

Horizontal Facility for Western Balkans and Turkey

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Inception Report

Action against Economic Crime

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1 EXECUTIVE SUMMARY

The Inception Report analyses the organizational, institutional context and situation in the respective beneficiary countries of the Horizontal Facility for the Western Balkans and Turkey in the area of fight against corruption, money laundering and financing terrorism during the inception phase period. The information presented here is collected through a desk analysis and is updated based on the discussions that took place during in-country missions organised in all three beneficiary countries in the period between May and October 2016.

The European Union (EU) and Council of Europe (CoE) signed the European Union/Council of Europe Horizontal Facility for the Western Balkans and Turkey (hereafter referred to as “Horizontal Facility”) on 23 May 2016. The Horizontal Facility builds on the CoE and EU Policy priorities in the context of the Western Balkans and Turkey and on the CoE expertise in standard-setting, monitoring and cooperation methodologies.

Sector interventions to be undertaken in the Council of Europe South-East Europe (SEE) Member States (IPA II Beneficiaries) were designed based on recommendations emanating from CoE monitoring and opinion advisory bodies, prioritised according to the needs within the enlargement negotiations of the countries with the EU and in the areas indicated in the Statement of Intent signed on 1 April 2014 by the Secretary General of the CoE and the EU Commissioner for Enlargement and European Neighbourhood Policy.

Three specific Actions were designed within the Horizontal Facility to support tailored reform processes in Albania, Montenegro and “the former Yugoslav Republic of Macedonia”. The actions will aim to improve implementation of key recommendations of the Council of Europe Group of States against Corruption (GRECO) and Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), and to further strengthen institutional capacities regarding the code of conduct of public officials, whistleblower protection, financing of political parties and election campaigns and other measures to counter and prevent corruption, money laundering, the financing of terrorism in accordance with European standards.

The report summarizes all inception phase inputs and outputs including interventions and launching of the actions taken in the inception period, furthermore it provides information on country specific interventions within each country’s action. A detailed account of the adjustment to TAPA’s as per contractual obligations is presented in each country section.

Beneficiaries and counterparts of the three actions are governmental bodies at all levels, notably specialised structures within the Ministries of Justice, Interior and Finance; specialised agencies/bureaux/commissions involved in the prevention and fight against corruption and economic crime; Judicial and Prosecutorial Services, supervisory bodies; Financial Intelligence Units (FIUs), and representatives of civil society.

1.1 Implementing organization

As the key actor in this thematic area and the IPA region, the Council of Europe, and more specifically the Action against Crime Department, through its Economic Crime and Cooperation Division (ECCD) will be in charge of implementing the activities pertaining to the theme on “Fighting Corruption, economic crime and organised crime”, along with their respective teams in the field offices in Tirana, Podgorica and Skopje.

1.2 Contracting authority

The Contracting Authority is the European Union through the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR) of the European Commission (EC).

2 THE ACTIONS AGAINST ECONOMIC CRIME

2.1 Overall objective of the Actions

The country specific Actions contribute to democracy and the rule of law through prevention and control of economic crimes specifically in Albania, Montenegro and “the former Yugoslav Republic of Macedonia”.

2.2 Overall rationale of the Actions

The Actions against Economic Crime (AEC) in Albania, Montenegro and “the former Yugoslav Republic of Macedonia” aim to improve the implementation of key and recent recommendations of the Council of Europe Group of States against Corruption (GRECO and MONEYVAL, and to further strengthen institutional capacities to counter and prevent corruption, economic crime, money laundering, and financing terrorism in accordance with European and international standards.

The Actions focus on supporting the authorities in several directions including:

- Support for the strengthening of legislation and regulatory frameworks;
- Institutional capacity building;
- Support enhanced inter-agency and international cooperation.

2.3 Beneficiary institution(s)

The Horizontal Facility beneficiaries and counterparts are governmental bodies of each country, at all levels, notably specialised structures within the Ministries of Justice, Interior and Finance as well as specialised agencies, commissions, Judicial and Prosecutorial Services, supervisory bodies, Financial Intelligence Units (FIUs), and representatives of civil society involved in the prevention of and fight against corruption, economic crime, money laundering and financing terrorism from Albania, Montenegro and “the former Yugoslav Republic of Macedonia”.

2.4 Budget Allocation

The EU and the CoE co-finance the Actions in each country with the funding ratio being respectively 90% and 10% as follows:

AEC/country	EU contribution	CoE contribution	Total budget
AEC-AL	€ 900,000	€100,000	€ 1,000,000
AEC-MNE	€ 585,000	€ 65,000	€ 650,000
AEC-FYROM	€ 1,215,000	€ 135,000	€ 1,350,000
Overall budget			€3,000,000

3 COUNTRY CONTEXT– ALBANIA (HF16)

3.1 Baseline

3.1.1 Corruption overall

Despite the government efforts to improve measures against corruption challenges remain and corruption is seen as a serious problem in the country. The Transparency International Corruption Perception Index (CPI) ranks Albania 88 out of the 168 countries¹ in 2015. According to the Control of corruption index, one of the six Worldwide Governance Indicators, Albania scores -0.4 in 2015 which shows an improving tendency taken into consideration scores of previous years (-0.7 in both 2013 and 2012 and -0.6 in 2014)².

In 2015, Albania reached 5.25 in the Freedom House Nations in Transit Ratings and Averaged Scores³ which does not show any improvement in comparison with previous years (5.25 both 2013 and 2014). In addition, Albania scored 5.00 between 2007 and 2012 which means that there has been hardly any improvement concerning corruption.

The latest Transparency International Corruption Perception Index shows a positive trend for Albania, as the country has progressed from a score of 33 in 2012 to a score of 39 in 2016.

According to the 2013 Transparency International Global Corruption Barometer⁴ (GCB), the perception of corruption within the judiciary is the highest (81% of respondents). The political parties and parliamentarians are perceived to be the second and third most corrupt institutions (72% and 66% of respondents, respectively), according to the 2013 Global Corruption Barometer. In the past few years, three cases of MPs suspected of corruption and/or abuse of office were investigated; none were found guilty. The 2015-2016 GCB⁵ notes that Citizens from Ukraine, Albania, Bosnia & Herzegovina and Romania are the most likely to think that their members of parliament are highly corrupt. In these countries over a half or more say that their representatives are very corrupt, rising to three quarters in Moldova (76 per cent).

The seriousness of judicial corruption has also been reiterated in the reports of the EC⁶ and of the Commissioner for Human Rights of the Council of Europe⁷.

¹ *TI Corruption Perception Index*

² Data generated with the World DataBank <http://databank.worldbank.org/data/reports.aspx?source=Worldwide-Governance-Indicators>. The 2015 score is also available at: <http://www.transparency.org/country#ALB>

³ Available at: <https://freedomhouse.org/report/nations-transit/2015/albania>

⁴ Available at: <https://www.transparency.org/gcb2013/report>

⁵ Available at: <https://www.transparency.org/whatwedo/publication/7493>

⁶ Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/al_rapport_2013.pdf

⁷ Available at: <http://www.coe.int/en/web/commissioner/-/corruption-and-political-interference-burden-albania-s-judicial-system?inheritRedirect=true&redirect=%2Fen%2Fweb%2Fcommissioner%2Fcountry-monitoring-albania>

The 4th Round⁸ Evaluation report of GRECO of 27 June 2014 notes that the **legal and practical reforms** undertaken in Albania to tackle corruption **have not impacted significantly on citizen's views** regarding the level of misconduct in the country. As affirmed by many sources⁹, Albania's anti-corruption and good governance legal framework is relatively strong; **still, efforts to close the large implementation gap need to be stepped up considerably** for additional progress to occur.

In its 2015 Country Report the EU called on Albania **to strengthen its efforts** in the fight against corruption. Nevertheless it acknowledged that there has been some progress made with the adoption of the anti-corruption (AC) strategy and action plan¹⁰.

Albania was evaluated in 2008 by GRECO, which issued seven recommendations. Following assistance from the EU/CoE Project Against Corruption in Albania (PACA), Albania was judged to have **implemented five recommendations satisfactorily**¹¹. The EU 'Assessment of the Anti-corruption Framework in Albania' project (ACFA) in 2014 produced a subsequent assessment of the legal framework regulating **party and election campaign finance, with 15 recommendations**.

Key amongst these were to tighten reporting and publication requirements for both political parties and election campaigns, simplify reporting requirements for and ensure proper remuneration of independent auditors, lower thresholds for reporting of donations, restrict campaign spending effectively, ensure the regulatory basis for and implementation of Central Election Commission (CEC) oversight, establishment of cooperation between the CEC and external monitoring of election campaign finance, and ensuring a clear process for complaints against alleged violations and their processing.

3.1.1.1 *Regulatory, institutional and sector policies*¹²

There is an on-going constitutional reform in Albania, aimed, inter alia, at strengthening and safeguarding the integrity of Albanian public officials, including MPs, by subjecting them to comprehensive integrity checks. The draft law "On guaranteeing the integrity of public officials" is to prevent the election and/or appointment to public office, and to dismiss, those officials who have been convicted of criminal offences, who are subject to security measures in Albania or abroad, or in respect of whom a final verdict for the commission of the crimes provided for by the law is pending.

The legislative framework relevant to the corruption component of AEC-AL includes:

⁸ Available at: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/Eval%20IV/GrecoEval4\(2013\)9_Albania_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/Eval%20IV/GrecoEval4(2013)9_Albania_EN.pdf)

⁹ Available at: <http://www.globalintegrity.org/report/Albania/2010/scorecard>

¹⁰ Commission Staff Working Document, Albania Report, European Commission, 2015 http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf

¹¹ Recommendation iv on reporting and publication was assessed as being implemented "in a satisfactory manner" due to the absence of a clear legal deadline for annual financial reports. Recommendation vii on sanctions was assessed as implemented "in a satisfactory manner", as the existence of specific sanctions for responsible party officials would have been preferred.

¹² The analysis of the regulatory, institutional framework and sector policies is based on GRECORC4(2016)6, [https://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/RC4/GrecoRC4\(2016\)6_Albania_EN.pdf](https://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/RC4/GrecoRC4(2016)6_Albania_EN.pdf)

- Law “On the declaration and audit of assets, financial obligations of elected officials and some public officials” (LDAA)
- Draft law “On guaranteeing the integrity of public officials”,
- Law on Political Parties (LPP)
- Electoral Code

HIDAACI was established in 2003 and is the sole institution exercising supervision over asset declarations by officials (judges and prosecutors), including MPs. According to its statutory regulation it enjoys independent status and reports periodically to the National Assembly which decides on its budget and staffing. It is also the National Assembly that elects the Inspector General for a five year term based on the proposal of the President. There are 42 persons and the Inspector General working for HIDAACI. The law “On the declaration and audit of assets, financial obligations of elected officials and some public officials” (LDAA) provides the legal framework for its operation. The tasks of the institution are as follows:

- administrative investigations ex officio or following an external complaint.
- asset declarations are subject to
 - o annual preliminary checks and
 - o full audit (arithmetical and logical control)
- asset declaration/full audit of MPs:
 - o every 3 years;
 - o 2 years if MPs are also ministers;
- certain officials, including MPs, are subject to annual (electronic) random selection audits, (at least 4% of the total number of declarations), the exact number of officials per each professional group being determined via an annual risks assessment;
- ad-hoc audits and administrative investigations may be conducted by order of the Inspector General in respect of those statements where
 - o problems have been identified by means of an arithmetical or logical control; or
 - o where information from legitimate sources casts doubts on the veracity and accuracy of data contained in the declarations;
 - o information from the public registers, banks, other state institutions and certified experts;
- an audit report summarising violations or irregularities is transmitted to the Inspector General for a decision on an eventual administrative sanction and, if need be, a proposal for criminal prosecution.

The full audit of MPs’ declarations is now performed every three years and is complemented by random annual checks, where the name of the official concerned is selected via a lottery held in the presence of the media and civil society, and by possible ad hoc audits. Given the duration of their mandate, the three-year time lapse between audits may be insufficient to identify any potential abuses of the asset disclosure regime by some MPs (which does not include the length of the HIDAACI-performed verifications).

Several memoranda of understanding have been signed by the HIDAACI and relevant state institutions, such as the Internal Audit and Anti-Corruption Department under the Prime Minister’s Office (September 2014), the Directorate General of Taxation (December 2014), the

Directorate General of Customs (January 2015), the Commissioner for Freedom of Information and Protection of Personal Data (June 2015), the State Police (July 2015), the FIU (2015), the National Coordinator against Corruption (December 2015) and the Ministry of Finance (February 2016). As to the impact of these measures, the authorities insist that, for the first time, a considerable number of files on high-ranking officials, including 7 MPs, as well as 14 judges (including a member of the High Council of Justice and the President of the Tirana Court of Appeal) and 2 prosecutors were referred to the Prosecution Service for criminal proceedings.

While the system of regular mutual notifications between the HIDAACI and other relevant state institutions in charge of the fight against corruption and economic crime has been established and is functioning well it should be further strengthened with AML and tax authorities.

The **National Coordinator on Anti-corruption (NCAC)** was established in November 2013, and the network of AC coordinators and contact points exists formally. The activities of the Secretariat are envisaged in a draft Prime Ministerial Order on the Establishment of the Coordination and Oversight Mechanism for the Implementation of the AC Strategy 2014 – 2017 (to be approved in summer 2015). The Mechanism is to be chaired by the NCAC, and it coordinates the formulation and approval of the Anti-corruption Action Plan, oversees reporting by ministries/institutions on implementation of the Action Plan and ensures public reporting on implementation. The institutional form of the mechanism is the NCAC Technical Secretariat as the technical body responsible for AC policy, and a National Consultative Forum on Anti-corruption Policies, established by Prime Ministerial order at the same time as the approval of the Anti-corruption Strategy and Action Plan. The Forum will function as a mechanism for discussing policy proposals and providing additional supervision over the implementation of the Anti-corruption Strategy/Action Plan and the work of the NCAC Secretariat.

The Secretariat is envisaged to be composed of three coordinators, plus one advisor and Chief of Cabinet to the NCAC. Considerable work is still required to establish the Secretariat as a well-functioning policy formulation and coordination mechanism, and the draft Order had not been approved in December 2014. While the previous PACA project provided some training to the then-existing coordination mechanism and to ministry contact points, the training was not extensive and was oriented rather around the provision of templates for reporting on Action Plan implementation.

3.1.2 Money laundering and Financing Terrorism¹³

Albanian authorities indicate that drugs trafficking, human being and arms trafficking, and corruption are the main predicate offences that generate proceeds in Albania. Albania has also a history of organized crime, with clan-based and hierarchically organized networks which make them difficult to infiltrate¹⁴.

¹³ The analysis is based on MONEYVAL(2011)3, available at:

[http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/ALB4_MER_MONEYVAL\(2011\)3_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/ALB4_MER_MONEYVAL(2011)3_en.pdf)

¹⁴ UNODC, World Drug Report, p. 57. Available at:

The **major vulnerabilities to ML in Albania are the large, cash-based informal economy** (which facilitates the laundering and integration of proceeds of crime, especially in the real estate sector and in commercial undertakings) and the **cross border transportation of cash** and its further assimilation into the economy and Albania's financial system). Despite authorities' efforts and the existence of licensing/registration requirements, there remain a number of sectors that are identified with illegal businesses or practices, such as the "cambiste" (illegal exchange bureaus).

The **national casino is seen as being particularly vulnerable to money laundering**. It has historically low compliance levels with AML/CFT requirements and the FIU recommended that its license be revoked. The high risk assessment for this sector is also due to a concern expressed by the authorities that underground casinos and games of chance operate within Albania.

The digitization of border crossing points through installation of a Total Information Management System (TIMS) has led to improved surveillance and information management and has enhanced considerably the work of the Border and Migration Police. However, despite improvements in the implementation of the SRIX-related requirements, crossborder transportation of cash remains high and poses a significant risk of ML.

Albania needs to **increase its efforts to build up a consistent track record of investigations**, prosecutions and convictions in all areas and at all levels. Albania still lacks a comprehensive overall strategic approach towards organised crime on its territory. The country will have to implement effectively the legislation against money laundering at all levels and further strengthen the national anti-money laundering and countering the financing of terrorism (AML/CFT) system.

The number of ML investigations has slightly increased. However, the **number of convictions remains low**. Further efforts are needed to **ensure the correct legal interpretation and effective implementation of the legal framework**, in particular on separating the money laundering offence from the predicate offence and the possibility of using circumstantial evidence. Financial investigations, anti-money laundering measures and asset confiscation remain underused.

Inter-institutional cooperation and technical skills in the field of financial investigations need to be strengthened. A **track record of high-level cases** has yet to be developed. The recommendations of the Financial Action Task Force are reflected in anti-money laundering legislation. However, shortcomings need to be addressed, including in implementation and in police access to public databases.

Albanian authorities reported that methods actually used by criminal organizations for ML, as revealed by investigations are:

https://www.unodc.org/documents/wdr/WDR_2010/World_Drug_Report_2010_lo-res.pdf

- Transactions within the financial sector;
- Opening of bank accounts in the name of social and family ties
- Purchasing or entering into partnerships in legal businesses (commercial companies, construction, services, transportation etc);
- Opening of offshore companies;
- Purchasing immovable properties (land, apartments, hotels, restaurants, gas stations etc);
- Commission of criminal activity outside of the territory of Albania, and laundering some of the proceeds obtained from this activity in Albania.

Authorities also report that, based upon their analysis of ML trends and techniques, the most common ML schemes are:

- Injection of illicit income into business activities;
- Purchase of real estate;
- Acquisition of luxurious goods; and
- Structured transactions, where the purpose is to conceal the source of funds and the actual beneficiaries.

3.1.2.1 Regulatory, institutional and sector policies¹⁵

Albania has fully criminalized ML largely in line with the requirements under the Vienna and Palermo Conventions. However, there have been few convictions for ML and demanding evidentiary requirements have had a negative impact upon Albania's ability to make effective use of the provisions. Also, the Albanian provisions that criminalize the financing of terrorism, although significantly enhanced in recent years, still fall short of meeting the FATF standard.

The Albanian Financial Intelligence Unit (FIU) has improved its analytical processes resulting in higher quality financial intelligence; however the legal framework needs to be strengthened with regard to its operational independence. The FIU's responsibility to disseminate information regarding suspicious transactions should also be clarified.

Albania has updated the legal framework for preventive measures for financial institutions, but the requirements fall short of the international standard in some areas, such as for the identification of beneficial owners, and the lack of any customer due diligence (CDD) measures for customers that are foreign politically exposed persons (PEPs). In addition, the effectiveness of implementation of preventive measures remains a concern.

Implementation of preventive measures by designated non-financial businesses and professions (DNFBPs) is limited. A large range of DNFBPs have been subject to supervision by the FIU however other designated supervisors have had limited engagement in AML/CFT activities. The legal framework underpinning the supervisory authorities' power is sound but the supervisory role of the FIU should be clarified. Moreover, the Financial Supervisory Authority (FSA) has not undertaken any inspection of the securities and

¹⁵ The analysis is based on MONEYVAL(2011)3, Report on Fourth Assessment Visit, 2011, available at: [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/ALB4_MER_MONEYVAL\(2011\)3_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/ALB4_MER_MONEYVAL(2011)3_en.pdf)

insurance sectors. Domestic and international cooperation is good. Albania has established a number of domestic and international cooperation mechanisms that facilitate cooperation between competent authorities and foreign counterparts; however, cooperation mechanisms between supervisory agencies, both domestically and internationally, are underutilized.

Albania has fully criminalized ML largely in line with the requirements under the Vienna and Palermo Conventions. The Albanian ML provisions extend to any type of property as defined in the FATF standard and also apply in most instances to persons who commit the predicate offense. The provisions do not, however, extend to the FATF-designated predicate offenses of insider trading and market manipulation. Most appropriate ancillary offenses are provided for. There have been few convictions for ML and demanding evidentiary requirements have impacted Albania's ability to make effective use of the provisions.

Rationale of the Action

AEC-AL continues to strengthen institutional capacities to counter corruption, money laundering and financing terrorism in accordance with European and international standards. The Action responds to the observations, recommendations of the EU, GRECO and MONEYVAL and formulates its approach based on the assessments of the inception phase. The specific approaches were developed in close cooperation with the stakeholders.

3.2 Other relevant international technical assistance

The Action will be implemented with particular attention to coordinate its activities with other technical assistance programmes implemented in the country. Following are some of the on-going technical cooperation activities:

- The United Nations Development Programme (UNDP) (2015 – 2017) on “Improved legal framework for democratic elections” which focuses on, amongst others, devising a political finance monitoring methodology that will estimate the expenditures of political entities during an electoral campaign.
- The project on “Implementing the newly adopted whistleblowers’ legislation” in Albania is implemented between 2015 and 2017 by Partners Albania.
- The IPA twinning project “Support to the formulation, coordination and implementation of anti-corruption policies”.
- Support to the fight against corruption is also provided under the EU assistance project to the Rule of Law, namely EURALIUS www.euralius.eu and PAMECA www.pameca.org.al.
- EURALIUS IV is currently supporting the reform process and respective ad hoc parliamentary on justice reform working groups, especially the working group on criminal justice and fight against corruption in the judiciary. PAMECA will support assistance to repression related aspects complementing this Twinning focus on the preventive aspects.

- The Organization for Security and Co-operation in Europe (OSCE)¹⁶ and the US OPDAT programme¹⁷ are also providing assistance to the Albanian authorities in the field of prevention and repression of corruption.

4 RATIONALE FOR THE ACTION AGAINST ECONOMIC CRIME IN ALBANIA

The Action against Economic Crime in Albania (AEC-AL) will aim to improve implementation of key and recent recommendations of the Council of Europe's Group of States against Corruption (GRECO) and Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), and to further strengthen institutional capacities to counter and prevent corruption; money laundering; and the financing of terrorism in accordance with European standards.

The action will focus on supporting the authorities in several directions including:

- Support for the strengthening of legislation and regulatory frameworks;
- Institutional capacity building;
- Support enhanced inter-agency and international cooperation

4.1 Summary of the Action

The overall objective of the action is to contribute to democracy and the rule of law through prevention and control of economic crimes in Albania in accordance with European and other international standards.

Specific Objectives (SO) and Expected Results (ER)		Ref to monitoring Recommendation
SO 1:	Review Political Party Funding legislation and institutional framework	CM/Rec(2003)4
ER 1.1 The legal framework for regulating political party funding is enhanced		
ER 1.2 Capacities of authorities responsible for oversight of political party funding are strengthened		
SO 2:	Improve Asset declaration system	ALB/GRECO/2014
ER 2.1 HIDAACI's ability and capacity to implement an online asset declaration system, perform effective verifications of asset declarations and publish declarations are improved		
SO 3:	Review AML/CFT legislative and strategic framework	ALB/MVAL/2011
ER 3.1 An updated National Risk Assessment on AML/CFT is available		
ER 3.2 Capacities and awareness of all relevant AML/CFT key players on NRA and its		

¹⁶ More information is available at: www.osce.org/albania

¹⁷ More information is available at: <http://www.justice.gov/criminal/opdat/worldact-programs/ctrl-east-europe.html>

recommendations are enhanced		
ER 3.3 AML/CFT legislation and strategies are reviewed and amended based on new international standards		
SO 4:	Enhance Capacities of law enforcement authorities, prosecution and judiciary to fight ML and TF	ALB/MVAL/2011
ER 4.1 Procedural framework for investigating/prosecuting and adjudicating proceeds-generating crimes, including ML is reviewed		
ER 4.2 Capacities and skills of the LEA/prosecution and judiciary in investigating/prosecuting and adjudicating ML cases, especially on third party ML cases are enhanced		
ER 4.3 The procedures and capacities of authorities to identify, seize, confiscate and subsequently manage and dispose of criminal proceeds and property are enhanced		
SO 5:	Improve and streamline inter-agency cooperation	ALB/MVAL/2011
ER 5.1 Inter-institutional cooperation between LEA involved in the field of financial investigations and proliferation financing is improved		
ER 5.2 Inter-institutional cooperation between supervisors in the AML/CFT field is improved		

4.2 Inception phase preliminary outputs

Introductory meetings with main beneficiary institutions and stakeholders took place in May 2016 and June 2016 in Tirana, Albania.

Members of the Council of Europe secretariat supported by a consultant met representatives of the main Beneficiary institutions including the: HIDAACI, CEC, GDPML, Prosecutor General Office and the School of Magistrates.

The aim of these meetings was to discuss in detail the activities planned within the Action against Economic Crime and the methodology for implementation proposed by the Council of Europe. The beneficiary expressed their support for the Action and emphasized their commitment to the set objectives.

Following is an outline of all activities undertaken during the inception phase:

Description of Inception Phase Outputs	Status (as of 23 September 2016)
Recruitment of the Action Team (Strasbourg and Tirana): Senior Project Officer (Tirana – 100%)	Completed
Allocation and Set up of the Project Office	Completed

Setting up of international and local experts' pool for the AC and AML/CFT technical assistance aspects	On-going
Introduction and explanation of the action to main beneficiary institutions	Completed
Designing and finalising the Workplan and Calendar of Activities	Completed
Designation of Steering Committee Members by Albanian authorities	Completed
1 st Project Steering Committee Meeting; Adoption by stakeholders of the final Workplan and Calendar of Activities	27 October 2016
Action Launching Conference	28 October 2016

4.3 Other

4.3.1 Set-up of the Action Team/Recruitment

The project team in the HQ in Strasbourg was set up in May 2016; following this a vacancy announcement was published for the position of the Senior Project Officer to be based in the Council of Europe office in Tirana. Six candidates were shortlisted for written exam and interviews. Out of the six one withdrew the application while the other five participated in the written test which was organised on 23 August 2016 and the interviews which were organised on 30 August 2016.

The interview panel selected Ms Liljana Kaci as the successful candidate for the position of Senior Project Officer, and recommended another two candidates for the reserve list.

4.3.2 Action Office and Contact details

The Senior Project Officer in charge of the implementation of the Action against Economic Crime in Albania will have her office space within the premises of the Council of Europe Office in Tirana.

Contact details:

Ms Liljana Kaci, Senior Project Officer
Council of Europe Office in Tirana, Albania
Second Floor, Palace of Culture
Skanderbeg Square
Tirana, Albania
Tel.: +355 44 54 02 01
Fax: +355 42 24 89 40

4.4 Development of key project documents (May - September 2016)

4.4.1 Workplan and calendar of activities

The inception phase activities were used for the adjusting of the TAPA and the preparation of the workplan which is one the key project documents; a draft version of the workplan as

prepared by the management team of the AEC-AL was presented to all beneficiary institutions during the 2nd round of meetings in June 2016, resulting with strong support for the proposed actions. The final version of the workplan was approved by the Steering Committee at its first meeting.

Detailed information on the adjustment of the TAPA's is provided in Appendix I

4.5 Steering Committee meeting

The first Steering Committee meeting of the Action took place on 27 October 2016. The following Institutions are represented in the Steering Committee:

- High Inspectorate for the Declaration Audit of Assets and Conflict of Interest (HIDAACI)
- Central Election Commission (CEC)
- The General Directorate for the Prevention of Money Laundering (GDPML);
- General Prosecutor's Office;
- General Directorate of State Police;
- Prime Minister's Office and National Coordinator on Anti-Corruption;
- Ministry of Justice;
- Bank of Albania and Financial Supervisory Authority;
- Administration of the Management of Seized and Confiscated Assets;
- School of Magistrates;
- the European Union Delegation to Albania; and
- the Economic Crime and Cooperation Division of the Council of Europe.

As approved in its constitutive meeting the Steering Committee will be Co-Chaired by the Council of Europe and the European Union Delegation in Albania.

The members of the Steering Committee approved the following documents:

- Action workplan (Appendix II)
- Terms of Reference for the Steering Committee in Albania (Appendix V);

4.6 Launching of the Action

The Launching of the Action took place on 28 October 2016, with high level representation by all beneficiary and stakeholder institutions. The Launching Conference was attended by around 40 representatives of relevant ministries and agencies, international organizations, representatives of the Diplomatic Missions to Tirana, and civil society. The presence of high-level representatives of local institutions as well as the participation of high level representatives of the beneficiary institutions in the Launching Event attests to the commitment of the Albanian authorities towards the implementation of the Action against Economic Crime in Albania.

5 COUNTRY CONTEXT MONTENEGRO (HF18)

5.1 Baseline

5.1.1 Corruption overall

Corruption remains prevalent in many areas and continues to be a serious problem in Montenegro. According to the Transparency International Corruption Perception Index (CPI) in the period of 2011-2016 for Montenegro, the CPI of the country was fluctuating between a score of 40 in 2011 to 45 in 2016 which placed the country in the 64th place globally.¹⁸

Trust to institutions is relatively low: according to the latest (2016) **Eurobarometer**, **only 49% of population expressed tendency of trust in police**, **only 38% said they tend to trust the Government**, and also less than half of surveyed population (48%) said they trust to the justice system.¹⁹

The 2015 EC Montenegro Report²⁰ voiced **concerns regarding the institutional and operational capacity of Montenegro to fight corruption** and organized crime, and the lack of the track record of effective investigation. The report states that: “All institutions should demonstrate a more proactive attitude in fulfilling their mandate. **Montenegro’s track record on effective investigation, prosecution and final convictions in corruption cases, in particular regarding high-level corruption, remains limited (...)**The institutional and operational capacity of prosecutors, judges and police to fight corruption remains insufficient and needs improving, including through specialized training(...). The capacity to carry out financial investigations in corruption cases needs to be enhanced.”

Recommendations of the EU in these areas were mainly concentrated to:

- establishing a fully operational anti-corruption agency;
- establishing track records in combating corruption, in particular in high-level cases and increasing the capacity to carry out financial investigations;
- improving track records in the prevention of corruption, including effective penalties for irregularities

Some progress was achieved in the last three years by **reforming the legal and institutional framework for the fight against corruption**. Major legal changes include amendments to the Criminal Code and Criminal Procedure Code, adoption of the Law on Special State Prosecutor’s Office and the Law on Prevention of Corruption, while institutional reforms include establishment of Special State Prosecutor’s Office, and particularly through establishment of the Agency for Prevention of Corruption on the 1 January, 2016.

¹⁸ http://www.transparency.org/news/feature/corruption_perceptions_index_2016

¹⁹ [Standard Eurobarometer, May 2016](#): Trust in Institutions, interactive map

²⁰ [Commission Staff Working Document](#), Montenegro, Report European Commission, 2015:(See the pages 7, 14-18, 56-58)

However, the results in practice remain limited: in spite of the growing number of reported cases, the number of investigations and adjudicated cases of corruption, especially on the high-level – remains low.

Investigation and adjudication of corruption offences in Montenegro in 2015 ²¹	Reported suspects	Investigations	Dismissed criminal reports	other prosecution offices	Indictments	Pending	Dismissed indictment	Adjudication	Conviction	Other (probation, acquittal, etc.)
Special Prosecutors' Office	470	9	178	43	2	238				
Courts	-	-	-	-	-	-	11	26	15	

The Agency for Prevention of Corruption (APC) faced numerous challenges at the very start of their functioning including 2 on-going procedures initiated against members of the Council of the APC for conflict of interests and internal disagreements in the process of decision-making.

In area of **financing of political parties and misuse of state resources**, adoption of the Law on Financing of Political Entities and Electoral Campaigns in 2014 has marked some improvement in terms of alignment with GRECO recommendations, however recommendations **iv** and **vi** from the Third Evaluation Round are still not fully implemented. These recommendations are underlining the necessity to introduce clear rules and guidance concerning the use of public resources for party activity and election campaigns, and to give appropriate independent authority and resources to the institution in charge of control of party funding.²²

With the local elections in Tivat, the Agency has initiated with implementation of control of financing of election campaign and adopted its first report on compliance of political entities with provisions of the Law on Financing of Political Entities and Electoral Campaigns. The Agency has adopted a comprehensive plan of control, which included control of all political entities, governmental institutions and state-managed enterprises subject to the law. As a result, the Agency has initiated total of 6 misdemeanor procedures – 2 on the basis of control findings and 4 on the basis of the reports received from political parties and civil society.²³

The table below outlines the measures taken by the APC in relation to the Tivat local Elections.

²¹ Figures refer to persons. Supreme State Prosecutor's Office Annual Report 2015 <http://www.tuzilastvocg.me/media/files/izvjestaj%20o%20radu%20vdt%20za%202015-compressed.pdf>

²² GRECO Third Evaluation Round – Second Compliance Report, 2014 p- 4-5

²³ Report on the conducted control during electoral campaign for municipal elections in Tivat in April 2016

Control of the election campaign financing on Tivat municipal elections	Number of reported violations	Number of discovered irregularities ex- officio	Number of initiated misdemeanor procedures	Number of dismissed reports	Cases reported to the prosecution
	38	2	6	34	0

The majority of misdemeanor procedures initiated were due to untimely reporting, or to incomplete or insufficient documentation. Implementation of the control plan was more focused on deadlines and reporting forms than on control of veracity of the substance of submitted reports. So far, the Agency has not undertaken any actions regarding control of regular financing of political entities.

In the area of prevention of **conflict of interests and assets declaration** the APC has initiated the electronic procedure of assets declaration, which should facilitate cross-checking of declared information in future. The APC has, in the first six months of its functioning, initiated 89 misdemeanor procedures against public officials at the state level and 183 of public officials at the local level that failed to submit in time their assets declarations and 45 misdemeanor procedures against public officials for violating restrictions in exercising of public function.²⁴

Adoption of the Law on Prevention of Corruption has for the first time comprehensively regulated the area of **whistleblower protection** which was earlier partially incorporated in the Labor Law and Law on Civil Servants and Employees.

Even though the Parliament has adopted Code of Ethics for MP's, there is still a number of considerations to be addressed in light of GRECO recommendations and room for improvement in a number of areas, including on the MPs' obligation to declare private interests, the statute of limitations and the range of penalties applied. By the end of 2015, Codes of Ethics were in place for legislative, judicial and executive authorities and integrity plans have been adopted in 77 (out of 102) public bodies.

Law enforcement agencies are still hesitant to initiate **financial investigations** and the seizure and confiscation of due to lack of know-how.²⁵ Namely, the agencies are lacking legal and institutional instruments which would regulate management of seized and confiscated property, especially during the course of the criminal investigations for criminal offenses with elements of corruption. Additional impediment to achievement of concrete results in this area is frequent annulment of verdicts on appeal, mostly on technicalities.

²⁴ www.antikorupcija.me

²⁵ [EC Report on Montenegro 2015](#) (See the pages 7, 14-18, 56-58)

Step forward in this regard was adoption of the new Law on Confiscation and Seizure of Assets in September 2015, introducing the possibility of extended confiscation of property for the criminal offenses with elements of corruption, which stipulates reverse onus, i.e. shifts the burden of proof from the law enforcement agencies to the suspect.

5.1.1.1 Regulatory, institutional and sector policies

Montenegro's 2010-2014 National Strategy for the Fight against Corruption and Organized Crime and its last Action Plan expired in 2015, and it was replaced with the Operative Document for the Fight against Corruption in January 2016. Measures from the Action plan related to the management of public property, anti-corruption measures for security and exchange market and measures against organized crime remained excluded from this strategic document. Conducted assessment of the implementation of the Strategy has shown that 59% of measures have been implemented, 30% partly implemented, while 11% of measures have not been implemented, while actual impact of the Strategy has never been assessed.

The following laws regarding corruption are currently in place:

- Law No. 01- 1223/2 Law on Prevention of Corruption, 15 December 2014
- Law No. 01 - 1202/2 Law on Financing of Political Entities and Electoral Campaigns, 11 December 2014
- Law No. 01 - 1201/2 Law on Lobbying, 11 December 2014
- Law No. 01-244/2 Law on Special State Prosecutor's Office, 4 March 2015
- Law No. 01-913/2 Law on Seizure and Confiscation of Assets, 5 October 2015
- Law No. 01-1450/2 from 9 October 2015, Law on Amending and Supplementing the Criminal Code, No. 01-1505/2, as amended and supplemented by Law No. 01-1028/2, Law No. 01-1371/2, Law No. 01- 1442/2, and Law No. 01-797/2
- Law No. 01-627/2, from 1 July 2015, Law on Amending and Supplementing the Criminal Procedure Code, No. 01-2327/2 as amended and supplemented by the Law No. 2070-2, decision of the Constitutional Court No. 18/09 and Decision of the Constitutional Court No. 34/11
- Law No. 01-823/2, from 22 July 2014, Law on Law on Amending and Supplementing the Law on State Audit Institution No. 01-625/2 as amended and supplemented by the Law No. 01-630/2, Law No. 01-1563/2, and Law No. 01-956/2

All these laws were applicable throughout 2016 but there is a lack of concrete results of their implementation due to limited capacities of implementing institutions. Amendments of the legal framework still do not fully address the recommendations of GRECO, both in the area of prevention of corruption and of controlling political financing.

The Agency for Prevention of Corruption has officially started its work on 1 January 2016, with entry into the force of the Law on Prevention of Corruption²⁶. The Agency has replaced Directorate for Anti-Corruption Initiative and Commission for Prevention of Conflict of Interests and assumed part of the jurisdiction of the State Election Commission, related to

²⁶ Law on Prevention of Corruption („Official Gazzette of Montenegro No. 53/2014)

the control of financing of political entities and electoral campaigns. Even though the LPC has provided for sufficient institutional and financial independence of this body and entrusted it with powers of administrative investigation, so far the results in practice remain limited. In addition to areas previously covered by the Direct Directorate for Anti-Corruption Initiative and Commission for Prevention of Conflict of Interests and State Election Commission, the APC is also in charge of whistleblower protection and regulation of lobbying.

Special State Prosecutor's Office was formed on 3 July 2015 with jurisdiction to prosecute perpetrators of criminal offenses with elements of the organized crime and perpetrators of acts with elements of corruption in high level. The law clearly classifies high-level corruption offenses in two types: abuse of the public office by an official through committing fraud in service, illegal influence or inducing such offense, reception or giving of bribe; and when the material gain obtained by the abuse of office or abuse of authority in economy, exceeds the value of 40,000 EUR. In the jurisdiction of the SSPO are crimes of money laundering, war crimes and human trafficking.²⁷ The investigative actions for the Prosecution are taken by Special Department of the Police, while employees in administrative bodies that are responsible for taxes, customs affairs, the affairs of preventing money laundering and terrorist financing and inspection tasks can be engaged in investigation upon necessity. Amendments to the Criminal Procedure Code, provide the possibility of use of covert measures in investigation of these criminal offenses. The SSPO currently employs 8 prosecutors. Since its establishment, SSPO has processed few high-profile corruption cases, which resulted in convictions through plea bargain.

State Audit Institution, in accordance with the Law on Financing of Political Entities and Electoral Campaigns (LFPEEC) is in charge of the regular annual audit of consolidated financial reports of all political entities. The new LFPEEC from 2014 has narrowed jurisdiction of the SAI, more precisely the SAI previously conducted audit of all financial reports of political entities, including reports on financing of electoral campaign while now it audits only annual financial reports. This change has influenced the impact of the findings on the SAI. Even though their reports contain significant amount of registered irregularities and breaches of the not only LFPEEC but also numerous other laws, by the time the report of SAI is published these violations remain unsanctioned due to the statute of limitations. Taking in consideration that the vast number of these violations is related to funding of election campaigns and could indicate abuse of state resources and potentially abuse of the public office, it is very important to have them diagnosed in time for misdemeanor procedures.

Police Administration has established a specialized Organized Crime and Corruption Division, in 2006²⁸. This section is in charge of monitoring and analyzing organized crime activity and implements operational activities in regards to individuals and groups.

²⁷ The Law on the Special State Prosecutor's Office („Official Gazzette of Montenegro No. 53/2014)

²⁸ Rulebook on Internal Organisation and Job Descriptions of Police Directorate (adopted in December 2006)

Anti-Corruption Committee of the Montenegrin Parliament, established in 2012, consists of 13 members, 8 from parliamentary majority and 5 from the opposition. The Committee has a widely defined mandate but very limited powers in its implementation.

According to the Rules of Procedure of the Parliament the Committee has the mandate: (1) to monitor and analyze work of the state bodies, institutions and organizations in the area of fight against corruption and organized crime; (2) to revise issues and problems regarding implementation of the laws related to the fight against corruption and organized crime and to propose their amendments; (3) to propose additional measures for improvement of action plans, strategies and other documents related to the fight against corruption and organized crime; (4) revise applications and submits them to relevant state bodies.

National Commission for Fight against Corruption and Organized Crime was established in 2007 and reformed in 2012 as the highest political body to monitor implementation of Strategy for the Fight against the Corruption and Organized Crime. This body constituted of high representatives of key institutions in fight against corruption, held more political leverage than actual legally defined powers and it used its position to induce all institutions to comply with obligations defined in the Strategy. National Commission was never officially dissolved but its last session was held in February 2016 and its mandate expired with adoption of the last report on implementation of the Strategy.

In May 2015 Montenegro adopted the 2015-2018 Action Plan on Fighting Money Laundering and Terrorism Financing; in December 2015 the authorities adopted the NRA of ML and TF, after several years of preparation in accordance with FATF recommendations. The NRA has rated risk and vulnerability with medium degree. All assessed areas are mainly evaluated as moderately vulnerable and susceptible to ML risk

5.1.2 Money laundering and Financing Terrorism

The results of Montenegro in the area of ML and TF prevention remain weak. In 2014 and 2015 Montenegro has deteriorated its ranking on the Anti-Money Laundering Index and its current score is 4.82 on the 119 position of 149 countries.²⁹ In 2015, the Special Prosecutor's Office has received reports against 4 persons for money laundering, of which 3 cases were transferred to other prosecutor's offices and 1 case is still pending procedure. The two new indictments on money laundering from 2014 resulted in acquittal. There were no investigations regarding financing of terrorism.

The International Monetary Fund (IMF) in its Financial System Stability Assessment, states that **significant deficiencies remain within the AML system of Montenegro**. "The scope of the reporting requirements remains narrow (...) **Information on the beneficial ownership of legal persons created in Montenegro does not appear to be accessible to competent authorities** in a timely manner. While reporting entities collect some beneficial ownership information, it does not appear adequate. Enhanced due-diligence measures are insufficient, notably because reporting entities are not required to establish on a risk basis the source of

²⁹ *Basel AML Index* available at: <https://index.baselgovernance.org>

wealth of beneficial owners identified as domestic politically exposed persons (PEPs). In addition, there are no provisions to prevent criminals or their associates from holding or being the beneficial owners of a significant or controlling interest, or from holding senior management functions in certain financial sector institutions.”³⁰

The EC 2015 Montenegro Report states that “While Montenegro’s AML agency is fulfilling its mandate, including through a new policy on penalties, other institutions, including the Central Bank, need to step up systematic checks on other reporting entities.

This claim is confirmed by number of reported suspicious transactions for the period 2011-2014 as displayed in the ML/TF NRA³¹.

Year	2011	2012	2013	2014
Number of reported suspicious transactions	68	108	100	114

Report on the work of Administration for Prevention of Money Laundering and Terrorist Financing (APMLTF) is showing some progress regarding reported and opened cases after adoption of the new Law:

Results of the Department for Suspicious Transactions of the APMLTF ³²	Opened cases	Blocked transactions	Continuous monitoring of accounts	Notifications to relevant institutions	Notifications to the Special Prosecutor’s Office
	195	13	17	27	1

Overall assessment of the prevention of ML and CFT by the EC recommends that Montenegro should pay particular attention to³³:

- improving its track record in the fight against organized crime, including dismantling criminal networks and ensuring quality confiscation of criminal assets;
- stepping up intelligence-led investigation on anti-money laundering and financial cases, and on cases of trafficking in human beings;
- ensuring stronger, proactive inter-agency cooperation among the recently-established institutions (the Special Prosecutor’s Office and the new specialised police units), the APMLTF, the Central Bank, the tax authorities and the customs administration.
- improving its track record in the fight against organized crime, including dismantling criminal networks and ensuring quality confiscation of criminal assets;

³⁰Montenegro: Financial System Stability Assessment, International Monetary Fund, p. 26, available at: <http://www.imf.org/external/pubs/ft/scr/2016/cr1688.pdf>

³¹ Administration for Prevention of Money Laundering and Terrorist Financing: “National Risk Assessment for Money Laundering and Terrorism Financing”, 2015, p 12.

³² [Annual Report](#) on the work of Administration for Prevention of Money Laundering and Terrorist Financing for 2015:

- stepping up intelligence-led investigation on anti-money laundering and financial cases, and on cases of trafficking in human beings;
- ensuring stronger, proactive inter-agency cooperation among the recently-established institutions the APMLTF, the Central Bank, the tax authorities and the customs administration.

5.1.2.1 Regulatory, institutional and sector policies

The Law No. 01-866/2 on Prevention of Money Laundering and Terrorist Financing, 31 July 2014 is considered as *lex specialis* in Montenegro.

APMLTF (the Montenegrin FIU) was formed in 2003 as Administration for Prevention of Money Laundering while its scope of work was expanded to prevention of terrorism financing in 2007. The main role of the Administration encompasses activities of data collection from the reporting entities, analysis and processing of this data and establishment of cooperation with state institutions and financial intelligence units of other states, and other international institutions, as well as other activities defined by the Law on Prevention of Money Laundering and Financing of terrorism.

Security and Exchange Commission of Montenegro, among other competences, is in charge of control and research for prevention of the abuses at the securities and exchange market and control of persons that are professionally trading with securities. In accordance with the Law on Prevention of Money Laundering and Terrorist Financing the Commission is in charge of supervision of the implementation of the Law by investment funds management societies, pension funds and stockbrokers as well as branches of foreign investment funds management societies pension funds and stockbrokers.

Supervisory authorities for AML/CFT, in accordance with the Law on Prevention of Money Laundering and Terrorist Financing, are also: 1) Central Bank of Montenegro (in respect to the banks, other credit institutions and branches of foreign banks; financial institutions; providers of financial services; currency exchange offices; and institutions for electronic money) 2) Agency for Electronic Communications and Postal Services (in respect to the post offices) 3) Insurance Supervision Agency of Montenegro (in respect to the domestic and foreign life insurance companies and companies for meditation and representation in life insurance) 5) Tax Administration (in respect to the pawn shops) 6) Bar Association (in respect to the lawyers and legal offices) 7) Notary Association (in respect to notaries) and 8) Competent inspection authorities – in respect to all others subject of the law.

As mentioned earlier, the Criminal Code was amended in 2013, 2014 and 2015 to incorporate new provisions related to trafficking in human beings, cybercrime, anti-money laundering and the financing of terrorism. A new law on anti-money laundering, adopted in 2014, aimed at incorporating the EU's Fourth Directive and the MONEYVAL standards.

5.2 Other relevant international technical assistance

Since opening the negotiations on the EU accession, Montenegro has benefited from various anti-corruption and AML/CFT actions funded by the EU and other relevant international

donors, as well as various. The most important actions implemented recently or still in course:

European Union Project “EU support to the Rule of Law – EUROL” has started in January 2014, with duration of 36 months until January 2017. The global objective of EUROL is to support the reform of rule of law in Montenegro in line with EU standards and best practices. The specific objective of the action is to strengthen the independence, efficiency and accountability of the Judiciary, and the fight against corruption and organized crime. The main results of this project are consisting in supporting the MoJ in developing a management and organizational model in line with EU best practices; supporting to upgrade the PRIS electronic system; supporting the MoJ, the Judicial Council and Prosecutorial Council to identify the proper statistical indicators; Intelligence Led Policing; Capacity building provision on site and in Member States to meet SOCTA standards. A full set of activities has been developed in order to achieve each of the results outlined above, including: review of PRIS system, improving management and organizational structures in MoJ, Training and capacity building in EU best practice in general and in specific technical areas such as Intelligence Led Policing, OCTA/SOCTA, Special Investigative Measures, Anti Money Laundering and seizure of assets.

The “Fight against organized crime and corruption: Strengthening the Prosecutors’ Network” co-funded by the European Union and implemented by GIZ and the Center for International Legal Cooperation (CILC)³⁴ has started in November 2011. The overall objective is to strengthen the operational capacity and capabilities of the Public/State Prosecutors’ Offices in the beneficiary countries (including Montenegro) in order to prosecute and investigate cross-border organized crime and linked cases of economic and financial crime and corruption. In order to strengthen the operational capacity and capabilities of the prosecutors’ offices in the Western Balkans, prosecutors from EU Member States were seconded to provide them with ongoing advisory services, with a focus on investigating and prosecuting cross-border cases of organized crime. The project also aims to increase the integration of public/state prosecutors in the Western Balkans in international networks and foster cooperation with Eurojust and the European Judicial Network.

Various actions will be supported through the IPA II “Support to the implementation of Chapters 23 and 24 Action Plans” instrument which addresses the issues of the efficiency of judiciary as well as challenges in harmonization of legislation and application of best practices in terms of prevention and suppression of corruption. The actions financed through this instrument will also contribute to strengthen the efficiency of the judiciary and to prevent and counter corruption and organized crime.

6 RATIONALE FOR THE ACTION AGAINST ECONOMIC CRIME IN MONTENEGRO

AEC MNE overall objective is to contribute to democracy and the rule of law through prevention and control of economic crimes in Montenegro in accordance with European and

³⁴ <https://www.giz.de/en/mediacenter/3506.html>

other international standards. Through provision of the expert support to development of capacities and strengthening of anti-corruption legislation, the Action will contribute to establishment of the efficient system of combating economic crime and a sound track record of processed corruption cases in all levels.

Each of the outcomes of the Actions will be achieved through the set of tailor-made activities, carefully designed in cooperation with beneficiary institutions, based on preliminary conducted needs assessments in June 2016.

The following specific objectives will be targeted by this Action:

- to improve the legal framework to prevent corruption
- support to the implementation of legislation on prevention of corruption and political party financing through awareness raising and capacity building.

6.1 Summary of the Action

Specific Objectives (SO) and Expected Results (ER)		Ref to monitoring Recommendation
SO 1:	Improve the legal framework to prevent corruption	MNE/GRECO/2010
ER 1.1 Capacity to implement legislation on prevention of corruption and political party financing is raised through awareness raising and capacity building		
SO 2:	Enhance institutional capacities to prevent corruption (Enhance capacities of Anti-Corruption Agency)	MNE/GRECO/2006 MNE/GRECO/2010 MNE/GRECO/2015
ER 2.1 A track record system for political party and election campaign funding compliance and oversight/enforcement is reviewed and strengthened		
ER 2.2 The capacities of the Anti-corruption Agency (ACA) to implement and enforce legal provisions on asset declarations and conflict of interest are enhanced		
ER 2.3 ACA has effective information exchange frameworks with competent authorities to undertake its control functions		
ER 2.4 Awareness and capacity of MPs, judges, prosecutors and police to comply with and implement/enforce legal provisions on ethics and prevention of conflict of interest enhanced		
ER 2.5 Capacities of civil servants, law enforcement and judiciary to implement legal provisions on whistleblowing are enhanced		
SO 3:	Enhance capacities of law enforcement authorities,	MNE/GRECO/2010

	prosecution and judiciary in combating economic crime	
ER 3.1	Capacities and skills of the LEA/prosecution and judiciary in investigating, prosecuting and adjudicating corruption/ML/FT cases are enhanced	
ER 3.2	The regime of seized and confiscated corruption related assets is improved	
SO 4:	Improve AML/CFT strategic planning and analysis mechanisms, and strengthen capacities of FIU and supervisory authorities	MNE/MVAL/2015
ER 4.1	The internal procedures and methodology for the analytical process of the FIU are upgraded	
ER 4.2	FIU's employees analytical skills are enhanced	
ER 4.3	AML/CFT supervisory authorities implement a risk-based supervisory approach in the MVTs and DNFBP sectors	
ER 4.4	Capacities of reporting entities to identify and monitor high-risk relationships are enhanced	
ER 4.5	AML/CFT capacities of the DNFBP sector are enhanced	
ER 4.6	AML/CFT National Risk Assessment (NRA) reviewed and upgraded	

Main Beneficiary Institutions: Agency for Prevention of Corruption (ACP) and Financial Intelligence Unit (FIU).

Other project beneficiaries include (but are not limited to) the following key agencies with a role in anti-corruption/anti-money laundering and combating the financing of terrorism in Montenegro:

- Anti-Corruption Committee of the Parliament of Montenegro (ACC);
- Centre for Training in Judiciary and State Prosecution Service (JTC)
- Commission for Control of Public Procurement Processes (CCPPP);
- Central Bank of Montenegro
- Customs Administration (CA);
- Judicial Council (JC);
- Ministry of Finance (MoF)
- Ministry of Internal Affairs (MIA);
- Ministry of Justice (MoJ);
- Ministry of Foreign Affairs and European Integration (MFA);
- Parliament of Montenegro;
- Security and Exchange Commission of Montenegro (SECM);
- State Audit Institution (SAI);
- State Election Commission (SEC);
- Special Prosecutor's Office (SPO);
- Supreme Court

- Supreme State Prosecutor's Office (SSPO)
- Parliament of Montenegro (PoM)
- Police Administration (PA);
- Public Procurement Administration of Montenegro (PPAM)
- Prosecutorial Council (PC);
- Real Estate Administration (REA);
- Tax Administration (TA)

Other beneficiaries are the financial sector and the industry (AML/CFT reporting entities), the civil society and journalists.

6.2 Inception phase preliminary outputs

In period 27-28 June 2016, Administrator and Project Manager have held meetings with the beneficiaries of the Action and stakeholders in Montenegro, with an aim to discuss and finalise draft Workplan and calendar of activities. Meetings were held with Delegation of the European Union (EUD) in Montenegro, NGO representatives, APMLTF, Supreme State Prosecutor's Office, Agency for Prevention of Corruption, Ministry of Justice and Ministry of Interior.

In the course of two meetings held with the DEU in June, the potential risks of overlapping with another Twinning project on integrity and starting in the end of 2016/ beginning of 2017 were discussed. Taking into consideration that AEC-MNE started earlier, it was agreed that it will be up to the upcoming Twinning Project to take necessary measures to avoid any potential overlapping when designing its interventions and work plan.

During the meeting with APC, the main beneficiary institution of the AC component, the work plan was slightly reshaped to correspond to the institution priorities. Namely, the scope of activities (aiming to raise awareness among political parties on misuse of public resources and to implement curricula for MP's on ethics, integrity and prevention of conflict of interest) was extended to include new target groups: prosecution, judges and police.

The meeting with the FIU, APMLTF, resulted in revising the activity aimed at the adoption of the national AML/CFT Strategy. The strategy was adopted in May 2016 and this activity was redirected towards reviewing and updating of the NRA on the basis of CoE methodology in order to prepare Montenegro for 5th MONEYVAL Evaluation Round. In addition, the FIU requested immediate assistance with the implementation of the activity aimed at addressing shortcomings identified in the 4th round MONEYVAL evaluation report related to FATF recommendation 6.

In light of the start-up discussions, the work plan was updated and submitted to Montenegrin authorities and EUD in Podgorica for comments. After a round of comments, work plan was finalized in the first half of the September.

A "Roundtable on the implementation of FATF Recommendation 6 and related international standards" was organized in Podgorica, on 8th of July 2016, at the request of the Montenegrin authorities. Following the discussions a Council of Europe expert prepared a

Technical paper with Recommendations for the Montenegrin authorities on the measures to be taken to ensure the full compliance of the countries legislation with international standards.

The following activities and actions were carried out during the inception phase of the action and subsequently prior to the launching activities (24 May 2016 – 23 September 2016):

Description of Inception Phase Activities	Status (as of 23 September 2016)
Recruitment of the Action Team (Strasbourg and Podgorica): Project Officer (Podgorica– 100% time): Recruitment finalised, staff is operational as of 1 September 2016	Completed
Allocation and Set up of the Project Office	Completed
Setting up of international and local experts' pool for the AC and AML/CFT technical assistance aspects	Initiated/On-going
Introduction and explanation of the action to main beneficiary institutions	Completed
Designing and finalizing the Workplan and Calendar of Activities	Completed
Designation of Steering Committee Members by Montenegrin authorities	Completed
First Project Steering Committee Meeting Adoption by stakeholders of the final Workplan and Calendar of Activities	Completed 25 November 2016
Action Launching Conference	Completed 24 November 2016

6.3 Other

6.3.1 Set-up of the Action Team/Recruitment

A vacancy notice for the position of Project Officer was publicly announced in July 2016 in accordance with the organization's rules and procedures. Furthermore, applicants short-listing and further recruitment procedures took place during July 2016. Written online tests and interviews of shortlisted candidates were organized on 19 and 21 July 2016. By August 2016, the selected candidate received their respective employment offer. The Project Officer took her position as of 1 September 2016 following her required notice period to the previous employer.

The action team in Podgorica is directly reporting to the Economic Crime and Cooperation Division (ECCD) at the Action against Crime Department - DGI for substance and quality related matters, and as such, they are supported by the Head of Unit and the Programme Coordinator based in Strasbourg. Their administrative daily work in Podgorica will be supervised and supported by the Economic Crime and Cooperation Division (ECCD) in HQ.

All local experts are to be independent and free from conflicts of interests. Civil servants and other staff of the public administration of Montenegro shall not be recruited as consultants within the action implementation team. They may provide short-term inputs as necessary but in that case shall not be remunerated.

6.3.2 Action Premises and contact details

The Action office is situated within the premises made available at the Council of Europe Program Office in Podgorica which also provides the technical and IT infrastructure necessary for the team.

Contact Details:

Ms Ana Selic, Project Officer

Council of Europe Program Office in Podgorica

Blvd. Dzordza Vasingtona 98, floor I, Capital Plaza, 81000 Podgorica, Montenegro

Tel: +382 20 673 868 ext.115

E mail: ana.selic@coe.int

6.4 Development of key project documents (May - September 2016)

6.4.1 Workplan and calendar of activities

The inception phase activities were used for the adjustment of the TAPA (detailed information provided in Appendix I) and the preparation of the workplan which is one the key project documents; a draft version of the workplan as prepared by the management team of the AEC-MNE was presented to all beneficiary institutions during a round of meetings in June 2016, resulting with strong support for the proposed actions. A final version of the workplan and calendar of activities was presented and adopted by the first Steering Committee Meeting.

6.5 Steering Committee and Action Coordinators

The First Steering Committee Meeting took place 25 November 2016.

The Action's Steering Committee will be composed of representatives from all beneficiary/target institutions, Delegation of the European Union Office in Montenegro and the Council of Europe. It will consist of:

- the Agency for Prevention of Corruption (APC);
- the Administration for Prevention of Money Laundering and Terrorist Financing (APMLTF/FIU);
- the Centre for Training in Judiciary and State Prosecution Service;
- the Ministry of Justice (MoJ);
- the Ministry of Interior (MoI);
- the Ministry of Foreign Affairs and European Integration;
- the Parliament of Montenegro;
- the State Audit Institution (SAI);
- the Supreme State Prosecutor's Office;
- the Special Prosecutor's Office (SPO);

- the Police Administration;
- the Delegation of European Union in Montenegro;
- and of the Economic Crime and Cooperation Division of the Council of Europe (ECCD).

Key Action's co-ordinators from Montenegro will be: the APC which as the central co-ordinator for the anti-corruption component, and the APMLTF/FIU, as the co-ordinator for the anti-money laundering component.

Other institutions and structures and law enforcement agencies, the financial sector and the industry, as well as the civil society will be involved in different specific activities of the action. Final beneficiaries include society at large to the extent that it benefits from an efficient anti-corruption and anti-money laundering/countering the financing of terrorism framework and its long term expected impact.

As approved in its constitutive meeting the Steering Committee will be Co-Chaired by the Council of Europe and the European Union Delegation in Montenegro.

The members of the Steering Committee approved the following documents:

- Action workplan (Appendix III)
- Terms of Reference for the Steering Committee (Appendix VI);

6.6 Launching of the Action

The Action against Economic Crime in Montenegro (AEC-MNE) was officially launched during the Joint Launching Event of Horizontal Facility Actions in Podgorica, on 24 November 2016. The Launching Conference was attended by around 70 representatives of relevant ministries and agencies, international organizations, private sector and civil society. The presence of high-level authorities as well as the participation of a broad range of ministries and agencies in the Launching Event was a key factor in ensuring the necessary long-term commitment to the implementation of action's activities and its outcomes.

7 COUNTRY CONTEXT – “THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” (HF 17)

7.1 Baseline

7.1.1 Corruption overall

Corruption is a serious challenge for “the former Yugoslav Republic of Macedonia”. It affects all sectors of society **and takes place at all levels**. On the top of the list of **least trusted are parliaments and political parties**³⁵. The 2015 EC Report on “the former Yugoslav Republic of Macedonia”³⁶ underlines that while the necessary legislative and institutional framework has been set up over the last decade, **no progress has been achieved** in their **implementation and enforcement**. Further improvement of the existing measures and clear political commitment is required from the government especially in the context of “the most severe political crisis since 2011 with intercepted communications”³⁷. Acknowledging the importance of the issue, successive governments of “the former Yugoslav Republic of Macedonia” have committed themselves to fight corruption and key steps have been taken to address it.

These are necessary steps in both the European Union accession process and the compliance mechanisms concerning the commitments taken by “the former Yugoslav Republic of Macedonia” with ratifying and enacting international treaties and instruments, such as the Criminal and Civil Law Conventions on Corruption and the Additional Protocol to the Criminal Law Convention of the CoE, the United Nations Convention against Corruption (UNCAC).

Transparency International ranked the country in its 2015 Corruption Perception Index (CPI) 66 out of 168 with a score of 42 that is a decrease with reference to the scores of the previous years (2012 – 43, 2013 – 44, 2014 – 45) and with special regard to the reversed previously improving tendency³⁸.

The World Bank Worldwide Governance Indicators, especially the estimate control of corruption indicator³⁹ also shows a decrease in the “the former Yugoslav Republic of Macedonia” from 0.1 in 2014 to -0.1 in 2015.

The Freedom House Nations in Transit ratings on corruption show little improvement for the last years (between 2010 and 2013 equally 4.00, 2014 and 2015 - 4.25, while for 2016 - 4.50).⁴⁰

³⁵ [Evaluation Report](#) on Corruption prevention in respect of members of parliament, judges and prosecutors in “the former Yugoslav Republic of Macedonia”, 4th Evaluation Round, GRECO, 2013:

³⁶ [Commission Staff Working Document](#), the Former Yugoslav Republic of Macedonia, Report European Commission, 2015:

³⁷ [Commission Staff Working Document](#), the Former Yugoslav Republic of Macedonia, Report European Commission, 2015, p. 4.

³⁸ The [Corruption Perceptions Index ranks](#) countries and territories based on how corrupt their public sector is perceived to be. A country or territory's score indicates the perceived level of public sector corruption on a scale of 0 (highly corrupt) to 100 (very clean). A country or territory's rank indicates its position relative to the other countries and territories in the index.

³⁹ World Bank, [Worldwide Governance Indicators](#), Control of corruption:

⁴⁰ The [NIT ratings](#) are based on a scale of 1 to 7, with 1 representing the highest and 7 the lowest level of corruption control.:

The GRECO 4th round Evaluation Report concerning “the former Yugoslav Republic of Macedonia”⁴¹ considers the **legal framework on political party financing well developed**. “The two main (preventive) pieces of legislation, namely the Law on the Prevention of Corruption (LPC) and the Law on Prevention of Conflicts of Interest (LPCI) are recent and give a fairly sound basis for integrity rules and standards. They apply to all public officials, including Members of Parliament (MPs), judges and prosecutors. They contain detailed rules which are more or less specific as regards conflicts of interest, incompatibilities, accessory activities, gifts and asset declarations.”⁴²

“The Law on Financing of Political Parties [LFPP] puts a commendable general emphasis on transparency and contains a number of strong features, such as a ban on foreign and anonymous donations, caps and disclosure rules on private donations (including the obligation for political parties to report on a quarterly basis), and the specific prohibition of “quid pro quo agreements””⁴³

However, **despite this good legal framework, the effective implementation and enforcement of legislation remains an issue of concern and needs to be addressed as a matter of priority**. Much remains to be done to educate the members of the categories under review about integrity and conflicts of interest, to ensure a better implementation of the legal framework and to improve the public image of MPs, judges and prosecutors⁴⁴.

7.1.1.1 Regulatory framework

A National Programme for Prevention and Repression of Corruption has been adopted for the period of 2011-2015. It is supplemented by several of Action Plans on various sectors: political sector, judiciary, public administration, law enforcement, local self-government, public and private sector, health, labour and social policy, education and sports, media and civil society. These action plans contain a gist of the forms of corruption in the sectors, problems and risk factors, and measures and activities for the prevention of corruption.

The legal framework relating to corruption consists of:

- Law No. 07-1733/1 Law on Preventing Corruption, 18 April 2002;
- Law No. 07-2962/1 on amending and supplementing the Law No. 07-1733/1, 2 July 2004;
- Law No. 07-4371/1 on amending and supplementing the Law No. 07-1733/1 and Law No.07-2962/1, 24 November 2006;
- Law No. 07-274/1 on amending and supplementing Law No. 07-1733/1, Law No.07-2962/1 and Law No.07-4371/1, 16 January 2008;

⁴¹ [Evaluation Report on Corruption](#) prevention in respect of members of parliament, judges and prosecutors in “the former Yugoslav Republic of Macedonia”, 4th Evaluation Round, GRECO, 2013:

⁴² Idem p. 2.

⁴³ [Evaluation Report](#) on “the former Yugoslav Republic of Macedonia” Transparency of Party Funding (Theme II) Adopted by GRECO at its 46th Plenary Meeting (Strasbourg, 22-26 March 2010)

⁴⁴ [Idem](#)

- Law No. 07-5661/1 on amending and supplementing Law No. 07-1733/1, Law No. 07-2962/1, Law No. 07-4371/1 and Law No. 07-274/1, 22 December 2008;
- Law No. 07-4460/1 on amending and supplementing the Law No. 07-1733/1, Law No. 07-2962/1, Law No. 07-4371/1, Law No. 07-274/1 and Law No. 07-5661/1, 28 April 2010;
- Law No. 07-2426/1 Law on prevention of conflict of interest, 29 May 2007;
- Law No. 07-3884/1 on amending and supplementing the Law No. 07-2426/1, 10 September 2009;
- Decision of the Administrative Court as of 27 July 2010;
- Law No. 07-158/1 on amending and supplementing the Law No. 07-2426/1 and Law No. 07-3884/1, 11 January 2012;
- Law No. 07-3628/1 Law on Lobbying, 27.08.2008;
- Decision of the Administrative Court as of 13 January 2010.

Whistleblower protection related laws:

- Law No. 08-5273/1 Law on protection of whistle-blowers, 09 October 2015;
- By-law on guidelines for establishing internal acts for protected internal reporting within the legal entity in the private sector, 08 March 2016;
- By-law on protected internal reporting within the institutions in the public sector, 08 March 2016;
- By-law on protected external reporting, 08 March 2016.

Legal framework on financing of political parties:

- Law No. 07-4233/1 Law on financing political parties, 20 October 2004;
- Law No. 07-2772/1 on amending and supplementing the Law No. 07-4233/1, 8 July 2008;
- Law No. 07-5660/1 on amending and supplementing the Law No. 07-4233/1 and Law No. 07-2772/1, 22 December 2008;
- Law No. 07-3459/1 on amending and supplementing the Law No. 07-4233/1, Law No. 07-2772/1 and Law No. 07-5660/1, 28 July 2009;
- Law No. 07-4383/1 on amending and supplementing the Law No. 07-4233/1, Law No. 07-2772/1, Law No. 07-5660/1 and Law No. 3459/1, 19 October 2011;
- Law No. 07-4735/1 on amending and supplementing the Law No. 07-4233/1, Law No. 07-2772/1, Law No. 07-5660/1, Law No. 3459/1 and Law No. 07-4383/1, 09 November 2012.

The legislative framework, although relatively recent and very often amended or supplemented, still calls for a streamlining process and remains ambiguous in certain areas.

7.1.1.2 Institutional framework

The State Commission for Prevention of Corruption (SCPC) is the main operational anti-corruption policy and oversight body in the country. The first Law on Prevention of Corruption was implemented in 2002 and since then it has been supplemented and amended several times. The SCPC is a collective decision-making body supported by a Secretariat of 17 staff. Its nature is that of a preventative body, which is mostly focused on the receipt, processing and checks of asset declarations and statements of interest of public officials. However, it also has a role in monitoring political party financing requirements.

Due to the limited staff capacity with regard to the processing of a large number of declarations (over 6000 annually), the SCPC can only undertake checks on a random basis. It uses databases of the Ministry of Interior (MoI), the Register of legal entities and data from the Central depository of securities to verify data from asset declarations. If a mismatch is found, the file is forwarded to the Public Revenue Office, which then undertakes a comprehensive assets analysis of the official in question, including through checking bank accounts. If undeclared assets are found they are taxed with 70 % of their value. The Commission can also submit information to the Prosecutor's Office, which has resulted already in at least one criminal verdict of a public official for a corruption-related offense.

The private sector entities expressed a degree of frustration with regard to implementation of politically exposed persons (PEPs) requirements. In their view more extensive cooperation between competent authorities, including the Commission should lead to clearer guidelines to define categories and eventually lists of PEPs.

The **Agency for Managing Confiscated Property** is a collective body, which includes representatives of the Ministry of Justice, Ministry of Finance, Public Prosecutors' Office and Judicial Council in its Management Board. The Agency undertakes the management and sale of property, while the evaluation of property is done by the Bureau of Forensics within the Ministry of Justice. The Agency has 9 different regulations to govern its internal procedures. The Agency currently manages approximately 50 million Euro worth of property.

As for law enforcement and prosecution, the **Special Public Prosecution of "the former Yugoslav Republic of Macedonia"** (SPP) was established in September 2015 as a specialised prosecutorial office prosecute cases of high-level corruption. More specifically, SPP shall investigate and prosecute crimes related to and arising from the content of the illegal interception of communications, in order to implement justice through the rule of law. SPP is composed of 1 special prosecutor elected by the parliament and 14 prosecutors that assist the work of the special prosecutor.

Under the **Public Prosecutor's Office (PPO)** the **Public Prosecutor's Office for Organized Crime and Corruption (PPOCC)** was established in 2004. In 2007 the PPOCC was transformed into a special prosecutor office with national jurisdiction to handle cases related to organized crime and corruption.

7.1.2 Money Laundering and Financing Terrorism

Economic crime and money laundering activities identified in "the former Yugoslav Republic of Macedonia" are particularly influenced by the geographical location of the country. The local criminal groups are linked with criminal groups from countries of Central and Eastern Europe (Albania, Bulgaria, Czech Republic, Russia), Turkey and Middle East, and in particular with criminal groups from countries and territories created after the

dissolution of the former Yugoslavia (Bosnia and Herzegovina, Montenegro, Serbia, Croatia and Kosovo⁴⁵).

"There are indications that "the former Yugoslav Republic of Macedonia" is a **transit country within the international channels** for trafficking in human beings from high migration areas to Western Europe countries. In addition, links between domestic organised criminal groups and international ones were detected, particularly active in the field of the illicit trade in narcotics and psychotropic substances, smuggling of persons, smuggling of products, illegal trade in weapons and stolen luxury motor vehicles and in credit card fraud. The **money laundering (ML) typologies** identified by the FIO relate to the use of **fast money transfer services**; purchasing of **movable and immovable property**; various trade-based ML techniques and the use of **legal entities from off-shore jurisdictions**."⁴⁶

The illegal proceeds are generated by the trade in narcotics and psychotropic substances, smuggling of products, the illegal trade in weapons, trade in stolen luxury motor vehicles and by credit card fraud⁴⁷. "The former Yugoslav Republic of Macedonia" is in the same time a country of origin, transit and destination of victims of trafficking in human beings⁴⁸ which constitutes another source of illegal funds subsequently laundered.

In terms of ML typologies, on the basis of an analysis conducted by the Financial Intelligence Office (FIO) , several methods and patterns used for the legalisation of the funds derived from illegal sources have been identified⁴⁹.

The most common pattern described by the 2014 MONEYVAL 4th round evaluation report is the misuse of legal entities, which occurs mostly via the **establishment of fictitious companies**. In particular, cases have been documented aiming to establish "**temporary**" **companies** serving only for a very limited period of time, for which most often no bookkeeping or financial records are kept. These companies are usually registered on the name of foreign citizens from the neighbouring countries (Bulgaria and Serbia), the alleged founders-foreign citizens not being present at all on the territory of "the former Yugoslav Republic of Macedonia".

There is little shared knowledge, recognised information or any publicly available statistical data on the phenomenon of ML and TF in "the former Yugoslav Republic of Macedonia" notwithstanding the National Risk Assessment (NRA) undertaken by the "the former

⁴⁵ All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

⁴⁶ Report on Fourth Assessment Visit – [Executive Summary](#), Anti-Money Laundering and Combating the Financing of Terrorism 3 April 2014

⁴⁷ [MONEYVAL report](#) on the assessment visit in "the former Yugoslav Republic of Macedonia", 2014

⁴⁸ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by "the former Yugoslav Republic of Macedonia"

⁴⁹ [MONEYVAL report](#) on the assessment visit in "the former Yugoslav Republic of Macedonia"

Yugoslav Republic of Macedonia” authorities during 2014-2016⁵⁰. According to the NRA “the former Yugoslav Republic of Macedonia” has been rated with **medium risk**. The Financial Intelligence Office (FIO) produces annual activity reports which are as from 2006 published on the FIO website, but the statistical data contained in the reports is mostly on number of obliged reporting entities, number of Suspicious Transaction Reports (STRs) received by entities, number of requests received/sent nationally and internationally. It has been noted that the number of STRs is decreasing in comparison to previous years. However, the quantity and quality of data from law enforcement and judicial authorities continue to be insufficient to evaluate the number and characteristics of money laundering-related offences investigated, prosecuted and processed in the courts.

In the period between 2008 and the end of 2015 there have been 20 final court decisions in ML cases in “the former Yugoslav Republic of Macedonia”.

The data presented by the authorities shows that most ML offences were related to a certain set of predicate offences, including abuse of official position and authority (i.e. within a corporate entity), tax evasion, crimes against property (various forms of fraud) and corruption (three out of these four offences were actually represented as predicates in the three convictions too). In a number of cases, the predicate crimes involved classic forms of organised criminality such as organised illegal games of chance or extortion⁵¹.

In the period between 2008 and 2015 the FIO has reported a total of 1592 suspicious transactions regarding money laundering and financing of terrorism, as follows:

Year	Money laundering	Financing of terrorism
2008	123	11
2009	307	2
2010	241	4
2011	163	7
2012	229	9
2013	145	24
2014	137	16
2015	154	20
total	1499	93
Total opened cases for AML and CFT	1592	

⁵⁰ National Risk Assessment (NRA) process started with a workshop in 2014. It was adopted by the government in August of 2016.

⁵¹ Idem

7.1.2.1 Regulatory, institutional and sector policies

With respect to AML/CFT, Law No. 07-3281/1 on Prevention of Money Laundering and Terrorist Financing, 01 September 2014 - Amended by Law No. 08-5134/1, 2 November 2015) is considered as *lex specialis* in the “former Yugoslav Republic of Macedonia”.

Other laws in “the former Yugoslav Republic of Macedonia” regarding the legal AML/CFT framework are the following:

- The Criminal Code: criminalization of money laundering offence; criminalization of TF offence; confiscation;
- The Criminal Procedure Code: confiscation; provisional measures;
- AML/CFT Law (2012);
- Law on International Restrictive Measures (2011): freezing of terrorist funds;
- (Convolutd) set of Rulebooks and Quality Procedures regulating the activity of the FIO;
- Law on Foreign Currency Operations: cash declarations at the country borders;
- Decision on Conditions and Amount of Cash foreign currency and cheques permitted to be taken out or brought into the Republic of Macedonia;
- Law on Customs Administration;
- National Bank of Republic of Macedonia Decision 103 (2010);
- Law of the National Bank of the Republic of Macedonia (2012);
- Company Law (2004);
- Law on Associations and Foundations (2010).

As far as the institutional framework is concerned, the FIO has been fully functioning since 2002 and has established permanent working relationships with all relevant agencies involved in AML/CFT efforts, as well as the private sector. It has approximately 30 staff, including 13 analysts.

The FIO keeps a database of all cash transaction reports (CTRs), STRs, loan reports with a threshold over 15,000EUR and borrowing reports and of all the data and information gathered whilst performing the analysis of such reports, totalling approximately 130,000 reports on an annual basis. The FIO has received and processed several TF related STRs, which demonstrates that the TF threat in the country is existent. Furthermore, the FIO disseminates intelligence data and information to the law enforcement agencies of “the former Yugoslav Republic of Macedonia” (Police, Financial Police [FP], Public Revenue Office, Customs, National Bank, etc.) and to other FIUs abroad.

From an administrative point of view, the FIO does not conduct its own investigations but rather provides other investigative bodies with intelligence and information to be used to initiate or proceed with investigations. The FIO’s capacity to analyse and disseminate STR information is still limited. The mandate of the FIO is mostly limited to the area of ML and FT. As regards other predicate offenses, it can only disseminate information to competent authorities, whereas its powers to request additional information from entities are limited in this case.

In addition to financial analysis the FIO is also involved in supervising and monitoring a range of reporting entities, primarily designated non-financial businesses and professions

(DNFBPs) and non-profit organizations (NPOs). The law in its current form is confusing, however, as it designates both the FIO and existing supervisory authorities, such as the National Bank of “the former Yugoslav Republic of Macedonia” (NBM), to be competent for supervision without clearly delineating the competences and responsibilities of each agency.

The National Bank of Macedonia (NBM) is the supervisor and regulator of banks and savings houses, providers of money transfers and exchange houses. It supervises around 600 licensed entities in “the former Yugoslav Republic of Macedonia” in accordance with Law on the National Bank and Law on Banks. The NBM consists of three departments – the Department of Onsite Supervision; the Department of Regulations and Financial Stability; and the Department of Offsite Supervision. In total, the NBM has 37 staff, of which five are dealing exclusively with AML/CFT issues. According to the Law on Prevention of Money laundering and terrorism financing, all banks are obliged to have AML/CFT Departments with a minimum of 3 employees and apply a risk-based approach against money laundering and financing of terrorism. Only insurance companies that sell life insurance products are obliged by law to have compliance officers.

The Criminal Police department, part of the Public Security Bureau, has a special Unit for economic crime and corruption that handles financial crime and money-laundering cases. The MoI’s Unit for economic crime and corruption is the main authority in “the former Yugoslav Republic of Macedonia” competent to investigate ML offenses. Investigations of cases relating to Financing of Terrorism (FT) fall within the competences of the Security and Counter Intelligence Department of the MoI.

The Financial Police (FP) operates under the MoF. Its competences are limited to investigating tax evasion, corruption and ML offenses. The majority of cases investigated by the FP relate to tax offenses, only very few pertain to ML. For example, in 2012 only one of the 99 cases resulted in an investigation for ML, seven cases for corruption and 91 cases for tax offenses. Representatives of the FP stated that they would receive disseminations from the FIO on an occasional basis. As the authorities stated ML cases involving legal entities or organized crime would generally be referred to the MoI, rather than the FP. The FP has direct access to the customs database and the database maintained by the Public Revenue Office.

FP staff has so far not received any training of financial crimes or financial investigations, or on ML or FT typologies.

The Public Prosecution Office for Prosecution of Organized Crime and Corruption (PPOCC) is the sole authority competent to prosecute ML and FT cases in “the former Yugoslav Republic of Macedonia”. Since 2007 the PPOCC is independent from the Prosecutor General’s Office and its competences are limited to serious crimes (crimes with a statutory sentence of four years of imprisonment or more) as well as a number of enlisted offenses, including ML and FT.

Apart from the domestic cases, “the former Yugoslav Republic of Macedonia” receives a significant number of MLA requests in criminal cases from other countries. In 2012,

approximately 2500 such requests were received, whereby a good number of cases related to organized crime, corruption and ML. The PPOCC is the competent authority to implement the majority of these requests. In this context, it is surprising that only one case has so far triggered the initiation of a ML prosecution domestically. It is pertinent that the PPOCC focuses its attention not only on proceeds generated domestically but also on possible proceeds flowing into the country from abroad.

In 2006, a special court unit competent to try cases of organized crime and corruption was established as part of the Court of First Instance. All ML cases in “the former Yugoslav Republic of Macedonia” fall within the competence of this unit.

The Securities and Exchange Commission (SEC) is the supervisory body for brokerage companies, entities providing investment advisory services and companies managing investment funds. In total, the SEC supervises around 25 licensed entities. The SEC consists of two departments – the Department for Supervision and the Department for Licensing.

The SEC carries out AML/CFT supervision as an integral part of their onsite inspections. Onsite and offsite procedures seem to be in place and at a somewhat advanced stage but would still benefit from an in-depth review. The SEC has started to work on the development of but is not yet implementing a risk based approach to supervision. The 2014 MONEYVAL evaluation has noted that the SEC takes a formal approach to inspections and a risk-based framework would be of benefit to increase effectiveness.

The Insurance Supervision Agency (ISA) is the supervisory body for insurance undertakings, insurance brokerage companies, insurance agencies, insurance brokers and agents, and the National Insurance Bureau. In total, the ISA supervises around 45 licensed entities. The ISA carries out AML/CFT supervision as an integral part of their onsite inspections. A detailed review of existing onsite and offsite procedures, and the extent to which they address AML/CFT would be of high priority.

“The former Yugoslav Republic of Macedonia” is a member of the International Monetary Fund (IMF) since December 1992. The country joined the World Bank and became a full member of the European Bank for Reconstruction and Development (EBRD) in 1993. “The former Yugoslav Republic of Macedonia” became a member of the Council of Europe Development Bank in November 2013. The Financial Intelligence Office of the country is a full member of the Egmont Group since 2004. “The former Yugoslav Republic of Macedonia” is not a member of the Financial Action Task Force (FATF) but is an active member of The Council of Europe’s Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).

7.2 Other relevant international technical assistance

To date, there are four major technical assistance interventions indirectly linked to the AML/CFT sector, which are upcoming or underway in FYROM and which will be taken into account in designing the CoE’s intervention.

- The Twinning Project “*Support to efficient prevention and fight against corruption*” is a comprehensive 26-month Project (January 2014 – March 2016), which includes a range of components relevant to AML/CFT, particularly in the area of asset recovery and asset management. In the anti-corruption segment the Project will aim to address the following range of issues: whistleblower protection; conflict of interest mechanisms; political party financing; capacity-building of the SCPC; interagency cooperation, including through creating of joint databases and IT communication channels, particularly in implementing preventative anti-corruption measures; investigation and prosecution of corruption offences; maintenance of corruption statistics.
- The IPA Project “*Further Institution and Capacity Building of the Police Service in the area of border management, community policing and fight against organized crime*” mostly focuses on enhancing overall capacities of the police and border controls, but as well includes aspects linked to AML/CFT, particularly interagency cooperation in joint law enforcement investigations and delineation of responsibilities between agencies. It also contains an anti-corruption component related to developing integrity and anti-corruption prevention programs in the police.
- The only anti-money laundering targeted project is the “*Anti-money laundering IT-capacities project*” funded by the Kingdom of Norway which mostly aims to upgrade the IT infrastructure necessary for the functioning of the Financial Intelligence Office (electronic production and transfer of suspicious transaction reports and an integrated and automated data analysis system). The CoE present project envisages assimilating the new IT system but does not duplicate any of its actions or purposes.
- The CoE project on “*Criminal money flows on the Internet*”, covering the Western Balkans, including FYROM. This Project is designed as a follow-up to the IPA Cybercrime project as well as the Criminal money flows on the Internet⁵² published by the CoE in 2012.

⁵²Report on the Intra-regional (IPA-EAP) workshop on Criminal money flows on the Internet, CoE, 2012: http://www.coe.int/t/dghl/cooperation/economiccrime/Source/Cybercrime/CyberCrime@EAP/2523_2467_IWS_actrep%20Kyiv%2027-29%20FEB_%20V5a.pdf

8 RATIONALE OF AEC IN “THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”

The interventions under AEC-FYROM will aim to enhance capacities, systems and policies to implement necessary economic crime related reforms at a higher professional level and in line with international standards.

The purpose of AEC is to support the strengthening of institutional capacities to counter corruption, money laundering and financing terrorism in “the former Yugoslav Republic of Macedonia” in accordance with European and international standards.

8.1 Summary of the Action

The overall objective of the action is to contribute to democracy and the rule of law through prevention and control of economic crimes in “the former Yugoslav Republic of Macedonia” in accordance with European and other international standards.

The specific objectives of the action are:

Specific Objectives (SO) and Expected Results (ER)		Ref to monitoring Recommendation
SO 1:	Review the regulatory framework and guidance for whistleblower protection and reporting	CM/Rec(2014)7
ER 1.1 Review the sub-legal acts, regulations and provide guidance for the implementation of whistleblower provisions.		
ER 1.2 Capacities of authorities and NGOs to implement and monitor this framework are enhanced.		
SO 2:	Improve the system for monitoring of political party and election campaign financing	MKD/GRECO/2010
ER 2.1 The political financing regulatory framework is more in line with the international standards		
ER 2.2 The capacities of the State Audit Office (SAO) to adequately investigate and supervise implementation of political party financing requirements are enhanced		
SO 3:	Improve legislation and anti-money laundering, countering terrorism financing (AML/CFT) national strategy	MKD/MVAL/2014
ER 3.1 The CFT system is reinforced through improved legal and regulatory framework		
ER 3.2 The new AML/CFT Strategy observing the new international standards is adopted		
SO 4:	Capacity building for the Financial Intelligence Office (FIO)	MKD/MVAL/2014
ER 4.1 The FIO's legal powers and analytical capacity is increased		
ER 4.2 The FIO's technical capabilities necessary for the analytical process are enhanced		

SO 5:	Strengthen the capacities of the judiciary, prosecution and law enforcement agencies to fight ML and TF	MKD/MVAL/2014
ER 5.1 Review of the structures of the PPO in charge with financial analysis based on the revised Criminal Procedure Code to ensure a more effective investigation and prosecution of ML and corruption cases.		
ER 5.2 Provide specialised training on financial investigations and how to utilise the ML offense to trace and investigate financial flows coming from abroad, either directly or through domestic legal entities.		
ER 5.3 Develop and deliver a training of trainers programme for prosecutors		
SO 6:	Improve AML/CFT preventive system	MKD/MVAL/2014
ER 6.1 The supervisory and regulatory framework (preventative measures) is reinforced		
ER 6.2 The AML/CFT supervisory skills of the designated supervisors are increased		
ER 6.3 Beneficial ownership related preventive measures and transparency of legal persons are enhanced		
SO 7:	Enhance international cooperation capacities for law enforcement, FIU and supervisors	MKD/MVAL/2014
ER 7.1 Expanded capacity of law enforcement, FIU and supervisors to effectively respond to international assistance requests related to money laundering and predicate offences (particularly corruption), and to utilize international requests to identify money laundering cases domestically		

8.2 Inception phase preliminary outputs

Introductory meetings with main beneficiary institutions and stakeholders took place in June 2016 in Skopje, “the former Yugoslav Republic of Macedonia”.

Members of the Council of Europe secretariat met with all beneficiary institutions and other stakeholders including: the Financial Intelligence Office (FIO), Ministry of Interior, Ministry of Justice, the Public Prosecutor’s Office, State Anti-Corruption Commission, State Audit Office, the National Bank, the Public Revenue Office, the Financial Police, Customs Administration, Securities and Exchange Commission, Central Registry, Notaries and Lawyers chambers etc.

The aim of these meetings was to discuss in detail the activities planned within the Action against Economic Crime and the methodology for implementation proposed by the Council of Europe.

With the exception of the State Commission for Prevention of Corruption, all other beneficiaries expressed their support for the Action and emphasized their commitment to the set objectives.

The following activities and actions were carried out during the inception phase of the action and subsequently prior to the launching activities (24 May 2016 – 23 September 2016):

Description of Inception Phase Activities	Status (as of 23 September 2016)
Recruitment of the Action Team (Strasbourg and Skopje): Senior Project Officer (Skopje– 100% time): Recruitment finalised, staff is operational as of 15 September 2016	Completed
Allocation and Set up of the Project Office	Completed
Setting up of international and local experts' pool for the AC and AML/CFT technical assistance aspects	Initiated/On-going
Introduction and explanation of the action to main beneficiary institutions	Completed
Designing and finalising the Workplan and Calendar of Activities	Completed
Designation of Steering Committee members by the authorities	
First Project Steering Committee Meeting Adoption by stakeholders of the final Workplan and Calendar of Activities	Completed 26 October 2016

8.3 Other

8.3.1 Set-up of the Action Team/Recruitment

Each of the positions of the Action Team in Strasbourg and Skopje was filled in line with the Council of Europe applicable Human Resource policies and procedures. In view of this, the engagement of the Senior Project Officer in Skopje and Project Manager and Project Assistant in Strasbourg was finalised in August 2016.

Vacancy notice for the position of Senior Project Officer was publicly announced in July 2016. Applicants short-listing and further recruitment procedures took place during July 2016. Written online tests and interviews of shortlisted candidates were organised on 18 and 22 July 2016. By August 2016, the selected candidate received their respective employment offer. The Senior Project Officer took her position as of 15 September 2016.

The Senior Project Office based in the CoE Programme Office in Skopje is directly reporting to the programme Coordinator and the Head of Unit I within the Economic Crime and Cooperation Division (ECCD) at the Action against Crime Department – DGI, based in the HQ in Strasbourg. The ECCD is responsible for substance aspects of the implementation of the action

8.3.2 Action Premises and contact details

The action offices are situated within the premises made available at the Council of Europe Program Office in Skopje which also provides the technical and IT infrastructure necessary for the team. The Action Office address is:

Contact Details:

Ilina Garevska, Senior Project Officer
Council of Europe Program Office in Skopje
Blvd. Partizanski odredi No.15A-1/12, 10000 Skopje
Phone: + 389 2 3256 970; Ilina.GAREVSKA@coe.int

8.4 Development of key project documents – (May - September 2016)

8.4.1 Workplan and calendar of activities

The inception phase activities were used for the updating of the TAPA (detailed information provided in Appendix I) and the preparation of the workplan which is one the key project documents; a draft version of the workplan as prepared by the management team of the AEC-FYROM was presented to all beneficiary institutions during a round of meetings in June 2016, resulting with strong support for the proposed actions. A final version of the workplan and calendar of activities was presented and adopted in the 1st Steering Committee meeting.

8.5 Steering Committee

The First Steering Committee Meeting took place on 26 October 2016.

The FIO will be responsible for the coordination of Action activities on behalf of “the former Yugoslav Republic of Macedonia” within the institutional settings and to this end will designate an Action Coordinator as well as senior experts in the respective subject matters (AC/AML/CFT).

The Action’s Steering Committee will be composed of representatives from all beneficiary and target institutions, the Delegation of the EU in “the former Yugoslav Republic of Macedonia” and the CoE. It will consist of:

- the AML/CFT Council;
- the State Commission for Prevention of Corruption;
- the State Audit Office;
- the Public Prosecutors Office;
- the Academy for Judges and Prosecutors;
- the Delegation of the European Union in Skopje;
- and the Economic Crime and Cooperation Division of the CoE.

As approved in its constitutive meeting the Steering Committee will be Co-Chaired by the Council of Europe and the Financial Intelligence Office.

The members of the Steering Committee approved the following documents:

- Terms of Reference for the Steering Committee (Appendix IV);
- Action workplan (Appendix VII)

9 VISIBILITY

9.1 General visibility and communication approach

The CoE takes all appropriate measures, in line with Annex VI (Communication and Visibility Plan) of the PA Grant Agreement 2016/374-543 on the Horizontal Facility (hereafter referred to as Grant Agreement), to clearly communicate that the Actions are co-funded by the EU and the CoE, and implemented by the CoE. Thus the Horizontal Facility logo, stipulating that the Horizontal Facility is “Funded by the European Union and the Council of Europe” and “Implemented by the Council of Europe”, will appear on all documents (e.g. invitations, agendas), publications, websites and promotional material produced during and for the Horizontal Facility in accordance with the agreement on Visual identity of the EU/CoE Joint Programmes of 2011.

Furthermore, all publications, including those on-line, will carry the disclaimer: “This document was produced with the financial assistance of the European Union and the Council of Europe. The views expressed herein can in no way be taken to reflect the official opinion of the European Union and/or of the Council of Europe”.

9.2 Specific Websites for each action

Action news, upcoming events, outputs and deliverables will be reported on the Council of Europe, Economic Crime website (www.coe.int/corruption), in a section exclusively dedicated to Horizontal Facility Actions for fighting corruption, economic crime, money laundering and financing terrorism. The CoE set up the specific www.coe.int/HF-AEC website to provide information on Actions against Economic Crime within the Horizontal Facility. Furthermore, the following websites of the CoE Office in Albania, the CoE Programme Offices in Montenegro and “the former Yugoslav Republic of Macedonia” provide regular information on country specific Action related issues, especially activities, news, upcoming events as well as links to other relevant websites:

- Albania: <http://www.coe.int/tirana>
- Montenegro: <http://www.coe.int/podgorica>
- “the former Yugoslav Republic of Macedonia”: www.coe.int/skopje

10 APPENDICES:

10.1 Appendix I: Adjustment to TAPAs

10.1.1 Albania

Following consultations with the stakeholders, including consultations with the EUD and the project management team of the AC twining project (“Support to the formulation, coordination and implementation of anti-corruption policies”), the TAPA of the action has been revised as follows:

Specific Objective 11:

Act 11.1 - Support the revision of the legal framework of political party funding involving all relevant stakeholders.

Was revised to:

Act 11.1 - Support the revision of the legal and institutional framework of political party funding involving all relevant stakeholders.

Specific Objective 15:

Act 15.1 in the TAPA is deleted and will not be part of the action. Original text of the Act 15.1 was:

Review and provide recommendations and tools for improvement of the regular mutual notifications mechanism and information/data exchange between HIDAA and other institutions involved in the fight against corruption and economic crime.

The Activity will be addressed by the twining project, as agreed with the representatives of the management team of the twining project.

10.1.2 Montenegro

Following consultations with the national stakeholders and discussions with the EUD, the TAPA has been revised as follows:

Specific Objective 9

SO 9 - A track record system of political party funding controls is designed and available for the Authority.

Was revised to:

SO 9 - The track record system of political party and election campaigns funding controls is reviewed and strengthened

Taking into consideration the change of the SO 9 the Actions foreseen within this SO have changed as follows:

Act 9.1 - Develop track record system to monitor the controls performed over the political parties funding which includes the penalties applied for the breaches identified. Review the rules and procedures of the Agency based on 2016 elections.

Was revised to:

Act 9.1 - Review and strengthen the track record system to monitor the controls performed over the political parties funding which includes the penalties applied for the breaches identified. Review the rules and procedures of the Agency based on 2016 elections.

A new Action 9.2 was added as follows:

Act 9.2 - Provide training to the APC (and other relevant institutions as necessary) on effective implementation of the system of track record of PPF

Specific Objective 10

SO 10 - Anti-corruption Agency (ACA) are enhanced in areas of ACA core functions, including WB protection, conflict of interest, political party financing and asset declarations.

Was revised to:

SO 10 - The capacities of the Agency for Prevention of Corruption to implement and enforce legal provisions and conflict of interests are enhanced.

Specific Objective 12

SO 12 - Prepare and implement the curricula for MPs on ethics, integrity and prevention of conflict of interest

Was revised to:

SO 12 - Awareness and capacity of MPs, judges, prosecutors and police to comply with and implement/enforce legal provisions on ethics and prevention of conflict of interest are enhanced

Following the change on the SO, a subsequent change was introduced at the Action level as follows:

Act 12.1 - Majority of MPs trained in ethics, integrity and prevention of conflicts of interests, based on real-life examples.

Was revised to:

Act 12.1 - Provide practical guidelines and seminars/trainings to MPs, judges, prosecutors and police on legal provisions ethics and prevention of conflicts of interests, based on real-life examples.

Specific Objective 21

SO 21 - An effectiveness-oriented national AML/CFT strategy is developed.

Was revised to:

SO 21 - AML/CFT National Risk Assessment (NRA) is reviewed and upgraded.

Following the change on the SO, a subsequent change was introduced at the Action level as follows:

Act 21.1 - Develop an effectiveness-oriented National AML/CFT strategy based on the immediate outcomes of the FATF and the results of the NRA.

Was revised to:

Act 21.1 - Review AML/CFT NRA based on a provided methodology.

10.1.3 “The former Yugoslav Republic of Macedonia”

Following consultations with the national stakeholders and discussions with the EUD, the TAPA has been revised as follows:

Specific Objective 9

SO 9 - A comprehensive regulatory framework and guidance for whistleblower protection and reporting is reviewed and implemented.

Was revised to:

SO 9 – The regulatory framework and guidance for whistleblower protection and reporting is reviewed and implemented

Specific Objective 11

Act 11.1 - Provide specialised training and study visits to the specialised SAO and State Commission for the Prevention of Corruption employees in charge with of the supervision of political financing.

Was revised to:

Act 11.1 - Provide specialised training to the specialised SAO in charge with of the supervision of political financing

Specific Objective 13

Based on discussions with stakeholders a new action 13.3 was added within Specific Objective 13 of the TAPA.

Act 13.3 - Review the National Risk Assessment based on a provided methodology

Specific Objective 14

Act 14.1 - Review and optimize the internal methodologies of the FIO work related to the receipt, analysis and dissemination of financial intelligence information and the use of its strategic analysis function

Was revised to:

Act 14.1 - Develop ML and FT typologies and red flag indicators for STRs.

Act 14.2 - Set up a strategic analysis function of the FIO, and development of ML and FT typologies and red flag indicators for STRs, including their integration into software platforms.

Was revised to:

Act 14.2 - Build full capacity of analysts in the area of tactical and strategic analysis based on developed ML and FT typologies and red flag indicators for STR.

Specific Objective 15

Specific Objective 15 was removed from the TAPA following discussions with the EUD and the indication that the disaster recovery modules and other technical equipment would be provided to the beneficiary institution through a twining project. Depending on the status of the twining project (More details were not provided by the EUD) a re-introduction of the SO 15 will be considered at a later stage of implementation of the action.

Specific Objective 16

Act 16.1 - Review of the structures of the PPO in charge with financial analysis based on the revised Criminal Procedure Code to ensure a more effective investigation and prosecution of ML and corruption cases.

Was revised to:

Act 16.1 - Review of the structures of the PPO, Financial Police (FP) and MoI in charge with financial analysis based on the revised Criminal Procedure Code to ensure a more effective investigation and prosecution of ML and corruption cases.

Act 16.3 - Develop and deliver a training of trainers programme for prosecutors

Was revised to:

Act 16.3 - Develop and deliver a training of trainers programme for judges on adjudication of ML/TF cases

Specific Objective 17

Act 17.1 - Review of the AML/CFT supervisory methodologies (both for on-site and off-site supervision) of Securities and Exchange Commission, Insurance Supervisory Authority and AML/CFT Supervision Commissions of the Chamber of Public Notaries and the Chamber of Bar Association.

Was revised to:

Act 17.1 - Review of the AML/CFT supervisory methodologies (both for on-site and off-site supervision) of Securities and Exchange Commission, National Bank, Insurance Supervisory Authority and AML/CFT Supervision Commissions of the Chamber of Public Notaries and the Chamber of Bar Association, FIO, Public Revenue Office.

Act 17.3 - Provide trainings on the new methodologies to compliance officers from the Securities and Exchange Commission, Insurance Supervisory Authority and AML/CFT Supervision Commissions of the Chamber of Public Notaries and the Chamber of Bar Association.

Was revised to:

Act 17.3 - Provide trainings on the new methodologies to compliance officers from the Securities and Exchange Commission, National Bank, Insurance Supervisory Authority and AML/CFT Supervision Commissions of the Chamber of Public Notaries and the Chamber of Bar Association, FIO, Public Revenue Office.

Specific Objective 20

Act 20.2 - Provide specialised trainings on financial investigations and how to utilise the ML offense to trace and investigate financial flows coming from abroad, either directly or through domestic legal entities.

Was revised to:

Act 20.2 - Provide specialised trainings for law enforcement, FIO and supervisors on non-MLA international information exchange channels and good practice

10.2 Appendix II: Terms of Reference of the Action Steering Committee of the AEC in Albania

Action against Economic Crime in Albania (AEC-Albania)

www.coe.int/HF-AEC

Terms of Reference for the Steering Committee (SC)

1. SC Membership/Participation

The Steering Committee of this Action will consist of representatives of

- High Inspectorate for the Declaration Audit of Assets and Conflict of Interest (HIDAACI)
- Central Election Commission (CEC)
- The General Directorate for the Prevention of Money Laundering (GDPML);
- General Prosecutor's Office;
- General Directorate of State Police;
- Prime Minister's Office and National Coordinator on Anti-Corruption;
- Ministry of Justice;
- Bank of Albania and Financial Supervisory Authority;
- Administration of the Management of Seized and Confiscated Assets;
- School of Magistrates;
- the European Union Delegation to Albania;
- and the Economic Crime and Cooperation Division of the Council of Europe.

The Steering Committee will also involve in its meetings other relevant authorities related to the Action's results and activities. The Steering Committee will be jointly chaired by an EUD and a CoE representative. The responsibilities of the secretariat of the SC are to be undertaken by the Action's team.

2. SC Responsibilities

The Steering Committee will take strategic decisions and supervise the proper implementation of the Action. It will address major issues that the Action might face. The Steering Committee shall be called to meet at least 6 times during the implementation of the Action, and whenever such need arises. The responsibilities of the Steering Committee are the following:

- Monitoring the implementation of the Action and discussing its achievements;
- Approving workplan and calendar of activities;

- Assessing emerging issues for sound Action implementation and approving the resulting guidelines for the Action's Management; and
- Approving the necessary departures from the original ToR or workplan.

3. Adoption of Decisions by the Steering Committee

The decisions of the Steering Committee are taken unanimously by all present members (substitutes) in the Steering Committee meeting. All members of the Steering Committee have equal position in the Steering Committee.

4. SC meetings and calendar

The Steering Committee shall be called to meet at the beginning of the Action and at least once every six months and whenever such need arises. The following is the tentative Calendar of Regular SC Meetings:

Number of Regular SC Meetings	1 st SC Meeting	2 nd SC Meeting	3 rd SC Meeting	4 th SC Meeting	5 th SC Meeting	6 th SC Meeting
Tentative Dates	October 2016	April 2017	October 2017	April 2018	October 2018	April 2019 April 2020

5. Ad-Hoc Steering Committee Meetings

Ad-hoc meeting of the Steering Committee may be called by any of the parties represented in the Steering Committee. In these cases, at least 10 working days' notice shall be given to all the members of the Steering Committee.

6. List of permanent designated SC members from Albanian institutions

Name (main nominee)	Institution/Position	Substitute	Email
Albanian Institutions			
Ms Erisa Proko	Director of Cabinet, HIDAACI		eproko@hidaa.gov.al
Ms Deshira Pasko	Legal Director, Central Election Commission		
Mr Artan Shiqerukaj	Head of Strategic Analysis Sector General Directorate for the Prevention of Money Laundering –	Ms Albana Alimemaj	ashiqerukaj@fint.gov.al Tel: +355 4 224 0691 Mobile: +355 67 259 1836 aalimemaj@fint.gov.al

Name (main nominee)	Institution/Position	Substitute	Email
	Albanian FIU		
Mr Arben Kraja	Prosecutor General's Office, Organised Crime Department		Arben.Kraja@pp.gov.al
Mr Lutfi Minxhozi	Head of Directorate for Investigation of Economic and Financial Crimes General Directorate for Organized & Serious Crimes, Albanian State Police		lutfi.minxhozi@asp.gov.al lut.minxhozi@yahoo.com Tel. Off + 355 42 247 156 MB: + 355 (0) 69 410 64 64
Ms Vjolanda Theodhori	Director of Legal Department, Bank of Albania, FSA		vtheodhori@amf.gov.al
Mr Ergys Dino	Administration of the Management of Seized and Confiscated Assets		ergys.dino@aapsk.gov.al
Mr Sokol Sadushi	Director, School of Magistrates		sokolsadushi@magjistratura.edu.al
Delegation of the European Union to Albania			
Mr Stephen Stork	Head of Operations Section I, EUD Albania		
Ms Annelies Vanwymelbeke	Programme Manager – EU Policies, EUD Albania		Annelies.VANWYMELBEKE@eeas.europa.eu
Council of Europe			
Mr Mustafa Ferati	Head of Unit I, ECCD, Council of Europe		Mustafa.Ferati@coe.int
Ms Maia Mamulashvili	Programme, Coordinator, ECCD, Council of Europe		Maia.mamulashvili@coe.int
Mr Olsi Dekovi	Deputy Head of Office, Council of Europe Programme Office Tirana		Olsi.Dekovi@coe.int

10.3 Appendix III: Terms of Reference of the Action Steering Committee of the AEC in Montenegro

Action against Economic Crime in Montenegro (AEC-MNE)

www.coe.int/HF-AEC

Terms of Reference for the Steering Committee (SC)

1. SC Membership/Participation

The Steering Committee of this project will consist of representatives of:

- the Agency for Prevention of Corruption;
- the Administration for Prevention of Money Laundering and Terrorist Financing;
- the Centre for Training in Judiciary and State Prosecution Service;
- the Ministry of Justice;
- the Ministry of Interior;
- the Ministry of Foreign Affairs and European Integration;
- the Parliament of Montenegro;
- the State Audit Institution;
- the Supreme Court;
- the Supreme State Prosecutor's Office;
- the Special Prosecutor's Office;
- the Police Administration;
- the Delegation of the European Union to Montenegro;
- and of the Economic Crime and Cooperation Division of the Council of Europe.

The Steering Committee will also involve in its meetings other relevant authorities related to project results and activities. The Steering Committee will be jointly chaired by an EU Delegation and a CoE representative. The responsibilities of the secretariat of the SC are to be undertaken by the project team.

2. SC Responsibilities

The Steering Committee will take strategic decisions and supervise the proper implementation of the Action. It will address major issues that the Action might face. The Steering Committee shall be called to meet on regular 6-months intervals during the implementation of the project, and whenever such need arises. The responsibilities of the Steering Committee are the following:

- Monitoring the implementation of the Action against Economic Crime in Montenegro and discussing its achievements;
- Approving workplans and calendar of activities;
- Reviewing of reports on the implementation of the Action;
- Approving necessary amendments to TAPA and Workplan.
- Assessing emerging issues for sound project implementation and approving the resulting guidelines for the Action's Management
- Conducting a final review of the Action implementation and results;
- Ensuring that measures are taken in order to disseminate as widely as possible the Action results and information thereof; and
- Recommending strategies for the sustainability of the results and to ensure its strong impact

The Steering Committee adopts decisions by consensus. In case the majority (50% + 1) of members of the Steering Committee are present the Steering Committee unanimously adopts decisions and informs accordingly those not present.

3. Adoption of Decisions by the Steering Committee

The decisions of the Steering Committee are taken unanimously by all present members (substitutes) in the Steering Committee meeting. For the Steering Committee to take decisions the presence of at least 50%+1 of its members is required. All members of the Steering Committee have equal position in the Steering Committee.

4. SC meetings and calendar

The Steering Committee shall be called to meet at the beginning of the project and at least once every six months and whenever such need arises. The following is the tentative Calendar of Regular SC Meetings:

Number of Regular SC Meetings	1 st SC Meeting	2 nd SC Meeting	3 rd SC Meeting	4 th SC Meeting	5 th SC Meeting	6 th SC Meeting
Tentative Dates	November 2016	May 2017	November 2017	May 2018	November 2018	May 2018

5. Ad-Hoc Steering Committee Meetings

Ad-hoc meeting of the Steering Committee may be proposed by any of the parties represented in the Steering Committee. In these cases, at least 10 working days' notice shall be given to all the members of the Steering Committee.

6. List of permanent designated SC members

Name	Institution/Position	Nominee	Substitute	Email
Montenegrin Institutions				
Mr Dušan Drakić	Head of Section, Agency for Prevention of Corruption	x		dusan.drakic@antikorupcija.me
Ms Marina Mićunović	Advisor to the Director, Agency for Prevention of Corruption		x	marina.micunovic@antikorupcija.me
Ms Kristina Baćović	Deputy Director, Administration for the Prevention of Money Laundering and Terrorism Financing	x		kristina.bacovic@uspnft.gov.me +382 67 407 999
Ms Helga Dakić	Administration for the Prevention of Money Laundering and Terrorism Financing		x	helga.dakic@uspnft.me
Mr Dalibor Medojević	Acting Head of Department for the Fight against Organized Crime and Corruption, Ministry of Interior	x		org.krim@t-com.me
Mr Bojan Mišković	Department for the Fight against Organized Crime and Corruption, Ministry of Interior		x	bojan.skp.privreda@gmail.com
Ms Marijana Laković Drašković	General Director of Directorate for Judiciary, Ministry of Justice	x		marijana.lakovic@mpa.gov.me , +382 20 407 520
Mr Merima Baković,	Head of Criminal Legislation Division in Ministry of Justice		x	merima.bakovic@mpa.gov.me ; +382 20 407 504.
Mr Mladen Dragašević	Director of the Directorate for the OSCE and the Council of Europe, Ministry of Foreign Affairs	x		mladen.dragasevic@mfa.gov.me +382 20 416 337
Mr Ivan Tomić,	III Secretary at the Directorate for the OSCE and the Council of Europe; Ministry of Foreign Affairs		x	ivan.tomic@mfa.gov.me +382 20 416 332
Mr Nikola Kovačević	Member of the Senate, State Audit Institution	x		nikola.kovacevic@dri.co.me ; +382 20 407 424
Ms Slavka Tomić	Head of Department Sector IV State Audit Institution		x	slavka.tomic@dri.co.me +382 20 407 423

Name	Institution/Position	Nominee	Substitute	Email
Ms Masa Adzic,	Head of the Department for Continuous Training in Judiciary and State Prosecution Service of Montenegro	x		coscg@t-com.me
Ms Maja Milosevic	Director of the Secretariat of the Centre for Training in Judiciary and State Prosecution Service.		x	coscg@t-com.me
Ms Sanja Jovičević	Special prosecutor, Special Prosecutor's Office	x		sanja.jovicevic@tuzilastvo.me ; +382 20 230-641
Ms Marija Raspopović	Special prosecutor, Special Prosecutor's Office		x	marija.raspovic@tuzilastvo.me
Ms Milica Anđelić	Public prosecutor, Supreme State Prosecutor's Office	x		milica.andjelic@tuzilastvo.me
Ms Dragoslava Jovanović	Supreme State Prosecutor's Office		x	dragoslava.jovanovic@tuzilastvo.me
Hasnija Simonović	Supreme Court Judge	x		hasnija.simonovic@sudstvo.me
Ms Boško Bašović	Advisor, Supreme Court	x		bosko.basovic@sudstvo.me
Ms Milijana Čukić,	Higher Police Inspector of I class in the Group for High Corruption and Money Laundering, Police Administration	x		milijana.cukic@policija.me 067/185-762
Mr Vukosav Jovanović	Independent Police Inspector in the Group for High Corruption and Money Laundering, Police Administration		x	Vukosav.jovanovic@policija.me 067/185-365
Delegation of the European Union to Montenegro				
Ms Marzia Palotta	Programme Officer Justice Home Affairs, Delegation of the EU to Montenegro	x		marzia.palotta@eeas.europa.eu
Ms Annalisa Giansanti	Political Affairs and Rule of Law Officer, Delegation of the EU to Montenegro	x		annalisa.giansanti@eeas.europa.eu
Ms Ana Šćepanović	Policy Officer for Policy Monitoring and Legal Affairs	x		ana.scepanovic@eeas.europa.eu
Council of Europe				
Mr Gergo Nemeth	Program Coordinator, ECCD, Council of Europe	x		gergo.nemeth@coe.int
Ms Ana Selic	Project Officer, ECCD, CoE	x		ana.selic@coe.it

10.4 Appendix IV: Terms of Reference of the Action Steering Committee of the AEC in “the former Yugoslav Republic of Macedonia”

Action against Economic Crime in “the former Yugoslav Republic of Macedonia”

(AEC-FYROM)

www.coe.int/HF-AEC

Terms of Reference of the Steering Committee (SC)

1. Membership/Participation of the Steering Committee

The Steering Committee of this Action will consist of representatives of

- the AML/CFT Council (Financial Intelligence Office (FIO), Ministry of Finance, Ministry of Interior, Ministry of Justice, Customs Office, Financial Police, Public Revenue Office, National Bank, MAPAS, Securities and Exchange Commission, Insurance Supervisory Authority, Public Prosecutors Office for combating organised crime and corruption, Notaries Chamber, Bar Association)
- the State Commission for Prevention of Corruption;
- the State Audit Office;
- the Public Prosecutors Office;
- the Academy for Judges and Prosecutors;
- the European Union Office in Skopje;
- and the Economic Crime and Cooperation Division of the Council of Europe.

The Steering Committee will also involve in its meetings other relevant authorities related to the Action’s results and activities. The Steering Committee will be jointly chaired by a FIO and a CoE representative.

The European Union Delegation in Skopje declared that they will be with a status of observers to the Steering Committee. The responsibilities of the secretariat of the SC are to be undertaken by the Action’s team.

2. Responsibilities of the Steering Committee

The Steering Committee will take strategic decisions and supervise the proper implementation of the Action. It will address major issues that the Action might face. The Steering Committee shall be called to meet at least 6 times during the implementation of the Action, and whenever such need arises. The responsibilities of the Steering Committee are the following:

- Monitoring the implementation of the Action and discussing its achievements;
- Approving workplan and calendar of activities;

- Assessing emerging issues for sound Action implementation and approving the resulting guidelines for the Action's Management; and
- Approving the necessary departures from the original ToR or workplan.

3. Adoption of Decisions by the Steering Committee

The decisions of the Steering Committee are taken if at least the majority of its members are present and the decisions are taken unanimously by all present members (substitutes) in the Steering Committee meeting. All members of the Steering Committee have equal position in the Steering Committee.

4. SC meetings and calendar

The Steering Committee shall be called to meet at the beginning of the Action and at least once every six months and whenever such need arises. The following is the tentative Calendar of Regular SC Meetings:

Number of Regular SC Meetings	1 st SC Meeting	2 nd SC Meeting	3 rd SC Meeting	4 th SC Meeting	5 th SC Meeting	6 th SC Meeting
Tentative Dates	October 2016	April 2017	October 2017	April 2018	October 2018	April 2019 April 2019

5. Ad-Hoc Steering Committee Meetings

Ad-hoc meeting of the Steering Committee may be called by any of the parties represented in the Steering Committee. In these cases, at least 10 working days' notice shall be given to all the members of the Steering Committee.

6. List of permanent designated SC members from Macedonian institutions

Name	Institution	Nominee	Substitute	Email
State Institutions				
Angela Atanasova	Financial Intelligence Office	x		ana@ufr.gov.mk
Toni Jankoski	Ministry of Interior	X		Toni_Jankoski@moi.gov.mk
Mimoza Kikovska Stojmenova	Ministry of Justice	X		mkikovska@yahoo.co.uk
Trajko Spasovski	Ministry of Finance	X		trajko.spasovski@finance.gov.mk
Zlatko Bikovski	The Public Prosecutor's Office for Organized Crime and Corruption	x		zlatkoebikovski@yahoo.com
Maja Pizevska Vasilevska	Financial Police	x		maja.pizevska@finpol.gov.mk

Name	Institution	Nominee	Substitute	Email
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10.5 Appendix V: Workplan for of the AEC in Albania



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10.6 Appendix VI: Workplan for of the AEC in Montenegro



HF-Log-WP-MONTEN
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10.7 Appendix VII: Workplan for of the AEC in “the former Yugoslav Republic of Macedonia”



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