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“Strengthening the Capacities of Law Enforcement and Judiciary in the Fight against Corruption in Serbia” (PACS)

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First Progress Report

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ABBREVIATIONS

ACPS - Academy of Criminalistics and Police Studies

CARDS - The Community Assistance for Reconstruction, Development, and Stabilisation (programme)

CoE - Council of Europe

CPC – Criminal Procedure Code

CPI – Transparency International Corruption Perception Index

EUD - European Union Delegation

GRECO - Council of Europe Group of States against Corruption

HJC - High Judicial Council

JA - Judicial Academy

MoJPA - Ministry of Justice and Public Administration

MoI - Ministry of Interior

OSCE - Organization for Security and Co-operation in Europe

PACS – Project “Strengthening the Capacities of Law Enforcement and Judiciary in the Fight against Corruption in Serbia”

ROM – Result oriented monitoring

RPPO - Republic Public Prosecutorial Office

SCC - Supreme Court of Cassation

SPC - State Prosecutorial Council

ToR – Terms of Reference

UNDP – United Nations Development Programme

UNODC - United Nations Office on Drugs and Crime

1. DESCRIPTION

1.1 Contact person

Ivan Koedjиков, Head of Action against Crime Department, Information Society and Action against Crime Directorate, Directorate General of Human Rights and Rule of Law, Council of Europe

1.2 Name of Partners in the Action

Council of Europe and European Union

1.3 Title of the Action

Strengthening the Capacities of Law Enforcement and Judiciary in the Fight against Corruption in Serbia (PACS)

1.4 Contract number

IPA 2011 CRIS 2012/302-053

1.5 Start Date and End Date of the Reporting Period

15 December 2012– 15 December 2013 (of a total project duration of 28 months)

1.6 Target country: Republic of Serbia

1.7 Project Beneficiaries

Ministry of Justice and Public Administration (MoJPA); Ministry of Interior (MoI); Supreme Court of Cassation (SCC); High Judicial Council (HJC); Basic, Higher and Appellate Courts; Republic Public Prosecutor's Office (RPPO); State Prosecutorial Council (SPC); Judicial Academy (JA); Academy of Criminalistics and Police studies (ACPS).

1.8 Project Objective, Purpose and Expected Results

Overall objective

To contribute to democracy and the rule of law through the implementation of institutional reforms aimed at preventing and combating corruption.

Purpose

To strengthen the capacities of law enforcement agencies and judiciary to detect, investigate, prosecute and adjudicate corruption cases.

Expected Result 1: Strengthened capacities to investigate and adjudicate corruption offences

1.1 Risk analysis available assessing all legislative and organisational obstacles to efficient criminal investigations and proceedings and provide recommendations and assistance for improvement of internal procedures and tools (including information of public on results);

- 1.2. Strengthened capacities of law enforcement and judiciary through multidisciplinary trainings and specialized courses to judiciary, prosecutorial services and law enforcement officers on corruption, economic crime cases, accounting and auditing; and through available training curricula of relevant institutions;
- 1.3. Available newly introduced techniques (IT tools and possible use of data base) and strategic capacities of prosecutorial services to investigate corruption and white collar crime;
- 1.4. Specialised undercover agents those that use special investigative means (SIMs) from law enforcement structures in charge of cooperating with prosecutorial services;
- 1.5 Increased public awareness and trained journalists on reports concerning allegations pertaining corruption cases and their adjudication;
- 1.6 Setting up a benchmarking system in measuring progress and level of efficiency of tracking/handling of corruption/economic crime cases in the Serbian judiciary and law enforcement system. The benchmarking system will be carried out throughout the process of implementation of the project and delivered at the end of the project in order to allow all target and beneficiary groups to provide inputs and data in building up the system which is expected to be used by the Serbian authorities as of the end of the project.

Expected Result 2: Strengthened capacities to fight corruption within the justice sector

- 2.1. Available risk analysis and recommendations on the current situation with regard to possibilities and actual extent of corruption within the judiciary, prosecution and law enforcement;
- 2.2. Introduced ethical rules/implementation guidelines and with regards Judicial, Prosecutorial and Law Enforcement Codes of Conduct/Ethics to organisational aspects (including selection/appointment procedures);
- 2.3. Available opinions and advice on implementation to the High Judicial Council and State Prosecutors Council with regard to disciplinary rules and measures against ethical violations from judges and prosecutors when construed as corruptive practices/allegations;
- 2.4. Trained judges, prosecutors, and law enforcement officers on aspects of detecting corruption and controlling conflict of interests within those structures.

2. EXECUTIVE SUMMARY

This report covers the first year of the project's implementation period. It outlines the issues addressed in the context of the anti-corruption efforts of the judiciary and law enforcement authorities, the reforms undertaken and direct or indirect impact the project activities had on strengthening the capacities of relevant institutions in combating corruption.

During the reporting period, the project focused on streamlining and unifying the criminal statistics in the country, on conducting corruption risk analyses and on developing training programmes. In total, five activities involving fifteen actions were carried out as envisaged by the workplan.

Three risk analyses were initiated. The analysis of risks in criminal proceedings is expected to foster the capacities for investigating, prosecuting and adjudicating corruption cases. The risk analyses targeted at corruption within the judiciary and law enforcement is to serve as basis for setting policies and define mitigating measures aimed at strengthening their capacity to prevent and resist corruption within their own structures.

Other notable results in the reporting period:

- Development of methodology for unified record keeping and statistics of corruption and economic crime cases by different state authorities;
- Provision of training curricula and materials for a comprehensive training of trainers programme for the judiciary, prosecutorial and law enforcement authorities on corruption and economic crime. The series of specialised trainings for national trainers will be followed up by regional trainings, led by PACS-prepared and certified trainers;
- Support for legislative reform - the project provided analysis of the legal framework on disciplinary proceedings and disciplinary liability of prosecutors and judges including recommendations on how to improve these regulations. The country's efforts to comply with the GRECO recommendation to adopt legislation on whistle-blowers protection are supported through an expert opinion on the draft law;

The project contributed directly to the implementation of the recently adopted Serbian Anti-corruption Strategy and Action Plan (2013 – 2018). The detail is in the text below.

The progress in the implementation of the project was positively assessed by the first result-oriented monitoring carried out in October 2013.

Throughout the reporting period the beneficiaries actively supported the project activities. It will be important to maintain this cooperative attitude when it comes to putting into practice of the project recommendations and the concrete use of the deliverables provided so far. In particular, this concerns adopting of policies based on the recommendations of the PACS corruption risk analyses, incorporating PACS training programmes into the institutional training curricula, tasking an inter-institutional Working Group to develop record keeping methodology and benchmarking of corruption related criminal offences and strengthening further the disciplinary prosecutors' offices within the State Prosecutorial Council and High Judicial Council.

The project will continue to pay special attention to the visibility of its actions and results.

3. CURRENT STATUS: COUNTRY SITUATION

3.1 Anti-corruption policy

The Inception Report of the PACS project submitted in April 2013 referred to the Serbian anti-corruption policy, responsible public entities for its enforcement and country situation in general. This report will therefore elaborate and assess changes that have taken place since April 2013.

Corruption is still perceived to be widespread in Serbia. However, Transparency International Corruption Perception Index (CPI) for 2013 showed certain progress in the perception of corruption - it increased to 42 thus putting Serbia on the global countries list from 80th to 72nd position. Although the index still places Serbia among countries where corruption is widespread, certain efforts in the last year definitely affected its overall perception. Even if the CPI methodology mostly takes into account the perception of corruption from business people and country experts, another research conducted by Transparency International – Global Corruption Barometer 2013 - measuring people's perceptions and experiences of corruption indicates that the public institutions are still largely corrupted in performing their duties.

During the reporting period progress has been made in several anti-corruption related areas. More specifically, the following actions aimed at enhancing Serbian legal framework have been undertaken:

- **National Anti-corruption Strategy and its Action Plan for 2013-2018**

Subsequent to the finalisation of the public debate process, the new Anti-corruption Strategy was adopted by the National Assembly of the Republic of Serbia on 1 July 2013. This medium-term strategic document encompasses objectives to be attained over the next five years. It defines priorities for further reforms in the areas such as good governance, functioning of the independent institutions and regulatory bodies, internal and external audit and control, and protection of whistle-blowers. Furthermore, the Strategy addresses needs for curbing corruption in the most sensitive sectors such as public procurement, urban planning, judiciary, law enforcement, education and health.

A framework for the implementation of Strategy's objectives is specified in the Action Plan developed and subsequently approved by the Serbian Government on 25 August 2013. The Action Plan foresees detailed measures and activities with defined timelines, responsible entities and resources required for their implementation. It also sets qualitative and quantitative indicators for each activity, thus enabling proper monitoring of their execution.

Coordination mechanism for monitoring the implementation of the anti-corruption policy

Chapter V of the new Strategy regulates the *Implementation and Monitoring of the Implementation of the Strategy*. It elaborates the role of three different authorities as follows:

- *The Ministry of Justice and Public Administration* is a coordinator within the Serbian Government, in charge of communication, exchange of information and

experiences between different authorities/responsible entities. In this regard, the Ministry will establish a separate organisational unit assigned to coordinate the implementation of the Strategy and Action Plan. It will also be a focal point for cooperation with other public institutions and international organisations.

- *The Anti-corruption Council* oversees the implementation of the Strategy and Action Plan by public institutions. The Council will, together with the Ministry, participate in quarterly meetings of contact points from different public authorities. These meetings shall enable the Council to collect information on obstacles encountered by responsible entities in implementing the respective Action Plan measures. The reports of the Council will be reviewed by the Serbian Government.
- *The Anti-Corruption Agency* is responsible for the preparation of semi-annual and annual reports on the implementation of the Strategy and Action Plan. Contrary to what is foreseen by the existing Law on the Anti-corruption Agency, the annual report on the Strategy and Action Plan implementation will no longer be just a part of the Agency's general report submitted at the end of each year. It will be a separate report specifically focused on the status of the Strategy and Action Plan implementation, and, as such, will be regularly submitted to the National Assembly.

The first coordination meeting of the contact points from different institutions/responsible entities in charge of the implementation of the aforementioned strategic documents was held in October 2013. At that occasion the Ministry of Justice and Public Administration announced that a web page/intranet portal would be launched enabling all contact points to upload and update the information on the implementation of the Action Plan measures under their responsibility.

Although all these monitoring mechanisms aim to secure smooth cooperation and coordination among relevant state institutions and contribute to the efficient implementation and monitoring of the Strategy and Action Plan, it is yet not clear how the division of these - relatively similar tasks - will work in practice. On the one hand, the Anti-corruption Council *oversees the implementation* and reports to the Government, while on the other, the Anti-Corruption Agency *monitors the implementation* and reports to the Parliament. In parallel the Ministry of Justice and Public Administration coordinates overall process. Yet, it seems unclear to what extent the competences of these authorities will overlap and how will this "dual" reporting system influence the overall effectiveness of monitoring. Therefore, it might turn that issues such as - *what happens in cases where these bodies disagree on effectiveness of the Strategy and Action Plan implementation? whose reports/recommendations would then be considered as more important? What is the role of the MoJPA for this type of problems?* - possibly need to be clarified in advance.

• **National Judicial Reform Strategy and its Action Plan for 2013-2018**

The Serbian judicial system has been going through substantial reforms since 2006. Following the 2008 judicial reform which was extensively criticised by various professional and experts groups, international organisations and public, the authorities

initiated the preparation of a new Judicial Reform Strategy in late 2012. The new Strategy was drafted by the Working Group coordinated by the MoJPA and approved by the National Assembly on 1 June 2013. Further to that, the Action Plan for the implementation of the new Strategy was adopted through the Resolution of the Government on 31 July 2013. The main objective of the Strategy is to improve the quality of justice system, efficiency and effectiveness of the judiciary and to strengthen and protect its independence. Finally, the new Strategy is expected to contribute to restoring citizens' confidence in the country's justice system.

Furthermore, in August 2013, the Government established the Commission for the Implementation of the National Judicial Reform Strategy. At the first session held in September 2013, the Commission elected its president, deputy president and secretary, and approved its rules of procedure.

- **Criminal Procedure Code**

The new Criminal Procedure Code (CPC), adopted in September 2011, introduced prosecutorial investigation which started to be implemented by all courts and prosecutors' offices¹ as of 1 October 2013.

The Office of the Prosecutor for Organised Crime and the Special Court for Organised and War Crimes, as the only institutions implementing the new CPC since January 2012, confirm that it has brought significant results, particularly in statistics/numbers of plea bargain agreements concluded. However, at this moment the courts and the prosecutor's offices of regular jurisdiction are facing a number of challenges when implementing the new Code. It seems that the lack of adequate equipment, human resources (mostly with prosecutors) and training could seriously affect the efficiency and effectiveness of this Code.

- **'Judicial Law Package'**

In November 2013 the National Assembly passed the amendments, prepared by the Ministry of Justice and Public Administration, on so-called 'Judicial Law Package' which includes the Law on Judges, the Law on Public Prosecution, the Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutor's Offices and the Law on Organisation of Courts.

Although it is yet early to judge the impact of these changes, it should be noted that the professional associations and experts community were not particularly supportive of some of the newly approved provisions. More specifically, some concerns are related to the amendments to the Law on Judges and to the Law on Public Prosecution which give priority for election to judges and prosecutors positions to those candidates who completed two-year training at the Judicial Academy. Although such provisions made these laws compliant with the existing Law on Judicial Academy, they provoked serious dissatisfaction and concerns amongst judicial and prosecutors' associates. Namely, those among them with years – even decades – of experience as court/prosecutors associates having bar exam completed long time ago, would now need to cut their employment, enrol in the Judicial Academy and after its completion expect to be reemployed and only then elected as judge/prosecutor. Previously all of them could apply for free

¹The new CPC implementation for War Crimes and Organized Crime jurisdictions started on 15 January 2012.

judges/prosecutors positions equally. Therefore, the association of judges/prosecutors associates filed a complaint with the Constitutional Court to examine the constitutionality of such provisions. On the other hand, the newly introduced system - where candidates are given equal chances to enrol in the Academy and only those who pass the final exam could become judges or prosecutors and prosecutors deputies - provides a more transparent system for selecting candidates and eliminates possible risks and pressure that can be exercised from the political level on election of judges and prosecutors/prosecutors deputies.

Another concern is related to the possibility of judges being transferred to another court without his/her prior consent. The amendments specify that such transfer can be effective only in case of termination of the court or the substantial part of court's jurisdiction.

- **Whistle-blowers**

The need to regulate the protection of whistle-blowers was addressed by GRECO's Joint First and Second Evaluation Rounds in 2008. GRECO recommended the Serbian authorities *'to ensure that civil servants who report suspicions of corruption in public administration in good faith (whistle-blowers) are adequately protected from retaliation when they report their suspicions.'*

Although several laws (Labour Law, Law on Civil Servants and Law on Free Access to Information of Public Importance) and one by-law (the Rule adopted by the Anti-corruption Agency) regulate whistle-blowers' protection, the need for a unified approach prevailed. In this regard, the in October 2013 the Ministry of Justice and Public Administration set up a Working Group to prepare a draft law on whistle-blowers expected to be finalised in December 2013. However, it is not clear to what extent the previous efforts in this direction (preparation of the draft law by another Working Group back in May 2013) will be taken into account by the newly established Working Group.

4. 15 DECEMBER 2012 - 15 DECEMBER 2013: ACTIVITIES AND INDICATOR FULFILLMENT

4.1 Inception Phase (15 December 2012 – 1 April 2013)

During the Inception Phase the recruitment of the project team was completed, the workplan was prepared and the first Steering Committee meeting was held. In addition, a number of bilateral meetings were held with the representatives of each beneficiary institution of the project: Ministry of Justice, State Prosecutorial Council, High Judicial Council, Supreme Court of Cassation and the Appellate Court, Judicial Academy, Police Academy, Ministry of Interior and Directorate of Police. As a result, their inputs were collated and subsequently incorporated in the project's workplan.

The Start-up Conference was held on 26 April 2013 in Belgrade. It discussed the capacities of the Serbian judiciary and law enforcement in fighting corruption, reform policies and international good practice in this area. At this occasion, the keynote speeches were delivered by Mr Štefan Füle, European Commissioner for Enlargement and European Neighbourhood Policy, Mr Aleksandar Vučić, First Deputy Prime Minister, and Ms Antje Rothmund, Head of the Council of Europe Office in Belgrade. The conference was attended by the representatives of the project beneficiaries and target groups, international organisations, civil society and experts community. The event had significant media coverage and resulted in unanimous support and approval of the project's workplan.

4.2 Implementation Phase

Result 1: Strengthened capacities to investigate and adjudicate corruption offences	
Activity 1.1	Carry out risk analysis in order to assess regulatory and organisational obstacles to efficient criminal investigations and proceedings and provide recommendations for improvement of internal procedures, coordination between institutions which have jurisdiction on combating corruption (i.e. exchange of information and tools used to provide public information on those risk analysis results)
Actions	<p>The project commenced the risk analysis in early April 2013 and carried out the following actions during the reporting period:</p> <ul style="list-style-type: none">- A general methodology for conducting risk analysis (Annex 1) was prepared and agreed with the beneficiaries. It consists of methods and tools to be used for identifying and assessing corruption risks not only during the criminal procedure but also for assessing the possibilities and existence of specific corruption risks within institutions. Due to its general nature the methodology was also used for activity 2.1 (assessing corruption risks within judiciary and law enforcement);

	<p>- Terms of Reference (ToR) of the risk analysis were prepared and agreed with the beneficiaries at the project's 2nd Steering Committee meeting (18 September 2013). They foresee the following three different yet interlinked phases:</p> <p>Phase 1 – preparatory stage of reviewing and collecting relevant information (legal and policy documents, reports, etc.); selecting relevant cases finalised before the courts to be analysed at a later stage; designing a survey questionnaire for judges, prosecutors and attorneys;</p> <p>Phase 2 – conducting surveys; examining the selected cases and drafting conclusions; reviewing existing legal framework;</p> <p>Phase 3 - analysing survey results; preparing and publishing the risk analysis report.</p> <p>- National experts of the Institute for Comparative Law were selected to provide core expertise in the risk analysis following a call for interest organised by the project. The rationale for the use of national experts is that a national criminal procedure system could be best assessed by those who have a long-term experience in the country and were in a position to closely follow the developments and practice in this field for a considerable period of time. Number of coordination meetings were held with the national experts to discuss the roll-out of the risk analysis;</p> <p>- Survey questionnaire for judges, prosecutors and lawyers (Annex 3) was designed and distributed to different courts, prosecutorial and attorneys' offices throughout the country. It will enable gathering and analysing the relevant information from professionals on core problems encountered while investigating, prosecuting and adjudicating corruption related criminal cases.</p> <p>- Two field missions to Novi Sad and Kragujevac were conducted in November-December 2013 with the aim to select relevant court cases on corruption and economic crime offences processed before the courts. The analysis of the selected files will provide a "case study" perspective to the exercise before the recommendations for improvement are set forth. In parallel, the national experts analysed the current legal framework focusing on advantages and disadvantages of the investigation concept introduced by the new Criminal Procedure Code.</p>
Objectively verifiable indicators	<ul style="list-style-type: none"> • Methodology guide finalised; • Set of preparatory/coordination meetings held; • Risk Analysis' Phase 1 and Phase 2 completed as foreseen by the Terms of Reference.

Progress	<p>Following the completion of Phases 1 and 2, the preparation of the final assessment report has commenced. The final report containing policy advice and recommendations will serve as a basis for authorities to consider possible modification of the methods when conducting criminal proceedings. It will also contain a comparative analysis of the Croatian legal framework including the specificities of the criminal procedure system, institutional set-up and statistics on corruption and economic crime. Public presentation of the final report and its recommendations is scheduled for April 2014.</p> <p>Overall, the recommendations of the risk analysis, if properly implemented by the relevant authorities, are expected to contribute to the increased number of corruption related cases reported, investigated, prosecuted and adjudicated before the court.</p>
Activity 1.2	Prepare and provide multidisciplinary trainings and specialized courses to judiciary, prosecutorial services and law enforcement officers on corruption, economic crime cases, accounting and auditing; assist implementation of trainings into the training curricula of relevant institutions
Actions	<p>Through activity 1.2 the project will deliver a series of specialised trainings aimed at strengthening the capacities of the relevant institutions in their joint efforts to suppress corruption.</p> <p>In that sense, the following actions were carried out:</p> <ul style="list-style-type: none"> - The fact-finding mission was organised in May 2013 during which the expert and the project team met the ad hoc Working Group composed of project beneficiaries to discuss the training needs. As a result, the technical paper (Annex 4) was prepared. Apart from providing the comprehensive specialised training programme, the paper also elaborates the impact of anti-corruption trainings carried out in Serbia so far; comparative practices in 'building' a strong corruption/economic crime case; methods for identifying conditions and circumstances essential for successful criminal investigation, prosecution and adjudication; development and conduct of proactive investigations; use and effectiveness of special investigative means; cooperation between police, prosecutors, judges and other state bodies including their cooperation with the European and international institutions (e.g. Europol, Interpol, etc.). - As regards the training materials, the project presented to the Working Group the Council of Europe manual 'Basic Anti-Corruption Concepts'. Following the review of the manual, the Working Group concluded that adding a chapter with a comparative study on how other jurisdictions regulated the access to databases on citizens' property would be useful given the current efforts of the Serbian authorities to address this problem. Responding to this request, the project prepared a

	<p>technical paper collating detailed information on access to databases on citizens' private wealth (e.g. bank accounts, real estate, boats, companies, shares, etc.) available to judges, prosecutors and law enforcement agencies once criminal investigation is opened. German practice and legal framework were taken as a model. The access, as elaborated in this paper, concerns only the data from state and sometimes from private databases to which the authorities have direct right of entry (e.g. bank account numbers) once the investigation is initiated. The manual and its Addendum are attached as Annex 5 to this report.</p>
Objectively verifiable indicators	<ul style="list-style-type: none"> • Fact-finding mission and the Working group meeting held; • Technical Papers provided; • Training Manual translated into Serbian language.
Progress	<p>The finalisation of the training curricula and the training manual set basis for follow up actions: two trainings of trainers scheduled for February 2014 and follow-up cascade trainings to be conducted by the new trainers in different regions in Serbia.</p> <p>Capacity building is expected to positively affect not only the quality of investigating, prosecuting and adjudicating criminal offences of corruption and economic crime by key actors, but also to foster inter-agency cooperation and improve the implementation of the existing legislation - primarily the recently enforced Criminal Procedure Code.</p>
Activity 1.6	<p>Setting up a benchmarking system in measuring progress and level of efficiency of tracking/handling of corruption/economic crime cases in the Serbian judiciary and law enforcement system. The benchmarking system will be carried out throughout the process of implementation of the project and delivered at the end of the project in order to allow all target and beneficiary groups to provide inputs and data in building up the system which is expected to be used by the Serbian authorities as of the end of the project</p>
Actions	<p>Many of the assessment studies conducted so far identified the need to enhance the existing statistical system of crimes in Serbia. Prior to launching this activity, the project examined two key documents developed by the international assistance programmes – UNODC 'Development of Monitoring Instruments for Judicial and Law Enforcement Institutions in the Western Balkans – Technical Assessment Report for Serbia'² (prepared within the framework of the CARDS Regional Programme) and 'Law Enforcement Policy in Serbia - Evidence Based Transparent Policy Making' prepared by the project</p>

	<p>funded by the Embassy of Netherlands in Serbia. These documents form basis for the analysis of the state of play and subsequent discussions held by the project and its experts with the national counterparts. Below is the summary of actions implemented:</p> <ul style="list-style-type: none"> - Fact-finding mission was organised in April 2013 during which a team of experts met the representatives of the Ministry of Justice and Public Administration, Ministry of Interior, Republic Prosecutor's Office, Prosecutor's Office for Organized crime and the Anti-corruption Agency. Regrettably, the meeting with the Republican Office for Statistics was not held due to unavailability of its key staff members at that moment. Based on the mission findings, the project developed a technical paper analysing the current framework of the judicial and law enforcement statistical system in Serbia (Annex 6). It provides recommendations and guidelines for setting up the record keeping methodology on corruption and economic crime cases which would - apart from having clear statistics on initiation, investigation, prosecution and adjudication of these cases - enable Serbian authorities to create track record and measure the progress made in this area. The paper also includes some comparative examples and good practices in this field. In addition, a follow up document containing the methodology for introduction and practical implementation of the central reference number(s) for criminal act(s), including concrete proposal how the reference numbers shall stand in the overall system of statistics, was prepared and submitted to all beneficiaries in June 2013 (Annex 7). - Both papers were discussed during the project's 2nd Steering Committee meeting (18 September 2013) and the workshop specifically dedicated to this topic (3 October 2013). The representatives of all relevant institutions and the Council of Europe experts reviewed the findings and recommendations elaborated in these technical papers and evaluated the existing problems vis-à-vis the recommended actions. The workshop conclusions can be summarised as follows: <ul style="list-style-type: none"> i. The already existing data collection system should be used as a starting point for establishing the new system. Most of the elements needed for the functioning of the result oriented statistical system are already in place; the missing part is the connecting point between these elements. In that regard, the introduction of the crime reference number would be the first step in remedying this shortcoming. The Serbian authorities are expected to translate the findings of the PACS technical papers and workshop presentations into concrete policy proposals once they decide on the nature of crime reference number.
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	<p>ii. In the process of building the new record keeping methodology and benchmarking system it is important to know what exactly the state authorities want to track and trace. More concretely, the new system should provide a clear and immediate answer to the key question: is it possible to track and trace every single criminal act and every suspect/accused/defendant since the moment when the criminal complaint was lodged? It is essential, not only for the authorities but also for the interested parties/citizens, that the system can produce immediate response to any legitimate enquiry on the status of the case.</p> <p>iii. A unified crime reference number should be given to each case, regardless when and who initiated the case (e.g. police or prosecution) and for the entire territory of the Republic of Serbia.</p>
Objectively verifiable indicators	<ul style="list-style-type: none"> • Fact-finding mission held; • Technical Papers delivered; • Workshop organised.
Progress	<p>The overall activity and its goal directly respond to measures 3.4.6.1 and 3.4.6.2 of the Serbian Anti-corruption Action plan - <i>‘Establish a multi-sectoral working group that will determine a single methodology for data collection and statistical reporting’</i> and <i>‘Establishing a system for the monitoring of criminal offense cases related to corruption’</i>. The above-mentioned PACS technical papers shall serve as a guideline to the Working Group once it becomes operational.</p> <p>In view of this, and upon creation of the Working Group, the project will continue with its assistance in this area.</p>

Result 2: Strengthened capacities to fight corruption within the justice sector	
Activity 2.1	Carry out risk analysis on the current situation with regard to possibilities and actual extent of corruption within the judiciary, prosecution and law enforcement and provide recommendations
Actions	<p>In addition to the risk analysis related to the criminal investigation and proceedings (activity 1.1), the project initiated in April 2013 the analysis of risks and actual extent of corruption within the institutions directly responsible for its suppression – judiciary, prosecution and law enforcement.</p> <p>Given the specificities of judiciary and prosecution on the one hand, and law enforcement on the other, it was decided to carry out this activity by two teams of experts: one team to assess corruption risks</p>

	<p>within the judiciary and prosecution; and another - corruption risks and actual state of play in law enforcement structures. The project applied the same methodology for risk analysis that was designed and used for activity 1.1. Furthermore, Terms of Reference (ToRs) for each risk analysis were developed and agreed with the main beneficiaries (Annexes 8 and 9). They outline three major phases through which this exercise will be carried out:</p> <p>Phase 1 - reviewing and collecting relevant information (legal and policy documents, reports, surveys, researches, etc.);</p> <p>Phase 2 – organising two on-site visits to relevant institutions and interviews with the stakeholders, experts community, professional associations, NGOs and international organisations;</p> <p>Phase 3 – analysing the findings, preparing and publishing the risk analysis report.</p> <p><u>Risk Analysis within the Law Enforcement</u></p> <ul style="list-style-type: none"> - Bearing in mind the complex structure of the Ministry of Interior (MoI) and the limited timeframe and resources available for the implementation of this activity, the project and the Ministry jointly decided that the Internal Control Sector of the Ministry of Interior and the Police Service for Suppression of Organised Crime would participate in the risk analysis. Naturally, these two entities were selected on the basis of their jurisdictions and competencies in the fight against corruption. - Questionnaire for the risk analysis was prepared and distributed to the afore-mentioned MoI departments. It served as a basis for interviews held during the on-site visits organised in Belgrade and Novi Sad (from 28 October to 1 November 2013) and Nis and Kragujevac (9 to 13 December 2013). Both visits enabled gathering relevant data which will be further analysed and incorporated in the risk analysis report. <p><u>Risk Analysis within Judiciary and Prosecution</u></p> <ul style="list-style-type: none"> - The first on-site visit to Belgrade and Novi Sad was organised from 4 to 8 November 2013. The team of international experts held interviews and discussions with representatives of different prosecutorial offices, higher, appellate and misdemeanour courts, State Prosecutorial Council, High Judicial Council, professional associations, Ministry of Justice and the Anti-corruption Council. The findings and conclusions of the first visit were further examined and cross-checked during the second mission held in Belgrade, Kragujevac and Nis (from 16 to 19 December 2013).
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Objectively verifiable indicators	<ul style="list-style-type: none"> • Methodology guide finalised; • Set of preparatory meetings held; • Risk analysis' Phase 1 and Phase 2 completed as foreseen by the ToRs.
Progress	<p>Through the holistic approach, these analyses will result in set of recommendations aimed at fostering institutional capacities of judiciary, prosecution and law enforcement authorities to resist and prevent corruption within their own structures.</p> <p>The methodology developed for conducting risk analysis is expected to be used by institutions for carrying out corruption risk assessment themselves.</p> <p>The completion of the field missions marked the end of the activity's Phases 1 and 2 and launching of Phase 3 which will include preparation of the final risk analysis reports and formulation of recommendations. Further to that, public presentation of the risk analysis results and recommendations is scheduled to be held in April 2014.</p> <p>The implementation of this activity is also seen as a direct contribution to Serbia's preparation for the upcoming GRECO Fourth Evaluation Round where issues such as prevention of corruption in respect of members of Parliament, judges and prosecutors will be examined.</p>
Activity 2.3	Provide legal opinions and advice to the High Judicial Council and State Prosecutorial Council with regard to disciplinary rules and measures against ethical violations from judges and prosecutors when construed as corruptive practices/allegations and assist implementation.
Actions	<p>As provided by the Serbian Law on Judges and the Law on Public Prosecution (adopted in 2008), the High Judicial Council and the State Prosecutorial Council adopted the relevant by-laws and subsequently appointed disciplinary prosecutors. The by-laws determine the disciplinary responsibility of judges and prosecutors, disciplinary offenses and sanctions (as regulated by the relevant laws) and establish the scope of work of disciplinary bodies. Given that the disciplinary prosecutors have been recently appointed, the High Judicial Council requested the project to assist in strengthening these bodies. In this respect, a package of assistance was designed and incorporated in the project's workplan with the first action referring to the revision of the legal framework.</p> <p>Consequently, the project engaged an international consultant to prepare the opinion on compliance of the following by-laws - "Rulebook on Disciplinary Proceedings and Disciplinary Responsibility of Judges" and the "Rules on Disciplinary Proceedings and Disciplinary Liability of Public Prosecutors and Deputy Public</p>

	<p>Prosecutors” with the relevant Council of Europe standards and good practices of different European jurisdictions. The opinion concluded that the Rules constituted a well-designed and generally acceptable basis for functional system of the disciplinary responsibility of judges and prosecutors. However, it also identified some shortcomings and proposed concrete remedial actions.</p> <p>In addition, the project translated into Serbian “A Comparative Analysis of Disciplinary Systems for European Judges and Prosecutors” drafted for the 7th edition of the THEMIS Competition – 2012 (Annex 10), thus providing Serbian authorities with details and specificities of other European systems in this field.</p>
Objectively verifiable indicators	<ul style="list-style-type: none"> • Technical paper finalised; • Comparative analysis translated into Serbian and made available to Serbian authorities.
Progress	<p>The findings and recommendations of the expert opinion, including their potential incorporation in the above-mentioned Rules, will be discussed with the disciplinary prosecutors at a follow-up meeting schedule for January 2014.</p> <p>The comparative analysis, apart from enabling the authorities to review legal framework and good practice in European countries, will also help them to decide the system and experience of which country to examine further during a study visit scheduled to take place in October 2014.</p>

Overall, during the reporting period the project implemented 15 actions of 5 project activities. 376 representatives of the beneficiary institutions participated in these actions – 191 male (50,8%) and 185 female (49,2%).

4.2 Indicator fulfilment

The indicators as set by the project’s logical framework mostly refer to the period following the implementation phase. Therefore, this report provides general assessment on how the activities implemented so far contributed or are expected to contribute to fulfilling the indicators.

Expected Result 1:

Indicator – *Minimum 50% of recommendations from risk analysis implemented and the extent to which they are implemented specified (full compliance, partial compliance, non-compliance);*

Current status: *Risk analyses are approaching their final stage and their findings and recommendations will be available in April 2014. The fulfilment of this indicator will be measured subsequent to actions of the authorities in addressing these recommendations.*

Indicator – *At least five legislative and institutional obstacles to efficient detection, investigation, prosecution and adjudication of corruption offenses identified and addressed;*
Current status: *Risk analysis on obstacles to efficient criminal investigations is approaching its final stage. Identified obstacles and recommended remedial actions will be available in April 2014.*

Indicator - *Improved methodology and quality of statistical data;*
Current status: *Project delivered two technical papers addressing this problem and also held a number of discussions with the authorities. In 2014, with the creation of the inter-institutional Working Group assigned to draft the unified methodology on statistics, the project's deliverables are expected to be a keystone in setting up of the new system.*

Indicator – *Increased number (compared to baseline) of reported, investigated, prosecuted and adjudicated cases (pending the adoption of standardised reporting methodology, both basic counting units – cases and suspects to be used), taking into consideration seriousness (all levels of corruption) and diversity (sectors and fields); subsequent identification of main bottlenecks in the system;*

Current status: *Statistics of different bodies (police, prosecutors, courts) show an increase in number of corruption investigations in 2013. However, once unified system of statistics is in place the fulfilment of this indicator will be re-evaluated.*

Indicator – *Increased capacity of trainees due to implemented trainings, minimum 15 trainings and 10% of all beneficiaries trained;*

Indicator - *Sufficient number of ToT trainees available for identified needs, roughly estimated at 30 amongst different beneficiaries*

Indicator - *judges, prosecutors and police officers and long-term training plan in place;*

Current status: *Training programme developed by the project for activity 1.2 sets basis for fulfilment of these indicators.*

Indicator – *Benchmarking system available at the end of the project*

Current status: *Activity 1.6, its deliverables and follow up actions set basis for fulfilment of this indicator.*

Expected Result 2

Indicator – *Minimum 50% of recommendations from risk analysis implemented and the extent to which they are implemented is specified (full compliance, partial compliance, non-compliance);*

Current status: *The fulfilment of this indicator will be measured subsequent to actions of the authorities in addressing these recommendations.*

Indicator – *At least three regulatory and institutional framework issues will be addressed in order to implement recommendations from risk analysis (e.g. promoting ethical conduct, preventing conflict of interest and removing organisational obstacles to combating corruption);*

Current status: *Risk analyses are approaching their final stage. Identified obstacles as well as the recommended remedial actions will be available by April 2014.*

Indicator – *Establishing methodology for collecting statistical data on internal corruption;*
Current status: *Activity 1.6, its deliverables and follow up actions sets basis for fulfilment of this indicator.*

Indicator – *Increased capacity of trainees due to implemented trainings, minimum five trainings;*

Indicator – *Minimum 10 ToT trainees available for identified needs (i.e. depending on recommendations from risk analysis).*

Current status: *Activity 2.3 addressing this matter is scheduled to start in 2014. Therefore, the fulfilment of these indicators will be examined during the next reporting period.*

Given the structure and concept of PACS activities, a detailed assessment of the indicators fulfilment will be elaborated in the second progress report upon completion of the activities referred to above.

5. COOPERATION WITH OTHER STAKEHOLDERS

Cooperation between the PACS project and the relevant state authorities in the implementation of the workplan has been excellent.

5.1 Counterpart and beneficiaries

Cooperation and communication between the PACS project and its main counterpart, the Ministry of Justice and Public Administration (MoJPA), has been excellent during the reporting period. The MoJPA has recognised PACS as a good mechanism for technical assistance not only in the process of implementation of the new Anti-corruption Action plan's measures but also in other areas (e.g. judicial reform, legislative developments, etc.). However, the Ministry has not yet initiated certain policy reforms as regards the crime statistics and benchmarking of corruption related criminal offences (activity 1.6). Without their initiative and pro-active role the assistance provided by the project risks not to be used and applied to a full extent, thus limiting its impact.

Cooperation with the Ministry of Interior has also been highly satisfying. The Ministry cooperated fully and efficiently in the process of risk analysis. However, it remains to be seen to what extent it will be prepared to implement the recommendations of the risk analysis and translate them into concrete policy commitments.

The level of cooperation with other beneficiaries – prosecutors' offices and courts has been outstanding. The same applies to the High Judicial Council and the State Prosecutorial Council. Their active involvement in the risk analysis (activity 2.1) confirms their full commitment to cooperate with the project.

Cooperation with the Judicial Academy, the Academy of Criminalistics and Police Studies, the Anti-corruption Agency and the Anti-corruption Council has also been smooth.

5.2 Other third parties

PACS has been actively cooperating with other donors involved in anti-corruption reforms in Serbia. In particular, the communication and coordination with the OSCE, UNDP and the Anti-corruption team of the US Embassy resulted in avoiding any overlapping of activities with these institutions.

During the reporting period, the project also continued active cooperation with NGOs striving to properly reflect their views when conducting corruption risk analyses.

6. EVALUATION AND MONITORING

The first Result Oriented Monitoring (ROM) aimed at providing external, objective and impartial feedback on the performance of the PACS project was carried out in October 2013.

As foreseen by its methodology, ROM assessed several areas of the PACS project and marked it with A for relevance and quality of design and B for efficiency of implementation to date, effectiveness to date, impact prospects and potential sustainability (marking is done on a scale from A to D with A being the highest mark and D the lowest). More concretely, the main findings and conclusions of the ROM report can be summarised as follows:

- *PACS project was receiving the highest priority and its different activities were directly supporting the implementation of the new Anti-corruption Strategy;*
- *excellent partnership and beneficiary commitment ensures its efficient and effective implementation;*
- *although the project is at an early stage, there is clear evidence that it progresses well towards its desired outcomes and project purpose. The good quality of few already achieved results is confirmed by beneficiaries and target groups;*
- *the risk analyses' recommendations if properly followed can serve as a prioritisation platform for the Serbian authorities that have responsibility for implementing mainstream anti-corruption strategies and operations.*

Finally, two recommendations for improvement were made - one addressed to the European Union Delegation and the other one to the Council of Europe. The latter focuses on the follow up of the risk analyses and states that the Council of Europe should include a detailed follow-up on the status of implementation of the major recommendations resulting from the risk analysis and part of the reporting of project outcomes in the final project report.

7. PROJECT ACHIEVEMENTS, CONCLUSIONS AND RISKS

7.1. Achievements

Project implementation has proceeded according to the workplan. Progress has been made towards achieving project results, as elaborated below. As already noted significant efforts are necessary to be undertaken by the main beneficiaries in order to ensure the proper use of PACS assistance.

Expected result 1: Strengthened capacities to investigate and adjudicate corruption offences

- The initiation of the PACS corruption risk analysis provides an excellent basis for the authorities to develop policy focused on tackling and preventing obstacles to efficient criminal investigation and proceedings.
- The necessary tools for capacity-building for judiciary, prosecutorial and law enforcement authorities on corruption and economic crime cases have been developed, including the comprehensive training of trainers programme and accompanying materials. In 2014, the Project will assist national trainers in acquiring skills to be subsequently shared with peers from the regions based on this training programme.
- A methodological outline with policy advice to streamline statistics and benchmarking for corruption and economic crime cases has been delivered and discussed with all relevant stakeholders. The authorities are expected to take concrete follow-up actions in this respect. Their commitment and initiative are essential for achieving tangible results.

Expected Result 2: Strengthened capacities to fight corruption within the justice sector

- The corruption risk analyses within the judiciary, prosecution and law enforcement are nearing completion with final reports and sets of recommendations scheduled to be delivered in April 2014. They will enable the authorities to develop mechanisms aimed at preventing and tackling corruption within these sectors. In addition, these analyses include extensive assessment of the current state of play not only with regard to corruption but also other related topics such as ethics, integrity and poor conduct in judiciary, prosecution and law enforcement.
- Expert opinion on the compliance of the by-laws regulating the role and functioning of disciplinary prosecutors with the relevant Council of Europe standards and international good practice provides recommendations for enhancing this important mechanism of the High Judicial Council and State Prosecutors Council. Furthermore, the project initiated a review of the draft law on whistle-blowers protection to be finalised at the beginning of 2014 as to contribute in strengthening the legal framework and institutional set up in this area.

7.2 Project Activities' Compliance with the Anti-corruption Action Plan

The Serbian Anti-corruption Strategy and its Action Plan (referred to in section 3.1 of this report) foresee several measures that are fully compliant with some of the project activities envisaged in the workplan. This chapter outlines the project assistance in their implementation:

Action Plan measure 3.4.2.7 - *'Adopting a normative framework that defines clear criteria and procedures for the responsibility of holders of judicial and public prosecutor's function'* and more precisely the activity envisaged within this measure *'Implement provisions of the Rulebook on a disciplinary procedure and disciplinary accountability in order to establish a functional system of the disciplinary prosecutor and disciplinary commission'*

The PACS project has produced the expert opinion on the compliance of the Serbian normative framework on disciplinary prosecutors with the relevant international standards. This opinion embodies just one of the project's actions aimed at strengthening the role of the disciplinary prosecutors of the High Judicial Council and the State Prosecutorial Council. In addition, the project translated into Serbian a comparative analysis of disciplinary systems of European judges and prosecutors. The project will continue its assistance in this area by organising trainings and a study visit for disciplinary prosecutors.

Action Plan measure 3.4.3.1 - *'Creating a multidisciplinary training program for conducting proactive investigations for the police, Military Security Agency, prosecution and court'*

The project has delivered the comprehensive 'Training Curricula for Law Enforcement, Prosecutors and the Judiciary on Corruption and Economic Crime', which include analysis of the training needs and a detailed outline of the proposed multidisciplinary training programme on corruption, economic crime cases, accounting and auditing. The PACS project's assistance will be continued through the organisation of specialised training for trainers sessions followed by a series of trainings conducted by new trainers.

Action Plan measure 3.4.6.1 and its activity *'Establish a multi-sect oral working group that will determine a single methodology for data collection and statistical reporting'* and measure 3.4.6.2 *'Establishing a system for the monitoring of criminal offense cases related to corruption'*

Support to implement these measures was conveyed through the provision of two Technical Papers - "Assessment of the Current State of Play with Regard to Statistics on Corruption and Economic Crime and Recommendations for Improvements in Measuring Progress in Tracking/Handling These Cases" and "Interactive Criminal Statistics for Tracking and Tracing", both aimed at assisting the Serbian counterparts with setting up a reliable record keeping/benchmarking system. As a concrete follow up measure, PACS organised a workshop to discuss these technical papers with all relevant stakeholders. If implemented accordingly, conclusions reached during the workshop and recommended concrete policy could lead to significant improvement in this area.

Action Plan measure 3.4.6.3 - *'Enabling interconnection between databases on criminal investigations, and/or electronic exchange of information and access to databases by prosecutors and the police, Customs Administration, Tax Administration, Agency and other relevant authorities'*

The Technical Paper (prepared under activity 1.2 and attached as Annex 5 to this report) outlines the possibilities of direct access to specific data on citizens' property that law

enforcement agencies have once criminal investigation is launched.

Action Plan measure 3.4.5.3 - '*Continuous training of judges and prosecutors in financial investigation*'.

Project contributed to implementation of this measure through provision of the training programmes on financial investigations delivered by the joint project of the Council of Europe and the European Union 'Criminal Asset Recovery' (www.coe.int/car).

7.3 Conclusions

To summarise, the project has initiated the activities that contributed directly and considerably to the achievement of both project expected results.

During the next reporting period the project will focus primarily on completion of the risk analyses and further support in implementation of their recommendations, delivery of the training and incorporation of the training programme into the curricula of relevant institutions. Activity 1.6 (setting up of a reliable system of statistics and benchmarking of progress in investigating, prosecuting, adjudicating corruption/economic crime) will continue subject to beneficiaries' follow up actions while another large scale training programme on conflict of interest and ethics for judges, prosecutors and law enforcement (activity 2.4) will be carried out as foreseen by the workplan.

However, it has to be reiterated that the level of achievement of the project results will depend significantly on the actions of the authorities, and specifically their readiness and commitment to do the following:

- Adopt policies based on the recommendations of the PACS corruption risk analyses;
- Incorporate training programme into institutions' training curricula;
- Establish an inter-institutional Working Group assigned to implement measure 3.4.6.2 of the Anti-corruption Action Plan, concerning unified module for record keeping methodology and benchmarking of corruption related criminal offences;
- Further strengthen the offices of the disciplinary prosecutors within the High Judicial Council and the State Prosecutorial Council.

7.4 Risks

Lack of co-ordination and follow up actions by stakeholders

Commitment, active cooperation and coordination of all relevant state institutions are preconditions for the success of any anti-corruption reform. Support from the beneficiaries remains crucial for successful delivery of the PACS outputs. It has to be noted that throughout the reporting period, the beneficiaries fully cooperated and supported the implementation of the project activities. However, it remains to be seen if this positive trend continues when it comes to the actual implementation of recommended policies and concrete use of the assistance provided by the project so far.

Last but not least, it is important that authorities continue to cooperate efficiently, not only with the project but also with each other in order to secure the maximum use of the technical assistance. From its side, the PACS project will continue the already established good practice of keeping all relevant parties fully informed of its activities and goals in each area of intervention.

8. VISIBILITY

Throughout the reported period, the project paid special attention to visibility of its actions. Project news, events and outputs/deliveries (e.g. expert opinions on legislative and other draft regulations and policy advice papers) are regularly reported on the Council of Europe Economic Crime website (www.coe.int/corruption) and the section which is exclusively dedicated to the PACS project (www.coe.int/pacs).

Prior to an event involving the participation of high level representatives, the main project partners (EUD, CoE and Ministry of Justice and Public Administration) discuss and agree on the content of press release/media advisory or any public notification note related to the activity.

All project documents are prepared and published in accordance with the format foreseen by the Visibility Guide for European Union/Council of Europe Joint Programmes' visual identity. This concerns press releases/media advisories; technical papers; activity agendas publications and other project deliverables.

Project brochures, information and promotional materials (banners, pens, notebooks, etc.) were designed and distributed to beneficiaries and wider public to explain and promote the project and its expected results.

It has to be noted that the project's Start-up Conference substantially contributed to the overall project visibility. It attracted significant media attention due to the level of participation, keynote speeches and the relevance of the topic discussed, and was widely reported in the daily newspapers, TV programmes and internet news.

Name of the contact person for the Action: Ivan Koedjikov

Signature: 

Location: Strasbourg

Date report due: 15 January 2014

Date report sent:

9. LIST OF ANNEXES

Annex 1 – Technical Paper – Risk Analysis Methodology Guide

Annex 2 – Terms of Reference for Implementation of Activity 1.1.

Annex 3 – Questionnaire for Judges, Prosecutors and Lawyers

Annex 4 – Technical Paper – Training Needs Assessment and Training Curricula for Law Enforcement, Prosecutors and the Judiciary on Corruption and Economic Crime

Annex 5 – Training Manual on Basic Anti-corruption concepts and Technical Paper – Addendum to the Training Manual “Basic Anti-Corruption Concepts”: Data on the Status of Wealth of Private Citizens in Corruption Investigations - Practice and Legal Framework in Germany

Annex 6 – Technical Paper – Assessment of The Current State of Play With Regard to Statistics on Corruption and Economic Crime and Recommendations for Improvements in Measuring Progress in Tracking/Handling These Cases

Annex 7 – Technical Paper – Interactive Criminal Statistics for Tracking and Tracing

Annex 8 – Terms of Reference for Implementation of Activity 2.1 – Risk Analyses within the law enforcement

Annex 9 – Terms of Reference for the Implementation of Activity 2.1 - Risk Analysis within the Judiciary and the Prosecution

Annex 10 – Technical Paper – Expert Opinion on the Rules on Disciplinary Proceedings and Disciplinary Liability of Public Prosecutors and Deputy Public Prosecutors of the Republic of Serbia and the Rulebook on Disciplinary Proceedings and Disciplinary Responsibility of Judges of the Republic of Serbia