjanovic Head of Anti-smuggling Unit of the RS
Ostoja Travar Ministry of Interior of the RS
Paul Hardy OHR Banja Luka
Sinisa Karan Ministry of Interior of the RS
Stephen Carnes OHR
Suljo Babic Federal Prosecutor
Terry Hughes International Police Task Force
Tomas Rajko Professor
Venceslav Ilic President of the Surpreme Court of the Federation BiH
Vid Jakulin Council of Europe expert (Faculty of Law, Ljiubliana, Slovenia)
Vida Seme Hocevar Council of Europe expert (Office for Money Laundering Prevention, Ljiubliana, Slovenia)
Vojislav Dimitrijevic Public Prosecutor of the RS
Zeljko Surlan Head of Customs Investigations Sector of the RS

2 Issues discussed

2.1 Problems of corruption, money laundering and organised crime in BiH – overview

The discussion on this item showed that corruption, organised crime and money laundering are key factors contributing to bad governance in Bosnia and Herzegovina:

The opportunities for **corruption** are numerous. There seems to be an almost complete lack of transparency and accountability with regard to the collection of public revenues and public expenditures. The system of payment bureaux was mentioned as a major source of corruption. The influence of political parties, protectionism, favouritism and conflicts of interests further corruption and prevent efficient administration. There is little political will to combat corruption, tax evasion or smuggling.

While the existence of problems related to corruption was acknowledged by most participants, the question of **organised crime** proved more difficult to understand. However, discussions showed that the large scale smuggling of cigarettes or petrol, the production and sale of pirate audio CDs and software, the trafficking in human beings or in stolen vehicles could be explained by organised crime. Participants suggested that these phenomena may be linked to war profiteers and the control of the economy by political parties. Further research would be required to obtain more specific knowledge on these phenomena.

On the question of **money laundering**, participants argued that as the largest part of the economy was part of the black economy, most money in the economy was obviously from illegal activities being reinvested or laundered. A result is an

increasing criminalisation of the economy.

Corruption, organised crime and money laundering appear to be systemic. They contribute to bad governance and they are further reinforced by bad governance.

However, many people – including officials in the public administration and the criminal justice system – seem to begin to realise that this system is of benefit to a few individuals or groups and to the disadvantage of the community at large. The international community could build on these people to reverse this vicious cycle.

Flipcharts

Corruption:
Lack of awareness among public
Lack of political will
Revenue collection – no transparency
Public expenditure – no transparency
Funding of political parties
Wood processing without licences
Corruption in judiciary?
Protectionism
Favoritism
Conflicts of interest
Public procurement
Many opportunities for corruption
Example: in Fed. 3000 legal entities using public funds (up to now no reporting and accountability. System of reporting and auditing recently introduced)
Tax evasion, smuggling
Granting of licences Payment bureaux system
Organised crime:
Problem of definition of organised crime
Problem of information and knowledge
Racketeering, black mailing
War profiteers
Drug trafficking
Cigarettes
CDs
Vehicles
Trafficking in human beings
Control of economy by political parties ® lack of compatibility laws
Slush funds
Money laundering:
Large grey/black economy ® money laundering enormous problem
Criminalisation of the economy
Fuel stations

2.2 Framework of reference for policies, strategies and

measures

One agenda item was devoted to European and international standards which constitute the framework of reference for policies, strategies and measures against corruption, organised crime and money laundering.

The 'acquis' of the European Union, that is, the policies, strategies, legislation, standards and practices in this field are not only of relevance for those countries which are already members of the European Union or are candidate countries but for countries like BiH as well, in particular in view of the stabilisation and association process.

Almost all countries of South-eastern Europe are members of the Council of Europe. BiH has applied for membership. The Council of Europe has as its disposal a comprehensive system against corruption, organised crime and money laundering consisting of standards (conventions and recommendations), monitoring mechanisms (GRECO to monitor compliance with conventions in the field of corruption, and the PC-R-EV for the field of money laundering) and programmes to help countries meet their obligations under international instruments (Octopus, ADACS, and the proposed 'Programme against corruption and organised crime in South-eastern Europe – PACO'). During the discussion, participants strongly recommended that BiH sign the Criminal Law Convention on Corruption as soon as possible and join the GRECO (Group of States against Corruption). This would lead to a stronger involvement of BiH in regional activities and commit the Government to ratify and implement this Convention.

Relevant international instruments also include those of the OECD, the Financial Action Task Force (FATF) and the United Nations.

Issues which are currently subject to discussion in Europe were briefly raised, including the need to focus investigations on the confiscation of proceeds of crime, the need for interagency cooperation, the establishment of joint

investigative teams or specialised units, and the need to ensure that the use of special investigative means and the collection and exchange data must be compatible with fundamental human rights and freedoms.

Flipcharts

European Union acquis

OECD convention on bribery of foreign public officials

United Nations Conventions on drug control

UN Convention on transnational organised crime

FATF recommendations against money laundering

Council of Europe System against corruption, organised crime and money laundering

Setting standards

®Conventions, Recommendations, incl.

Criminal Law Convention on Corruption

Civil Law Convention on Corruption

Convention on Laundering, Search, Seizure and Confiscation on Proceeds of Crime

Draft guiding principles on the fight against organised crime

Monitoring and evaluation

PC-R-EV

GRECO

Programmes

OCTOPUS

PACO

ADACS

Issues:

Defining corruption, organised crime, money laundering

Defining public official

Criminalising participation in a criminal association

Confiscation of proceeds of crime

Special investigative means

Interagency cooperation and specialised units

Continuum prevention – supression

Encouraging cooperation with the criminal justice system

Protection of vulnerable targets and witnesses

Corporate criminal liability

Data exchange/data protection

2.3 Stakeholders

Participants declared the people of BiH as the key stakeholders. While a few individuals and groups benefit from corruption, organised crime and money laundering, the broad majority of population loses out through the loss of revenue and the corresponding lack of resources for investments in social and economic development, through violence and the criminalisation of the economy. The public as the main stakeholders has no information as to the revenues collected and the way they are spent. Political parties and public institutions thus have little legitimacy.

All public institutions and well as the private sector are affected by systemic corruption, organised crime and money laundering and related phenomena. During the workshop,

representatives of courts, prosecutors, police, tax autorities, customs and financial police expressed the need to take action and to ensure close cooperation between these institutions.

A number of international organisations and institutions present in BiH are involved in measures against corruption, organised crime and money laundering. These include the Office of the High Representative, the United Nations Mission for Bosnia and Herzegovina (UNMIBH) – including the International Police Task Force (IPTF) and the Judicial Assistance Programme (UNJSAP) –, the OSCE, the European Commission's Customs and Financial Assistance Office (CAFAO), SFOR, World Bank, IMF, SFOR as well as bi-lateral institutions and programmes, and activities of NGOs such as the Soros Foundations and Transparency International.

The Council of Europe's involvement is motivated by the fact that corruption, organised crime and money laundering are threats to democracy, human rights and the rule of law, that is, to the very objectives of the Council of Europe. BiH has applied for membership in the Council of Europe.

The fact that a large number of bi- and multilateral as well as non-governmental organisations are involved calls for close cooperation and well-coordinated action.

Flipcharts
People of BiH as key stakeholders
Political parties
business community
banks
media
NGOs
public institutions
government
judiciary
law enforcement agencies
customs
tax authorities
International/bilateral institutions
European Union/ Commission
UN agencies
UNJSAP
IPTF
IMF

World Bank
USAID
SFOR
ABA/CEELI
OSCE
OHR
CAFAO
Transparency international
Soros Foundation
bilateral donors
Council of Europe

2.4 Inventory of measures

The brain-storming on current or planned measures against corruption, organised crime and money laundering showed the need to establish a complete inventory of such measures. It was agreed that such a task could best be carried out by OHR.

The following activities were mentioned during the workshop:

A 'Comprehensive Anti-corruption Strategy for Bosnia and Herzegovina', drafted by OHR, was endorsed in March 1999. Implementation is ensured by the Anti-corruption and Transparency Group which had its first meeting in October 1999. The ACT Group comprises all relevant international institutions.

In July 1999, the laws of the Supreme Court of the Federation and the Federation Prosecutor's Office were amended to give them jurisdication to investigate and prosecute organised crime, among other things.

The reform of the criminal codes and the criminal procedure codes for both entities are underway (OHR and Council of Europe). Phase I was recently completed in the Federation.

A number of other laws are being prepared by OHR, including money laundering legislation, state border service, anti-racketeering statute, forfeiture act.

Customs fraud and tax evasion are addressed under the Customs and Financial Assistance Office (CAFAO) of the European Commission. This includes an investigative unit in which customs officer and financial police participate.

The OSCE is supporting good governance programmes at local level. In cooperation with the Swedish Government, a training programme for prosecutors is implemented.

The International Police Task Force (IPTF) through its Organised Crime Unit and Drugs Unit and through the Joint Task Force Financial Investigation Team is tackling organised crime, corruption, and economic and financial crime.

The United Nations Judicial Assistance Programme (UNJSAP) reviews and monitors the implementation of laws and provides advice to judiciary.

Transparency International reportedly plans to establish a national chapter in February 2000.

A World Bank diagnostics survey on corruption is planned for early 2000. Participants agreed that such a survey should be carried out as a matter of urgency.

Participants noted that while a strategy against corruption is in place, no such comprehensive approach has been formulated against money laundering and organised crime so far.

Flipcharts

Draft anti-racketeering statute

Draft forfeiture act

Draft anti-money laundering legislation

Proposal to reinvest proceeds confiscated

Reform of criminal codes and criminal procedure codes

Judicial service commission

Proposal on judicial training centres

Anti-corruption strategy adopted

Anti-corruption and transparency group established

Law on Federation Prosecutor Office ® role regarding ...

Law on Fed Supreme Court ® role regarding ...

COE should help draft anti-corruption laws

COE should help in training and implementation of laws

CAFAO ® customs, ® Tax-fraud

CAFAO ® investigative unit

OSCE good governance programmes at local levels

Special law on accounting, auditing, tax

IPTF: need to enforce the laws

UNJSAP

Sweden/OSCE project for the training of prosecutors in basic investigations

Planned law on border service

World Bank Diagnostics survey on corruption planned for early 2000

Transparency International ® establish national chapter in February 2000?

Need for complete inventory

Policy/strategy level:

anti-corruption strategy in place

2.5 Problem analysis

During the discussion of problems related to the implementation of measures against corruption, organised crime and money laundering reference was frequently made to the general framework conditions (postwar situation, transition from a socialist to a market economy, general lack of resources, lack of political will etc.). Some suggested that for that reason phenomena such a women selling smuggled cigarettes would need to be tolerated. Foreign experts would not always understand the situation. Participants agreed however, that the "black market is not a way to solve social problems" and that the vicious circle must be broken somewhere.

Specific problems discussed could be grouped into four categories:

Legislation: The process of adopting the necessary laws is often lengthy and obstructed for political reasons. These problems were related to a lack of political will. Participants agreed that many laws are in place and that the main problem was the actual application and enforcement of legislation. Some participants questioned the ownership and feasibility of some laws imposed by OHR. An example given was the witness protection law.

Institutions, interagency cooperation and specialised units: A general problem faced by all institutions was the lack of resources, including the low level of salaries, which resulted in low motivation and efficiency. Many agencies, in particular at the decision making level, were politicised. Another major problem complex was the lack of cooperation between different agencies, unclear roles and responsibilities, and the lack of specialisation and joint investigations.

Prevention: Knowledge and awareness of problems of corruption, organised crime and money laundering and their impact were not

only missing among the public in general but also within public institutions, including criminal justice institutions. Public pressure on politicians and decision-makers and thus the political will to take action is limited. Some participants had the impression that crime was ever increasing the more efforts were made to counter it. The explanation was that corruption, organised crime and money laundering were control offences which means that they only become known if they are investigated.

Cross-border/-line cooperation: Cooperation across cantons and entities and between BiH and other countries was too limited to counter corruption, organised crime and money laundering which don't respect boundaries. This was a problem very specific to BiH. It was politically motivated and thus required political will to resolve.

Flipcharts

Problem analysis

General framework conditions (example of woman selling cigarettes)

"Black market is not a way to solve social problems"

Vicious circle

Legislation

Political will

Witness protection law does not work

Ownership of laws

Process of adoption of laws

Enforcement of the legislation

Institutions, interagency cooperation, specialised units

Lack of resources and low salaries ® lack of motivation, effectivness and independence

Need to start somewhere

Police and prosecutors too passive

Lack of exchange of information

Independence of judiciary

Application of SIMs

Lack of cooperation between agencies

Need to clarify responsibilities in investigations

Investigative judge vs. prosecutor?

Need to educate/train judges in application of the laws

Need to define role of prosecutors

Role of financial police

Salary of judges and prosecutors (need to get prosecutors back into the bill on salaries)

How to cooperate/organise?

Data exchange and data protection

Political will

Agencies politicised

Problem of independence of judiciary

Prevention

Increase in crime in spite of increase in measures? ® corruption, organised crime, money laundering are control offences

At all levels problem of knowledge, perception, awareness of problem and their impact

Problem of foreign reps, experts understanding local situation

How to involve public?

How to involve the public?

How to foster/determine political will?

Problem of perception and knowledge of problems

Need to define discretion of public of officials more clearly

Need to define possibility for individuals to challenge decisions

Political will

Cross-border/-line cooperation

Address cross-border/-line nature of crime

Need to overcome boundaries between entities and within agencies

Political will

cross-border/-line cooperation.

2.6 Strategies and entry points

2.6.1 Legislation

In both entities the political will needs to be mobilised to adopt and implement legislation against corruption, organised crime and money laundering. A number of relevant legal reform projects are underway with the assistance of OHR and the Council of Europe.

Participants proposed the drafting of a law on corruption

which clearly stipulates the acts and behaviour which are criminalised. OHR and the Council of Europe should provide assistance in this matter.

An important aspect in terms of corruption would be laws on conflicts of interest and financing of political parties.

The money laundering legislation which is being drafted by OHR should be reviewed by the Council of Europe. The possibility to reinvest assets seized into law enforcement should be considered.

A law dealing with organised crime, including defining the acts to be criminalised, providing for the necessary investigative means and institutions should be drafted.

The different legislation should contain provisions for inter-entity cooperation.

The OHR has developed a new strategy for substantial reform in the field of criminal legislation and criminal judicial procedures in both entities. Further meetings with OHR and COE experts are expected to take place in early 2000 to agree on the substance and on the agenda of reforming:

the institution of the investigative judge

the powers of prosecutors

the organisation of criminal procedures.

Laws on corruption, organised crime and money laundering would need to be reflected in the criminal codes and the criminal procedure codes which are currently being finalised with Council of Europe assistance. Further discussions will set forth the priorities to ensure consistency in the reform.

In any case, participants agreed that criminal codes and criminal procedure codes of both entities should be harmonised as much as possible.

OHR and the Council of Europe are expected to play an important role in these legal reform projects. Further agreement will be reached between the two organisations as to how to cooperate and make assistance available.

Flipcharts

Legislation

Definitions on organised crime and corruption

Legal reform projects

Witness protection programme

Special investigative means

Data exchange, data protection

Political will

Compatibility laws/conflict of interest legislation

Need to pass anti-corruption legislation

Criminalise corruption and make it a specific offence (comprehensive law on corruption)

Criminalising money laundering

money laundering prevention act ® reporting of transactions

Organised crime: district courts as first instance courts (instead of supreme court)

Create a first instance court for five offences (one in each entity)? (Problem: need to find, train, equip suitable judges and prosecutors)

Seizure law: reinvest proceeds seized

Abolish payment bureaux and create bank auditing system

Harmonise criminal procedure code and criminal code between entities

Law/regulation on the financing of political parties (state level)

Regulations on inter-entity cooperation between judiciary

Abolish judicial police in Federation

Compatibility law

2.6.2 Prevention

Prevention should be approached in a comprehensive way. It should promote an active involvment of the public but also target public officials.

General (or primary) prevention: Enhance knowledge on money laundering, corruption and organised crime. Participants encouraged the implementation of the survey on corruption planned by the World Bank for early 2000 as an important step to get a better understanding of the situation.

Targeted (or secondary) prevention: An active involvement of the civil society should be promoted. The public should be encouraged to question the collection and expenditure of public revenues, and thus request regular reports and accountability in particular of those office holders who control revenues.

Sanctions (or tertiary) prevention: Laws and regulations should actually be enforced, sanctions should be dissuasive. Licenses and permits should be revoked and companies involved in corruption, organised crime or money laundering should be blacklisted, that is, excluded from public tenders.

Such a comprehensive approach requires that the necessary resources are made available and that institutions are created or strengthened. Obviously, this could only be achieved with

the assistance of the international community, including NGOs.

The Anti-corruption Strategy for Bosnia and Herzegovina contains measures on the prevention side which should be implemented and perhaps be expanded.

Participants acknowledged that Transparency International has the intention of opening a chapter in BiH in early 2000.

Participants appreciated that the payment bureaux system is to be abolished in the near future.

Flipcharts

Prevention

Determine political will ®concrete actions, adoption of legal basis

Ensure transparency in revenue flow between cantons and municipalities at different levels of government

Enhance knowledge of situation. WB diagnostics survey in 2000

Participate in regional efforts

Stable state institutions to uphold the rule of role ® institution building

Clear distinction between political level and civil level/administration

Foster political will through public education and international cooperation

Public education:

Work on mind of tax payers: “Where does my money go”

Regular reporting on collection, management and expenditure

Nurture culture of responsibility and accountability

Strong control mechanisms

Present positive examples, models of behaviour

Make budget allocations for prevention measures

Primary prevention:

Public awareness, changing perceptions and behaviour

Attack on both ends: cigarette ladies and high profile criminals

Secondary prevention:

Eliminating opportunities

Comprehensive and transparent government procedures

Regular reporting on budget collection, management and expenditure

Institution building proper book keeping(financial police, tax/customs, audit institutions etc.)

Control/sanctions:

Administrative sanctions: revoke licences, permits, fines

Capacity building: political will, legislation/control, institutional credibility through public education

Transparency, accountability, good governance

Focus on payment bureaux system

2.6.3 Interagency cooperation and specialised units

Needs in terms of strengthening institutions and their cooperation with each other, and of providing them with the necessary resources and training are vast. It would be difficult to meet all of these needs in the short term. In

addition, political obstacles would have to be overcome.

Nevertheless, a feasible and strategic entry point was identified by participants, which was to strengthen interagency cooperation and specialisation through joint investigations. Three models could be envisaged:

Joint investigations by prosecutors, police, customs, financial police or other agencies on a case by case basis

Establishment of multi-agency task forces to deal with corruption, organised crime and money laundering

Creation of permanent specialised units or agencies.

During the workshop the second model was preferred. In each of the two entities a **multi-agency task force** should be established headed by the public prosecutor and composed of officers from different law enforcement agencies. This task force would be responsible for major investigations into corruption, organised crime and money laundering, support investigations carried out by other prosecutors and agencies, and develop strategies and policies. This task force would also compile and analyse relevant information. This should result in a strategy on data collection, exchange and protection.

The task forces of the two entities would meet regularly and cooperate with each other. Once conditions permit such cooperation could be formalised.

The international community should support these task forces in a concerted effort by providing know how, systematic training and other resources.

OHR could initiate the creation of such task forces in cooperation with other organisations.

A second step would be the design of a consolidated and focused training plan and the provision of equipment.

A further important measure would be to clarify the roles of different agencies in investigations. The function of the investigative judge should be abolished and the role of the prosecutor in investigations strengthened.

Flipcharts

Interagency cooperation and specialised units

Strengthen cooperation between agencies

Clarify responsibilities

Cooperation between police, prosecutors, judges

Special investigative means

Financial investigations

Lack of resources

Salaries

Need for training

Boundaries

Political will

Depolitisation of agencies

Independence of judges

Role of prosecutors in investigations

Specialised units in prosecutors offices

Establish obligation to cooperate ® assign responsibilities

Experiment: interagency task force for investigation at state level (Problem political will)

Establish multi-agency working groups/task forces at entity level against corruption, organised crime, money laundering headed by prosecutor. Train and equip them. Process of cooperation between the two entity task force.

Tax administration and financial police: define roles and establish information system

Establish tax courts

Improve information exchange

Establish information system

information system on financial transactions

monitor entreprises

Data security, data protection

involve prosecutors in CAFAO teams and investigations

Task Force approach

Enforce customs regulations on imports

2.6.4 Cross-border/-line cooperation

In order to improve international cooperation the following was proposed:

BiH should accede to international agreements. A concrete step in this respect would be to sign the Council of Europe Criminal Law Convention on Corruption and to particpate in the GRECO monitoring mechanism. Thereafter, the necessary conditions for the actual ratification and implementation of this Convention should be created with Council of Europe and OHR assistance. Accession to other relevant European and international instruments should follow as soon as possible. This would be a reflection of the political will of the leadership of BiH to cooperate internationally. A practical

need is to have access to translations of these conventions.

BiH should enter into practical cooperation with neighbouring countries by signing bilateral cooperation agreements and cooperation on a case by case basis. Direct contacts with law enforcement agencies of other countries should be established.

BiH should also participate in measures against organised crime, money laundering and corruption designed under the Stability Pact.

The question of cooperation across entity lines, and in the Federation across cantons is mainly one of political will.

However, practical cooperation at the technical level on a case by case basis should be possible. This should gradually be institutionalised. If cooperation agreements are signed, they should actively be made used of.

The envisaged State Border Service will be a national institution and thus an important entry point to address cross-entity smuggling and other crimes.

A specific type of crime which could be tackled through this service and through cooperation of other agencies is the trafficking in human beings for sexual exploitation.

Flipcharts

Cross-border/-line cooperation

How to deal with cross-entity and joint-entity crime?

Political will

National courts?

National coordination structures?

Accede to international agreements

COE criminal law convention and GRECO

Promote direct contacts

Entity Ministry of the Interior agreements on cooperation signed in 1998

Cooperation exists, but…

Must and can be improved. Intensify direct cooperation among experts/technical level

Translate Council of Europe conventions

Improve speed of exchange of info through communications (need technical equipment)

Improve speed in reaction to requests by Ministry of Interior

Pre-requirement for inter-entity joint police team to fight corruption, organised crime and money laundering as per need

Cross-border organised crime: cooperation with Interpol. Problem: unaccecptable slowness

Solution: direct communication with relevant police offices in urgent cases

Foreign Interpol offices need to improve speed of communications

Regional cooperation of ex-Yugoslav states. direct contacts between Ministries of Interior

More information on SECI/Romania needed.

Control trafficking in human beings

Trafficking of human beings in BiH will be better controlled once joint border service set up

Coordination structure at senior level for operations

transparency, accountability, good governance as a condition for international cooperation

Cooperation across lines

3 Action to be taken

3.1 Medium-/long-term action

The nature of the challenges posed by organised crime, corruption and money laundering in Bosnia and Herzegovina appears to be such that a well-coordinated comprehensive effort is required. The Council of Europe should contribute to this effort through a multi-year programme.

The overriding rationale of the programme should be the promotion of democracy, rule of law, human rights, and social and economic progress.

The objective of the programme should be to strengthen capacities to prevent and control corruption, organised crime and money laundering. The standards of the Council of Europe and the European Union should serve as the framework of reference.

The programme should focus on four priority areas:

the strengthening of legislation

the promotion of support to prevention

the strengthening of interagency cooperation, specialised units and investigative capacities

the improvement of cross-line and cross-border cooperation.

As much as possible it should build on ongoing activities supported by and seek cooperation with other institutions.

The programme should be linked to other activities in South-

eastern Europe, in particular those of the European Commission, the Council of Europe, and strategies against corruption, organised crime and money laundering proposed under the Stability Pact. The programme would thus be part of the Council of Europe's proposed 'Programme against corruption and organised crime in South-eastern Europe - PACO'.

Details of this programme should be formulated in the course of the preparatory phase of PACO, that is, in 2000.

While the implementation phase of PACO would - subject to the availability of funds - start in 2001, the year 2000 should be used to take the following immediate action:

3.2 Immediate action

3.2.1 Legislation

In the context of OHR's strategy for substantial reforms in the field of criminal legislation and criminal judicial procedures in both entities, OHR and Council of Europe should expand their cooperation to strengthen legislation on corruption, organised crime and money laundering, to ensure consistency and to harmonise the codes of both entities as much as possible.

Specifically, the following action should be taken:

Legislation on money laundering ……..

Legislation on organised crime ……

Legislation on corruption ……

(include proposed deadlines)

3.2.2 Prevention

The knowledge on corruption, organised crime and money laundering should be improved as a basis for enhanced efforts to make the public and public officials aware of the nature

and impact of these phenomena.

The World Bank should be encouraged to carry out its diagnostics survey on corruption as soon as possible.

Surveys should also be carried out to get a better understanding on organised crime and money laundering. This should be accompanied by a thorough assessment as to how the international community should approach organised crime and money laundering in BiH.

Transparency International should be encouraged to establish a national chapter as envisaged. Other NGOs should expand their activities in these fields and be supported by the international community.

A special effort should be undertaken to implement, and if necessary expand, the prevention components of the Comprehensive Anti-corruption Strategy for Bosnia and Herzegovina.

The Anti-corruption Strategy proposed a 'review of aid institution procedures' in order to reduce opportunities for corruption when delivering aid. This review should be carried out as soon as possible.

The payment bureaux system should be abolished by December 2000 as proposed.

3.2.3 Interagency cooperation, specialised units, investigation

In each of the two entities a multi-agency task force should be established headed by the public prosecutor and composed of officers from different law enforcement agencies. This task force should be responsible for major investigations into corruption, organised crime and money laundering, support investigations carried out by other prosecutors and agencies, and develop strategies and policies.

Key international organisations and bilateral donors should establish a working group to provide support to these task forces in the form of well focused advice, training and other resources.

3.2.4 Cross-line and international cooperation

BiH should sign as soon as possible the Council of Europe Criminal Law Convention on Corruption and agree to particpate in the GRECO monitoring mechanism. This would be a first important step towards accession to international agreements and a reflection of the political will of the BIH leadership to cooperate internationally.

The Council of Europe should invite officials from BiH to participate in relevant seminars under the joint Council of Europe/European Commission 'Octopus Programme against corruption and organised crime in States in transition'.

BiH should fully participate in activities against organised crime and corruption under the Stability Pact for South-eastern Europe.

A number of international and bilateral institutions as well as NGOs provide support or consider providing support in the fields of organised crime, money laundering and corruption. OHR should try to prepare an inventory of current and planned activities in order to faciliated donor coordination.