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Programme against Corruption and Organised Crime in South-eastern Europe (PACO)
Implementation of National Anti-corruption Plans in South-eastern Europe (Impact)

Expert Opinion
on the
2nd Draft Programme for Combating Corruption and
Organised Crime in Montenegro

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The views expressed in this technical report are solely those of the experts ones and do not necessarily reflect official positions of the Council of Europe

1 INTRODUCTION

As an integral part of the PACO Impact Project, a two-day activity took place in Podgorica, Republic of Montenegro on 15-16 November 2004. On the first day's, a round table discussion focused on the finalization of the Programme for the Fight against Corruption and Organized Crime of the Republic of Montenegro, and involved the members of the Working Group (Ministry of Interior, Office for Anti-corruption Initiative, NGO representatives), and Council of Europe's expert Kristina Hemon and an independent consultant Bertrand de Speville, a former Director of Honk-Kong's Anti-Corruption Commission. The discussion was very lively and constructive, with active participation of all present at the event.

The second day involved training on the Programme's management. The participation was expanded to involve representatives of the Ministry of Finance, General Prosecutor's Office, Organized Crime Police Unit, Anti-Money Laundering Unit and the Ministry of Justice. Representatives of OSCE involved in anti-corruption activities were also present on the second day. Mr. De Speville¹ has outlined conditions for successful implementation of anti-corruption reforms and of successful monitoring and evaluation of such efforts, providing the participants with fundamentals of designing, implementing, evaluating, and managing anti-corruption efforts. The local media has followed the event on both days and has reported about it on TV and in the printed newspapers, thus helping raise awareness on the on-going activities in Montenegro.

2 COMMENTS

2.1 OVERALL COMMENTS

The first (narrative) part of the Programme serves several purposes: recognition of the problem of corruption and organized crime; political declaration of willingness to take action against; and a broad illustration of recently introduced reforms and planned reforms in specific sectors and areas (as per the outlined content of the document) of fighting corruption and organized crime.

The Programme is thus a policy statement, which is to be supplemented by a more detailed, action-specific implementation plan which clearly identifies actions; actors; timelines; and indicators of success. The narrative part of the document could thus be shortened in order to improve clarity and readability of the Programme without compromising its main purpose.

2.2 COMMENTS ON ANTI-CORRUPTION SECTION

Following the round table discussions and a closer examination of the most recent draft Programme, suggestions for further improvement of the Programme's anti-corruption part are as follows:

1. As per suggestions of Mr. De Speville who emphasized the need to distinguish between the area Good Governance and specific anti-corruption reforms, the working group could make adequate changes in the text to reflect this distinction.

Good governance measures concern broader reforms such as modernization of public administration (i.e., restructuring, training and educational requirements,

¹ See other Technical Paper from Mr Bertrand de Speville.

etc.) and introducing a treasury-based budgetary system, which aim at improving effectiveness and transparency of a particular state sector. **Specific anti-corruption measures, on the other hand, should be specifically tailored for each institution in order to remove opportunities for corruption;** prescribe rule of conduct and sanctions in cases of breach of the rules of conduct, and target greater accountability and transparency. Good governance is thus a broader concept, which is necessary but not sufficient a measure against corruption. Specific anti-corruption measures tailored for specific institutions are a more substantive part of a border framework and are complementary with good governance principles.

2. The part **6.3.6 Public Finance** needs to be further elaborated so to include explanation about the purpose of these reforms and the role of these institutions (public procurement, public funds, public companies, treasury budgetary system, and relevant institutions such as audit office and other supervisory bodies).

2.3 COMMENTS ON ORGANIZED CRIME SECTION

Suggestions for further improvement of the Programme's part concerning organized crime are as follows:

1. For better clarity, part **5.1 Efficient criminal prosecution** (under **General objectives**) could be in a shortened form submerged with part **5.2** which also needs to include a brief reference to the need for an legal framework providing for adequate tools and instruments to detect, investigate, and prosecute organized crime and corruption (such as special investigative means, protection of witnesses and collaborators of justice).
2. Sub-section **a) Legislation of part 6.1 Efficient criminal prosecution** (under **Specific measures**) currently addresses very different issues – some of which have only indirect relevance for criminal prosecutions (such legislation related to public administration, budget, ombudsman, conflict of interest etc.). Accordingly, it is advised that this part is further streamlined, possibly along the following lines: i) this section should primarily deal with the criminal legislation, police act and the new law on prosecutors with relevant implementing regulations and by-laws. ii) issues related to better management and control over state budget would be addressed in the newly created Section preceding section 6.1 – section could be titled e.g. Efficient management and control over the use of state funds. References to laws such as the Law on State Auditing Institution, Law on Budget, Public Procurement Law, etc. would be addressed in this section. iii) References to legislation such as the Law on Conflict of Interests, Law on Local Governance, Law on State Administration, Law on Civil Servants and Officials, Law on Ombudsman, etc. could be moved into the part on Good Governance below.
3. Part **6.1 Efficient criminal prosecution** (under **Specific measures**) would benefit from an additional **sub-section e) Training**. Wording from existing second paragraph of Part 5.1, which deals exclusively with training could be moved in this new subsection.
4. Part **6.1.2 Good cooperation between investigation and prosecution bodies, and establishing joint investigative teams** is currently “without substance”. It would require further elaboration by briefly underlining a need for improved inter-agency cooperation in criminal prosecution – especially between the police and prosecutors, but also between police, prosecutors and other enforcement / controlling institutions (such as Tax and Custom Administration, Office for the Prevention of Money Laundering, etc.). In part that has been done – “on paper”– with the new concept of pre-trial investigation under the new criminal procedure code; however

further steps could be taken by concluding so-called memorandums of cooperation and exchange of information between relevant bodies.

5. Part **6.1.3 Investigative powers** currently list only one subsection (special investigative means), but actually addresses broader issues – e.g. witness protection. It is recommended that in addition to special investigative means additional subsection are created: i) Protection of witnesses and collaborators of justice; ii) Financial investigations aimed at confiscation of proceeds from crime. Witness protection is already excellently elaborated and thus needs only to be put under a separate sub-section, while financial investigation aimed at confiscation of proceeds from require additional focus (I suggest to look for inspiration in this area at the Template for Implementation Strategy prepared also for Montenegro in November 2004 under the CARPO/CARDS Police project Output 1.2).
6. Article **Article 28** of the UN Convention on Transnational Organized Crime (Palermo Convention) stipulates that countries consider regularly analyzing, in consultation with scientific and academic communities, the aspects of organized crime, trends, circumstances, groups and technologies, and publish the analysis reports on a regular basis. The aim of such analysis would be to share analytical experience; monitor policies against organized crime; and assess their effectiveness. In view of this international obligation, it would be useful to refer in the Programme to commitment to improve collection of crime intelligence and crime analysis as an important part of the fight against organized crime.

3 FOLLOW UP

3.1 ADOPTION OF THE PROGRAMME

The current draft action plan requires further substantive work in order to fully represent a more detailed, action-specific implementation plan which clearly identifies actions; actors; timelines; and indicators of success in order to secure accountability, transparency, and effective management. Such action plan would concretize efforts and measures for each sector and institution within clearly divide and identifiable sectors as discussed in the narrative part of the Programme (e.g., good governance and specific anti-corruption measures). **To elaborate such action plan requires more time and further discussion and training.**

Given that the narrative part of the Programme can be finalized in the relatively short period of time, and considering the importance to the Government of Republic of Montenegro of adopting a policy document against organized crime and corruption at this time, the experts, in consultation with the members of the working group and political decision – makers of the Republic of Montenegro, suggests that the Programme for the Fight against Corruption and Organized Crime, finalized as per the round table discussion and this experts' advice, is formally adopted in December 2004 as originally planned.

3.2 ELABORATION OF AN ACTION PLAN

Given the importance of an action plan as a substantive supplement to the narrative part of the Programme that is to be adopted, the experts suggest that the working group continues to work on improving the current draft of the action plan with the assistance and help of the Council of Europe as requested. As discussed, a seminar focusing on elaborating and improving an action plan could take place at the beginning on 2005 so to provide assistance to the working group and other relevant institutions in time to complete the task to meet GRECO evaluation which is scheduled for February

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2005. This seminar would address issues of the content of the action plan; monitoring and evaluating its implementation; institutional requirements for effective management and monitoring; and other issues as identified by the Montenegrin counterparts.

4 ANNEX: SECOND DRAFT OF THE NATIONAL PROGRAMME

**The Republic of Montenegro
Government of the Republic of Montenegro
Ministry of Internal Affairs**

**P R O G R A M M E
OF FIGHT AGAINST CORRUPTION
AND ORGANIZED CRIME**

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ABBREVIATIONS

CARDS	- Community Assistance for Regional Development and Stability
NCB	- National Central Bureau
EU	- European Union
GMC	- Multidisciplinary Group on Corruption
GRECO	- Group of States against Corruption
JHA	- National Standards in Justice and Home Affairs
CC	- Criminal Code
IMF	- International Monetary Fund
MIA	- Ministry of Internal Affairs
NGO	- Non-governmental Organization
OCTOPUS	- Council of Europe Programme of technical cooperation in fight against corruption and organized crime
OSCE	- Organization for Safety and Co-operation in Europe
OECD	- Organization for Economic Co-operation and Development
UN	- United Nations
PACO	- Programme against Corruption and Organized Crime in SEE
RoM	- Republic of Montenegro
USA	- United States of America
SAP	- Stabilization and Association Process
SM	- Serbia and Montenegro
SFRY	- Socialist Federal Republic of Yugoslavia
SPAI	- Stability Pact Anti-Corruption Initiative
SPOC	- Stability Pact Initiative against Organized Crime
FRY	- Federal Republic of Yugoslavia
UN	- United Nations
USAID	- United States Agency for International Development
UNHCR	- United Nations High Commissioner for Refugees
CPC	- Criminal Procedure Code

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Supervision

Appointment and removal

Code of Ethics

Special internal control measures for the prevention of corruption in the prosecution (cover up etc.)

6.3.4. Police and other investigation bodies

Supervision

Code of Ethics

Special internal control measures aimed at the prevention of corruption in the police and investigation bodies (cover up of cases, etc).

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INTRODUCTION

This programme has been drawn up within the programme activities of the Government of the Republic of Montenegro and in cooperation with the Centre for Transition in Montenegro with the aim of becoming a part of the general social plan and widely accepted system of measures and activities for fighting corruption and organized crime as highly detrimental social phenomena. What is of prime importance in the fight against corruption is the size of illegal redistribution of resources to the detriment of ordinary citizens, but also the fact that the pressure of corruption represents a serious risk factor limiting foreign investments and support to transition, which has a demoralizing effect on the national potential for the implementation of reforms. Apart from this, lack of adequate opposition of the public to this phenomenon undermines efforts aimed at establishing democratic values and the rule of law in Montenegro.

The wide scope of this definition is the result of the fact that effective resistance to corruption, one of the most dangerous national and global phenomena, requires harmonized efforts and activities of the government and of the citizens, as well as of each and every segment of public life.

The goal of this Programme is to limit as much as possible corruption and organized crime and their consequences that are destructive to the society as a whole.

The Programme particularly emphasizes the establishment of an efficient institutionalized and legal framework for fight against corruption. Reforms of public administration, judiciary, financial and economic systems, in view of their increased transparency and accountability, represent an indispensable prerequisite for development of efficient anti-corruption mechanisms.

Civil society organizations should set an example in the campaign aimed at raising public awareness. In this sense, it is necessary to find the right approach in cooperation with the authorities, by combining the principle of cooperation with the principle of civil control.

What is particularly important is the cooperation among international organizations, foreign governments and international experts in an effort to define parameters of anticorruption initiative and integrate the initiative into multilateral efforts to limit corruption in the countries of the region.

2. ANALYSIS OF CURRENT SITUATION

2.1 Corruption and Detrimental Consequences of Corruption

Corruption is defined as any form of abuse of authority for personal or collective gain, whether in the public or private sector. Public opinion and language of politics use the term corruption to refer to a number of social phenomena including: organized and commercial crime, inefficient administration and the consequences of such administration. There is no one clear legal definition of corruption, but conventionally the term has implied: infringement of equality in performance of business operations (Art. 269 of the CC of the RoM), abuse of monopolistic position (Art. 270 of the CC of the RoM), causing of bankruptcy (Art. 273 of the CC of the ROM), causing of a fraudulent bankruptcy (Art. 274 of the CC of the RoM), abuse of authorities in economy (Art. 276 CC of the RoM), false balance (Art. 278 CC of the ROM), abuse of assessment (Art. 279 CC of the ROM), revealing of a business secret (Art. 280 CC of the RoM), revealing and using of a stock exchange secret (Art. 281 CC of the ROM), issuing and unauthorized obtaining of a business secret (Art. 425 CC of the RoM), abuse of official position (Art. 416 CC of the RoM), accepting bribe (Art. 420 CC of the RoM), giving bribe (Art. 424 CC of the RoM),

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illegal mediation (Art. 422 CC of the RoM), revealing of a business secret (Art. 425 CC of the RoM). Each of the above stated definitions reveals particular elements of corruption, and though the definition may be the subject of debates, the social and political detriment of corruption and its presence in Montenegro is indisputable.

Corruption has always existed. In modern states corruption represents a danger because it harms the execution of social activities, reduces the necessary level of morality, blocks public administration, and makes the judiciary inefficient. Various assessments have been made on the damages caused by corruption, but it is considered that the biggest one is the fact that it distorts priorities in political and economic decision making and reduces public accountability and social morality.

No reliable assessments have been made on how widespread corruption is nor to what extent it is present in Montenegro.

The first but unreliable fact is the statistics of criminal offences with elements of corruption. The statistical data point to the conclusion that only a small number of persons have been reported, accused and sentenced for criminal offences with elements of corruption. In the period from 1998 to 2003, a total of 1099 criminal charges have been brought for the criminal offence - abuse of official position, Art. 216 of the Criminal Code previously in force (1065 persons included), as well as for criminal acts of giving and accepting bribe - 220 and 221 of the Criminal Code of the Republic of Montenegro previously in force ("The Official Gazette of the Republic of Montenegro", no. 42/93, 14/94, 27/94 and 18/03), which included 34 persons.

Public polls conducted in Montenegro have all shown that according to perception and views of interviewed citizens corruption and organized crime are considered extremely widespread. Namely, according to the results of the public poll conducted by the agency "Damar" in March 2004, the trend from the previous investigation conducted in 2003 continued, according to which citizens perceive corruption and crime (76.4%), poverty (50.9%) and unemployment (49.9%) as three biggest social problems in Montenegro.

MODALITIES	2002%	Rank	2003%	Rank	2004%	Rank	Change%	Change of rank
1. Political instability	46.5	2	20.1	6	22.7	5	2.6	+
2. Ethnic problems	4.3	8	3.4	7	4.7	7	1.3	0
3. Corruption and criminal	36.9	4	57.2	1	76.4	1	19.2	+
4. Low salaries	41.6	3	46.3	4	38.6	4	-7.7	0
5. Unemployment	48.3	1	49.9	2	46.4	3	-3.5	-
6. Environment pollution	2.7	9	3.4	7	3.8	8	0.4	-
7. High prices	18.6	7	25.9	5	18.5	6	-7.4	-
8. Education	2.7	9	3.0	9	2.3	9	-0.7	0
9. Poverty	30.6	6	49.6	3	50.9	2	1.3	+
10. Other	0.9	10	1.8	10	2.6	10	0.8	0
11. No precise opinion	0.4		0.6		1		0.4	

Such a view of the interviewees on the issue of corruption points to the fact that, notwithstanding everything that has happened during the past ten years, the citizens

have preserved the ability to perceive relevant social phenomena. Thus an extremely high percentage of 57.2% (in 2002 it was 36.9%) [now 76.4%] saw corruption as one of three leading phenomena, which is the expression of their clear view that corruption and bribing are our reality.

According to CAPI Transparency International index, international investigations have shown that Serbia and Montenegro are on 106th place of a list including 120 countries. Investigations carried out by the World Bank have shown that according to surveys Montenegro belongs to the middle group of countries in transition. The data point to a relatively low total index of administrative corruption in particular, but to a high level corruption in the field of political accountability and judiciary. The investigation also warns of low level social accountability, which is in itself a condition for corruption, but also of the existence of strong social groups ready to hamper social reforms.

These data reveal that it cannot exactly be determined how widespread corruption in Montenegro is. However, what is indisputable is that corruption disturbs business operations and that the impression on its prevalence discourages foreign investors and Montenegrin entrepreneurs. Every attempt to make things relative is very detrimental, for it makes it possible to find an alibi for lack of a political decision, which is contrary to the policy of conducting measures for fighting corruption.

2.2 Organized Crime and Detrimental Consequences

Organized crime represents a serious threat to the rule of law and prosperity of the society in general. Undoubtedly, organized crime is a form of professional criminal activity. In sociological terms, perpetrators of criminal offences with elements of organized crime are characterized by great social mobility, thus within one generation they start from the social bottom, and afterwards reach the positions of immense power and wealth. Their way is paved with execution of serious criminal offences, causing of evil and violence. At the same time, organizing of prostitution is one of important illegal activities of this form of crime, which, as a rule, is connected to human beings trafficking. Due to all this, most prostitutes represent some kind of slaves.

Characteristic criminal activities of organized crime are also corrupt criminal acts, committing of serious criminal acts of violence, most frequently linked with racketing or "elimination of competition", "money laundering", as well as offences related to games of chance, organized stealing and reselling of stolen cars etc. Organizing of prostitution, as well as massive organizing of games of chance are frequently used by the criminal organizations for "money laundering".

In modern forms of organized crime, certain legal or (para) legal affairs are conducted in parallel to illegal ones, whereby real business empires are being created. Economic power and wealth as well as readiness of perpetrators of criminal acts with elements of organized crime, i.e. of criminal organizations, to use serious violence for imposing their will or preserving the achieved positions, the power stemming from bribing of some of the state officials, along with the now traditional "law of silence", the closed structure of such organizations, connection with some of the representatives of the authorities, fear of vengeance and the like, represent the basic, and unfortunately, almost unsolvable problems for legal system representatives who oppose organized crime.

Organized crime knows no boundaries, therefore it represents a problem for countries of South Eastern Europe, Western Europe, or any other part of the world. They only differ in means, methods or organization. Countries in transition, such as Montenegro, are no doubt more suitable for expansion of organized crime, than the developed industrialized countries. If we consider the fact that during the last decade of the past century most

countries of South Eastern Europe experienced war, it becomes absolutely clear why organized criminal groups were given the possibility to develop their networks in South Eastern Europe, which also partly indicates the starting point of this negative trend.

Organized crime cannot be precisely defined because of its complexity and the fact that it represents a social danger. Organized crime is defined as the result of action of more than two persons aimed at performing criminal acts in order to gain profit or power. An offence must meet at least three conditions to be considered criminal act of organized crime:

- that every member of a criminal organization had a task or a role determined in advance;
- that the activity of a criminal organization was planned for a longer time or for an indefinite time;
- that the activity of a criminal organization is based on application of certain rules of internal control and discipline of its members;
- that the activity of the organization is planned and performed on an international scale;
- that violence or intimidation are used in performance of activities or there is readiness to use them;
- that political, economic or business structures are used in performing activities;
- that money laundering or laundering of illegally obtained proceeds is used;
- that the organization or a part thereof influences the legislative authorities, the media, or judiciary authorities or some other social and economic entities.

An important factor that has not been included into the above stated conditions is the ability of an organized group to be regenerated even when it has suffered losses due to activities of institutional bodies in fighting organized crime.

The existence of organized crime in Montenegro can only be expressed through statistics of criminal acts with elements of organized crime. Thus in 2002, a total of 6950 criminal charges were taken against 5542 persons. In the field of fight against narcotic drugs, 305 criminal offences were registered (223 cases of illegal production and sale of narcotic drugs – Art. 245 CC of the FRY previously in force and 82 cases of making it possible to take illegal drugs – Art. 246 CC of the FRY previously in force). A total of 1.741.487,05 gr. of narcotic drugs were confiscated. During the same time period, 17 criminal charges were taken against 27 persons for the criminal act – human beings trafficking from Article 201 CC of the RoM previously in force.

In 2003, 295 criminal offences related to narcotic drugs were discovered and they were as follows: 207 criminal offences of illegal production and sale of narcotic drugs and 88 criminal offences – making it possible to enjoy narcotic drugs. Criminal charges against 276 persons were taken before the competent prosecutors.

A total of 875.335,60 gr. of narcotic drugs were confiscated from these persons, most of which was marijuana (862.500,49 gr.) and heroin (12.210,11 gr.). In the year 2003 a rise in use and presence of heroin was registered, which was confirmed also by the confiscated quantity (over 12 kilograms).

In the year 2003, four criminal charges were taken for the criminal offence – human beings trafficking.

Like all the countries in the region, Montenegro is faced with numerous challenges on its way to establish legality and fight criminal activities and basic causes of crime.

3. Political commitment to action

The success of fight against corruption and organized crime depends on a large number of factors, the most important one being political will and decisiveness. Not only as an expression of the citizens' views, but also as the general commitment of the main political parties and NGOs, in Montenegro there are preconditions for reaching a general consensus on the need to fight corruption and organized crime. This is why the political commitment to act is not a mere statement of intent, but a clear political commitment and expression of accountability to citizens.

Progress has lately been made in mobilizing experts and political representatives in debates on the issue of corruption. The public increasingly sees fight against corruption as a priority. Former view that corruption was an endemic phenomenon rooted in the views and habits of people, which was in essence demoralizing, is more and more replaced by the perception that it is a system phenomenon that should be combated and reduced to the minimum possible extent.

Political will for fight against corruption shall determine the speed of anticorruption reforms implementation. Starting from the strategy based on principles of democracy and responsibility, reform of government structures so as to make them more sensitive to the requirements of citizens are critical in making the situation in every local community the starting point for action. Through construction of horizontal and vertical networks and alliances for collective action between political leaders and parties, agencies, public and civil society and other non-governmental participants, the objective of radical changes would be achieved. Strategy of fight against corruption and its implementers must be integrated into the network of trust and balance, which will contribute to better management and realization of wider goals of democratization.

Montenegro is undoubtedly committed to taking efficient measures to combat corruption and organized crime. This implies intensifying of general reforms of the legal and financial systems already under way and a comprehensive implementation of international instruments and standards in the area of fight against corruption. In this context, at a donor conference and through bilateral cooperation, Montenegro is going to call for substantial and fast financial and technical-expert assistance from donor countries and international organizations and institutions, with view of a comprehensive realization of these activities.

4. International commitment to action

The starting point of the Programme of Fight against Corruption and Organized Crime is respect for relevant international standards in organized social struggle against these phenomena, in particular of the following:

4.1 Corruption

UN General Assembly Resolution 3514 (1975)

UN Convention on Transnational Organized Crime adopted in Palermo in December 2000 with the additional protocols: UN Protocol against Transnational Organized Crime, Protocol against the Smuggling of Migrants by Land, Air and Sea and Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

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Resolution (97) 24 of the Council of Europe including 20 leading principles for fight against corruption.

Criminal Law Convention on Corruption (adopted on 27 January in Strasbourg) which defines active and passive corruption, criminally sanctions bribery of foreign public officials in obtaining jobs, defines corruption in international organizations, establishment of specialized bodies for fight against corruption, incrimination of corrupt criminal offences with an international element and the spreading of “money laundering”. The countries that ratified this Convention took on the commitment to protect interests of persons who suffered damages by an act of corruption by public officials and determined principles of indemnification. Thus an important step forward was made in adapting the Montenegrin legal system to the European standards and standards of the international community.

OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The Convention foresees a number of obligations for signatory states: the obligation to incriminate bribery of foreign public officials, obligation of legal assistance and other (came into force on 15 February 1999). Ratification of OECD’s Convention would enhance the credibility of the Republic of Montenegro as a country, facilitate foreign investment and international trade. Such an orientation would be a prerequisite for inclusion into the European integrations.

Conventions on laundering, seeking and confiscation of revenues obtained by criminal activities (2002). UN Convention against Corruption was signed in December 2003, and its ratification is being expected. When speaking of international legal assistance in criminal-legal matters, ratification of the following conventions have to be mentioned:

European Convention on Mutual Assistance in Criminal Matters (2001) and Convention on the Transfer of Sentenced Persons with the additional protocol (2001) that have also been ratified.

Agreement on the establishment of a Group of States against Corruption (GRECO) which was adopted by the Board of Ministers of the Council of Europe (5 May 1998) and which was approved by the Multidisciplinary Group on Corruption (GMC).

Analysis and the anti-corruption and organized crime programme in member states conducted by the Council of Europe (OCTOPUS I and II).

The Ancona Declaration (adopted in 2000) and Stability Pact Anti-Corruption Initiative (SPAI) which encourage cooperation between police and political bodies in fighting corruption and organized crime.

4.2 Organized crime

European Convention on the Suppression of Terrorism dated 27 01 1997;

United Nations Single Convention on Narcotic Drugs dated 01 08 1961, as amended by the Protocol as of 25 03 1972;

International convention on psychotropic drugs as of 21 02 1971 ;

UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances dated 20 12 1988;

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The Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime as of 08 11 1990;

International Convention for the Suppression of the Financing of Terrorism as of 09 12 1999;

Convention for the Protection of Human Rights and Fundamental Freedoms as of 04 12 1950 and the accompanying protocols;

Roman Statute of International Criminal Court;

The Stability Pact for South East Europe, Task Force on Trafficking, Statement of commitments, Tirana 11 12 2002 including among other things the following:

Anti-trafficking Declaration of South Eastern Europe, signed in Palermo on 13 December 2000;

UN Protocol for prevention of, suppression and punishing of human beings trafficking, especially of children and women, as an addition to the UN Convention for fight against trans-national organized crime (15 11 2000), whereby the participant countries commit themselves to "considering introduction of legal or other appropriate measures", that would make it possible to trafficked persons to "remain at their territory, temporarily or permanently, in suitable cases";

Europe's Committee of Ministers Recommendation (2000)11 on Action against trafficking in human beings for the purpose of sexual exploitation (19 05 2000), inviting member countries to provide "temporary residence in the country they find themselves in ... in order to enable them to act as witnesses in court processes against the accused persons", and to provide to the victims during that time social and medical assistance;

Ministerial Council Decision no. 1 on Enhancing the OSCE's Efforts to combat trafficking in human beings (28 11 2000), stating that members "Will consider adopting legislative or other appropriate measures, such as shelters, which permit victims of trafficking in persons to remain in their territories, temporarily or permanently, in appropriate cases;

The Hague Ministerial Declaration on European Guidelines for effective measures to combat trafficking in women for the purpose of sexual exploitation (26 04 1997), which recommends to determine privileged residential status to victims of trafficking during criminal proceedings.

The above cited norms of international law indicate that fight against corruption and organized crime and undertaking of successful legal and other measures have become an integral part of international obligations of all countries.

A high level of mobilization of all institutions as well as expression of political and economic interest for suppression of corruption characterize the action of important international factors. Even though the interest to suppress corruption is primarily Montenegrin, the activities undertaken to fight corruption are global. Montenegrin interest is to prevent "import" of corruption for such "import" is frequently connected with dangers of uneconomical investments, risks related to environment pollution and dirty industry, old technologies and unnecessary public investments.

The strategic orientation of Montenegro is to take action both through bilateral and multilateral cooperation in the fight against corruption and organized crime and to actively take part in all international organizations and initiatives aimed at suppressing and uprooting organized crime in South Eastern Europe.

In order to implement international obligations, it is critical to harmonize legislation in the whole region with JHA standards, i.e. to implement these standards into the legislation of the Republic of Montenegro.

Development of operative mechanisms based on EU standards, as well as cooperation between states aimed at undertaking joint operations against organized crime, promotion of legislative network and mutual legal assistance as well as exchange of information constitute a task of high priority.

Montenegro, like all the other countries of the region, at the session of the Stability Pact for SEE Work Table III (Sarajevo, February 2000), accepted the SPAI Compact and Action Plan. In compliance with the obligations taken over through these international documents, the Government of the Republic of Montenegro in December 2001 founded a special state body, Agency for Anti-Corruption Initiative, as an administrative body.

In the international arena, Montenegro will continue to actively take part in all the activities being undertaken within SPAI, and it will continue to realize the obligations stemming from the membership in this regional initiative, as well as in other international organizations and institutions in this area (PACO and GRECO). Furthermore, with view of creating a wide anti-corruption front, Montenegro will become regionally connected with the adequate institutions of the surrounding countries.

5. GENERAL OBJECTIVES

5.1. Efficient Criminal Prosecution

In order to achieve a satisfactory level of efficiency in combating and revealing corruption and organized crime, and in order to restore the citizens' confidence in the institutions of the system, all the competent bodies and institutions should take synchronized action in collection and analysis of data on corruption and organized crime at the national level. Focus should also be on timely identification of cases of corruption and organized crime, collection of data regarding the activities of organized criminal groups and distinguishing of competencies for taking measures in order to establish a system of responsibilities for the achieved results.

Efficient criminal prosecution calls for training of various bodies responsible for revealing cases of corruption and organized crime, but primarily training of police, which implies the following:

- Highly specialized training of all institutional bodies working on revealing and prevention of criminal offences of corruption and organized crime, which constitutes an important task.
- Specialization of police and organization of a special organizational part for fighting organized commercial crime and corruption. Specialization is needed also because of the new and specific measures for suppression of organized crime (which is almost with no exceptions connected with corruption, in particular political corruption).
- Training of key groups for fight in all parts of police structures, as some kind of prevention measures against internal "police corruption" and a significant standard for action and work of all services.
- Educating and training of judges, state prosecutors and the police which should be included into the regular plans of professional development, but also into the teaching curricula.

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- Protection of all those who report criminal offences, and in particular corruption and organized crime.

5.2 Efficient law enforcement and suppression of corruption and organized crime

Fight against corruption and organized crime must be based on universal principles and activities:

- intensifying of reform process, modernization of the state and public administration;
- creation of fair conditions for competence in economy;
- efficient work of the State Prosecutor and judiciary with view of protecting citizens' rights and freedoms;
- mobilization of all social forces in revealing and suppressing corruption and organized crime.

Efficient law enforcement is an integral part of the process of democratization, modernization of the state and public administration, introduction of fair conditions for competition in the economy, efficient work of the judiciary and protection of citizens' rights and freedoms.

Suppression and revealing of organized crime is not achieved only by mere discovering, delivering of sentences and penalizing of perpetrators of criminal offences of organized crime, even though these are the key elements not only for prosecution of organized crime, but also for stabilization of the legal system in general. First of all, measures must be taken for introducing European standards for combating organized crime, by means of:

- fulfilment of obligations for combating crime, in accordance with EU standards (SAP);
- establishment of institutions and development of laws in compliance with the European standards, assisting thus the police by an adequate legislative system;
- implementation of anti-corruption strategy (cooperation with the public and enforcement of anti-corruption laws);
- capacity building for financial investigations, control of "money laundering" and confiscation of the proceeds from crime;
- ensuring that the bodies enforcing laws (state administration bodies) possess the necessary practical and technical means for combating particular criminals and organized criminal groups;
- ensuring additional strengthening of these measures through better cooperation, exchange of information and coordination within each and every country;
- providing public support in fight against crime by sending a clear message to the public on the need to suppress crime.

5.3 Prevention

Fight against corruption and organized crime is basically a multidisciplinary, inter-departmental and long-term project aimed at helping achieve wider objectives of democracy, good governance and economic prosperity of Montenegro. Fight against corruption and organized crime implies complex measures.

In opposing corruption and organized crime, apart from the repressive it is also necessary to develop the preventive dimension. Through a comprehensive spectrum of preventive measures, Montenegro must direct all its available potential towards elimination of causes and conditions that are favourable for appearance of corruption and

organized crime, i.e. towards limiting to the biggest possible extent the prospect of their realization. It is necessary to reduce the consumption of products offered by criminal clans through incentives by competent bodies for to production of legal companies. Money flows, business transactions, investments, public works and the like should be subject to rigorous control. It is also critical to:

- Improve conditions for the work of the judiciary and for the stabilization of the judiciary system, as well as to introduce a modern information technology system;
- Introduce continuous learning, in particular the one pertaining to the possibility of criminal prosecution of corruption which should be related with influencing of the professional self-possession and ethics of the judges. It is not by mere chance that emphasis is put on education, for if insufficient knowledge is not a cause of corruption, a higher level of awareness on its detrimental effects is a necessary prerequisite for efficient work.

Application of the Code of Ethics for judges as a good quality base for creating professional criteria and for controlling application of the norms included in the Code of Ethics. Primarily, this represents an internal requirement of the judicial profession, but also a requirement of the public for responsible social behaviour. Following the principle that it is the profession that should first give an answer to this, what should first be done is to assess whether the objectives set by the legislator pertaining to fight against corruption are really being achieved.

Raising the level of real knowledge and trust in general, with full respect for the role of the lawyer and developing forms of legal assistance for the citizens.

Identification of the problem of law enforcement and making it public, especially through the institution of ombudsman.

5.4 General public, civil society and the media

Crime deprives the governments of their revenues. It limits international trade and investments, discourages business and reduces profit. Fight against organized crime will help bring the living standard closer to the EU standards. Accurate and realistic information will help maximize the effort the public puts into implementation of sometimes difficult anti-crime measures.

For massive mobilization against this form of crime, it is important to encourage the civil society to develop partnerships with the institutions that oppose organized crime.

For massive citizens' mobilization against corruption and organized crime, it is important to encourage the public and the civil society that reflects interests of specific groups (users, the damaged), or of groups promoting public interest to develop partnerships with institutions that prevent corruption and implement democratic and economic reforms. This is important in order to raise public awareness on the causes and harmfulness of corruption and organized crime, but also in order to create prerequisites for civil education in schools, i.e. in all educational institutions for education of all those interested in fighting corruption and organized crime. All the educational institutions will have the support of various associations, particularly those that fight for human rights.

Apart from creation of all the necessary preconditions for efficient work of operative anti-corruption bodies in the future, emphasis will be put on joint advertising-preventive

action of the government and non-governmental sector and the civil society and organization of wide anti-corruption public campaigns.

Strategy of fight against corruption implies the recognition of evil that corruption represents, determining of plans and activities for fight and mobilization of all available social and political factors. The role of the main proponents of political power is crucial.

Police and judiciary action cannot succeed without the support of the public. There can be no public support without free and active media. This is why the strategy implies simultaneous use of various measures and activities and equally intensive use of appeal to consciousness, knowledge of consequences and adequate legal and organizational measures.

6. Specific measures against corruption and organized crime

6.1 Efficient criminal prosecution

Legal regulations

In the field of fight against corruption and organized crime, Montenegro has so far undertaken a number of activities, primarily through the reform of its legislation with a view of innovating the legal system and creating institutional framework in compliance with the international legal documents and practice, in order to build the capacity of state bodies for as efficient as possible fight against corruption and organized crime.

The Public Procurement Law adopted in August 2001 is one of the most important anti-corruption laws which stipulates clear criteria for choice of most preferential bidders, protection of rights of participants in the tender, as well as decentralization of procurement. Afterwards, the whole system of accompanying sub-laws was completed and a special body established for this field – the Public Procurement Commission.

In August 2001, the Parliament of the Republic of Montenegro adopted also the Law on Budget (“The Official Gazette of the Republic of Montenegro”, no. 40/01, 44/01 and 28/04), which founded among other things, the Treasury and the National Auditing Institution, whereby a comprehensive system of transparency and monitoring of public finances was established.

In September 2003, the Law on Prevention of Money Laundering was adopted which created the normative framework for efficient institutional and system fight against money laundering, as well as establishment of discipline and control of financial transactions. Based on relevant international standards, instruments and recommendations (in particular of FATF and EGMONT group), the law prescribed measures and actions in banking, financial and other transactions that need to be taken in order to disclose and prevent money laundering.

The Law on State Auditing Institution (“The Official Gazette of the Republic of Montenegro”, no. 28/04) established the State Auditing Institution, in order to ensure control of regularity and efficiency of business doing of auditing entities (bodies and organizations managing the budget and property of the state and the local government unit, funds, the Central Bank of Montenegro and other legal entities whose ownership is shared by the state). The Law on Financing of Political Parties (“The Official Gazette of the Republic of Montenegro no. 21/04”) regulates the manner of acquiring and providing financial means of political parties, manner of control of finances and financial transactions of political parties, whereby preconditions are created for realization of legality and public character of their financing.

The Law on Conflict of Interests (“The Official Gazette of the Republic of Montenegro”, no. 42/04) is aimed at increasing the trust in the legitimate and impartial performance of public functions. In accordance with this, conflict between the public and the private interest is determined, but also the manner of avoiding conflict of interest for public officials (persons elected through direct and secret vote, persons chosen or appointed by the Parliament, persons appointed or nominated by the Government of the Republic of Montenegro or persons nominated or appointed by the local government) and persons related to them. The Law forbids a public official to put personal interest before public interest in the manner which influences or might influence the performance of a public function.

The Law on Local Governance (“The Official Gazette of the Republic of Montenegro”, no. 42/03 and 28/04) encourages responsibility and decentralization of government and brings the administration closer to citizens.

Making prevention and application of anti-corruption measures more refined calls for a competent and capable public administration, judicial bodies and institutional bodies for law enforcement in the Republic of Montenegro.

In this sense, the new Law on State Administration was adopted in June 2003 (“The Official Gazette of the Republic of Montenegro”, no. 38/03), with a view to creating a modern, professional, efficient and economic state administration which is to provide for implementation of democratic and social-political and market reforms. The main conception of the new law is a changed role of the state administration from that of control and regulation to that of a service oriented administration based on democratic principles. In accordance with this Law the work of the state administration bodies is subject to control, which is implemented by means of administrative monitoring, judiciary control and other forms of supervision.

The New Law on Civil Servants and Officials (“The Official Gazette of the Republic of Montenegro”, no. 27/04) regulates this area of state administration in a modern way, including the institutes which provide for legal, good quality and politically neutral and professional work of employees of state administration and other institutions of public administration in Montenegro. The Law regulates in a new manner principles of civil servants system based on European standards. The Law also regulates a new employment procedure as well as an important role of bodies for management of personnel in state administration, as well as a new system of classification of civil servants and officials (senior officials and determining the system of titles), which will make it possible to advance in career as one element of incentive to civil servants for high quality work in administration.

The Law on Civil Servants’ Salaries (“The Official Gazette of the Republic of Montenegro no. 27/04), is aimed at making the system of salaries of civil servants and officials compatible with the new civil servants’ system so as to make work in public administration more incentive for capable personnel, which would provide for less numerous but more professional and efficient, more adequately paid but also less costly administration, which would reduce the risk of corruption.

The Law on Ombudsman (“The Official Gazette of the Republic of Montenegro”, no. 41/03), introduces for the first time in Montenegro the notion of a special form of protection of human rights and freedoms, as an efficient and good quality element of institutional protection of human rights and freedoms and thereby further strengthens the legal state based on the principle of rule of law.

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Priorities in fight against organized crime have been ensured through reform of criminal legislation, its implementation, as well as through the training of holders of functions (judges, prosecutors, as well as officials as main factors in the procedure for fighting crime). Accordingly, The Criminal Procedure Code, the Criminal Code and the Law on the State Prosecutor have been adopted.

The Criminal Procedure Code ("The Official Gazette of the Republic of Montenegro", no. 71/2003), created conditions for the criminal procedure to be oriented primarily towards the court so as to provide for court control of officials engaged in investigation. This is why Chapter XXX of the Criminal Procedure Code prescribes special rules on conducting the procedure for criminal offences committed in an organized manner. The relevant provisions of the Criminal Code ("The Official Gazette of the Republic of Montenegro", no. 71/2003) prescribe stricter punishment for offences committed in an organized manner.

Adoption of the Criminal Code provided for sanctioning of all forms of new criminal offences, in particular of the criminal offences of organized crime and corruption, and determined new penal policy and strategy for modern control of crime.

The Law on State Prosecutor ("The Official Gazette of the Republic of Montenegro", no. 69/03), ensures more efficient and effective work and overall operation of the State Prosecutor as the state body whose basic task is to persecute perpetrators of criminal offences and other acts liable to punishment by law, to use legal means for the protection of constitutionality and legality, to represent the state in property-legal relations and to perform other activities as prescribed by the law. In this area there is a widely expressed social and political consensus. All this implies changes in the organization, method of work and in particular changes in the accountability of the proponent of this significant, responsible and special function, which represents the vital segment of the overall judicial and criminal-legal system.

With a view to efficiently implement the strategic measures for fight against organized crime, the Government of the Republic of Montenegro has adopted a Strategy for Fight against Human Beings Trafficking and a Strategy of Fight against Drug Addiction, as well as a Study on the Assessment of Actions and Measures Undertaken by Montenegro with the aim to prevent Money Laundering and Financing of Terrorism.

However, it is of prime importance to adopt new laws to round off the reform of legislation. This primarily implies the adoption of the following laws and Decrees:

- The Law on Police which is in the parliamentary procedure. The solutions proposed in the law meet international standards in the manner which ensures a new role the police should have in the society. Transformation of the police into a modern service represents a strategic component in the efforts the Government of the Republic of Montenegro is putting into ensuring conditions for suppressing activities which encourage all forms of crime. The fundamental principles of police reform projected by this law are the following: respect of human rights, professional performance of tasks, adequate training of staff, accountability, international police cooperation and harmonization of this law with modern democratic values, as well as efficient means in the fight against crime, especially organized crime.

Decrees for enforcement of the Law on Police, in particular the following:

- Regulations on manner of performance of particular police activities;
- Instructions on implementation of secret supervision measures;

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- Regulations on internal organization and systematic job specification of police (number of officials, conditions for performance of tasks, selection and recruitment of employees, and other).

Law on the Programme for Protection of Witnesses has entered the parliamentary procedure. This law will regulate the conditions and procedure for providing assistance and protection to a witness outside the criminal procedure when there is real or obvious danger that by giving a statement with the aim of proving a criminal offence for which a possibility of protection is foreseen by law, a witness might be exposed to a serious danger for life, health and physical integrity, freedom or property.

The Law on Protection of Personal Data and the Law on Free Access to Information. Respect for human rights, particularly right to information, privacy and freedom of expression are important for prevention and disclosing of corruption and organized crime but also for the protection of human rights.

The Law on Responsibility of Legal Entities for Criminal Offences. Affairs belonging to customs and tax administration, as well as to many other departments of the state, particularly in public services are affairs with acute risks of corruption. Public opinion is extremely sensitive to such phenomena, so that within each service the problem of corruption or of other illegal behaviour must be considered serious.

The valid legal regulations do not regulate the area of international cooperation. This is why it is important to adopt a special Law on Cooperation with the International Criminal Tribunal which would regulate the process requirements of the Roman Statute, while the material-legal ones have already been implemented in the Criminal Code.

Adoption of the Law on Territorial Organization, the Law on the Capital City and the Law on Historical Capital would round off the legal regime and the local government organization. The Law on Territorial Organization is of particular importance as it ensures a new conception of local government development system which implies democratization and decentralization of the society and elaboration of principles from the European Charter on Local Self-Government.

Material Capacities

Organization of state institutions is crucial for law enforcement. The current organization cannot be considered satisfactory unless personnel, experience and the possibility for basic training for law enforcement are taken into account. Difficulties in law enforcement arise due to the following:

- insufficient technical equipment in the state institutions, the consequence of which is ignorance of modern police and investigation methods,
- lack of experience on modern methods for solving organized crime, which is the consequence of earlier inadequate legal regulations,
- failure to adopt the Law on Police which regulates the basic protection, obligations and authorities of police.

With adequate training of all entities having a significant role in law implementation, which must imply handling of modern equipment, the above cited problems may be overcome. The purchase of equipment is an important prerequisite for disclosing and fighting corruption and organized crime, and the current lack of minimum equipment needed may bring into question the very implementation of the law.

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Training, specialization, adequate authorities and responsibility, specific methods of work and protection of secrecy of investigation and of data, the possibility to engage experts from various fields of work will be used in efficient and effective suppression of crime, especially organized one.

It is necessary to educate citizens with the aim of creating better sociological conditions for reaction i.e. for recognizing organized crime and corruption.

In the implementation phase of these laws, it is necessary to engage foreign experts for training of both holders of legislative functions (judges and prosecutors) and for administrative staff and police officers or to enable their professional training in the countries where the procedures and the techniques for disclosing organized crime and corruption have already been used.

Office of the Special Prosecutor should be equipped with adequate technical equipment.

Adequate technical equipment for undertaking and using measures of secret supervision should be ensured, as well as training for using this technique.

It is also necessary to issue instructions that members of police shall adhere to when treating persons while collecting data, measures for protection of identity of witnesses, damaged persons, victims of criminal offence necessary for the protection of their dignity and safety.

Human capacities

The Criminal Code, the Criminal Procedure Code and the Law on State Prosecutor introduce modern mechanisms and instruments for fighting corruption (secret supervision, establishment of special units within police, special prosecutor and other), whereby in compliance with the relevant international standards and instruments, conditions are created for more efficient fight against corruption and organized crime in general. That is why it is necessary to fill up the missing personnel and adopt new enactments on organization and systematic job description.

This implies specialized and trained personnel for application of new techniques in view of the expressed lack of personnel and the number of executors and specialist titles.

6.1.1 Specialized institutions

Organizational forms in the police

In the Ministry of Internal Affairs, within criminal police a Specialized Unit for Fight against Organized Crime was established (04 02 2003) with the task to follow, investigate and analyze the state, movement and forms of organized crime based on information-analytical investigations and investigation of the state of crime, operative data, identification of phenomena regarding safety (criminal offences) and proponents of these phenomena, possible facts and their characteristics, characteristics identifying them, as well as forms of organized crime (degree of organization, mutual connection between several persons, professionalism, abuse of technical achievements, secrecy connected with particular holders of political and legal power, division of tasks, continuity, permanency in work and so on).

However, in order for this unit and criminal police to respond to all the requirements in disclosing and suppressing organized crime, it is necessary to purchase the technical and communication equipment for criminologist technique, including equipment that will

make it possible to use specific and investigation means and methods. Thus, it is necessary to reorganize the Department for Fight against Organized Crime in order to adopt a new internal enactment on internal organization and systematic job description in compliance with modernization, current standards and problems as well as real financial possibilities of the state.

Apart from purchase of technical and communication equipment and ensuring of adequate and functional work space, engagement in fight against organized crime implies provision of adequate and functional work space as well as education and training of police personnel that will be performing these tasks.

Within Criminal Police Administration, the Ministry of Internal Affairs has founded a specialized unit (team) for fight against human beings trafficking. Due to importance of the issue of human beings trafficking, it is necessary to establish cooperation with the International Organization for Migrations in the field of suppressing of human beings trafficking, as well as cooperation with non-governmental organizations, to intensify training of judges, prosecutors, lawyers and officials of the Ministry of Internal Affairs who perform these tasks, and to start public campaigns as well.

Special Prosecutor

The Law on the State Prosecutor provides for appointment of a Special Prosecutor as a specific functional and organizational institution, new both in terms of its authority and its obligations, which is to ensure efficient suppression of all forms of organized crime. With regard to this, as a segment of the overall state apparatus engaged in fight against organized crime, the range of tasks to be performed by the special prosecutor is wide and specific. This will undoubtedly call for adequate organization for performing tasks related to suppressing of organized crime, through education of the Supreme State Prosecutor of the Department for Suppression of Organized Crime, which shall be managed by the special prosecutor.

Courts

The Law on Courts ("The Official Gazette of the Republic of Montenegro", 5/2002), stipulates establishment, organization and authorities of courts. The Court is a state body that exercises court authority based on the Constitution and the law i.e. legally, objectively and timely makes decisions on the legal issues it is competent for.

The courts are the following: Municipal Court, Higher Court, Commercial Court, Court of Appeals, Administrative Court and the Supreme Court, The Law does not stipulate a special court for passing sentences for criminal acts of organized crime and corruption. The law stipulates that the Court of Appeals and the Administrative Court shall start work on 01 July 2004, within the authorities determined by the law. However, these courts have not yet started work, which shall be the priority in the period to come.

6.1.2 Good cooperation between investigation and prosecution bodies, and establishing joint teams from representatives of agencies in charge of implementation of the law

6.1.3 Authority

Special investigative measures

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Because it is primarily characterized by a high level of secrecy, organized crime and corruption as a form of this crime belong to the category of crimes that are extremely difficult to prove. Special procedural mechanisms are established with the aim to detect, clarify and prove criminal acts of organized crime. Those are special investigative measures and methods, stipulated by the Criminal Procedure Code Art. 237-243, as measures of secret supervision that represent a specific method of data collection. Measures of secret supervision include:

- Secret supervision and technical recording of telephone conversations, i.e. means of technical communication at distance, and private conversations performed in private or public areas or at open space;
- Unauthorized photos and visual recording in private areas;
- Unauthorized photos and visual recording in public places and at open space;
- Fictitious purchase of objects and persons, and fictitious giving and receiving of bribe;
- Following the transport and delivery of objects of crime;
- Obtaining information from banks and other financial institutions on deposits, personal and business accounts and transactions;
- Use of electronic equipment for discovering the location and position of persons and objects;
- Recording conversations with previously obtained consent of one of the interlocutors;
- Engagement of the secret investigator and witness.

In line with the standards of protection of human rights, a clear principle of proportionality in implementing these measures is established (court approval, a precise determination of the level of suspicion regarding the crime, identity of persons and types of crimes for which there is reason to believe that a certain person alone or with another person has committed a crime with elements of organized crime, or a crime for which a sentence of at least 10 year imprisonment could be pronounced). This way, a balance is established between demands for efficiency of criminal charges and the need for protection of basic rights and freedom of the citizens.

Special regulations on charges for criminal acts of organized crime are provided as well (art. 507-529 Criminal Code). Particularly important in this is the introduction of the institution of secret investigator, secret witness and witness collaborator.

With the aid of witness collaborator an organized criminal activity is revealed, documented and suppressed. Witness collaborator is a tool, i.e. a source of insight in a situation when the police cannot disclose criminal activities using traditional tools and methods.

In the fight against organized crime the police activity cannot be imagined without the engagement of the witness collaborator, i.e. without his/her capability to penetrate into a criminal organization. If the police does not hold quality information needed for cutting the smuggling channels and discovering the executors, its activities are unproductive. Creation of a network of collaborators is a complex job that requires compliance with certain rules. It requires efficient organization of police activities. With that view, the perpetrators of criminal activities must previously be identified, as well as criminal objects and locations, assuming a permanent updating of the documentation on persons and objects relevant for the security. It needs to be a priority task in the period to come.

With the aim of providing evidence, objects and traces that indicate the execution of a crime by a member of a criminal organization, as well as for the sake of fulfilling important conditions that guarantee secrecy and personal security of the police members,

the Criminal Code determines the possibility of engagement of the secret investigator. They are mainly police officers that investigate and operate under changed identity, which they can use in legal relations too. By this means, the data, which could otherwise be obtained through much more complex technical registration, are collected by human observation.

The Minister of Internal Affairs appoints the secret investigator. It is strictly forbidden that the secret investigator instigates the execution of a crime. The Criminal Code recognises the possibility of interrogation of the secret investigator as a witness, with the privilege of performing the interrogation without revealing the identity of the witness. The data on his/her identity are an official secret. The hidden investigator is given the possibility to use technical equipment for recording certain conversations, as well as to enter other people's apartments and other premises.

The experience of developed countries in selection of secret investigators and in their professional and technical training and education need to be used. It is also a priority.

Financial inquiries and confiscation of illegally obtained property

Integral framework for protection of the witness (in-proceedings, out-of-proceedings and police protection)

The Criminal Procedure Code, in the context of reform of criminal legislation, establishes the institution of the "protected witness".

The witnesses, in spite of the legal regulation and warnings to testify truly, change their statements because of pressures and threats. In that way they greatly influence successful resolution of criminal matters. By introducing the institute of protected witness (art. 108-112 CC), many faults related to this evidence tool will be removed. Protection of two interests is achieved with it, the interest of protecting the witness and the right to a fair trial, but not at expense of determining the truth in a criminal proceeding.

The Criminal Code contains regulations, which forbid revealing the identity and other facts regarding the identity of the protected witness.

By passing these two laws (Criminal Procedure Code and The Criminal Code) a legal framework and basis for adopting the Law on Witness Protection is established.

“General” or “basic” protection, protection of every person, of the damaged parties and of the victims of the crime who are not jeopardised or for whom there is no reason to be included in this programme, are defined by the Draft Law on Police.

The adopted model of protection can be presented as follows:

Protection of all citizens «basic»	Protection of witness in criminal proceedings	Protection of witness out of proceedings
Law on Police	Criminal Procedure Code	Law on Witness Protection
(The review is in Parliamentary procedure)	(The Law is effective)	The Law is in Parliamentary procedure

6.1.4 International police and legal cooperation

The issue of police cooperation is within the competence of the ministry of Internal Affairs. But, this subject needs to be more thoroughly regulated, particularly its part on cooperation in the protection of the state borders.

The Ministry of Internal Affairs, on the level of bilateral cooperation, has established a very good collaboration with the Ministry of Internal Affairs of the Republic of Italy, which is verified by a Memorandum on cooperation in fighting the organized crime and trafficking in goods and human beings.

The Ministry of Internal Affairs of Montenegro, aiming to contribute to a synchronised action of the countries in the region in common fight against organized crime, has organized two regional conferences of the ministers of internal affairs. Ministers and vice-ministers of internal affairs of the ex-Socialist Federal Republic of Yugoslavia, the Republic of Albania, the Republic of Macedonia, as well as the head of UNMIK police attended them. These conferences are an important step in the establishment of intensive cooperation in the fight against organized crime among former Yugoslav republics, as well as other countries of the region.

However, even though important goals have been achieved through the steps outlined here, the complete effect can be obtained only after the introduction of Montenegro into the International Organisation of Criminal Police (CPO - Interpol). The request for entrance in Interpol from the Ministry of Internal Affairs of Montenegro and the Ministry of Internal Affairs of Serbia was submitted to the General Assembly of Interpol on September 22nd 2003.

Opening of the CNB of Interpol in Podgorica is a condition for an efficient cooperation with this police organization and the member countries as well, through the exchange of information and planning of joint action on suppression of all, and in particular, the organized forms of crime.

Within the framework of development of police cooperation, additional training of officers of the Ministry of Internal Affairs, who will work on these tasks, needs to be implemented. A special organizational unit within the Department of Criminal Police was formed for international police cooperation, on February 4th, 2003.

6.1.5 Measures for the prevention of specific criminal activities of organized crime

Organized crime can only be suppressed by undertaking complex measures, detailed elaboration of legislation, organizational and other activities. According to that, it is necessary to pay due attention to technical and operational efforts in the fight against the most important aspects of organized crime, especially:

- Trafficking in narcotics and arms;
- Illegal migrations and trafficking in human beings;
- Other forms of cross-boundary crime (especially smuggling of people and goods) and Corruption.

Narcotics

In April 2003, The Government of Montenegro adopted the Action Plan for the Prevention of Drug Addiction of Children and the Young in Montenegro. It is based upon a coordinated action public administration bodies, local government authorities, associations, and legal and physical persons.

Trafficking in human beings and migration

Trafficking in human beings in South-Eastern Europe - Report

Within the joint project of the fight against trafficking in human beings in Eastern-European countries, the UNICEF, The Office of High Commissioner for Human Rights of the UN (UNOHR) and the Bureau for Democratic Institutions and Human Rights of the OSCE, have prepared a joint report for 2003, titled: Trafficking in Human Beings in South-Eastern Europe. The report refers to the situation in Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Serbia and Montenegro, including the region of Kosovo under the administrative protection of the UN, Moldova and Romania, in the period from November 2002 till April 2003. In the Report Montenegro is primarily referred to as a transit destination. Mostly women coming from Serbia, Bosnia and Herzegovina, Moldova, Romania, Ukraine and Russia are being trafficked. Through Montenegrin territory they get to Western European countries, Italy in particular. It is stated that the most affected towns in Montenegro are Podgorica, Rozaje, Berane, Bar, Ulcinj and Budva.

Trafficking in human beings is a modern form of slavery. The Criminal Code of the Republic of Montenegro, Article 444, defines it as a crime. In its nature, this is a crime that implies different types of inhuman treatment of people through the use of: force or threat, misleading, or keeping in deception, abuse of authority, confidence, unfavourable position of another person, dependent relationship, holding of personal documents, giving or receiving money or other benefit with the aim of obtaining consent from a person who has control over another person. It consists of recruitment, transport, transit, delivery, selling, purchase, mediation in sales, hiding or keeping another person for forced labour, bringing to enslavement, execution of criminal activity, prostitution or begging, use for pornographic purposes, for extracting body parts for transplantation or for use in armed conflicts. Apart from this, the Criminal Code regulates the following crimes: trafficking in children for adoption (art 445), establishing slavery relationships and transport of enslaved people (art 446), mediation in prostitution (art 210) and performing pornographic materials (art 211).

Trafficking in human beings as a form of organized crime has spread to the region of South-Eastern Europe too. Montenegro has shown seriousness and ability to understand the full complexity of the problem of fight against trafficking in people, and the Government of Montenegro has very early made a commitment to cut all the channels of organized smuggling and selling of people, and removing all the forms of internal trafficking in human beings.

To the same end, the National Coordinator for fight against trafficking in human beings was nominated in February 2001.

Identifying the problem of trafficking in people, as a danger and threat to the basic freedoms of human beings and as a XXI century slavery, helped in understanding the importance of an efficient and all-embracing battle against this problem. Because of that, the Government, Non-Governmental Sector and the International Organisations are jointly involved in its resolution.

First step in setting the mechanisms for combating the trafficking in people was the support to organization and work of the Project Committee consisting of: the National Coordinator for fight against trafficking in human beings who chairs the committee, representative of the Office for Equal Opportunities of Sexes in the Government of Montenegro, representative of the Ministry of Internal Affairs, representatives of the OSCE, as co-chairmen, representative of The International Organization for Migration

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(IOM), The Council of Europe, UNICEF, Save the Children, USAID and two local non-governmental organisations: Montenegrin Women Lobby and Women's Safe House.

Following it, in December 2003, The Government of Montenegro adopted the Strategy of fight against trafficking in human beings, which consists of three parts: prevention, criminal prosecution and protection. After its adoption, a working group for supervision and implementation of the activities precisely defined in the Strategy was founded. Representatives of the Ministry of Internal Affairs, the Ministry of Health, the Ministry of Work and Social Care, the Ministry of Justice, the State Prosecutor, the General Counsel of the United States of America in Podgorica, representatives of OSCE, the Council of Europe and the IOM, as well as representatives of the Office of National Coordinator for the fight against trafficking in people, take part in it. The relevant Ministries and Agencies have developed specific action plans for implementation of the Strategy.

Guided by the initiative of the Working group of the Stability Pact, a sub-group for combating the trafficking in children was established, within the Project Committee for the fight against trafficking in human beings. Members of the sub-group are representatives of the Office of the National Coordinator for the fight against trafficking in human beings, the ministry of Work and Social Care, UNICEF, Save the Children and Roma's NGO "Woman's Heart".

The Sub-group for combating the trafficking in children has produced a Draft of the national action plan on the basis of guidelines from the Stability Pact for development of national strategies for fight against trafficking in human beings, consisting of eight categories: research and assessment, rising the awareness, prevention, support and protection of victims, return and reintegration, legal reform, judiciary and criminal service, cooperation and coordination between international criminal services.

The Government of Montenegro, in cooperation with the International Organisation on Migration and the OSCE, opened, at the beginning of 2004, a refuge for the victims of trafficking, lead by activists of the NGO Montenegrin Women Lobby.

With the aim to have a record of organizations, institutions and people who will jointly work on stamping out of this type of crime in Montenegro, a Directory of institutions and organizations that work on this problem was published. The aim is that those who make a contact with the victim, be it directly or indirectly, know who and for which kind of help they can ask and where to direct the victim for her security and recovery. That way, a system for directing the victim would be set, and efforts of all the participants would be coordinated, with the intention to resolve the problem of trafficking in human beings and the treatment of the victim, in as efficient and professional way as possible.

On December 10th 2003, in Sofia, Montenegro signed the Statement on protection of the victim-witnesses, which obligates the signatory countries to the development and implementation of appropriate legislation on the protection of victim-witnesses, implementation of procedural rights for victim-witnesses, as well as provision of mechanisms for alleviation and creation of necessary conditions for victim-witnesses during the investigation and court trial. The new Criminal Code encompasses the protection of witnesses and victims in the court, while adoption of the new Law on protection of witnesses is foreseen for the out-of-court protection. Its development is underway.

Results of the fight against trafficking in human beings achieved up to now have shown that it is necessary to make a network of institutions and organizations in order to solve the problem as efficiently as possible and provide adequate treatment of the victim. Trafficking in human beings is a global problem that many countries in the world face

and fight. Organized groups stay behind it. They use methods of changing the victim's identity, illegal border crossing, crossing it through impassable, unmarked border crossings, that make the victim identification difficult. The first step in the fight against trafficking in human beings is to have well-trained and efficient border police officers in identifying the victims.

Migration

The status issues of foreigners in Montenegro are not resolved properly. In the implementation of the Law on Movement and Residence of Foreigners (regulation brought by SFRY), certain legal solutions are not sufficiently elaborated and do not relate to the moment and the trends in migration. The biggest drawback of the existing legal solutions is the length and complexity of the procedures for residence regulation and obtaining certain licences. It is an obstacle for foreign investments in Montenegro.

With that aim, development of a new Law on Foreigners was initiated this year. It should regulate questions of legal and illegal migrations according to the singularities of the migration situation, and offer solutions compatible with the standards applied in the field in the EU.

Illegal migrations of foreigners on Montenegrin territory are mostly transitional at this moment, i.e. for most illegal migrants Montenegro is not a destination country.

The Ministry of Internal Affairs, Department of administration and Department of the state border and cross border affairs are in charge of the issue of migrations.

It will not be necessary to form new institutions for implementation of the Law on Foreigners, but certain changes will be needed in the organizational units. It will primarily result in an increase in the number of employees in charge of law implementation. Besides, additional training, specialisation and IT application will be needed for the provision of an efficient law implementation.

The construction of a Collective Centre for Foreigners of the Ministry of Foreign Affairs is underway, for the purpose of accommodation of illegal migrants who must leave Montenegro and cannot do it instantly.

Protection and supervision of the state border

The Ministry of Internal Affairs is in charge of supervision of the state border.

Montenegro is a transitional and tourist country whose geographic position favours migration flows. It imposes the need for a more efficient battle against illegal migration and cross-boundary crime. Implementing the system of Montenegrin border security project and establishing a unified border control can only achieve this important task.

Conditions are provided for an efficient border protection, demilitarisation of the border zone, unification of the activities in securing the state border and controlling the border crossings, integration of the system of border control, more efficient cooperation with border services of neighbouring countries, by taking on the border supervision activities from the Army of SM. Conditions are also provided for discovering and stamping out all forms of cross-border crime, and allowing a more efficient flow of people and goods at the border crossings.

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For the purpose of achieving this task, it is necessary to adopt a new Law on the state border supervision, till the end of 2004, at the latest. It needs to be synchronised with generally accepted standards in the field of border safety.

The Department of the state border and cross-border affairs is in charge of implementation and synchronization of the police tasks (supervision of the state border and suppression of illegal migrations).

Determination of present and future personnel and organizational status is what follows next. It is especially needed to assess the right number of police officers who are really available for state border supervision. Apart from that, the level of technical equipment has to be elevated, additional mobility ensured, curricula for professional development designed as well as for trainings on tactical use of tools that will be provided. The plan could be realized depending on Montenegrin financial resources and with donor aid. Realization of the US aid is in underway (USAID and European Agency for Reconstruction).

Contemporary system of border security should include the selection, training and education of members of the border police. Plan for the border police training was made in line with demands and standards of the EU. General and specialist training were executed in the previous period, organized by the MIA and through cooperation with the OSCE.

Smuggling

Smuggling in general, as a form of crime, causes damage to fiscal, economic and commercial interest of the country. It is especially the case for smuggling of, so called, high rate goods (tobacco and its products, oil and oil derivations, alcohol and its products, arms, etc). Many issues arise from this problem, in the first place the problem of corruption, organized crime, money laundering. It contributes to a great extent to the most diverse forms of black-market and influences the overall Montenegrin economy. Montenegro has recognized the danger of smuggling and has, accordingly, undertaken measures for stamping it out. The Criminal Code (art 265) and the Customs Law (customs zone, customs border front, customs crossing and customs goods, measures of customs supervision, rights, duties and jurisdiction of the customs organs in relation to the transition of goods and persons over the customs line) regulate the crime of smuggling. Import and export of goods are subject to customs supervision and control. Acts of illegal transition of goods over the border i.e. hiding goods that are subject to customs are proscribed by the criminal offence of smuggling.

Prevention and discovery of smuggling crimes are under authority of the Ministry of Internal Affairs, the Department for crime prevention. Since smuggling is a crime with traits of organized crime and since it stimulates corruptive behaviours, the investigation is executed in cooperation with the Customs Department.

Terrorism

The Ministry of Internal Affairs is in charge of the fight against terrorism, while the Ministry of Justice is in charge of synchronising Montenegrin criminal legislation with the corresponding EU regulations.

There are no unified understandings of the concept of terrorism, nor a unified convention that would define it, neither a duty of the signatory countries to sanction it as criminal offence. On the international community level, the international terrorism is condemned only in some of its symptoms, as: hijacking, jeopardising aircraft flights, jeopardising

persons under international protection. Terrorist acts are most often politically motivated. Generating fear in people, carrying out assassinations to high state officials, destruction of important military or economic objects and other terrorist acts, are mainly directed towards destabilization of the state's socio-economical and political establishment. Even though they can be individual acts, the terrorism is most commonly - organized violence, backed by certain political or other organizations, even states themselves.

Montenegro is following the dynamical development and passing of new regulations on fight against terrorism in the EU, like the frame Decision on the fight against terrorism from July 13th, 2002, no matter there are no terrorist offences in it.

The Criminal Code of Montenegro sanctions the terrorist criminal offences; terrorism in article 365, international terrorism - in 447, hostage taking - in 448, financing terrorism - in 449. With it, the Montenegrin criminal legislation has become synchronised with the European convention on stamping out terrorism (December 7th, 2001) and the UN Convention on financing terrorism prevention from 1999 (ratified by the FRY Assembly in December 2002). Regulation of these criminal offences in the criminal legislation is a sign of Montenegrin solidarity with other countries in prevention of this dangerous phenomenon and understanding that there are no territorial boundaries to terrorism and that it jeopardises the safety of every country. Sanctioning of the crime of financing terrorism (art 449) is particularly important. It says that the person that provides and collects resources for committing the crime of financing terrorism and taking hostages will be sentenced to one to ten years' imprisonment. The aim of these sanctions is to combat terrorism.

Financing terrorism is a trans-national phenomenon. The necessity for a stronger cooperation on national and international level derives from it.

The fight against financing terrorism implies participation of a whole group of international organizations lead by the UN. The UN Convention on prevention of financing terrorism is especially relevant for that reason, since it establishes rules in the fight against financing terrorism. It defines three obligations of the signatory countries:

1. Introducing the criminal offence of financing terrorism into the criminal legislation,
2. Intensifying cooperation with other signatory countries including the provision of legal aid, and
3. Defining specific requirements for financial institutions that would deal with detection and reporting related to the financing of terrorist acts.

However, it is necessary to adopt other international conventions regarding this area within the framework of global fight against international terrorism. The European Union member countries have already committed to sign them, according to the Common Opinion of the Council of Europe on fight of terrorism, 2001/930. An example is the UN Convention Against Terrorist Bomb Attacks, from 1997.

Aid of other relevant institutions is important in the fight of terrorism, like UNDOC, OSCE, FATF, EAPC/IP and Interpol. Exchange of information, allocation of tasks and cooperation between relevant institutions could make this battle more efficient. Apart from cooperation on global bases, equally important are the efforts on intensifying regional and bilateral cooperation.

Particularly important for achievement of these goals is the training of police experts, judges and prosecutors in the law implementation, available technology and

infrastructure. The lack of resources, especially in experts for technical assistance calls for an efficient coordination among all the interested subjects.

Eight special recommendations adopted by the Operational Group for Money Laundering (FATF) make the international standards of prevention and fight against financing terrorism very important. Legislations that incorporate the whole system against money laundering (AML) have much easier a task in the process of implementation. Even though money laundering and financing terrorism are two separate crimes, the all-embracing AML mechanism represents the key element in the battle against this type of crimes.

Money laundering

The Criminal Code, Article 268 sanctions money laundering as a criminal offence with elements of organized crime.

The Government of the Republic of Montenegro, with the aim of as efficient implementation of this law as possible, by a Decree on Changes and Amendments of the Decree on Organization and Manner of Work of the State Administration ("The Official Gazette RMN", no. 67/03), which was put into effect on December 23, 2003, formed the Administration for the Prevention of Money Laundering. The Executive Officer of this Administration was nominated in February 2004. The Administration is provided with appropriate offices, necessary computer and telecommunications equipment, while the basic document on organisation and systematisation is passed, which all made conditions for employment of workers and the start of work. The Rulebook on ways of reporting on transactions with value over 15,000.00 €, and suspicious transactions, was passed too, the Rulebook on client identification, the entitlement of responsible person, the program against money laundering, the list of indicators of suspicious transactions, confidentiality of data, and record keeping. The List of responsible persons in organizations - reporting agencies was updated as well. The Agreement on cooperation with the Ministry of Internal Affairs was signed, while it is a priority to sign the Agreement on cooperation with foreign financial intelligence services; when it regards the services of neighbouring countries within a year, while with other countries in the next two years. Another priority is to join the international association of financial intelligence services (EGMONT group), till July 2005, at latest.

6.2 Efficient Law Implementation and Measures Related to Special Control Institutions

Public / State Auditor
Council for Privatisation
Administration for the Prevention of Money Laundering

The Administration for the Prevention of Money Laundering is in charge of discovering and prevention of this crime.

The Government of The Republic of Montenegro, according to the Law on the Prevention of Money Laundering, has founded the Administration for the Prevention of Money Laundering ("The Official Gazette RMN" no. 67/03), as an independent and operational investigative organ. The Administration deals with discovering and prevention of this criminal offence.

The Commission for Public Procurements

The experience of many transition countries has shown that public tenders for purchase of goods and services are a significant challenge to corruption. For that reason, the new Law on public procurements was passed in Montenegro, in August 2001, as one of the most important anti-corruption laws, which defines clear criteria for choosing the most favourable suppliers, protection of the rights of tender participants and the procurement decentralization. The whole system of subordinate legislation was completed afterwards and a special organ - Public Procurements Commission was formed.

The Commission for Determining the Conflict of Interest

Fight against corruption is the task of every responsible government. This is why the biggest risk of corruption - if we define it as the abuse of public power - lies in the political system. Duty of the state officials is to work in community interest. It includes the obligation of not grasping particular personal gain, or gain for the family or friends, in performing proper function. Independency and integrity oblige to avoiding any type of dependent relationship with anybody, except with the public and the citizens they are responsible to. These general values needed to be enforced by legal solutions.

6.3 Prevention of Corruption

6.3.1 Good Governance

Eradicating the risks of corruption can be achieved through legal, financial and economic reforms that instigate economic development. Largest number of these measures indirectly influences the risks of corruption and organized crime, but some have crucial impact on the success in prevention of corruption and organized crime.

Everybody has its own responsibility to bear in fighting the corruption and organized crime, primarily those who have the political power and control.

Legal solutions envisage a systematic approach to prevention of corruption and organized crime. Proposals of any future law changes, particularly of those related to the fields with high risks of corruption and organized crime need to be analysed in that light too.

Solutions regarding prohibition of the conflict of interest are not stated in a proper manner in the present law. The prohibition of the conflict of interests must be attached a lot of importance and supported by a system of clearly defined principles, rules, institutions and sanctions.

Changes in political system must narrow the fields in which common interest is jeopardised by private or group interest. Apart from the need to make the private incomes and expenditures of public or political officials accessible and transparent, the ways of lobbying and financing of political parties need also be defined and legalized.

A society without corruption and organized crime cannot be imagined without fast privatization and reduced domain of state property, i.e. without certainty that the owner is responsible for his/her property and its increase.

Changes in economic system must foster privatisation of the state ownership because centralised control and unclear ownership structure favour the abuse of power. Legal solutions, not only in that field, presume systematic application of measures for hampering corruption and organized crime.

On the other hand, lack of professionalism, poor organisation, bad criteria and inappropriate distribution of responsibility between different institutions, slow the reforms down and can influence destabilisation of the Government authority. Corruption finds fertile ground in fields like: issuing licences, collecting budget incomes (custom, taxes), performing control functions and sanctioning, public procurements etc.

The system of issuing permissions, expenditures and taxes, issuing licences and concessions and all the cases in which there is a discretionary right of administration with respect to economy, increase the risks of arbitrariness and abuse. Deregulation and understanding that everything that is not banned in economy and entrepreneurship, is allowed, is not a demand of political philosophy or legal principle, but practical measure.

Limiting of these activities only to those fields where they are necessary will be secured through transparency of work of institutions, which issue permissions and licences. They need to be responsible of their actions to the public. In that sense, it is necessary to completely eliminate the issuance of permissions and licences on basis of discretionary right, as well as of licences not stipulated by the law.

In the field of foreign trade, the loyalty of Montenegro is defined towards fulfilment of obligations taken on with respect to the EU and the World Trade Organisation, whereas in the field of finances it is so for observation of duties taken on with respect to the membership in the IMF.

Improvement of financial and fiscal control is also a priority. It can be reached by an increased level of responsibility of all subjects in the field of finances and fiscal policy. Enforcement of specialised control over money laundering, including cooperation with the EU and its members, is necessary.

Efficient cooperation between tax and custom administration, specialised services of the MIA and judiciary, will also contribute to the increase in financial and fiscal discipline, through implementation of the agreement on cooperation and establishment of common teams.

The Implementation of the Law on Public Procurements, ever since 2001, has demonstrated a number of faults. In the meantime, the Government has initiated an ambitious program of investments, which should be realised in the next few years. It will certainly activate the mechanism of public procurements and increase the responsibility of state institutions.

In that aim, it is a priority to harmonise the legislation and practice in the field of public procurements with European standards, so as to improve control over implementation of referent legal regulations. In fact, it is necessary to organise an expert discussion on law changes, but also undertake measures in order to sanction both breaching of the law on public procurements and development of an efficient system for resolving complaints and arbitration.

Common measure of enhancing responsibility is realised by power decentralisation, i.e. horizontal and vertical distribution of control. Negative balance of centralisation, limitation and dying out of local governance, make decentralisation and reform of public administration a priority. Although the tempo of the reform is limited by financial and other capacities, there is a clear determination to enhancement of decentralisation and bringing the administration closer to the citizens. It has been already achieved to a great extent by passing the Law on Local Government and the Law on State Administration.

The Government of Montenegro has the strategy and determination to broaden the powers of local government, which implies a bigger need for measures against abuses and corruption. With that aim, the local control and responsibility need to be increased by opening to the public, making the local political scene more dynamic, clearer organisation of the local power, increasing political and disciplinary responsibility of local officials, as well as establishing the programme of fight against corruption adapted to local situation.

Public officials perform activities of common interest and are paid for it. Ban on receiving gifts, services and benefits seem a natural measure for protecting the dignity of the profession.

Inherited and new shortfalls of bureaucracy refrain a clear differentiation of the public from the private sector, and enhance spreading of corruption.

Establishment of a modern legal framework for administrative activities and public services will provide the instruments of suppression and prevention of corruption through legal mechanisms and institutional measures. Reforms presume the development of management and organisation and precise legal solutions on the relationship between the Government, the private sector and the citizens.

Transparency will provide an increased control of the public over activities of the state. In that sense, it is needed to establish special information services within government agencies, which would deal with citizens' complaints and inform them on the outcomes.

Each institution should define internal rules and procedures for dealing with complaints based on existing regulations. Transparency would be reached through development of mechanisms of responsibility and information of the public on activities of the institutions, by making free access to independent media, professional and other non-governmental organisations, considering their activities.

Delegating a part of authority of the state administration on to the private sector would influence formation of a free market, which would free organisational and human resources that were engaged in control functions. The private sector that provides administrative services not only would receive an economic spur, but also would take a position of a socially responsible sector on the market of public services. Carrying out administrative decentralisation will limit the opportunities and prerequisites for corruption and organized crime.

In the future, opportunities will be assessed so that the existing institutional forms (police, judiciary and other organs) are given larger authority in the fight against corruption, which is the practice of other countries too.

It is also a priority to improve methods, ways of functioning and behaviour of public administration for offering better administrative services to the citizens, which can be done by:

- Training of the public officials on all levels and defining clear guidelines and ethics codes;
- Determining the obligation that public officials and officers submit reports on their incomes and property, including their family members (the same obligation needs to be imposed to the members of Parliament). The Ministry of Internal Affairs, the Financial Police, the Administration for the Prevention of Corruption are in charge of asking and checking such information;
- Tracing of giving and receiving gifts to officials and officers through enforcement of internal control;

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- Introducing public register, which would guarantee transparency of financial and property status of high public officials;
- Legal ban on membership of public officials to management bodies of business entities, for the sake of securing impartiality in decision-making.
- Increasing wages of public officials, together with sustainable control and assessment mechanisms, will increase their motivation and social status.

By introducing personnel rotation mechanisms, through adequate legal regulation, public officers could obtain qualifications and develop their capacities, in the manner of taking comparable and similar positions, so as to avoid routine interaction with certain persons. Respect of human rights, especially the right to information, privacy and freedom of expression, is important to prevention of corruption. Increased successfulness of the judiciary is a precondition for protection of human and other rights and prerequisite for stamping out corruption.

The strategy of fight against corruption and organized crime presumes an understanding of the evil of corruption, determining plans and actions for the fight, law changes and mobilization of all available social and political actors. Role of the main executors of political power in that is crucial.

6.3.2 The Judiciary

Supervision

The Parliament of the Republic of Montenegro is in charge of supervising the work of courts.

Appointment and Removal

The Parliament of the Republic of Montenegro appoints and releases judges, lay judges, and presidents of the court. It guarantees the protection of principles of autonomy and independence of the court. For that reason, the Judicial Council, as an independent expert body, suggests appointment, removal and termination of function to judges and lay judges. The process of selection of judges and presidents of the court is publicly announced.

A judge is released from duty if he/she is charged for a criminal offence that makes him/her unworthy of performing juridical function, if he/she unprofessionally or unconscientiously performs juridical function and if he/she becomes permanently unable to perform the function. Initiative for release of a judge is submitted to the Judicial Council, which decides upon it within 30 days. With the new legal solutions (the Law on Courts), legal instruments are provided, for a responsible and competent performance of juridical function.

The Parliament of the Republic of Montenegro appoints members of the Judicial Council, from the rank of judges, upon suggestion from the extended assembly of the Supreme Court, from the professors of the Law Faculty upon suggestion of the Faculty, and from reputable law experts of the Association of Lawyers of Montenegro.

The Juridical Council, apart from suggesting appointment and removal of judges and lay judges, determines the number of judges and lay judges for each court, after suggestion of the Minister of Justice, and proposes budget allocations intended for courts. Having in mind the authority of the Judicial Council, it is expected that the Council's personnel composition will contribute to its fulfilment.

Although the recruitment process has been made transparent, it is necessary to undertake measures to compensate for the lack of experience and skills, which often causes poor results of the work of the judiciary, with special programmes for promotion of the type of personal and professional behaviour of judges that corresponds to the social impact of his/her profession.

The assessment of judges' work is inadequate and needs to be modernized as soon as possible. It would be extremely useful to proscribe the methodology for selection and work assessment of judges within the framework of the judiciary and judicial administration. It should be based on objective valuation of each judge's work and the training outcomes.

The Judicial Training Centre should keep on with continuous training of judges, and it should spread its training activity also to include prosecutors and investigators, in the future. The programmes for training of judges should include corruption and organized crime, as well as a permanent education on law changes.

The control of application of the judges' Code of Ethics must be continuous.

The Code of Ethics

Special internal control measures for prevention of corruption in the judiciary

Even though the reform of the judiciary has been carried out, the court, in the past few years, has been an institution in which the citizens and other state institutions haven't had much confidence. It is often qualified as inefficient and corrupt.

For the sake of eliminating this negative connotation it is necessary to determine precise goals: create conditions for more openness and transparency and expedient exercise of justice; produce mechanisms of internal control for abuse prevention; and set a system for improving the expertise of the judiciary employees.

In that sense, it is needed to plan both changes in the structure of the judiciary system and organization of a wider public debate. It should lead to improvement and modernization of the ways of functioning of courts, prosecution and investigation.

It is needed to develop and implement automatic systems that would guarantee efficiency and accountability in case processing, and provide a fast and easy access to the information important to them.

Corruption in general and the crime of bribery are difficult to prove. It is also difficult to punish each form of corruption. In all this, it is necessary to regard practical tools for prevention of corruption and stimulation of intolerance among judges towards suspicious behaviour of a part of their colleagues.

It is necessary to create mechanisms, which would help to bring the behaviour of corrupted judges in relation with their suspicious financial incomes or case whitewashing.

The interest of the judiciary as a whole is to get rid of corruption and poorly qualified judges, prosecutors and investigators, so that professionals with integrity could have the opportunity to perform their duties in appropriate manner.

A register of annual incomes and property of the judiciary employees needs to be established; a possibility to form a special temporary commission that would investigate the denounced cases of corruption needs to be assessed. The Supreme Court would

assign the commission, but it would have autonomy in operation. The judiciary internal control has to be improved through open discussion on behaviour of certain judges, and staff recruitment procedures modernized.

6.3.3 Prosecution

Supervision

The Parliament of the Republic of Montenegro is in charge of supervision of the State Prosecution.

Appointment and Removal

The Parliament of the Republic of Montenegro appoints and removes the Supreme, the High and the District Prosecutors. It guarantees application of the Constitutional principles of unity and indivisibility of the State Prosecution as a control organ. A higher level of autonomy and independency of the state prosecution with respect to the executive power surely derives from it. For that reason, the Prosecution Council, as a separate expert body, suggests assignment, release and cessation of function of the General, the High and the District prosecutors and their deputies. It is particularly important that the process of giving suggestions for assignment is publicly announced.

Under the new Law on State Prosecution, the cessation of function and the release are defined in such a way that it in itself represents an instrument that, in addition to everything else, guarantees responsible, professional, conscientious and competent in general, performance of duties in jurisdiction of the State Prosecution. Bases for cessation of a prosecution function are: that the holder of the function is disciplinary charged more than three times during the mandate, and if the prosecutor does not accomplish satisfactory results in managing the tasks through which the function of the State Prosecution is executed.

Under the Law on State Prosecution, functions of the Prosecution Council, as a body that significantly influences organization, work and effects of the State Prosecution, with important mandate and capacity of authority and duties, especially with respect to human resources and personal composition of the State Prosecution, their responsibility, professional training, education and provision of additional financial resources for the State Prosecution, are determined. The Prosecution Council is composed of six members: from the holders of prosecution function, representatives of the Law Faculty in Podgorica, the Montenegrin Bar, the Montenegrin Lawyers Association and the Ministry of Justice. The General State Prosecutor is the chairman of the Prosecution Council, which is natural, considering his/her responsibility over tasks in authority of the State Prosecution and the duty to undertake measures and actions for their successful completion. It is expected, having in mind relevance of the subjects whose representatives compose the Prosecution Council, that the utmost fulfilment of authority will be guaranteed.

Code of Ethics

Special internal control measures for the prevention of corruption in the prosecution (cover up etc.)

Special internal control measures for prevention of corruption in the prosecution are identical to those needed in the judiciary.

6.3.4. Police and Other Investigation Bodies

Supervision

The Government of the Republic of Montenegro performs the supervision of legality and adequacy of the activities taken by the Ministry of Internal Affairs.

The Law on Internal Affairs was passed in 1994. It governs the structure and powers of the Ministry of Internal Affairs. The terms of this law do not fully satisfy the international standards, so that the law, i.e. the regulations, do not ensure the police a position that it should have in the society. The absence of control mechanisms (internal and external), incomplete and inadequate legal regulation, lack of specialized staff, outdated technical equipment and technology, limit the application of the law and leave space to the activities that give rise to all types of crime.

Relevant international organizations - OUN, EU, OSCE, are very active in their assistance to Montenegro with the aim to develop and reform its state institutions, **including the structures for law implementation. Special attention is given to the reform of police.**

A comprehensive analysis of the situation in police points to an urgent need for a complex reform. **The main goal of police reform is the allow for the fulfilment of their primary goal - make citizens feel safe and secure, through the rule of law and respect of basic human rights.** For accomplishment of these objectives it is necessary to provide **normative prerogatives** for precise definition of the **police activities and basic principles of police action.**

Control is an indispensable instrument for securing legality and respect of ethical and other human principles and rules. The proposal of the Law on police regulates certain solutions related to internal, as well as external control - on the state level. According to the OSCE recommendations (December, 2002), three forms of control are provided for, **as standards: parliamentary, civil and internal control.**

The proposed law determines a developed structure of its responsibility to different, independent instruments of power in a democratic state, i.e. to legislation, executive and juridical power.

The Parliament of the Republic of Montenegro executes **external control** over legality of the police work, through an authorized body, whose mandate and organization of work are determined by an act of the parliament itself. This type of external control, defined by the proposed law, is regulated in a way that corresponds to the European standards.

The proposed law, apart from external control, constitutes also a form of civil control, through the Council for the civil control of police work. The Council's authority is to evaluate the exercise of police authority for the sake of protection of human rights and freedoms. The Parliament of the Republic of Montenegro confirms assignment of members of the Council and constitutes it. Both citizens and police officers can appeal to the Council, which will contribute to the establishment of a higher level of cooperation and confidence among the police and the public.

Code of Ethics

Police code of ethics has not been adopted yet. The work on it should be intensified as once adopted it will improve not just the legality of their activities but also the level of responsibility.

The police should rely on clearly defined democratic principles, support the rule of law and be accountable to the public it serves. To that end, the Police Act lays down that **the police shall have the code of police ethics. The code is a set of ethical principles on action of police officers that is based on standards of international and national law and applied in all security situations. Ever since 1906, this has been the first time that the ethics code of Montenegrin police is defined.**

Special internal control measures aimed at the prevention of corruption in the police and investigation bodies (cover up of cases, etc).

In order to control the work of individual police officers, there must be the internal control in place organized as a special police unit. Its task is to carry out investigation following **report for commission of crimes, corruption and unlawful police conduct. Its task would also be to design strategy and tactics by which to prevent and fight corruption.** Internal control, as envisaged by this law, shall be exercised so as to ensure ethical conduct of police as a **guarantee of integrity of this body** (Article 137 of the proposed law).

Generally speaking, as in internal police control, the police is in the position to control itself, there is a need to determine external responsibility **for two reasons. First, to prove to the public that the police “is not hiding” irregularities in its work, and second, to assure police itself that those who exert control have not stepped over its legal powers.**

Administration for Anti-corruption Initiatives

As has already been stressed here, Montenegro has accepted the **Memorandum and Action Plan of SE Stability Pact Anti-Corruption Initiative**. Following obligations taken under these international documents, in December 2001, the Government of the Republic of Montenegro founded a special state body, the Agency for Anti-corruption Initiatives as an administrative agency “Official Gazette of the Republic of Montenegro, 02/01).

In accordance with the Strategy of Montenegrin Administration Reform 2002-2009 that the Government adopted in March 2003, new laws and Decrees have been adopted, including the Decree on the organization and functions of state administration (“Official Gazette of the Republic of Montenegro, No. 54/04).

Pursuant to the Decree on the organization and functions of state administration, the Administration for Anti-corruption Initiatives has been founded to perform the following administrative operations:

- preventive promotional activities against corruption;
- recommendations to the Government to adopt and enforce European and other international standards and instruments within the framework of anti-corruption initiatives;
- promoting the transparency of business transactions;
- perform other activities resulting from membership in Stability Pact for South-East Europe and other international organizations and institutions, and other activities under its authority.

The authority to supervise the legality and effectiveness of the Administration’s activity rests with the Ministry of Finance.

In accordance with the Decree defining the categories of activities, criteria for international organization and systematization, nomenclature of operations and the rough approximation of the number of staff in state administration agencies, the

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Regulation on the internal organization and systematization of the Administration for Anti-corruption Initiatives lays down the internal organizational units of the Administration and allocates the activities and duties to seven (7) posts so as to ensure conditions for an efficient and economical work and effective operation of the Administration for Anti-corruption Initiative.

In 2003, the Administration for Anti-corruption Initiative prepared, among other things, the Bill on the prevention of money-laundering that the Parliament of the Government of Montenegro adopted unanimously at its extraordinary session held in September 2003. Following the adoption of the law, the Government of the Republic of Montenegro also founded the Administration for the prevention of money laundering as an operational body in charge of investigation and prevention of money laundering.

In cooperation with the non-governmental and civil sector and the international organizations and institutions (Council of Europe, OSCE, USAID, ABA/CEELI), the Administration has also drafted the Bill on the Conflict of Interests that the Parliament adopted in June 2004. Under the provisions of this law, the Conflict of Interests Committee has been set up as a necessary prerequisite for the effective implementation of the law.

Following the membership in the Council of Europe in April 2003, and full membership in GRECO (Group of SE countries to fight corruption), the Administration has actively participated in the operation of this body and has taken activities towards the implementation of recommendations for the efficient prevention and anti-corruption activities.

In accordance with its powers as defined in the Decree on its foundation, the Administration shall continue to carry out activities stemming from Montenegro's membership in Stability Pact Anti-corruption Initiative (SPAI) and other international and regional organizations and institutions in this field.

Public Finances

In August 2001, the Parliament of the Republic of Montenegro adopted the Budget Act that envisaged, among other things, the establishment of the State Treasury, establishing at the same time a comprehensive system of transparency and monitoring of the public finances.

- Public procurement (law and supervision body)
- Public funds (pension and other funds)
- Public companies (supervision and public financial control)

- Treasury system (transparency of the budget)
- Public procurement (law and supervision body)
- Public funds (pension and other funds)
- Public companies (supervision and public financial control)

Private Sector

Corruption in privatization is related to the fact that bureaucracy is in a position to affect the change of ownership structure to an extent. It selects privileged individuals (or groups) and can provide them and itself with substantial funds.

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The privatization process is susceptible to corruption as individuals are given a chance to gain money on account of the public interest. The absence of effective control allows for different kinds of illegal activities that can create the so called informal or grey economy.

In this regard, the space for corruption within privatization process should be minimized and the process itself speeded up, which can minimize the sources of corruption. Procedures must be improved to make the tender procedures for the sale of state property as transparent as possible as this would make the intentions and obligations of the buyers clear.

The transformation of the state property and market economy should be conducted in accordance with the model of economic regulation as prescribed by the law.

To create more liberal conditions for the development of private business, it is necessary to complete the institutional and legislative framework for the growth of private business and gradually eliminate all existing obstacles to free entrepreneurship. For this to happen, government intervention must be reduced to a reasonable extent and the economic reforms during transition completed.

It is crucial to modify the existing regulation and improve the implementation of current legislation. This includes the following:

- Law on the Protection of Competition and Anti-monopoly Regulation;
- Continued efforts to develop market infrastructure with a special focus on the organized market;
- Gradual transition from economic activities that must rely on approval and licenses, toward a registration system;
- Reasonable liberalization of foreign trade and foreign currency regime;
- Minimization of cases when licenses must be obtained from state agencies - avoid discretionary decision and promote implementation of legislation;
- Limit the practice of controlled prices, government subventions, taxes and credit relief;
- Delegation of controlled functions to professional and business associations on the basis of the ethics code, and
- Modifications of business legislation to stimulate economic growth.

To limit corruption in financial and business relations in the private sector is yet another important task. Corruption is found not only in the fields where there is a conflict between state and private interests on the one hand and global practice on the other. Some of the most typical forms of corruption are also found in relations among private companies. Private corporations without a majority owner are a category particularly exposed to risk.

It is essential to prevent poor financial and business relations under the influence of corruption practice and behaviour. That is why priority must be given to activities by which to:

limit corruption in the private sector through consistent economic reforms that will make free competition and private entrepreneurial activity easier,
set up the effective legislative framework for the development of business,
review tax legislation so as to harmonize the concept of financial status with EU legislation.

Participation of the Public, Civil Society and the Media

Education of the Public

One of the primary goals in efforts to change the public perception of corruption is to develop an impulse for positive changes in citizens' minds as well as provoke intolerance towards organized crime and corruption. A strong resistance to corruption will imply that there is an awareness of this phenomenon, its nature and ways in which it functions, as well as of the effects it may have on both individuals and society as a whole. Intolerance towards corruption is the result of ever stronger insistence of the public on the respect for the principles of transparency and accountability of administration as well as the development of ethical standards in the public life.

It remains true that citizens of Montenegro often show lack of awareness of their rights and obligations in their interaction with the state and local administration. A number of services that are free of charge under the law and that citizens are entitled to are actually paid for not only because civil servants are corrupt but also because clients do not sufficient information. What is necessary is not just public awareness, but also specific information about the conditions under which certain services are provided to the users.

The campaign to fight corruption and organized crime must be organized at the national level through the media and on a long term basis. Public anti-corruption campaign is a tool for education and mobilizing the public to fulfil its own role, with investigative journalism being the tool of thorough public investigation.

Public awareness, therefore, is to be developed through organized campaigns. It is necessary to stress the harm everyone suffers from corruption and promote strong ethical criticism of such practice as well as of any, even verbal relativization of corruption.

The public should not only be the recipient of anti-corruption messages. Through the media and in schools people should be trained in using legislation on public information. Indicators from the region show that public information should be used for the inspection of documents, budget, political and business plans as a tool to exert pressure on institutions to achieve transparency and accountability.

Citizens, journalists, NGO's, and other members of the civil sector will benefit from this training. An active approach to public education shall result in greater political accountability and greater responsiveness of public institutions to the needs of the public. Such an approach shall allow the public and civil society to have a more active role in the anti-corruption strategy.

NGO Sector

The strategy and anti-corruption action plan rely on greater participation of the public and the civil society. Line ministries and agencies, anti-corruption agency and administration for the prevention of money laundering in particular, have a key role in the implementation of anti-corruption action plan. However, it is essential to involve NGO's, independent experts and representatives of the private sector in the policy design covering such issues as decentralization, public campaigns and education, research and analysis of corruption across various sectors so as to set up an integrated anti-corruption institutional structure.

Existing legislation meet there requirements to a great extent but this however is not true of the practice. There is a need to develop rules on openness and accessibility of data in the public interest, prepare modifications of laws governing information and protection of privacy and make all data more up to date.

Civil society is still not in the position to exert civil control over the public administration, political institutions and judiciary. Activities of the NGO sector so far have actually not resulted in critical control aiming at the prevention of abuse.

That is why it is necessary to develop a system of permanent and effective control mechanism over government structures. Such mechanisms must rely on clearly defined legislation on dialogue and interaction between civil society and public administration, which is a prerequisite for the protection of democratic rights of citizens and their right of access to information. In addition, civil control could ensure citizens cooperate with the government on an equal footing.

Development, implementation, and adequate institutionalization of the public control mechanisms over corruption is a prerequisite of effective influence over administration, political organizations and judiciary.

Such a system shall include the following:

- enhanced citizen participation in public debates on laws and provision of data and analyses to decision makers on corruption related risks;
- mobilization of civil society resources in identification, monitoring, and control over corruption practices and factors that are a prerequisite to their development;
- monitoring and evaluation of the outcomes resulting from anticorruption policy decisions;
- promotion of greater transparency and stimulating more active implementation of civil rights, civil society participation in the control over public administration activities;
- civil representation in state agencies (NGO representative should be guaranteed free access to state institutions, except in situations when that is not allowed for reasons of national security);
- enhance the capacity of NGO to exert civil control over public administration activities through adequate training and education;
- elaborate and publicize results of public survey on the issue of corruption;
- improve the cooperation among NGO in order to prevent corruption and establish good collaboration between civil society and state institutions;
- found the anti-corruption national committee including representatives of the government, nongovernmental institutions and other citizen initiatives.

Media

Corruption cannot be prevented without adequate support of the public. Media treatment of corruption cases is a strong and inevitable factor for the broader anti-corruption initiatives. In addition to nongovernmental sector and civil society, media too have a crucial role in a better understanding of corruption as a negative social phenomenon.

Media must ensure free and objective flow of information. In dealing with corruption as a multi-layered and sensitive issue, they must treat it in a completely impartial way, with the application of investigative journalism.

Mass media are the major instrument for the articulation of the public interest. Media and civil society institutions have not yet organized their activities in such a way to prevent corruption and crime. The coordination of anti-corruption initiatives, professional organizations and associations, journalists and NGO should be seen as an utmost priority.

Greater transparency in the media and journalism and their efforts to explain methods and forms of corruption and organized crime can make a substantial contribution. Adoption of anti-corruption rules in journalism and publication of such rules can also help create necessary conditions for more effective participation of independent media in anti-corruption campaign. Improved cooperation and coordination of media activities will probably result in a stronger pressure of the public towards the prevention of corruption practices in all spheres of public life.

There must be a system of special rewards in place for journalists who have made a substantial contribution in investigative journalism towards combating corruption. On the one hand, establishing ways to recognize such efforts is motivated by the great impact that the public has on partial journalist investigation. On the other, the motivation is the need to encourage and reward journalists who have taken this very risky task. Media coverage, authority of the board members and reward itself will have major effect on the social status of this reward. The reward board should include renowned journalists and other persons from the public life, representatives of political parties having seats in the parliament, as well as representatives from the business sector.

Courses on corruption issues and anti-corruption practices organized for young journalists would provide good support and guidelines for young journalists at the beginning of their careers on how to resist the pressure of corruption.

Media should cover all anti-corruption initiatives and civil society activities aimed against corruption. With the support of practical techniques, the impact of media environment on the public opinion of various social groups can be assessed.

In cooperation with the nongovernmental sector and civil society, various modalities should be defined as to how cooperation of state agencies with media can be improved in the forthcoming period in order to enhance the reaction of society to corruption, facilitate its early detection and point to its extremely harmful effects.

Role of the Parliament

Along with greater participation of civil society and other non-state actors, the Parliament of Montenegro has a crucial role in achieving democratization of society and greater political accountability. The parliament, composed of democratically elected representatives of the public, must also be included in monitoring and evaluation of activities taken and their outcomes. This will ensure compatibility of defined anti-corruption policy and its implementation with democratic principles, all leading to greater political responsibility. In this regard, it is necessary to establish a special working body of the Parliament that would cooperate closely with the Agency for Anti-corruption Initiative and relevant ministries in the development and monitoring of anti-corruption reforms.

Monitoring and Implementation of Strategy

What is required is not just to seriously consider risks and dangers of organized crime and corruption but to focus on corruption and organized crime among senior government officials and persons holding other senior positions. It is necessary to create a balance among penalty measures, awareness raising activities, education measures, citizen participation, NGO, political factors and all who can contribute to the prevention of corruption and organized crime.

These objectives call for the establishment of one central body that will coordinate the Programme implementation.

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The Programme implementation includes the following: organization and coordination, harmonization of activities on the whole territory of Montenegro, management of funds allocated for the programme implementation, setting priorities, dynamics and deadlines for the implementation and evaluation of outcomes. These tasks will be under the leadership of the intersectional team (Committee of the Government of the Republic of Montenegro). The composition, mission and tasks shall be specified in the document to be adopted by the Government of the Republic of Montenegro. The adoption of the Programme for the Prevention of Corruption and Organized Crime by the Government of the Republic of Montenegro shall be followed by the following:

prepare copies of the programme and distribute it to relevant ministries, institutions and international organizations;
promote the programme in the public through the media;
found a committee for the programme monitoring and implementation, and members of the committee for the programme monitoring and implementation develop action plans.

* * *

Note:

The Programme has been written in accordance with the requirements of potential international donors. It can therefore be proposed at one of the following donor conferences as well as to international organizations having mission to prevent and fight corruption and organized crime.

The funds required for the implementation of the Programme can be obtained from the following sources:

- budget of the Government of the Republic of Montenegro
- international financial organizations and donors

For purposes of communication with international donor organizations and financial institutions, the Programme for the fight against corruption and organized crime must be translated into English and prepared for Internet presentation.