



Support to Prosecutors' Network in South Eastern Europe
PROSECO Regional Project

Regional Thematic Seminar

Financial Investigations and Confiscation of Proceeds from Crime

Cavtat, Croatia, 25-26 September 2008

CONCLUSIONS

Serious crime is largely driven by acquiring economic benefits. Targeting proceeds from crime is therefore an integral part of any comprehensive strategy against corruption, organised crime, cybercrime, money laundering and other forms of economic and serious crime.

The Council of Europe's strategy against economic crime includes the strengthening of financial investigations aimed at the search, seizure and confiscation of crime proceeds through:

- Standard setting – conventions and recommendations
- Monitoring – MONEYVAL and GRECO (countries of South-eastern Europe participate in both monitoring mechanisms)
- Technical cooperation activities.

A number of technical cooperation projects supported countries of South-eastern Europe in the strengthening of their capacities for more effective financial investigations, including:

- The PACO proceeds project for countries of South-Eastern Europe (2001)
- The CARDS Regional police project for South-Eastern Europe
- The PACO Serbia Project against economic crime.

The following tools have been produced:

- A best practice survey on the confiscation of proceeds and the reversal of the burden of proof (1998; republished in 2004)
- A regional strategy on tools against economic and organized crime (the Brijuni Strategy, 2005)
- A training manual on financial investigation and confiscation (2006)
- A Memorandum of Understanding on regional co-operation related to financial investigations among countries of South-eastern Europe (2007)
- A report providing an overview of legislation for the confiscation of proceeds from crime in South-Eastern Europe (2007)

The European Commission and the Council of Europe have been cooperating intensively in many of these activities.

Participants of the Regional Conference on financial investigations and confiscation of proceeds from crime

Recalling the objectives and provisions of European and other international standards against economic crime, money laundering, corruption, cybercrime, trafficking in human beings, smuggling of persons, and other forms of organised and serious crime

Agreeing that the targeting of proceeds of crime through financial investigations, including identification, seizure and confiscation, is an integral part of any comprehensive strategy against serious crime

Believing that serious transnational crime is not a challenge that countries can meet alone and that international co-operation in criminal matters plays a key role in the general framework of relations between countries and jurisdictions both at the international and regional level

Acknowledging that future efforts should build on achievements and activities of projects carried out to date

Recognising a need to further improve legislative frameworks, enhance capacities of judicial and law enforcement institutions through specialised trainings as well as cross border co-operation, and to ensure effective implementation of the Brijuni Strategy

Discussed the following issues and reached the following conclusions:

The countries of South-Eastern Europe since 2001 and in particular following the signature of the Brijuni Declaration and Strategy on Tools against Organised and Economic Crime in 2005 have made important progress in relation to financial investigations and confiscation of proceeds from crime. In particular, the following has been achieved by individual project areas:

- *Albania:* Development of a scientific research manual; establishment of an intergovernmental investigative unit and adoption of a Law on the establishment of an agency for handling seized and confiscated proceeds; establishment of a data processing centre to be used by all law enforcement agencies; formation of an investigative unit in the Tax Administration. Albania started the implementation in practice of the Law on the prevention and fight against organised crime, which resulted in a significant amount of assets seized and confiscated. Thus it appears that Albania has made important progress
- *Bosnia and Herzegovina:* Enhanced co-operation between the State Investigation and Protection Agency and law enforcement agencies of the entities; commencement of activities on the establishment of a unified data base which would be accessible to all law enforcement institutions. Further efforts are required to implement the actions agreed upon in earlier projects
- *Croatia:* Awareness raised among police, prosecutors and judges on the concept of integrated financial and criminal investigations; specialised training on conducting financial investigations institutionalised in police and judicial academies; ad-hoc inter-agency teams of the State Attorney Office (including USKOK) and Ministry of Interior established; extended confiscation and reversal of burden of proof introduced for organised crime in amendments to the Criminal Code in 2006; New Law on Prevention of Money Laundering and Financing of Terrorism, which comes into force on 1 January 2009, increased scope of measures to be implemented by institutions obliged to apply it; by coming into force of the Law on Financial Inspectorate (29 July 2008) the former Foreign exchange inspectorate of the Republic of

Croatia became the Financial inspectorate of the Republic of Croatia, which has, among other responsibilities, responsibility, in accordance to a risk assessment and along with other specialised supervising bodies, to oversee compliance with the Law on the Prevention of Money Laundering and Financing of Terrorism. Thus, important progress has been made in Croatia

- *Montenegro*: Parallel financial and criminal investigations implemented in practice; specialised trainings on financial investigations continued; the concept of extended confiscation and reversed burden of proof introduced in the Draft Criminal Procedure Code; Law on corporate liability adopted; an Amendment to the Law on State Prosecutor's Office of Montenegro from June 2008 widened jurisdiction of the Department for suppression of organised crime within the Supreme State Prosecutor's Office of Montenegro, to criminal offences of corruption, terrorism and war crimes. Jurisdiction for suppression of organised crime, corruption, terrorism and war crimes is now concentrated in the Department for suppression of organised crime, corruption, terrorism and war crimes. Significant progress and efforts can thus be noted in Montenegro
- *Serbia*: Specialised training on integrated financial investigations continued; Draft Law on Agency for handling seized and confiscated proceeds from crime prepared; Draft Law on confiscation of proceeds from crime which introduces extended confiscation and reversal of burden of proof prepared, specialised unit for financial investigation within Ministry of Interior established and it institutionalises financial investigations; specialised departments for corruption and economic crime established in the Republic Prosecutor's office and in four regional offices; Draft Law on corporate liability prepared and Draft Law on MLA prepared. Important progress has thus been made in Serbia
- "The former Yugoslav Republic of Macedonia": Amendments to the Criminal Code from 2006 introduced confiscation from legal entities, Law on management of confiscated proceeds adopted that foresees the establishment of an Agency; amendments to the Criminal Code have introduced extended confiscation and reversal of burden of proof; inter-agency teams established to provide closer co-operation and joint investigations; specialised trainings on financial investigation and confiscation continued with the assistance of international organisation. Progress has thus been made in "the former Yugoslav Republic of Macedonia"
- Kosovo: Training continued with the assistance of the FBI and EU experts; initiatives undertaken to draft amendments to the Criminal Procedure Code and to Draft a New Law on Confiscation of Proceeds from Crime. Efforts are thus underway to implement earlier recommendations.

Nevertheless, participants concluded that further efforts are necessary in the following areas:

Regional

- Strengthening cross border co-operation in the field of financial investigations, confiscation, disposal of and sharing of assets
- Institutionalisation of co-operation (including joint investigative teams) by concluding bilateral and/or multilateral agreements and Memoranda of Understanding
- Establishing a legal framework to enable direct co-operation of prosecutors in the region and the use of joint investigative teams; such legal framework should ensure that evidence collected in such actions is admissible by the courts

- Enhancing co-operation based on the Memorandum of Understanding for Regional Co-operation and Exchange of Information related to identification, seizure and confiscation of proceeds from crime from 2007
- Capacity building through the organisation of regional training events and training of trainers
- Organisation of a regional training on the new role of prosecutors in investigations
- Regional Training of staff of the agencies responsible for the management of seized and confiscated proceeds
- Strengthening capacities for financial investigations on the internet and in relation to cybercrime
- Unification of money laundering definition in legislation of the countries of the region, in line with the international standards

In specific project areas for example

- Support to technical infrastructure for financial investigation and management of seized and confiscated proceeds in Albania
- Setting up a financial investigation unit within the State Prosecutor's Office in Bosnia and Herzegovina, composed of officers from relevant law enforcement agencies
- Adoption of the Law on confiscation of proceeds from crime in Bosnia and Herzegovina
- Setting up of an agency to handle the confiscated proceeds from crime in Bosnia and Herzegovina
- Continuation of specialised training on financial investigation for all law enforcement agencies in Bosnia and Herzegovina
- Setting up of an agency for managing seized and confiscated proceeds from crime in Croatia
- Introduction of the offence of illicit enrichment into the Criminal Code in Croatia
- Organisation of specialised training on financial investigation for the Ministry of Finance in Croatia
- Strengthening of co-operation within Montenegro by concluding inter-agency Memoranda of Understanding
- Strengthening of training capacities in Montenegro
- Training of staff of the Agency for handling seized and confiscated proceeds in "the former Yugoslav Republic of Macedonia"
- Continuation of specialised training on financial investigations for all involved law enforcement agencies in Serbia
- To expand the Manual on financial investigation published under CARDS Police project in line with recent legislative changes in Serbia
- Provision of technical and professional support to financial investigation units in line with the new Law on confiscation in Serbia
- Adoption of the Law on confiscation of proceeds of crime in Kosovo
- Strengthening of more efficient and rapid contacts between prosecutors and law enforcement agencies in Kosovo
- Enhancing of technical capacities for financial investigations in Kosovo
- Provision of specialised training for all law enforcement agencies in Kosovo.

Since 2001, countries of this region have made important progress with regard to financial investigations and the confiscation of proceeds from crime. Technical cooperation projects – such as those of the Council of Europe and the European Commission - and their participation in MONEYVAL and GRECO have been instrumental to support efforts undertaken by public authorities in each country or project area. As further measures are required, the Council of Europe is prepared to continue its support to countries the region.