



STABILITY PACT FOR SOUTH EASTERN EUROPE



ROMANIAN GOVERNMENT

ANTI-CORRUPTION INITIATIVE
REGIONAL SECRETARIAT LIAISON OFFICE

MINISTRY OF JUSTICE
CRIME PREVENTION AND ANTICORRUPTION DIRECTORATE

8th SPAI STEERING GROUP MEETING

- SPAI NATIONAL PROGRESS REPORTS -

**4th of November,
Bucharest, ROMANIA**

SPAI NATIONAL REPORTS

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ALBANIA

SUMMARY OF THE REPORT FROM THE PREVIOUS STEERING GROUP MEETING

- December 2003, Albania signed the UN Convention against Corruption;
- March 2004 Law on "Witnesses' protection and justice collaborators" was adopted;
- March 2004 the Prime Minister established an inter-ministerial working group to simplify and standardize the criteria and procedures of public services offered by all central administration institutions - based on the findings of a study on "Public services offered by the central administration institutions" carried out during 2002 - 2003 in cooperation with the Council of Europe.
- Relevant amendments on the conflict of interest and financing of political parties and electoral campaigns legislation will be drafted and expected to be adopted, respectively this year on the conflict of interests issue and next year for the financing of the political parties and electoral campaigns.
- The National Action Plan on the Prevention and fight Against Corruption, 2003-2004 foresees the development of a national survey on the public perception on corruption.
- The Action Plan of the Prevention and fight Against Corruption for 2004 - 2005 is to be adopted this year.

PROGRESS MADE IN THE LAST 6 MONTHS IN ACHIEVING THE SPAI OBJECTIVES

For the last 6 months in the efforts for prevention and fight against corruption some of the main developments in achieving the SPAI objectives are:

- The "**Action Plan on the Prevention and Fight against Corruption 2004-2005**", is in process of being drafted.
- In order to monitor the implementation of the Action Plan of the Prevention and Fight against Corruption, 2003-2004, the Anti Corruption Unit has developed the **Inventory of Achievements**. Achievement of the anti corruption measures and identifying the problems faced, which are assisted by success indicators have been reflected in this inventory.
- Amongst the most important achieved measures of the Action Plan for the Prevention and Fight against Corruption with regard to **legal framework**, could be mentioned:

*Adoption of the law no. 9275, dated 16.09.2004, "On some amendments of the law no. 7895, dated 27.01.1995, "Criminal Code of the Republic of Albania" This legal package of amendments in the Criminal Code realizes the approximation of the Albanian criminal legislation with the Council of Europe Criminal Convention on Corruption. All articles on corruption offences were amended, new offences were added and the **sanctions on corruption** criminal offences are strengthened by imprisonment and at the same time by imposing fines as well. In this legal package, **most important amendments relating to the issue of corruption** in the Criminal Code are the following: Removal of the right to exercise public functions in a progressive scale (additional punishment); Revision of the active corruption offence of the public officials – punished by fine and up to 3 years imprisonment; Abuse of duty – punished by fine and up to 5*

years imprisonment; Passive corruption of the public official - punished by fine and up to 8 years imprisonment; Active corruption of the witness, expert or interpreter/translator - punished by fine and up to 4 years imprisonment; Active corruption of the judge, prosecutor and justice employees - punished by fine and up to 4 years imprisonment; Passive corruption of the judge, prosecutor and justice employees - punished by fine and up to 10 years imprisonment; Expanding the scope of the Albanian criminal legislation on the active and passive corruption for the foreign citizens outside the Republic of Albania territory; The liability of the juridical persons, which will be regulated with a special law; Active and passive corruption in the private sector - punished by fine and up to 3 years imprisonment; Active corruption of the members of parliament or local elected persons - punished by fine and up to 5 years imprisonment; Passive corruption of the members of parliament or local elected persons - punished by fine and up to 12 years **imprisonment**; **Illegal influencing (traffic of influence) towards the public officials (active and passive) – punished by fine and 2 up to 4 years imprisonment etc.**

Adoption of the law no. 9276, dated 16.09.2004, “On some amendments of the law no. 7905, dated 21.03.1995, “Criminal Procedure Code of the Republic of Albania” This package includes amendments in the Criminal Procedures Code for the simplification of the trial procedures with one judge or with a panel of judges as well as the procedures for the whistleblowers and protection of witnesses in or abroad.

Adoption of the law dated 30.09.2004 “On the Preventing and Combating Organised Crime”. The so called anti mafia law is accompanied with the necessary amendments in the criminal code according to the standards, on different types and forms of the criminal organizations, including the **seizure and confiscation of the proceeds of the organized crime** and their administration by an Agency which will be set up according to this law.

Adoption by the parliament of the law no. 9271, dated 09.09.2004 **“On some amendments of the law no. 7973, dated 26.07.1995, “On Narcotics and Psychotropic Substances”**

- Well functioning of the **Triangle Commission** on Exchange of information and Cooperation on data in the Field of Corruption, established according to the Memorandum of Understanding signed on 15th July 2003 by the Minister of State to the Prime Minister, Prosecutor General, and head of the Albanian Coalition Against Corruption (ACAC) aiming at increasing the transparency and strengthening the inter-institutional cooperation on the exchange of information and public information on the number of denouncements, type and form of the corruptive practices, and the priorities in the fight against corruption through a joint press release.

During 2003 the following information has been exchanged: for the number of persons denounced for corruption offences by the central administration, the representatives of the **Minister of State for the Coordination** office have reported that, **165 persons** are sent for criminal prosecution, out of which **150 are charged** by the General Prosecution, **70 are tried** in court and **70 are sentenced**. The **Citizens Advocacy Office** (CAO, member of ACAC), have reported that **10 persons** have been sent for criminal prosecution, out of which the General Prosecution has **charged 10 persons**, 6 persons have gone for trial and **6 are sentenced**. The General Prosecution has informed on other cases denounced by natural and juridical persons, 80 persons have been sent for criminal prosecution, out of which the **General Prosecution has charged 64, 31 are tried in court and 16 are sentenced**. Based on this data, for 2003, the total of persons sent for **criminal prosecution on corruption related criminal offences is 255**, out of which **224 are charged** by the General Prosecution, **107 have been tried in court and 92 persons are sentenced**.

For the period of **six months of 2004**, central administration institutions have reported that **138 persons** were sent for criminal prosecution (**9 of them involving high rank police officers, 16 of them - medium rank**).

- **In the process of simplification and standardisation of the criteria and procedures of the public services offered by the central administration institutions, the inventory of the public services is being updated** and at the same time, the experts institutions involved have **prepared the legal, sub-legal and procedural changes**. The sectorial analyses of the above proposals are currently in process. Aiming at informing and in the same time seeking close cooperation, involvement and face-to-face opposition (through expertise), meeting with the representatives of the big and medium business as well as with the main business associations have been organised.
- Based on recommendations for completing and harmonising the legal framework on the conflict of interests issue, **the Order of the Prime Minister no. 108, dated 03.06.2004, "On the establishment of the working group on revision of the legislation for the conflict of interests"** was adopted. The working group decided to work simultaneously for drafting a material law on conflict of interest in close cooperation with the civil society and other actors, in order to regulate important issues, such as: definition of the conflict of interests, the scope of this law, preventing mechanisms, responsible authority which will manage, advise and control the situations of conflict of interests, respective sanctions, etc. as well as making a detailed analysis of the inventory of the laws through identifying gaps in the existing legal framework in order to propose the necessary draft amendments. **At this stage an overall material draft law on the conflict of interests has been prepared, which is expected to be adopted by the Council of Ministers within 2004**. At later stages it will be followed by amendments in the existing legal framework in harmony with this material law.
- In the frame of the cooperation with Department of the Public Administration (DoPA), a **project decision of Council of Ministers** was prepared aiming at the implementation of the law on Rules of Ethics in Public Administration, which defines rules and procedures for: a) external activities and b) gifts (i.e. articles 7 and 11 of the law on Rules of Ethics in the Public Administration). It is expected to be adopted by the Government very soon.
- Training **"On Ethics and Corruption"** of the civil servants in the central and local level has continued and future sessions are programmed for next months.

ANTICORRUPTION INITIATIVES PLANNED FOR THE NEXT 6 MONTHS

- During the process of drafting the **"Action Plan on the Prevention and Fight against Corruption 2004-2005"** there will be large discussions, with different factors and actors, which will include also different recommendations of the international and national partners.
- Organizing the IV-th conference of the fight against corruption where the Action Plan of the Prevention and Fight against Corruption, 2004-2005 will be presented and adopted, within November 2004, which will be focused in three main areas: **law enforcement, prevention, public awareness and education**, giving special attention to concrete measurable anticorruption measures by taking into consideration recommendations of the European Union and other international bodies on this regard. Within December 2004, the Action Plan is foreseen to be adopted by the Government.
- Renewal of the *Memorandum of Understanding* between the Minister of State for the Coordination, Prosecutor General, and head of the Albanian Coalition Against Corruption with regard to the **Triangle Commission on Exchange of information and Cooperation on data in the Field of Corruption**. In order to further enhance the effectivity of this commission, it is being discussed with the relevant institutions so as to include in this Triangle Commission other important actors.

- **In the process of the simplification and standardisation of the criteria and procedures of the public services offered by the central administration institutions”,** according to the inter-ministerial working group program, the **legal, sub-legal and regulatory** proposals, accompanied with the structural and institutional ones when needed, are in the process of discussion and evaluations, according to sectoral analysis. The simplification and standardization of the offering of the public services, aims at taking in consideration the revision of the existing public services, classification of the licenses in compliance with their scope and objective, definition of the mechanisms which would avoid the conflict of interests, simplification and standardization of the general, technical, procedural criteria; standardization of the applications and publication tariffs, better definition of the complaints procedures, definition of organizational mechanisms on revision of appeals, publication of the criteria and procedures of the application of every public services offered by the public administration, etc.
- **Adoption of the law on conflict of interests by the Council of Ministers** and with the support of all the interested parties make lobbying to the parliament that this law be adopted within first 6 months of 2005.
- An analysis of the framework for **financing of political parties and electoral campaigns** was undertaken by the Anti-Corruption Unit during 2003 and the following interventions recommended: necessary standards on the financing, regulation of financial sources, transparency of declaration, control of the financing by an independent body, relevant sanctions, etc. The Government foresees to draft and finalize the relevant amendments before the parliamentary general elections of 2005.
- Study and proposals in order to review the existing legislation related to Immunities of High Officials.
- Trainings on **“Ethics and anti corruption”** developed during the second half of 2003, and 2004 for the very interest it has risen it will continue by conducting sessions for other civil servants of the central and local level, which have not been covered so far.
- Another activity regards the **development of a national survey on the public perception on corruption** (public opinion, public administration, and business sector) and their attitude towards the corruptive practices analysing the general tendencies which would serve as references in determining anti corruption policies and measures by public bodies involved. In this regard, we have started a study process in cooperation with the World Bank on the perception of corruption and issues of expenditure management and human resources. The survey is projected as an annual comparative source of information on public perception of corruption, which at the same time will be the official concrete and updated source of information and data for any interested actor.
- Enhancing cooperation with the other state institutions which play a crucial role in the prevention and the fight against corruption such as Supreme State Audit, Internal audit institutions, General Prosecution Office, High Inspectorate for Declaration and Control of Assets, etc.

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| SPECIFIC REQUESTS TO THE SPAI REGIONAL SECRETARIAL LIAISON OFFICE |
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On this point, we would like to highlight two issues:

- The first one relates to reports issued by different international organizations on the level of corruption in different countries of the world. Our concern on this issue is that, there have not been given clear indicators how the level of corruption is measured. As far as we are concerned, there is not any coordination when dealing with this issue, nor any clear standards set up to measure the level of corruption; different institutions and organizations use different standards. Furthermore, the process of drafting these reports is not always transparent and sources of information in some cases remain anonymous.

- Another issue, which is also one of the specific objectives of RSLO, is the coordination with ongoing anticorruption programs conducted by other organizations operating in the region. This is very important because it will avoid any overlapping between the programs foreseen under this initiative and other programs introduced by other organizations for each specific country. Taking into consideration that we are somehow at different stages with regard to investigative and preventive structures, priorities of each specific country are not always in harmony with the regional needs.

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| ANNEXES |
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Sanctions recommended by Supreme State Audit

| Year | 2002 | 2003 | First six months 2004 |
|-------------------------|-------------|-------------|------------------------------|
| Disciplinary measures | 259 | 344 | 146 |
| Administrative measures | 52 | 142 | 109 |
| Criminal charges | 9 | 11 | 15 |
| Total Sanctions | 320 | 497 | 161 |

Source: Supreme State Audit

Sanctions recommended by Ministry of Finance Audit Directorate

| Year | 2003 | First six months 2004 |
|-------------------------|-------------|------------------------------|
| Disciplinary measures | 696 | 833 |
| Administrative measures | 2012 | 605 |
| Criminal charges | 37 | 24 |
| Total Sanctions | 2745 | 1462 |

Source: Ministry of Finance

Data on denouncements for corruption exchanged in the Triangle Commission 2003

| Actions | Persons denounced by the central administration institutions | Persons denounced by the Citizens Advocacy Office (CAO) - civil society | Persons denounced by individuals and legal persons at prosecutions services | TOTAL |
|------------------------------------|---|--|--|--------------|
| Sent for criminal prosecution | 165 | 10 | 80 | 255 |
| Charged by the General Prosecution | 150 | 10 | 64 | 224 |
| Tried in court | 70 | 6 | 31 | 107 |
| Sentenced by the court | 70 | 6 | 16 | 92 |



BOSNA I HERCEGOVINA

Ministry of Security

ADOPTION AND IMPLEMENTATION OF EUROPEAN AND OTHER INTERNATIONAL INSTRUMENTS

Within the Bosnia and Herzegovina's criminal legislation, is criminalized by the BH Criminal Code, under which all acts of corruption and other acts of violation of official and other related duties are classified into a separate legislation chapter. Criminalization is defined subject to provisions of the key international documents addressing the corruption, signed and ratified by Bosnia and Herzegovina, so it can be regarded as accommodating international standards, enshrined in the accepted international documents, when in question legislative treatment of this phenomenon. A special, positive effect in anti-corruption efforts is made by laws on conflict of interest, adopted on the State, Entity and District levels. The most important international documents addressing the matter are:

- Criminal Law Convention on Corruption, signed on March 3, 2000, ratified on January 30, 2002, and in application as at July 1, 2002;
- Civil Law Convention on Corruption, signed on March 1, 2000, ratified on January 30, 2002, and in application as at November 1, 2003;
- Un convention against Transnational Organised Crime, signed on December 12, 2000, ratified on April 24, 2002.

Please note that Bosnia and Herzegovina, too date of the present report, has not signed or ratified the following international documents: Additional protocol on Criminal Law convention on Corruption, of May 15, 2003 (Additional protocol on criminal Law convention on Corruption, CETS No. 191); UN Convention against Corruption of October 31, 2003; OECD Convention on Bribe of Officer in International Business Transaction, of November 12, 1997. As to the OECD Convention on Bribe of Officers in International Business Transactions, we would like to underline that Bosnia and Herzegovina is not the OECD member, and the accession to the convention would be possible only on acquiring full membership in the OPECD Working Group against Bribe of Foreign Public Officials in International Business Transactions.

International Initiatives and Working groups:

UN Global Programme Against Corruption – GPAC

UN Global Programme against Corruption was established in 1999, as launched by the UN Centre for International Prevention of Crime. The Programme's four key activities are as follows:

1. Provision of technical assistance to member-countries in strengthening of their legal and institutional anti-corruption structures;

2. Support and servicing of international group "Heads of Judiciary" in strengthening judicial integrity,
3. Development and distribution of anti-corruption policies and tools;
4. Improvement of Anti-Corruption coordination integration.

The key document, developed as the result of the Programme activities is mentioned Convention.

Anti-Corruption Programme Activities – GRECO

The Agreement on Establishment Group of Countries for Fight against Corruption (GRECO) was approved by the Committee of Ministers of Council of Europe through resolution (99)5, of May 1, 1999, which Bosnia and Herzegovina acceded and ratified in the course of 2000, and published in the "Official Gazette of B-H" (No. 17/00 -International Conventions). The primary role of the Agreement is the establishment of procedural provisions on anti-corruption cooperation.

The Group key documents are:

- Recommendation No. R(2003) 4, on common rules against corruption in financing political parties and election campaigns;
- Recommendation No. R (2000.) 10 on Rules of Public Servants Control and Model Rules on Public Servants Control (Supplement Decision); and
- Resolution (97) 24 on Twenty Leading Anti-Corruption Principles.

Anti-Corruption and Organised Crime Programmes in Transition Countries –OCTOPUS

The OCTOPUS Anti-Corruption Programme was established in June 1996 as the European Commission and Council of Europe programme. Following Anti.-Corruption Inter-disciplinary Group initiative, the CoE member countries ensured the development and implementation of anti-corruption action programme. The Programme was accepted by the Committee of Ministers in Strasbourg in November 1996. Bosnia and Herzegovina participated as an observer in the OCTOPUS II Programme, in implementation from February 1999 to December 2000.

**CHIEF OF DEPARTMENT
VEJO DAMIR**

THE REPUBLIC OF CROATIA

ADOPTION AND IMPLEMENTATION OF EUROPEAN AND OTHER INTERNATIONAL INSTRUMENTS

- Croatia has ratified the European Convention on Extradition with its additional protocols as well as the European Convention on Mutual Legal Assistance in Criminal Matters with its additional protocol.
- The Draft on Law on International Legal Assistance in Criminal Matters, the Croatian Ministry of Justice submitted to the Governmental Legislative Board for their approval.
- The ratifying process of the UN Convention on Corruption is underway.
- As well as taking part in the legislative activities of international organizations, Croatia also participates actively in the work of their bodies supervising the implementation and application of the legal standards adopted and in programmes aiming at providing the help to the countries in the region to implement these legal standards (UNODC, GRECO, MONEYVAL etc).
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime; Convention on Cyber crime; Criminal Law Convention on Corruption; Civil Law Convention on Corruption; etc.
- The Republic of Croatia has ratified UNTOC Convention with two additional Protocols and the third additional Protocols is in the process of ratification.
- The Republic of Croatia acceded to the Agreement on GRECO on December 2, 2000 and passed the first Evaluation round.
- The answers to the Questionnaire sent for the second evaluation round will be submitted latest up to November 15, 2004.
- The **Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data** is still in the process of ratification, but Croatia adopted the **Personal Data Protection Act** which is completely harmonized with the provisions of the afore-mentioned Convention.

PROMOTION OF GOOD GOVERNANCE AND RELIABLE PUBLIC ADMINISTRATIONS

- Law on Conflict of Interest was changed since new government has been elected. Parliament Committee on Conflict of Interest is established.
- As a part of Law on Conflict of Interest obligatory Act on Property Disclosure was adopted as well.
- Law on Freedom of Access to Information was adopted.
- As to the Civil service capacities, the Draft on the Law on Civil Service has been submitted to the respective Ministries for their opinion. The new draft contains the provisions on prevention of corruption and the conflict of interest among the Civil Servants and Employees. According to these provisions the intention is to establish clear rules with regard to the conflict of interest that apply to the civil servants. The Law on Conflict of interest which was adopted by Croatian Parliament applies only to the politicians and not to the civil servants and employees which this Draft of Law corrects. In many countries the cases of the conflict of interest are covered with the Code of Conduct which does not have the obligatory component in sense of applying the disciplinary measures accordingly.

Additionally, within the Central State Administration Office, the Training for all civil servants at state and local governmental levels has begun. It is expected that the training will provide the improvements in promotion of cultural change and enhancement of their managerial capacity.

Concerning Public sector audit system it can be said that the Croatian State Audit Office is according to the last changes of Constitution truly independent body responsible only to the Croatian Parliament.

The State Audit Office has certain preventive measures to avoid corruption risks, such as adoption of Code of Conduct and the implementation of specific organizational work structure of auditors (e.g. rotation of auditors working).

STRENGTHENING OF LEGISLATION AND PROMOTION OF THE RULE OF LAW

- Aiming to increase the efficiency of criminal judiciary with the Act on Amendments to the Criminal Procedure Act, May 2002, those parts of the Act were changed that used to slow down the course of criminal proceedings and allowed various misuses to the rights of persons involved in a criminal procedure as well as those provisions causing interruptions or difficulties in the regular course of criminal procedures.
- With the same aim it was initiated the elaboration of the Project on the Criminal Procedure Code in which the reform of Pre-trial Criminal Proceeding stage will be implemented. In that sense, the criminal investigation, once the reform will be introduced, will fall under the State Attorney's Office and Police jurisdiction. Related to that, the Investigative Judges are to become the Judges who has the function to guarantee the protection of human rights and freedom of suspects as according to European Convention on Human Rights, during the criminal proceedings more precisely, in pre trial stage.
- The Republic of Croatia adopted the Witness Protection Act in October 2003, entered in force January 2004.
- It has been noticed that in modern criminal proceedings the protection of witnesses is necessary because they represent an unimaginable source of information for the criminal procedure in spite of technological progress, and are very often the only reliable element of the accusation, starting from the point of the perpetration of an offence until the reaching of the verdict for it. The intimidation of witnesses with the aim to prevent them from reporting criminal offences or if they already reported them with aim to prevent the conviction is present in the field of classic and violent crime as well as in all new forms of crime, especially the organized one.
- In accordance with international regulations it is foreseen for the **Office for the Suppression of Corruption and Organized crime** to become a body for international co-operation and joint investigations of organized crime's activities and corruption.
- After two years of work of the Office for the Suppression of Corruption and Organized Crime showed the necessity for changes and amendments to the Act on the Office for the Suppression of Corruption and Organized crime regarding the ensuring and strengthening the normative and other pre conditions which would guarantee the leading position of the USKOK in the suppression of organized crime and corruption.

*As a support to the initiative of the Prosecutor General of the Ministry of Justice, on March the 22nd 2004 was founded a Working Group for drafting the suggestions on the **Act on the Amendments to the Act on the USKOK**. The Working Group was formed of the representatives of judicial bodies that enforce the Act and representatives of the theory on material and procedural criminal law who co-operated in the elaboration of the first Act on USKOK.*

In the Amendments to the Act are suggested changes of those provisions that would insure the complete and undoubted competence of the Office over criminal offences of organized crime and corruption.

Changes were made regarding the provisions of the Article 21 and other provisions regulating the competence of the office.

Until now the Office wasn't fully competent in the matter of transnational organized crime, but with the changes of the Article 21 it will be competent in all criminal offences of organized crime and corruption enumerated in the mentioned Article.

The provisions on the organization and the work of the USKOK and the competence of special departments of the courts were also changed.

The institution of a new Department for International Co-operation and Joint Investigations has been suggested in the Article 15a.

Changes and amendments were also made in the provisions on the USKOK's competence regarding a more efficient functional co-operation with the police and other state bodies and in the provisions which must ensure its leading role in inquiries in preliminary procedures, and to ensure a more efficient coordination of all state bodies in the detection and processing of corruption and organized crime offences.

The relations between the Public Prosecutor's Office and the police in cases of suspected organized crime criminal offences, as well as the relation between the police and the Office, and the Office and other units of Public prosecutor's office have been redefined.

The provisions regarding the Office's and other state bodies' actions are regulating the relations between the Office, the General Police Directorate of the Ministry of Home Affairs, the Police force, the tax administration, the Office for Money Laundering Prevention, and the judge for the execution of sentences (Article 7).

Inquiry competence of the Office is broadened regarding the data protected by the bank secrecy and regarding the initiation of seizure of proceeds of crime. That was necessary because the Law on Banks proscribes the possibilities of collecting data on bank accounts of citizens but in a way that does not comply with a quick and efficient procedure. This has been redefined with the new provision of the Article 42a and harmonized with the UN Convention on Transnational Organized Crime on special investigatory techniques and seizure of proceeds of crime. With this new provision the Office can directly request from the bank data on suspicious transactions of a certain person. If the bank denies disclosing those data the investigating judge can immediately issue a warrant for the delivery of the protected data or a warrant for all transactions on suspect's account to be monitored.

According to the GRECO recommendations special authorities of the investigating judge have being broadened so that on USKOK's proposal he can order inquiries (investigating techniques) in corruption and organized crime cases (until now he could only order those techniques in cases of organized crime).

PROMOTION OF TRANSPARENCY AND INTEGRITY IN BUSINESS OPERATIONS

- The Law on Public Procurement is in place and further amendments and improvements are expected as soon as possible.

The intention is for these Amendments are to harmonize the existing Law on Public Procurement with the newly issued two European Union s Directives on this issue.

- In September 2003 the Law on Responsibility of Legal Entities for Criminal Offences has been adopted and it entered in force in March 2004. This Law represents a novel in Croatian legal system:

According to this Law the responsibility now even legal entities can be responsible for criminal offences, especially of corruption;

The Law sets the possibilities for corporate responsibility and the sanctioning of illegal behaviour through which illegal profit is acquired; its enforcement shall enable a more efficient suppression of crime and corruption in the economy sector.

- The Republic of Croatia adopted The Law on Conflict of Interest in Performing of Public Duties. The Law should resolve conflict interest arising from situation where public officials have private interest that affect or might affect the impartiality in the performance of public duties. According to this Law the political officials can not be the Members of the Companies's Supervisory unless the Companies are of the governmental utmost importance. The Article 9 has been changed in terms of the value of the gifts that were allowed to be accepted by the officials.

PROMOTION OF AN ACTIVE CIVIL SOCIETY

- The civil society involvement in anti-corruption efforts is growing but has not yet reached the expected level. Civil society organizations are involved in governmental working groups (eg. PACO IMPACT National Working Group) and working groups organized by different governmental agencies for possibly corruption related issues (eg Working Group on Combating Discrimination). Coordination of the civil society actions and governmental agencies is to be improved. Several civil society organizations are working on civil initiatives related to corruption programs such as "PSD Partnership for Social Development", "RUKÉ", "Transparency International" is expected to improve through new regional initiatives.
- The Association for Democratic Society together with Transparency International started in October 2004 the series of lectures about corruption aiming at the high and primary schools' public in Croatia. The project is more than welcomed since this is a very good way to promote new social values, as it is well known that in many countries, corruption, active and passive bribery were widely accepted as a socially accepted behavior. The lectures should provide to young people with the basic know ledge of what corruption is, how harmful it is for the society, democracy and rule of law. The basic idea is that if at this stage in the society we can basically only apply the repression when it comes to corruptive crimes, we can do differently when the young people are in question, it is lot easier to influence and model their opinion about this issue.
- Civil society organizations are active in the field of documentation and monitoring, public awareness and protection of the rights of victims. And they are expected to become active in the field of policy making in corruption related issues.
- The role of civil society organizations will be significantly strengthen by introducing Anti Corruption body and by adopting new National Strategy against Corruption.

ANTICORRUPTION INITIATIVES PLANNED FOR THE NEXT 6 MONTHS

- The Government of the Republic of Croatia recognized the need of the elaboration of a planned combat against organized crime that needs to be enforced according to the principals and standards of the international community, especially the European Union. Aware of the constant increasing of every form of crime, especially the organized one, and

according to the European Commission's Avis, the Government of the Republic of Croatia adopted on 30th September 2004 the **National Plan for the fight against organized crime**. This document represents a strategic approach towards the elaboration of legislative and institutional frame for the fight against organized crime. It also includes the representation of the motion and structure of organized crime and the plan for the implementation of concrete measures on international, regional and national level for the suppression and repression of organized crime, and for the undertaking of concrete preventive measures in the field of education.

- In April 2001 Croatia adopted the **National Programme for the Fight Against Corruption with its Action Plan**. The majority of the measures foreseen by the national strategy for the fight against corruption are already realized. But still remains the necessity to redefine the national strategy for the fight against corruption.
- Based on the Program of the Government of the Republic of Croatia for the 2003-2007 Mandate, the Government of the Republic of Croatia shall elaborate a **new National Strategy (Programme) for the Fight Against Corruption**.
- The new anti-corruption body shall supervise and coordinate the work of state bodies and the civil society in the field of corruption prevention, and regarding its preventive and educational functions it will partly replace the role of one of USKOK's departments.
- Additionally, it will be established as provided by the Article 6 of the UN Convention against Corruption with the purpose of implementation of Preventive Anti-corruption measures, policies and practices according to the Chapter II (Articles 5-14) of the aforementioned Convention, and it will be composed of state administration and civil society representatives.
- The Ministry of Justice will for the establishment of this new body for the implementation of anti-corruption preventive measures request the technical assistance of the European Commission Programmes or the Council of Europe Paco – impact Project.
- In the realization of the national strategy for the fight against corruption and within the judicial reform the Republic of Croatia is pursuing systematic training of judges and public prosecutors in the field of discovering and processing corruption with the technical assistance provided by the CARDS Programmes and through the Judicial academy of the Ministry of justice.
- Although the national legislation of the Republic of Croatia is in large measure harmonized with the UN Convention against Corruption, the Ministry of Justice and the Government initiated the process of ratification of the mentioned convention. The Croatian Parliament should ratify it at latest in November 2004.
- The NGO, "Partnership for Social Development" has started initiative of addressing the problem of corruption through good governance program at municipal level. Together with more than 20 civil society organizations it will work together on developing policies that will ensure good governance policies at municipal level in the City of Zagreb with the possibility to spread on more communities in the Republic of Croatia.
- As well regional or multi-country public awareness campaigns are expected to be launched by ACTA.

FYR MACEDONIA

MINISTRY OF JUSTICE

Given the rising threat which organised crime, corruption, money laundering, trafficking in human beings, drugs and arms, and other increasingly dangerous and of multinational character forms of crime pose for the law-abiding state, as well as for democracy and human rights, and following one of the fundamental priorities of the Government of the Republic of Macedonia – fight against this type of crime -, the Ministry of Justice has seriously intensified its efforts to join these global processes.

Within the framework of the justice system reform, which is part of the synchronized reforms also of political and economic systems, activities are being carried out in the direction of the further building of the legal framework, accessing international documents in this area, and realizing the commitments arising from them.

CORRUPTION

- The Republic of Macedonia has been a member of the Council of Europe GRECO (Group of Countries Against Corruption) since **06.10.2000**. It was the 26th GRECO country to be checked in the first evaluation round. The evaluation team visited the Republic of Macedonia in March 2002, prior to which the answer to the evaluation questionnaire had been communicated to GRECO experts by Macedonian authorities.

The visit resulted in a Report on the Republic of Macedonia, which contained 17 recommendations for government institutions, on which the Republic of Macedonia has been undertaking activities until present day for their full or partial fulfilment.

In the meantime, the Ministry of Justice communicated the answers to the Second GRECO Questionnaire, and official information is expected on the second monitoring visit to the Republic of Macedonia.

- The Republic of Macedonia has ratified the Council of Europe Penal and Civil Convention on the Prevention of Corruption, and has signed the Protocol to the Penal Convention on the Prevention of Corruption.
- In April 2002, the Law on the Prevention of Corruption was adopted, while the Law on Changes and Supplements to the Law on the Prevention of Corruption of 2004 envisages: elevation of the level of autonomy and independence of the National Commission and reinforcement of its role in the protection of persons working on the suppression of corruption and the protection of the members of the Commission.
- In November 2002, the Assembly of the Republic of Macedonia elected the members of the National Commission for the Prevention of Corruption, which has a preventive and supervisory role and is autonomous and independent in the performance of its competences.
- In June 2003, the Commission adopted the National Programme for the Prevention and Suppression of Corruption, which contains recommendations concerning the measures necessary to be undertaken with a view to establishing an efficient system for the prevention and repression of corruption. There were proposals to make constitutional changes, changes in the current and adoption of new laws and establishment of new institutions, i.e. reforms of the political and court systems and state administration, criminal-

legal and economic-financial systems. There is a continuous implementation of activities for the realisation of the Programme, whereby important attention is paid to the recommendations contained therein. The National Commission assessed that the implementation of the recommendations in the most part was being conducted in line with the time limits defined.

- Since the set up of the National Commission until June 2004 it acted on 926 petition requests by citizens and legal entities.

LEGISLATION

With a view to reinforcing the efficacy in the fight for suppressing organised crime and corruption, money laundering and trafficking in human beings, a series of reform moves are being implemented in the penal-legal field, and what is expected with the implementation of the provisions of new and changed laws is a higher level of efficacy of policy and criminal prosecution, organisational aspects and methods of operation and reinforced mutual cooperation of the authorities tasked to prevent and suppress these forms of crime.

Thus, the following changes have been made in the Constitution of the Republic of Macedonia and existing legislation:

1. **Constitution** of the Republic of Macedonia. On 26.12.2003, the Assembly of the Republic of Macedonia **adopted the Amendment** 19 to the Constitution of RM to change Article 17 ("Official Gazette of RM", no. 84/2003), whereby, under certain conditions, interception is legalised, which is the basis for the application of special investigative measures.
2. The Law on Changes and Supplements to the **Criminal Code** of the Republic of Macedonia ("Official Gazette of RM", no. 19/2004) is aimed at establishing efficient measures for the prevention and reinforcement of the penal-legal repression and creating efficient instruments to fight criminality.

The Law envisages:

- introduction of corporate criminal liability;
 - introduction of the institute of confiscation of property and property advantage, and return of confiscated property to another state;
 - establishment of new criminal offences, sanctioning of new forms of money laundering, computer crime, smuggling of migrants;
 - redefinition of the sanctions system, by introducing an alternative punishment.
3. The changes and supplements to the **Criminal Procedure Code** (in a parliamentary procedure) are aimed at creating normative grounds for suppressing organised crime and other serious forms of crime, harmonising domestic legislation with that of the European Union and with the provisions of the ratified international documents.

The Law provides for:

- application of special investigative measures;
- measures for ensuring the presence of the defendant in the course of the procedure;
- provision of protection to witnesses, collaborators of justice, and victims;
- procedure against legal entities;
- introduction of new legal solutions in respect of the procedure for confiscation of property, freezing and confiscation of property to better implement the Vienna Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances and the Strasbourg Convention on Money Laundering, Detection, Seizure, and Confiscation of Proceeds from Crime;

- procedures to enforce the transfer of sentenced persons.
4. The **Law on the Prevention of Money Laundering** and Other Proceeds from a Punishable Offence (“Official Gazette of RM”, no. 46/2004), acts as an important factor in the prevention of money laundering and other forms of crime, which envisages:
 - ensuring a more efficient system of preventive measures and activities against money laundering and financing of terrorism;
 - harmonisation of the provisions of international documents (the UN Convention against Transnational Organised Crime, the European Union Directive on Preventing the Use of Financial System, for the Purposes of Money Laundering 91/38/EEZ and the European Union Directive 2001/97-EEZ, the FATF 40 recommendations, and the 8 Special Recommendations against the Financing of Terrorism adopted by the FATF).
 5. The Law on Changes and Supplements to the **Law on the Prevention of Corruption** (“Official Gazette of RM”, no. 46/04), stipulates:
 - elevation of the level of autonomy and independence of the National Commission through the acquisition of the capacity of a legal entity;
 - reinforcement of the limitation of the use of budget funds;
 - reinforcement of the role of the National Commission in the protection of persons dealing with suppression of corruption, and protection of the National Commission members.
 6. **The Law on the Public Prosecution** (“Official Gazette of RM”, no. 38/04), which is aimed at:
 - establishing a separate department within the Public Prosecutor’s Office of the Republic of Macedonia with prosecutors specialised in combating organised crime (pursuant to the Council of Europe GRECO recommendations for fight against corruption and of other international organisations); the department is expected to become operational by the close of 2004;
 - advancement of the position of the public prosecutor and of his/her autonomy;
 - establishing a panel of public prosecutors, as an advisory body;
 - secondment of members of the Ministry of the Interior and other bodies into the public prosecutor’s office during the prosecution.
 7. **The Law on the Protection of Witnesses** (which governs issues for witness protection as well). A draft has been prepared of the text of the law and there has been an expertise given by the Council of Europe. **This Law is going in procedure in November 2004.**

INTERNATIONAL ACTIVITIES

In respect of the reinforcement of the international cooperation, in recent years the Republic of Macedonia has made a significant progress in the accession to European and other international instruments which facilitate the cooperation in criminal matters, and in particular in organised crime-, corruption-, and money laundering-related matters: by signing, ratifying and implementing international documents and harmonising the legislation with the European Union standards and other international standards in this field, and implementing the recommendations contained in the reports on the Republic of Macedonia prepared by international organisations (the European Commission, GRECO, The Council of Europe Committee on Money Laundering PC-R-V (MONEVAL), the Stability Pact Initiatives).

a) Ratified international documents:

- The Penal Convention on Corruption (ratified in 1999);
- The Civil Convention against Corruption (ratified in 2002);

- The Convention on the Transfer of Sentenced Persons with its Additional Protocol (ratified in 1999);
- The European Convention on Mutual Legal Assistance in Criminal Matters with its Additional Protocol (ratified in 1999);
- The Second Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters (ratified in 2003);
- The European Convention on Extradition with the Protocols thereto (ratified in 1999);
- The 1990 Council of Europe Convention on Laundering, Seizure, and Confiscation of Proceeds from Crime (ratified in 2000);
- The European Convention on the Transfer of Penal Procedures (ratified in 2004);
- The European Convention on the Prevention of Terrorism (ratified in 2004);
- The Convention on Computer Crime(ratified in 2004);
- **the UN Convention (Palermo Convention) against Transnational Organised Crime with its Protocols(ratified in 2004).**

b) Signed international documents to be ratified:

- the Additional protocol to the Penal Convention on Corruption of the Council of Europe will be ratified by the end of 2004 and in 2005;
- In 2004 the new UN Convention against Corruption will be signed, which was adopted by the United Nations General Assembly on 31.10.2003.

REPUBLIC OF MOLDOVA

National report on the progress obtained in the fight against corruption

Corruption is a phenomenon that during the last years developed greatly in the states with transit economy inclusively the Republic of Moldova. The development of such phenomenon was caused by the public tolerance, high level of poverty, the absence of a regulatory legislative mechanism, and cooperation between the state structures with criminal groups.

Starting with the first levels of environment improvement of the market economy, when the corruption was evidently visible in the Republic of Moldova the competent authorities has undertake a set of measures the primer goal of which was stopping the mentioned above phenomenon. That measure was dictated by the insufficient anti-corruption process with the primer aim of intensification the competent authorities fight against corruption. In these regard, at the governmental level was strengthened the public awareness of the civil society, non-governmental organization, international societies, other organization and state agencies.

One of the primer steps in this direction was the creation of the Center for Combating Economic Crimes and Corruption in February 2nd 2002 as a structure specialized in counteracting economic crimes and corruption. The Center for Combating Economic Crimes and Corruption starting its activity in the time of the promotion of the Law of the Republic of Moldova on the Center for Combating Economic Crimes and Corruption, nr 1104- XV from December 19th 2003.

The ratification of the Convention on money laundering, seizure and confiscation of the proceeds from crimes through the Law of R.M. nr.914-XV from March 15th 2002, Penal Convention on Corruption trough the Law nr. 428-XV from October 30th 2003 and Civil convention on Corruption through the Law nr. 524-XV from December 19th 20003 was made in the same goal.

As a result of the ratification of the Penal Convention on corruption and Civil convention on corruption in the Penal code of the Republic of Moldova was introduced the notions of passive and active corruption (art. 324 and 325), receiving of the bribe and (art. 333 and 324). Was devised and specified the phenomenon the public and privet sector, fact that facilitated the process of discovery and documentation of the corruption acts in those frameworks. Penal responsibility of the legal entities, legal officials, judges and prosecutors and public functionaries was settled through the art.(art. 21, 330/1) of the Penal Code of the Republic of Moldova.

On the base of the governmental decision nr.735 from June 6th 2004 "On the implementation of the credit agreement between the Republic of Moldova and International Development Association nr. 3783-MD" was approved the regalement on the creation and activity of the local cooperation teams on the realization of the objectives in the framework of the Regional program "the facilitation of the transportation and commerce in the South West Europe" oriented to the prevention of the smuggling and illicit traffic of human beings and corruption in the cross border station.

In July 1st2004 through the adaptation of the law nr. 255-XV was modified the procedure of the effectuation and recording the financial limited and suspected financial transactions: the functional obligation of those who exercised the control of the transactions effectuated by the financial institutions, the cooperation with the international organizations is settled by the Law

on prevention and combating money laundering nr. 633 from November 15th 2001. The international cooperation will be settled by bilateral agreements and international conventions ratified by the Republic of Moldova as well. But the anti-corruption efforts require a more perfect and advanced legal base.

The major effect expected will be the improvement of the state policy in corruption combating and prevention as a distinct criminal phenomenon, separated by other criminal activities.

By the president decree from November 6th 2003 was founded the commission for the elaboration of the national strategy on prevention and combating corruption and the action plan for its realization. Till the moment by the Center for combating economic crimes and corruption and other organizations implicated in these activity was effectuated a great work on mentioned above projects. The elaboration of these kinds of projects is special because of the corruption problems raised up the in republic of Moldova through the social economic development of the society.

The attribution of the law statute to the strategy will permit the distinction of these from other legislative normative acts elaborated by the executive bodies. In this way will be shown the strategy importance as fundamental act in the phenomenon of corruption repressing.

By approving the Strategy we will exclude the tendency of doubling the activity of combating acts of corruption by more law bodies enforcement, as well as the strict delimitation of the competent bodies to examine infringements that have a negative impact on the economy and state authority, rights and legitimate interests of the citizens.

It is not normal that the same category of infringements is documented by some law bodies and finally no one is responsible for the inefficiency of this activity. The implementation of such a strategy needs to be administered, coordinated and monitored by a single institution – a specialized body, ablated with attributions in preventing, hunting out and combating the phenomenon of corruption.

The fully achievement of the Strategy will depend on the period of implementation, segmented in stages, and the action plan to foresee real terms of executing measures. Thus we will come the needed results in the process of combating corruption and we will implement those measures that are of real use. An ideal solution in this regard would be to combine short term objectives with those of medium term and long term.

The Strategy is conceived as the theoretical basis in combating corruption, and the Action Plan is the mechanism of implementing the Strategy. Its capacity to control corruption will depend on its practical implementation.

THE IMPLEMENTATION OF JURIDICAL INTERNATIONAL ANTICORRUPTION INSTRUMENTS AND THE ENHANCEMENT OF LEGAL NATIONAL FRAMEWORK IN THE AREA OF PREVENTING AND COMBATING CORRUPTION.

In the last 6 months of the year 2004 the public authorities made huge efforts in the regard of enhancing and adjusting the legal national anticorruption framework to the international standards. In this context the Republic of Moldova has signed the U.N.O. Convention against Corruption that is to be ratified by the Parliament in 2005.

There where introduced some modifications in the legislation regarding the corruption acts: corruption was recognized to be a special danger for the state security, it was introduced the

obligation of declaring revenues and properties by all the categories of public functionaries; raising the transparency when making public acquisitions; approving of a plan that foresees the organization and development of common actions of combating criminality and corruption, development of an information system of law and control bodies, development of a national research center in preventing and combating criminality.

PROMOTING GOOD GOVERNANCE AND TRUSTFUL PUBLIC ADMINISTRATION

National public authorities continued to promote a policy of preventing and combating corruption at all levels, including at the level of local public administration. Concrete actions of combating corruption were made in this period, so that the Center to Combating Economic Crimes and Corruption discovered a series of corruption acts at high level officials, as follows: the ex deputy mayor of Chisinau, the ex prime-vice-president of District Council, the Head of the Architecture Department of Chisinau Mayor Office, the Head of a Territorial Fiscal Office, heads of enterprises and public organizations. As an example would be the corruption act of distributing more than 100 territories for buildings illegally. In this case are involved high level persons of the Chisinau Mayor Office, and they have been dismissed (this case is sent to court). Due to this case we were capable of identifying and preventing similar cases and situations.



REPUBLIC OF MONTENEGRO

GOVERNMENT OF THE REPUBLIC OF MONTENEGRO DIRECTORATE FOR ANTI-CORRUPTION INITIATIVE

SUMMARY

In December 2003, Serbia and Montenegro signed the **UN Convention against Corruption**. However, the Parliament of State Union of Serbia and Montenegro still hasn't ratified this convention and there are no indications on the time frame for ratification.

In December 2003, the Parliament adopted the **Criminal Code, Criminal Procedure Code and Law on State Prosecutor**. In April 2004, the implementation of this set of laws started. Following the provisions of the Law on State Prosecutor, on July 1st the **Special Prosecutor for suppressing organized crime** has been appointed. Through PACO IMPACT, the Department for Suppression of Organized Crime will be properly equipped. Thus, necessary preconditions for successful fight against organized crime will be created. However, this Department has already begun processing some criminal offences with elements of organized crime.

An independent operative and investigative **FIU** was established, according to the provisions of the **Law on Prevention of Money Laundering**. In February 2004, the FIU director was appointed. Pursuant to Articles 13 and 14 of the Law on the Prevention of Money Laundering (Official Gazette of the Republic of Montenegro, 1 October 2003), the Director of Administration for the Prevention of Money Laundering for the Republic of Montenegro issued the "Book of Rules on the Manner of Data Delivering Referring to Transactions Exceeding 15,000 € and Suspicious Transactions to the Administration for the Prevention of Money Laundering in the Republic of Montenegro", which became effective on June 18, 2004. Based on it the reporting process of obligors was initiated, applied by filling in the reporting forms (form 01 – for the banks and form 02 – for other obligors). These forms are published in the previously mentioned Book of Rules. Pursuant to Article 25 of the Law on Prevention of Money Laundering, the FIU signed cooperation memoranda with several FIUs from the Region.

In March 2004, the Parliament adopted the **Law on Financing Political Parties** and its implementation started in October 2004.

In April 2004, the Parliament adopted the **Law on conflict of Interests**. Following the provisions of the Law, the State Commission for determination of conflict of interests has been set up, and will monitor the implementation of the law.

Adoption and implementation of European and other international instruments

In the anti-corruption area, among others, the following conventions are ratified: The Criminal Law Convention on Corruption (2002); UN Convention against Transnational Organized Crime, with two additional protocols (2001); Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (2002).

The UN Convention against Corruption, as one of the crucial benchmarks that expresses global approach to curbing corruption, has been signed on December 11th 2003. The Parliament of the State Union has not ratified this Convention and there are no indications on possible dates when this issue could be considered.

It should be stated that, upon ratification, the member states Serbia and Montenegro will be in charge of its implementation. The Republic of Montenegro is ready to undertake all necessary steps towards this, as soon as the Convention comes into force. In order to avoid any obstacles that may occur in the process, the Republic of Montenegro will appreciate support from SPAI RSLO and other international organizations and institutions in the implementation of UN Convention against Corruption.

Promotion of good governance and reliable public administrations

In light of the **Public Administration Reform Strategy in Montenegro 2002-2009**, adopted by the Government of the Republic of Montenegro in March 2003, new set of legislation and sub-regulation has been adopted, among which **Law on Civil Servants and State Employees**, followed by the **Law on Salaries of Civil Servants and State Employees** (April 2004). The set of sub-regulation acts, pursuant to these laws, has been drafted. The implementation of Civil Servants and State Employees Law started in October 2004, while the law on their salaries will be implemented as of January 2005. These laws regulate, among other things, the following issues: hiring of civil servants, official position, rights and duties, accountability, evaluation of civil servants' efficiency in performing duties, advancement in carrier, specialization, protection of their rights, criteria for determination of salary, etc.

Furthermore, the Human Resources Directorate has been set up, in order to properly deal with matters of expert training of civil servants and to administer all other relevant aspect of public administration employees.

In addition, the Decree on organization and functioning of public administration has been adopted, according to the above mentioned Strategy. According to the Decree, the Directorate for Anti-Corruption Initiative is established. Upon entry to force of this Decree, the Decree on establishment of the Anti-Corruption Initiative Agency ceased to be valid.

The Directorate for Anti-Corruption Initiative performs duties in light of:

- undertaking promotional and preventive activities aimed at effective combating corruption;
- working closely with the Government towards adoption and implementation of European and international standards and instruments, regarding the anti-corruption initiatives;
- enhancing the transparency in business and financial operations;
- performing other activities that arise from the membership in Stability Pact for the South-Eastern Europe and other international organizations and institutions;
- and other activities delegated to its competence.

Strengthening of legislation and promotion of the rule of law

The SPAI Compact requirements, regarding criminalization of corruption and money laundering, have been met. The fight against these offences has been enhanced through successful functioning of the Department for suppression of organized crime within the Ministry of Interior, the Special Prosecutor for suppressing organized crime and the FIU. The use of special investigative means, provided by the Criminal Procedure Code, will bridge over the difficulties in obtaining evidence to support prosecution in these matters. Further more, the Law on Protected witness, when adopted, will secure a more effective fight against corruption and organized crime.

Anti-Corruption Initiative Agency, in cooperation with non-governmental and civil sector, as well as the international organizations and institutions (Council of Europe, OSCE, USAID, ABA/CEELI) has drafted the **Law on Conflict of Interests**. In June 2004, the Montenegrin Parliament adopted this law. Consequently, the **State Commission for determination of conflict of interests** has been set up. Thus, the necessary preconditions for effective implementation of this law, aimed at providing a higher level of control and transparency in the area of public administration, enhancing accountability of public officials and constituting the incompatibility of public administration with the performance of profitable duties, are created.

Promotion of transparency and integrity in business operations

Apart from previously mentioned Law on Budget, which constitutes the Treasury, and the Law on Accountancy and Audit, the **Law on National Auditing Institution** should also be mentioned, which has been adopted by the Montenegrin Parliament in April 2004. This law introduces institutionalized, external, independent, expert and objective control of Budget funds spending. National Auditing Institution controls all users of public incomes (public administration, public enterprises, local self-government, Funds etc) and periodically submits to the Parliament reports on control and it is liable only to the Parliament. This institution will officially start with its work in January 2005.

Within the public procurement framework, the renewed standard forms and public procurement regulations have been drafted, in April 2004.

Promotion of an active civil society

The cooperation of the Montenegrin governmental bodies with non-governmental organizations, civil society and business associations is maintained, at the central and local level. This cooperation is realized through numerous activities such as joint development of certain legal projects, participation in public campaign and debates, organization of joint round tables and similar. In this regard, it should be mentioned that the relevant governmental bodies had actively participated in drafting the Law on financing the political party, prepared by the NGO sector, which has been adopted by the Montenegrin Parliament, on March 2004.

ANTICORRUPTION INITIATIVES PLANNED FOR THE NEXT SIX MONTHS

- The **Programme for the Fight against Corruption and Organized Crime**, created in cooperation with CoE experts, will be adopted by the Montenegrin Government.
- The **Law on Witness Protection** has been adopted by the Parliament in October 2004.
- Republic of Montenegro is under the evaluation by **GRECO**, and a visit by the Evaluation Team is expected in February 2005.

- The Ratification of the **OECD Convention on Combating Bribery of Public Officials in International Business Transactions** would increase the credibility of Republic of Montenegro, enhance foreign investments and international trade. Therefore, the ratification of this convention will be discussed.
- Beginning 2005, **Public Procurement Law** will be changed and amended and a data base will be created. The public procurement system will be monitored and controlled while there will be a raising awareness campaign for all the participants in the process.
- The Republic of Montenegro is involved in **PACO IMPACT** (Program for implementation of anticorruption plans in South East Europe) and will benefit from these activities through strengthening capacities of Directorate for anticorruption initiative, Special prosecutor for suppressing organized crime and Ministry of Interior to implement the Program for the fight against organized crime and corruption. In addition, new legislation, in line with international and European standards, will be implemented.



ROMANIAN GOVERNMENT

MINISTRY OF JUSTICE CRIME PREVENTION AND ANTICORRUPTION DIRECTORATE

1. SUMMARY OF THE REPORT FROM THE PREVIOUS STEERING GROUP MEETING

- **December 2003**, Romania signed the UN Convention against Corruption
- **February 2004**, the National Committee for Crime Prevention analyzed the implementation of all national strategies on crime prevention. An **inventory** of all the measures and the results of the **first National Anticorruption Strategy 2001 – 2004 (NAS I)** has been drafted in a Structured Report attached to the EU Common Position for 2004. The **evaluation NAS I, 2001 – 2004** implementation will be finalized with the support of NGO-s and international organization such as OECD and World Bank until the mid of May 2004. Based on NAS I evaluation's results until **August 2004**, with the support and consultation of civil society, NGO-s, international organizations, it will be drawn up the **NAS II, 2005-2007**.
- In cooperation with relevant NGO's the Romanian Ministry of justice and National Institute of Criminology published the preliminary report on the **assessment of the integrity and corruption resistance of the judiciary system**. The assessment is based on answers provided, with respect of confidentiality, by **3446 judges** to a questionnaire structured in four main components: quality of the act of justice; courts' management; judges' statute; relations with the state institutions. Also, **2400 prosecutors** participated to a similar assessment currently under evaluation period.
- **Starting February 2004** in Bucharest functions the **Center of Anticorruption Assistance** providing free legal assistance for the citizens (program developed by the **Stability Pact Anticorruption Initiative (SPAI)** coordinated with the general secretary of the Transparency International and the financial support of the Federal Ministry of Foreign Affairs of Germany)
- The Ministry of Justice in partnership with the **League for Human Rights Defense** develops, at the national level, a Program involving of the civil society together with public authorities in the fight against corruption. **Since December 2003**, there were developed such Programs in **six pilot centers** and is going to extend to other six cities. Representatives of local public authorities, prosecutor's offices, justice, police, customs participate to this Program;
- The **New Criminal Code** is under Parliamentary Procedure;
- **In March 2004** the Prime Minister Department of inspection and investigation of the transparent use of the Communities Funds was established.
- **Between 19 and 22 April 2004**, an **OECD mission** was in Bucharest and draw up the **Draft of the Pilot Program and Action plan** together with Ministry of Justice Ministry of Foreign Affaires, and the Initiative for a Coalition on fight against Corruption and Development of Ethical Practices composed of more than **180 business associations**

2. PROGRESS MADE IN THE LAST 6 MONTHS IN ACHIEVING THE SPAI OBJECTIVES

- I. Adoption and implementation of European and other international instruments
 - Romania ratified the UN Convention against corruption in September 2004 by Law no. 365/ 15.09.2004.
 - The GRECO Plenary concluded in June 2004 that Romania had satisfactorily implemented 12.5 out of 13 of its recommendations from the March 2002 First Round Evaluation Report.

- II. Promotion of good governance and reliable public administrations
 - The **evaluation NAS I, 2001 – 2004** implementation has been finalized
 - Since September 2004 the National Committee for Crime Prevention has been organizing its works in weekly meetings with the main purpose to finalize the National Anti-corruption Strategy for 2004-2007, the National Organized Crime Strategy and a comprehensive National Strategy on Crime Prevention.
 - A new **Anti-Corruption and Professional Standards Directorate** was created within the Ministry of Administration and Interior's General Directorate of Intelligence and Internal Protection and was intended to be functional by the end of September 2004.

- III. Strengthening of legislation and promotion of the rule of law
 - A **New Criminal Code** was adopted this year by Law no. 301/2004. For the first time the Criminal Code establishes the liability and sanctions for legal persons.
 - A new law was passed by the Parliament: **Law no. 299/2004** on criminal liability of legal entities for offences of coin or other values counterfeiting. A National Central Office for Combating Counterfeiting was set up in March 2004.
 - Significant changes to the framework of anti-corruption legislation were introduced in an April 2004 Emergency Ordinance (GEO 24/2004) that decreased the financial threshold for wealth declarations, decreased the value of gifts/hospitality that may be received by public officials and introduced stricter controls on share and property ownership for those covered by the legislation.
 - **The Law No. 317/ 2004**, organizing the **Superior Council of Magistracy**, strengthened the independence of the judiciary, for the efficient functioning of the justice system, for the disciplinary accountability of judges and prosecutors, as well as judges and prosecutors professional carriers and promotions.

- IV. Promotion of transparency and integrity in business operations
 - A permanent anticorruption partnership between the Ministry of Justice and the Initiative for a Coalition on fight against Corruption and Development of Ethical Practices composed of more than **180 business associations** has been established in September 2004 based on a written **Protocol of cooperation**.

- V. Promotion of an active civil society
 - A new law package elaborated with the Transparency International support is under parliamentary debates. The package includes, among others, a special law settling the **National Integrity Council** – an independent body, with legal personality, having exclusive competency in the field of investigation and control of the assets, in finding and investigating of the conflicts of interest and incompatibilities in exercising public dignities, public offices and other offices provided by law.

3. ANTICORRUPTION INITIATIVES PLANNED FOR THE NEXT 6 MONTHS

- Drafting and adopting the NAS II 2005 – 2007
- Starting the implementation of NAS II
- More results in prosecuting high level corruption
- Evaluation of the answers given by the **prosecutors** to the integrity questionnaires
- Elaboration of an integrate policy for combating petty and medium corruption
- Implementation of an efficient mechanism in discovering and sanctioning the breaches of the obligations of public officers/magistrates/dignities.

4. SPECIFIC REQUESTS TO THE SPAI REGIONAL SECRETARIAT LIAISON OFFICE

- Support and assistance in analyzing and assessing the impact of the NSA II regarding the high level corruption;
- Support in implementing the training component of the NAS II;
- Support in developing a national anticorruption awareness campaign;
- Support in developing and updating the SEECF compliance matrix regarding the Joint Campaign to Fight Organized Crime and Corruption. SPAI RSLO is invited to assist the SEECF CiO in developing the matrix and in providing inputs for a permanent update with regard to the status of implementing the UN Convention against Corruption by the SPAI and SEECF countries.

5. ANNEXES

- The new Criminal Code;
- GEO 24/2004 with reference to the increase of the transparency in performing the public dignities and the public offices, as well as to the enhancement of the Measures for the prevention and combat of the corruption;
- Emergency Ordinance no. 43 from April 4th 2002 regarding the National Anticorruption Prosecutor's Office



GOVERNMENT OF THE REPUBLIC OF SERBIA

1. SUMMARY OF REPORTS FROM THE PREVIOUS STEERING GROUP MEETING

- Serbia and Montenegro signed the UN Convention against corruption in December 2003;
- The pillars of the national anticorruption strategy are: securing the institutional frame, reform of the public administration, economic reform, motivating the participation of civil society, affirmation of the political environment that favors the fight against corruption;
- The Government is focusing its efforts on improving or adopting relevant anticorruption legislation, in accordance with international standards, conventions and recommendations: Law on Free Access to Public Information, Ombudsperson Law, Anti Monopoly Law, Law on Supreme Audit Institution, Amendments of Criminal Code, Criminal Procedure Code and Civil Service Act.

2. PROGRESS MADE IN THE LAST 6 MONTHS IN ACHIEVING THE SPAI OBJECTIVES

2.1. Adoption and implementation of European and other international instruments

Having in mind the structure of the State Union Serbia and Montenegro and the authorities of the state members related to the State Union, measures undertaken do not fit in the 6 months timeline.

2.2. Promotion of good governance and reliable public administrations

The Serbian Government's Public Administration Reform Council adopted on October 15th, 2004 the Serbian Public Administration Reform Strategy that is based on fundamental principles of the European administrative framework, namely de-politization, professionalism, decentralization, rationalization and modernization of the public administration.

2.3. Strengthening of legislation and promotion of the rule of law

Legislative activity

Law on Prevention of Conflict of Interest in Discharge of Public Office was adopted on April 20th, 2004 and can be found in Annex I.

Through the last changes in **Criminal Procedural Code** dated May 2004, harmonization of this code with UN Convention on Transnational Crime is performed, through which it is envisaged that when there is suspicion that criminal offence has been done for which the penalty of four years imprisonment is prescribed, instead of ten years as was prescribed before, investigation judge on prosecution proposal might order to the bank or financial organization to deliver facts concerning balance of business or personal accounts belonging to suspects. The possibility of seizure of assets, which are designated for execution of a criminal offence, has been established. Through this changes the circle of criminal offences for which above

mentioned measures could be undertaken in pre-criminal trial is widened, including criminal offences of corruption.

International activity

As the member of the Group of states against corruption of the Council of Europe (GRECO), Serbia and Montenegro/Serbia replied for the First and Second Evaluation Rounds and Reports are submitted to the Council of Europe in August this year, while the visit of GRECO evaluation team is expected during the beginning of February 2005.

2.4. Promotion of transparency and integrity in business operations

The Chamber of Commerce of Republic of Serbia, as the member of International Chamber of Commerce, is involved in the Anti-corruption program. In accordance with the recommendation of the International Chamber of Commerce, Serbian Chamber of Commerce is working towards adoption of the Code of Conduct by every business firm or other legal entity, regarding fight against corruption. The president of Serbian Chamber of Commerce made a suggestion that a separate, independent body for fight against corruption in business, should be established within Serbian Chamber of Commerce.

2.5. Promotion of an active civil society

Since February 2004, Transparency Serbia started with Public procurement training program, aimed to enable journalists, small and medium entrepreneurs and local politicians with key issues of bidders' protection, within which several trainings were organized in Belgrade, Novi Sad, Kragujevac and Nis. TS launched "Clear/Opaque" action with editors of Serbian press media, where corruption related events are commented on weekly basis.

Within the Western Balkan project of Transparency International, TS organized in May 2004, two day conference "Anti-corruption legislation – Slovenian experience and Serbian challenges", where high ranked Slovenian officials and Serbian experts discussed about critical issues of implementation of the Law on Prevention of Conflict of Interest in Discharge of Public Office and the Law on Free Access to Public Information, on which basis TS issued publication of the same name.

Also, within its activities in curbing of political corruption, during campaign for the President of Republic of Serbia (June 2004), TS conducted research and monitoring project, as a first such action in Serbia. The preliminary results of this research (about interpretation of legal provision and media advertising of candidates in campaign) were presented in April – June period, while promotion of complete material of research (in Serbian and English) is scheduled for early November 2004.

Beside that, TS is participating actively in drafting of National Anti-Corruption Strategy, and published translation of Transparency International Source Book as a basis for implementation of future Strategy.

NGO Center for liberal-democratic studies issued in September 2004 publication "Corruption in judiciary", which aimed at examining the scope of corruption in judiciary, giving the institutional analyses of causes and mechanisms of corruption and suggesting an comprehensive and effective program of fight against corruption in judiciary.

3. ANTICORRUPTION INITIATIVES PLANNED FOR NEXT 6 MONTHS

National Strategy for fight against corruption

The Government of Republic of Serbia joined the drafting the National programme for fight against corruption within which the issue of organization of establishing specialised state authority for fight against corruption as well as its competence and jurisdiction shall be discussed. The Ministry of Justice formed the working group with representatives of the Anti-corruption Council of Serbian Government, relevant ministries, judiciary, business community, NGO's and media. It is planned that the Strategy should be finished by the end of this year. Council for The National strategy for fight against corruption will be drafted within the regional PACO Impact Project of the Council of Europe, which covers the implementation of anti-corruption plans in South East Europe.

Legislative activity

The Government of Republic of Serbia has prepared the drafts of following laws that are currently before the Government or the National Assembly of Republic of Serbia:

By the **Law on Free Access to Public Information** not only the new right for the citizens has been established, but also the obligation of state bodies to make information available. Actually it is about novelty in our legal system, which will contribute to the democratization of society, the transparency of public sector, and through the control of work of state bodies this law has anticorruption character. In the same time, this law is of grate importance for media because it secures faster and more effective approach to information to the journalists. Through this document the term "public information" has been precisely established and the institution of Referee for public information has been established, who will take care of implementation of law and resolving complaints. After entering into force of this law all state bodies will be obliged to name the person, which will deal with delivering the information.

Through the new **Criminal Code** the codification of Basic Criminal Law and Criminal Law of Republic of Serbia has been done. This Code for the first time codifies that the foreign officials can be responsible for criminal offences of corruption.

The **Law on Protection of Competition** regulates protection of competitions, which aims achieving economic efficiency and securing equality of market participants. By this law it has been envisaged that the Commission for protection of competition should be established, as independent organization which has public authority and which is responsible for its work to Parliament. Commission is, among other things, authorized to collect dates on participants, who have dominant position on the market, to organize, undertake and control implementation of measures by which the protecting of competition is secured and international cooperation in this field is effected.

The new proposal of the **Law on Prevention of Money Laundering** is completely harmonized with convections which Serbia and Montenegro, as member of UN has ratified recently. Important change of this law is related to introduction of money laundering as a criminal offence and to authorization of the FIU within Ministry of Finance to suspend a dubious transaction for up to 72 hours for inspection, in case that there is suspicion of money laundering of legal and natural person.

The **Law on General Administrative Procedures** will enable applying electronic business of public sector-electronic government, meaning that state bodies will legally established and protected way be able to respond to all demands of citizens which were up until now satisfied through counter services. By this law more efficient more comprehensive control of legality of administrative acts which are brought by state administrative bodies.

Through passing of the new **Civil Procedure Law** and new **Law on Executive Procedure**, their harmonizing with Council of Europe's standards, will be performed and acceleration of judicial proceedings in civil field will be secure, through that realizing of the rights of the citizens on more effective judicial protection will be possible, and through that the legal obligation for more conscientious and accurate work of courts has been provided.

The **Law on Public Officials**, which is currently in preparation, should include also an ethical Code of conduct of public officials, in the aim of combating conflict of interest.

By the **Ombudsperson Law** the citizens of Serbia are getting additional way of protection their rights from obstinacy and inefficiency of state authorities, mining the protection from any illegal and unlawful acting of state authorities. By this Law Serbia will become one of the 139 countries in the world that have this institution.

The Ministry for public administration and local self-government of Republic of Serbia is also preparing the text of the **Law on Government of Republic of Serbia**, the **Law on Public Administration**, the **Law on Public Agencies** and the **Law on Associations of Citizens**.

Draft of the **Law on Supreme Audit Institution** is not prepared yet. As there is intention to do it, within Committee for Finances, Subcommittee for preparing working version of the above-mentioned law is established. Members of Subcommittee are coming from every Deputy group. The first constitutive meeting will be held at October 29. 2004. On that meeting will be discussed which laws from comparative law and practices should be considered.

International Projects

Republic of Serbia participates in two regional projects that are dealing with a fight against corruption:

1. Council of Europe's Project PACO Impact – Implementation of Anti-corruption Plans in South-Eastern Europe;
2. Project CARDS – Council of Europe: Establishment of an independent, reliable and functioning judiciary and the enhancing of the judicial co-operation in the Western Balkans

Ratification of international conventions

As it is stated in Chairman's Conclusions from the previous SPAI meeting that was held in Sarajevo, September 2004, the process of negotiations for adoption and signing the relevant international documents and instruments, as well as their ratification, is exclusively in the competence of the State Union. The Ministries of Justice of both member states are ready to initiate the process of ratification of the UN Convention against corruption by the end of 2004.

4. SPECIFIC REQUESTS TO THE SPAI REGIONAL SECRETARIAT LIAISON OFFICE

Having in mind that the harmonization with UN Convention against Corruption is a part of the Action Plan for the implementation of priorities set by the European Partnership, as a part of the European integration process, the Government of Republic of Serbia will appreciate support from SPAI RSLO and other international donors in the implementation of the Convention, through seminars for the representatives of relevant ministries, judiciary, public and civil sector, and media.