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Corruption in Serbia” (PACS)**
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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**

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1 Introductory and Background

This paper analyses the current framework of the judicial and law enforcement statistical system in Serbia with regard to measuring progress and level of efficiency of tracking/handling of corruption/economic crime cases in the Serbian judiciary and law enforcement system. The paper also aims at providing recommendation for setting up the records keeping methodology/statistics 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 methodology used for the evaluation of the current system and subsequent provision of recommendation combines:

- analysis of the statistics tables received during the fact finding mission, including the explanations and remarks received from the authorities during the meetings held in Belgrade on 18-19 April 2013;
- analysis of previous project and their report that, in different ways, treated this subject - the UNODC project on development of monitoring instruments for judicial and law enforcement institutions in Western Balkans and its Technical Assessment Report for Serbia¹ (hereafter the UNODC report), and the research report „Law enforcement policy in Serbia- Evidence based transparent policy making”, prepared by professor Petrus C. van Duyne, Ms Elena Stocco, and Ms Jelena Dimitrijević and published in 2012 (hereafter the Van Duyne report);
- analysis of the responses to the Questionnaire - Information requested by the European Commission to the Government of the Republic of Serbia for the preparation of the Opinion on the Application of Serbia for the European Union Membership - Chapter 18: Statistics, Chapter 23: Judiciary and Fundamental Rights and Chapter 24: Justice, Freedom and Security²; and
- other sources open to public (the websites of the Ministry of Justice and Public Administration, Ministry of Interior, National Assembly, Republic Prosecutor Offices, courts).

As mentioned above, prior to the submission of this paper and with aim to collect qualitative in-depth data, experts team had several meetings in Belgrade in April 2013. The meetings were held with the representatives of the Ministry of Justice and Public Administration, the Republic Prosecutor’s Office and the Prosecutor Office for Organized Crime, the Supreme Court of Cassation (including the Judges of the Special Department for Suppression of Organized Crime of the Higher Court in Belgrade), the Ministry of Interior, and the Anti-Corruption Agency.

‘Following the mission, useful advice was received from Professor van Duyne, Vladimir Radimirovic of Pistaljka and the UK Home Office Registrar (Steve Bond)’.

However, it needs to be noted that meeting with the Republic Statistical Office (RSO) was not held due to unavailability of their officer in charge for prosecutorial and courts statistics. Instead of meeting the expert team under such circumstances the RSO

¹ http://www.unodc.org/documents/southeasterneurope//Technical_Assessment_Report_Serbia_final_ENG.pdf

² http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_analytical_rapport_2011_en.pdf

provided the expert team with the above-referred report „Law enforcement policy in Serbia- Evidence based transparent policy making”.

Serbia has acknowledged problem of corruption. TI ranks countries according to a corruption perceptions index. Rankings fluctuate from year to year, and Serbia has recently been both better placed (at 78th in 2010), and worse (at 86th in 2011), but is currently ranked alongside China at 80th out of 176 countries'. Serbians do not consider that corruption is Serbia's main problem – unemployment and poverty are consistently ranked higher. The Van Duyn report notes that 'Depending on the survey carried out, the rank order of the seriousness rating of corruption is at the third or fourth place and ranges from 8.7% to 18%. Asked for direct experience with giving a bribe 15% to 20% of the respondents stated to have given a bribe in the past three/twelve months'. This rate of bribery is much higher than the annual average for EU countries which is 8% .

It should be noted that developing improved systems for tackling corruption is likely to result in a higher level of reports of corruption. International research elsewhere shows the main reason people don't report wrongdoing is that they think nothing will be done. So if that impression changes, there may be many more reports. That was the experience in Croatia, when USKOK was established. Any increase in reports of corruption cases should therefore not necessarily reflect badly upon the Serbian authorities. With more activity against corruption, leading to greater confidence in the population, increased reporting is to be expected and is actually initially a positive indicator.

A 2006 survey, carried out by Transparency Serbia with the Westminster Foundation for Democracy, asked a sample of people to whom would they turn for help if faced with corruption. Only 11.1% would go to the police, and 6.5% to prosecutors. Most (22.6%) would turn to family and friends and a significant proportion (12.1%) would not approach anyone. The main institutions trusted in such cases were the Anti-Corruption Council (19.7%), and the People's Office of the President (8.3%), neither of which has executive powers. This survey took place before the Anti-corruption Agency (hereinafter 'the Agency') was established. A 2012 survey conducted by TNS for UNDP³ shows that 75% of people have now heard of the Agency and 13% think it should be leading the fight against corruption. Trust in the police on the specific issue of corruption remains very low, with 74% believing that the police are too corrupt to investigate corruption. UNDP surveys show that only 11% of those who experience corruption report to law enforcers.

These figures need drastic improvement. There is clearly under-reporting at present, and the Serbian authorities are currently working on a new Law on Whistleblowing which will encourage reports of corruption (and other wrongdoing). Therefore it is to be expected that progress will imply that more cases of corruption will be reported. The main question to answer will be: are these cases, especially the important ones, being pursued?

Overall, the Serbian authorities are aware of the need to increase the institutional capacity to measure the progress and level of efficiency and to make effectiveness visible and transparent in and outside the country, especially for the prosecution of serious criminal offenses of corruption and economic crime.

³ <http://www.slideshare.net/undpeuropeandcis/corruption-benchmarking-in-serbia>

Further to that, meetings also discussed other issues related to corruption starting from the legal framework to its sociological aspects and non-existence of unique definition of this phenomenon.

Transparency International states that corruption is the abuse of entrusted power for private gain. World Bank similarly defines corruption - the abuse of public office for private gain, the OECD defines corruption as an 'active or passive misuse of the powers of Public officials (appointed or elected) for private financial or other benefits' while some independent authors define corruption as a 'violation of non-partiality principle (Vito Tanci); and as a 'deviate behaviour of individual in relation to formal role (Nye and Khan).

2 Serbian Legal Framework on Corruption

The first document that has a definition of corruption is the Serbian National anti-corruption Strategy adopted in 2005 by the National Assembly. The Strategy defines corruption as a relationship based on misfeasance in the public or private sector with the aim to acquire gain for oneself or another.

In 2008, Serbian National Assembly adopted the Law on the Anti-corruption Agency that has almost identical definition of corruption as the one in the Strategy- it is a relation based on abuse of office or social status and influence, in the public or private sector, with the aim of acquiring personal benefits for oneself or another.

Criminal offences typically considered as criminal offences of corruption are located in the Chapter 33 of the Serbian Criminal Code - *Criminal offences against official duty*:

- Abuse of office
- Abuse of law by the judge, public prosecutor and deputy public prosecutor
- Embezzlement
- Trading in influence
- Accepting bribe
- Giving bribe.

With the latest amendments of the Criminal Code, adopted in December 2012, two new criminal offences are introduced into the Serbian legal system:

- Abuse of office by a responsible person
- Abuse in relation to public procurement.

Serbian system recognized so called *high level* corruption. This derives from the Law on Organization and Jurisdiction of the Government Authorities in Suppression of Organized Crime which establishes the competence of the Prosecutor for organised crime when an accused, that is, a person receiving the bribe, is an official or a responsible person holding public office, on the grounds of the election, designation, or appointment by the National Assembly, the Government, the High Judicial Council, or the State Prosecutorial Council, as well as for the criminal offence of abuse of office when the value of material gain exceeds 200.000.000,00 RSD (approximately 180.000,00 Euros).

Usually, a perpetrator of a criminal offence with the element of corruption is and official person or responsible person, or a person with the social power - politically exposed

persons, members of family or friends of the politically exposed persons. However, these cases can also be considered as serious corruption although they don't necessarily have to be within the competences of the Prosecutor for Organized Crime.

3 Brief overview of the judicial and law enforcement system in Serbia-specialised departments to tackle corruption within the law enforcement authorities and the judiciary

In the Criminal Police Directorate, in the Office for Combating Organised Crime, there is the Division for Combating Financial Crime that includes a specialised Section for Combating Corruption. In addition, the police officers dealing with white-collar crime in the Office for Combating Crime of the Criminal Police Directorate within the Ministry of Interior head office, also deal with detecting and combating corruption crimes.

All Police Directorates in the Republic of Serbia have Sections for Combating Corruption. Their activity is regulated by the Law on Police and the Criminal and Criminal Procedure Code while in case these are criminal offences in the area of organised crime also by the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime.

The Prosecutor for Organised Crime is defined as a prosecutor's office of special jurisdiction and presents one of the competent authorities for fight against corruption. Pursuant to the Law on Organisation and Competence of the State Authorities in Suppressing Organised Crime that has been implemented since January 2010, the jurisdiction of the Organised Crime Prosecutor's Office covers also the corruption related criminal offences. The Article 2 of the Law on Organisation and Jurisdiction of the Government Authorities in Suppression of Organized Crime stipulates that the Prosecutor for organised crime is competent for criminal offences against official duty (Articles 359, 366, 367,368 of the Criminal Code) in cases when accused for being bribed is the official/responsible person holding a public function by election, appointment or nomination by the National Assembly, Government, High Judicial Council or State Prosecutorial Council. The same jurisdiction is foreseen for the criminal offence of abuse of office when the value of material gain exceeds 200.000.000,00 RSD.

In accordance with the Plan and Program of the Work of the Republic Public Prosecutor's Office, special division for combating corruption within the Republic Public prosecutor's office, the Appellate public prosecutor's offices (Belgrade, Kragujevac, Novi Sad and Niš) and the Higher public prosecutor's offices (Belgrade, Kragujevac, Novi Sad and Niš) were established in 2009.

In 2010 a Mandatory instruction A-194/10 was issued by the Republic public prosecutor. This instruction provides that the special division is in charge for monitoring the decisions of lower prosecutions in case when they dismiss criminal charges and abandon from prosecution after conducting investigation or at the main preparation for the trial. In addition to that the division also performs the control of rejected applications or cancellations from further prosecution at all stages of criminal procedure. Moreover, this division is tasked to perform the annual control of lower prosecutions concerning their activities in relation to criminal complaints for criminal offences with corruption elements.

The Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime, Corruption and Other Particularly Serious Criminal Offences defines the jurisdiction of the Higher Court in Belgrade, as a first instance court in these types of criminal offences, while the Appellate Court in Belgrade is defined as a second instance court. Furthermore, there are special departments in both courts in charge for organized crime cases.

4 Current state of play concerning statistics

4.1 Republic Statistical Office

According to The Law on Official Statistics, the RSO is the main body for collecting, keeping and disseminating of data, and is the authorized professional agent, organizer and coordinator of the official statistics system, and represents the Serbian official statistics in the international statistical system. The Statistical Council of the Republic of Serbia plays a special role in the official statistics system. The Council is an expert advisory body which primarily deals with strategic issues, i.e. reviewing and giving opinion on the Strategy for the Development of Official Statistics; drafting a five-year programme and annual plans of statistical research; providing opinion on the need for implementation of a census; setting standards, methodologies and other.

The RSO presents and publishes the data on the reported, charged and convicted criminal offenders in the annual Statistical Yearbook.

These data are the result of the four regular yearly statistical surveys on perpetrators of criminal offences, carried out according to the Programme and Plan of Official Statistics – Survey on adult perpetrators of criminal offences against whom the proceedings by crime reports and preliminary proceedings were terminated (SK-I); Survey on accused adults against whom the criminal proceeding is legally effective (form SK-II)⁴; Survey on minor perpetrators of criminal offences against whom the proceedings by crime reports and preliminary proceedings were terminated (form SK-III) and Survey on minor perpetrators against whom the criminal proceeding before the juvenile court is legally effective (form SK-IV).

Data collected in these surveys provide information about the perpetrator, criminal offence for which the accusation was lodged and the phase of criminal proceedings: this includes the data on termination of proceedings, type/format of the decision, duration of proceeding and pronounced sanctions. Statistical surveys are compiled annually. The data are processed annually, for each calendar year while data are collected on monthly basis.

Description of the current situation, according to the responses to the Questionnaire-Information requested by the European Commission to the Government of Serbia for the preparation of the Opinion on the application of Serbia for membership of the European Union, CHAPTER 18: STATISTICS, Theme 1.10 Crime and criminal justice, Module 1.10.01. Administrative data on crime and criminal justice, is as follows: *The above-referred regular statistical surveys conducted by the Statistical Office, include surveys on judicial statistics: nine surveys are carried out each year. The surveys cover minors and adults who committed criminal offences, including also the legal entities charged for*

⁴ Forms SK-I and SK-II are provided in the Addendum I

criminal liability for committing the economic crime offences. The reference unit in all the surveys is an individual - perpetrator of a criminal act, and/or economic crime offence, while the reporting units, depending on the phase of the procedure, are the public prosecutor's office and courts.'

Two surveys are dedicated to juvenile perpetrators of criminal acts (aged from 14 to 18) and include information on criminal complaints lodged, prosecutions and convictions against juveniles.

Two surveys have been dedicated to adult perpetrators of criminal acts (over 18 years of age) and include information on criminal complaints lodged, prosecutions and convictions against them.

All the criminal acts defined by the Criminal Code and other legislation laying down the criminal liability for their violation, are being part of these surveys/records keeping. Obviously, the purpose of such surveys is to enable record keeping on perpetrators of criminal acts, making the following data on perpetrators of criminal acts available: their gender, occupation, nationality, age, citizenship, marital status, educational attainment, whether they were kept in detention, which criminal act(s) was/were committed, what was the final court's decisions, what was the imposed sanctions, how long the proceedings lasted, including, for juveniles, the data on family status. Eventually the survey results are being published (they are also available at the Republic Statistical Office web-site www.stat.gov.rs.com).

In 2006, the revision of all the surveys on adult and juvenile perpetrators of criminal acts was conducted (due to the implementation of a new Criminal Code, Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles). The revision resulted in inclusion of the questions about injured parties (gender and age), while the new forms have been applied since 1st January 2007.

Activities and requirements of the Eurostat are being followed, with regard to this module. The Office uses the Ministry of Interior data to define the crime indicators.

The method of data collection of RSO is documentation analysis and it is conducted by forms SK-I, SK-II, SK-III and SK-IV.

Fundamental sources for data collection are final decisions of the public prosecutor's office or final court decisions. Therefore, the authorised reporting units responsible of filling in and delivering statistical forms are: competent basic and higher public prosecutor's offices and competent basic and higher courts.

The Republic Statistical Office determines the methodology for conducting the surveys, drafts forms and methodology manuals and deliver them to the report units. Filled forms are returned to the Republic Statistical Office. The Republic Statistical Office monitors the scope and accuracy of the data, encoding, and data records entry, logical and computer control.

The official statistics, as a system, is aimed at providing a minimum of quantitative indicators.

Steps being taken to comply with requirements

Expanding inter-agency cooperation between the Ministry of Interior, courts and prosecutor's offices, aims at achieving a more efficient data exchange and further development of crime statistics, compatible with the European Union 2006-2010 Action Plan of the Committee of Crime and Criminal Justice. The compliance with the requirements has to be achieved by 2015.

In this regard, the major obstacles to be solved before being fully compliant with Eurostat have been identified. They mostly concern financial and expert resources and establishment of a broader cooperation with international institutions.⁵

4.2 Ministry of Interior

The Ministry of Interior uses Joint Information System (JIS) with centralised databases that contain information concerning different fields of public security. In order to enable the efficient storing, tracking and using data on criminal offences and perpetrators and also assessing the scope and type of the problem in order to facilitate more efficient planning of work activities and their improvement, "Criminal offences and offenders" electronic database was designed and maintained.

This database contains information on criminal proceedings launched *ex officio* by the police officers throughout the territory of the Republic of Serbia and also the data about the perpetrators and their victims.

The authorization to keep this database is stipulated in the Article 76 of the Law on Police and it is kept and used as prescribed by the Ministry of Interior Methodology for collecting, filing, processing and use of data from the field of criminality via information technology. The Methodology also contains Working manual for software system "Criminal offences and offenders", list of characteristics and review of regular and periodical statistical reports.

The data entering falls under the competences of the organisational units of the Criminal Police or authorised police officers responsible for conducting certain police activities and measures, depending on the field of their engagement. They start from the lowest organisational level (police stations) all the way up to hierarchically highest central bodies such as Service for Fight against Organised Crime (hereinafter 'SFAOC') . The information from this database are used both by police officers of the Criminal Police and by other authorised police officers who received the permission from the competent police authorities.

The processed data from Joint Information System (JIS) database are not only used to meet daily needs of the police, such as planning at operational and tactical level, but also for analytical research and identifying the problems of the crime as a whole and in its particular fields, for the purpose of detecting the trends and monitoring the current situation and to that effect, improving the work and more efficient planning of the police activities.

⁵ Information requested by the European Commission to the Government of Serbia for the preparation of the Opinion on the application of Serbia for membership of the European Union. CHAPTER 18: STATISTICS Theme 1.10 Crime and criminal justice

It is also possible to provide statistics and figures concerning criminal offences, perpetrators and their victims to the competent expert and scientific institutions for the purposes of carrying out scientific research, upon their substantiated request, pursuant to the Article 77 of the Law on Police.

The database contains information on:

- criminal offence,
- damaged parties,
- the way of perpetrating criminal offence -modus operandi,
- perpetrators,
- activities of the police,
- the result of the criminal report and the course of the proceedings,
- requests of the public prosecutor's office,
- time and place of perpetrating the criminal offence

The data are also statistically expressed according to the abovementioned categories (criminal offence structure, number of perpetrators and injured parties, gender, age, marital status etc.); JIS allows searches according to all abovementioned categories.

In addition, the standard set of statistical data collected in the "Criminal offences and offenders" database is regularly published in the edition "Statistical Survey on the State of Public Security" published by the Ministry of Interior Directorate for Analytics, based on the Guidelines on the manner of monthly statistical reporting on public security events and phenomena, at the monthly and cumulative level.

The printed version of this edition is submitted to the highest management level at the Ministry of Interior and to the Directors of competent divisions at the Ministry (up to the level of police directorates) while any other statistical data related to the criminal offences can be acquired by special request.

Crime rate is calculated on the basis of yearly data on total number of detected and reported criminal offences in the Republic of Serbia.

For assessing the performance and efficiency of the police in solving the criminal offences or detecting the perpetrators who were unknown in the moment of committing the offence, it is necessary to calculate the solving rate - ratio of the number of subsequently solved criminal offences by work and engagement of the police and the number of detected and reported criminal offences where the perpetrators were unknown in a certain period of time (monthly and cumulatively).

Therefore, police statistics is based on the parameters acquired from criminal complaints against known and unknown perpetrators, submitted to the competent Public Prosecutor's Office, regardless whether a further procedure was initiated based on these complaints.

Obviously such methodology of classifying, analysing and keeping, the statistical data is different from the official statistics provided by the Republic Statistical Office, which is grounded on persons against whom the criminal proceedings are launched (criminal

charges lodged) and on the result of the proceedings led against these persons (based on the records of the prosecutions and courts).⁶

Although the experts team was told the police had the most voluminous information, but that, though there is an annual report on the work of the MoI, most police statistics are still only circulated internally in the MoI. The focus seems to be on analysis by the Analytical Directorate for internal purposes rather than transparency in policing and engaging the public interest in the fight against crime. Outsiders have to make specific requests for any statistics. This is not difficult, particularly since 2009 when Serbia amended its Freedom of Information law, which is currently rated as the best law out of 93 throughout the world surveyed by the Centre for Law and Democracy. In fact, the MoI's life might be easier if it published the statistics, as the law allows requests for published information to be refused⁷.

4.3 Public Prosecution

The Republic Prosecutor's Office is the highest prosecutor's office in Serbia. It has three organizational units - the cabinet, departments and the Secretariat. Within the departments there is a separate department for analytics and informatics which performs tasks related to analysis and information, annual and periodic reports, and other analytical and information activities.

The Republic Prosecutor's Office⁸ among other tasks, based on its own work and on statistical and textual reports on the work of district and municipal public prosecutor's offices, performs analytical-informatics tasks.

The Secretariat performs the collection, processing and analysis of documentation and statistics on criminal prosecution. Employees in this unit are tasked to collect process and analyse documentation related to the statistical data of lower public prosecutors and special public prosecutors.

The Republic Prosecutor's Office is processing data, based on criminal complaints against certain persons, and according to the indicators presented in their annual statistical table of criminal acts against the economy and official duties.⁹ This table provides a detailed overview on the number of submitted criminal charges, investigations, indictments, verdicts and appeals.

Prosecutor for Organised Crime maintains annual statistics under the following categories/criteria

- number of persons
- number of cases – a total number and the number per each crime category
- number of criminal charges
- number of requests for conducting an investigation

⁶ Information requested by the European Commission to the Government of Serbia for the preparation of the Opinion on the application of Serbia for membership of the European Union. Chapter 24: Justice, freedom and security q. 133.

⁷ Article 10 of the Law on Free Access to Information of Public Importance

⁸ Organisation chart in the Addendum II

⁹ Addendum III - summary table of criminal acts against the economy and official duties

- number of completed investigations – resulting in suspension, termination or indictment
- number of non-completed investigations
- number of indictments
- number of judgments delivered by the first-instance courts
- number of persons who have not been sentenced by first instance courts
- number of convictions:
 - imprisonment
 - fines
 - caution measures – suspended sentence
 - security measures

- number of appeals made by the Public Prosecutor – according to the type
- number of successful appeals
- number of unsuccessful appeals
- number of persons held in detention for over 3 days
- number of unresolved charges from previous years
- number of non-completed investigations at the end of the report period
- number of suspended cases following the indictment
- number of indictments transferred to the jurisdiction of other Public Prosecutor's Office
- number of indicted persons who have not been sentenced by first-instant courts in the previous year.

In addition, a separate registry is kept for seized and confiscated property gained through committing criminal offences and under the following categories/criteria:

- number of persons and their capacity
- value of property
- number of orders for conducting financial investigation
- number of requests for seizure of property
- number of orders on prohibiting the disposition of property
- number of accepted or declined requests for seizure of property
- number of successful and unsuccessful appeals against seizure of property
- number of requests for confiscation of property
- number of accepted or declined requests for seizure of property
- number of successful and unsuccessful appeals against confiscation of property
- final property value.

A case may be opened by the prosecutor either ex officio or on receipt of a criminal complaint by police. In either case it is registered under a new number, which makes it difficult for the police to enquire about what has happened to their cases. Records are kept both online and on paper. Each prosecution office has at least one statistician who completes the necessary tables. Prosecution statistics are reported to the Parliament and published online. Cases are tracked internally and – in particular - senior prosecutors monitor corruption cases which are dropped, as such cases are at risk of improper influence. As noted in the previous sections of this report and according to the Van Duyne report it is stipulated that each prosecutorial intended decision to abandon or to reject a case 'with elements of corruption' has to be reviewed by two senior prosecutors belonging to the same office. Only after their approval is the rejected case

sent to the Republic Prosecutor's Office which archives it. If the prosecutors decide that there is no sufficient reason to reject the case, the file is sent back to the prosecutor who originally intended to reject it. The courts informed the experts team that once an indictment had been framed, discontinuances were uncommon.

Prosecutors informed the experts team that in 2007 they introduced a system of marking corruption-related offences. They felt a specific list would be too limiting as the headline offence in a corruption-related case might be something quite different – e.g. official secrets. Since 2010 they have employed the aforementioned broad definition of corruption in Art 2 of the Agency Act.

The use of this broad definition is helpful in picking up all relevant cases but it does contain a subjective element: in particular, 'abuse of office' is a very wide concept and there is a risk that for some data inputters it might catch, for example, simple misuse of office time and IT. Guidance and training seems to be needed to ensure consistency.

The prosecution also informed the experts team they had recently begun to collect figures on the amount of assets seized. This was done primarily at EU request as to enable disaggregation of corruption cases by sector (health, education etc).

This latter development is crucial to benchmarking progress. To check whether prosecution activity is targeting the right areas, it will be necessary to compare these figures with disaggregated figures on citizen reports. Apart from any police figures that may be available, useful figures are shortly to be made available by the NGO Pistaljka on its Corruption Map. The idea behind the Map is to post basic information on the tips received by this NGO. Currently, they receive 4-5 tip-offs per day. All tips will now be posted on the Map on their website with information including not only place and date, but the institution referred to. For the time being they are asking those who report to choose from: Political parties, Government/Ministries, Health care, Judiciary, Police, Education, Companies, Local government, Inspections. They will change categories to reflect reporting patterns in the future.

4.4 Courts

Analysis of table received in the Appellate Court in Belgrade, including the explanations and remarks received from the authorities during the meetings lead to conclusion that courts statistical data is based on cases.

The Appellate Court in Belgrade is processing data according the following indicators-ordinal number, subject, number of judges in the subject, old cases by the date of receiving them in the court, old cases by the date of initial act, average flow of cases per judge, total solved cases (in meritum, in another way, average of solved cases per judge in the department, quality of verdicts (confirmed, reversed, set a side, partially reversed or set a side) and other data regarding the efficiency of judges.

Statistical data processed in this way, relying mostly on facts of the case, completely differ from the statistics provided by the Republic Prosecutor's Office, which is grounded on persons against whom the criminal proceedings are launched.

After the court decision is final, all data on the convicted person and the criminal offence on account of which the proceedings were conducted, are submitted to the Republic Statistical Office.

The Republic Statistical Office is provided by the courts with the data they request in the prescribed form SK 2, which includes the general information on the convicted person, the criminal offence for which they have been convicted, previous convictions for the same criminal offence, the previous penalty, etc.

Special Department of the Higher Court in Belgrade keeps records that enable the preparation of reports according to the type of criminal offence, persons and the report on the penal policy.

Records on seized and confiscated property are kept in electronic form, by recording data on persons, criminal offences and the seized and confiscated property.

But, database of Statistic Office of the Republic of Serbia for the Prosecution Offices and that of the Courts are based on two different forms, the forms sent by the prosecution offices (SK-I) and the Courts (SK-II) which do not allow a fusion into one database as the identification numbers and variables appear to differ.¹⁰

The Ministry of Justice informed the experts team that when the prosecutor's report is received at a court it is registered, usually only manually, and again given a new number. Statistics are collected from the courts by both the Analytical Department of the Ministry of Justice (MoJ) and the RSO. At present, in the absence of effective IT solutions, MoJ have to collect the information from individual courts by visiting them. The IT was due to be improved, but no date for that was yet known. The MoJ told us that in 2010 they introduced a new system that enables corruption cases to be identified. Comparison with 2012 showed there was a trend towards increased sentences. Statistics were published and reported to Parliament.

It became clear following the meeting with the Ministry of Justice that, in measuring progress, there will be problems with historical data from the courts - MoJ said they could not go back beyond 2010, when the overall court system changed. All court data prior to 2010 has been taken into the possession of the Judicial Council. (On the other hand, the prosecution can go back 10 years on corruption and the MoI said that police statistics started in 2000 but were refined in 2006).

Judges stated that corruption was rarely committed on its own. They said the Special Department on Organised Crime had prosecuted, or was in the process of prosecuting, a total of 119 major corruption-related cases, and final judgments had been reached in 45 of these. However, they were unable to say over what period these cases had been dealt with. They said this could be the total since 2003, when the Special Court had been established to hear these cases. All defendants but 3 had been convicted. All were natural persons, and so far there had been no prosecutions of legal persons. The investigations generally involved pro-active investigative means and the strength of evidence meant defendants had little chance of acquittal in court.

¹⁰ Van Duyne report

Cases were tracked and the High Court checked on cases which seemed to be moving too slowly in the lower courts. All judges had to report on their backlog of cases, with particular attention to those over 2 years old.

4.5 Anti-Corruption Agency

The Anti-Corruption Agency, which started its work in January 2010, has a wide range of competences for preventive measures. It supervises conflict of interest cases and the funding of political entities. It also receives asset declarations from officials and maintains an asset register on its website. Under Article 65 of its law, it receives 'complaints' from legal entities and natural persons (who may be in the private or public sectors) on issues within its remit. It receives significant numbers of complaints (660 in 2011) and as these are reports about wrongdoing they can be seen as whistleblower cases by another name. The Agency has recently also been given separate powers in relation to public sector whistleblowers in corruption cases, in particular under the 2011 Rulebook.

It is a function of the Agency under Article 5 to issue guidelines on Integrity Plans in both the public and private sectors. A senior judge, when asked to assess the situation in Serbia, based his view that things were improving on wider, more intangible elements. He particularly mentioned the Agency's work with the courts on integrity plans. He thus underlined the fact that corruption is a diffuse concept and that crime statistics are always only part of measuring progress in tackling corruption. The development of effective integrity plans is a vital benchmark.

The Agency has not been given investigation or prosecution powers, but it can request documents and may pass on evidence of corruption through its work on asset declarations or from calls from whistleblowers. Prosecutors must inform the Agency what action they are taking within 90 days. Of course, within that timescale, the answer may be that not much has happened. The Agency needs to track cases for longer than that if it is to give useful feedback to the persons who reported them. The Agency say that analysis of the reports they receive from citizens showed the major sectors of concern were health, judiciary, inspectors, education and privatization. This analysis had informed the National Strategy. Clearly one would expect prosecutions, over time, broadly to reflect citizen concerns.

The Agency publishes a lot of figures on its own work, which are very relevant to the overall picture on corruption. As a new institution it recognizes that opening up its performance to public scrutiny is essential to its credibility. However, the discussions with Agency made clear that enforcement statistics are only one of the benchmarks. Agency also stated that they would judge their success in the fight against corruption by whether all MPs submit asset declarations: there is widespread public concern about the unexplained wealth of MPs and some other public officials and the submission and effective checking of returns would help demonstrate they no longer had anything to hide.

During our discussions with the Agency the issue of Integrity Testing was raised. They were aware of such activity within law enforcement agencies elsewhere but suggested that it was not for Serbia. Experience in the UK shows that only when the fear of detection is present corrupt individuals will weigh up the cost benefit of indulging in corrupt activity. If the benefit of such activity outweighs the detriment (or likelihood) of

being caught then they will continue. A robust intelligence-led integrity testing unit has a huge impact upon corruptors and the public's perception of how the state views corruption. Integrity testing also helps to protect the innocent against unfounded allegations.

5. Previous Projects and proposals on subject

5.1 UNODC Report

In June 2010 a UNODC Technical Assessment Report, written within the context of a project funded by the EU CARDS programme, described the collection, analysis and use of justice and home affairs statistics in Serbia. This report is now out of date in some respects, especially as regards court statistics, as the court system changed substantially in 2010.

The report assesses the system in Serbia against international standards. As the report puts it 'standards related to justice and home affairs statistics remain in their infancy at EU level.' Rather such standards as there are derive from expert groups and interpretation of the actions of Eurostat. Although some international work has been done, there is no EU *acquis* and in practice a wide range of possibilities are open to Serbia as a potential EU member.

Some of the standards the report sets out may therefore open to adjustment and re-consideration. The first states that 'any reported or suspected crime coming to the attention of the police should be recorded as a crime incident' and that 'the threshold for recording a suspected crime incident should be clearly defined'. This seems indisputable. Some record of suspected crimes should be maintained, but our main concern in this report is with how cases positively identified as crimes are tracked through the system.

The report states that when the police consider that an event constitutes a crime, they enter the information in the crime registry (KU) of the police station or the regional police directorate. Before submitting a criminal complaint to the prosecutor, the event is entered in the national online Unified Information System (UIS), which has existed since 1991. Each police case has a unique number. The report states that 'it is good practice for individual prosecuted persons to be assigned an integrated file number (IFN)' which would follow them through the system. As noted below, the UK, like the Serbian police, has a crime-based reference number. The main forms which the prosecution uses to track cases against adults is the SK-I, while the court uses the SK-II, which are both person-based.

The report notes that the reality is that 'As the police, prosecution and court do not use the same (automated) case-tracking systems, they also do not keep the same identifier when the case passes from the police to the prosecutor and the court'.

As regards the follow-up given to this report, the later Van Duyne report states that four training courses were held by UNODC, between October 2010 and January 2011. They say 'in the first course the principle of integrated file number and electronic data management was mentioned and that on the whole as main (intended) tangible outcomes are mentioned: a Pilot Data Collection.

Exercise, the forwarding of data to the UNODC “in the next two weeks” (after 26 January), and the establishment of a judicial/criminal statistical Committee. Our attempt to get in touch with that intended statistical committee or to obtain a token of the pilot exercise failed, as there proved to be no committee and no successful pilot output’.

5.2 Van Duyne Report

This report aiming to shed light on how corruption is handled in Serbia, starts with an analysis of the available statistics. It states that ‘despite the official policy of intensifying the fight against corruption in Serbia, when one wants to ‘line up’ facts and figures in an orderly way, one soon finds oneself moving from dusk to darkness’. They said in particular that *‘getting access to police figures proved ‘difficult, time-consuming and tortuous’ and the police figures eventually obtained proved too poor in content to be useful.’*

It was only by making extensive contacts over a period of time that the authors managed to collect an impressive array of figures. They say the RSO was particularly helpful to them. The headline figures are that ‘In the time span 2007-2009, the Prosecution Offices received 11.823 complaints, mostly coming from the police (45%), followed by complaints from the citizens, whether as direct victim or otherwise. Most complaints were labeled as ‘abuse of office’ (62%), though this qualification covers a large diversity of criminal conduct, not all of which represents corruption. The second complaint category was ‘violation of law by the judiciary’ (16%), followed by embezzlement (11%). A substantial part of the citizens (39%) who complained about judiciary corruption did so because of perceived law breaking by (deputy) judges and prosecutors. Bribery (taking or offering) were reported very infrequently (2,5%), least of all by the citizens (around 1,5% of the citizens’ complaints)’.

However it notes that *‘there was no significant correlation between the rank order of indictments and verdicts per Court district, which indicates that there is no statistical coherence between the data of the Courts and the Prosecution Offices. Within the set of Court and Prosecution data there were also many unexplained differences. For this reasons the judicial system is to be considered rather as a random box excluding the notion of an anti corruption strategy functioning within their confines’.*

Observing the serious flaws in the databases and communication, the research team designed the outlines of an Integrated Criminal Data Entry Tool (ICDET). Their analogy is with the ‘bill of lading’ used in shipping. They put it as follows:

‘Apart from the criminal law aspects, the processing of a criminal case resembles that of a cargo: it moves through various phases and all along it has to be monitored, lest its traces get lost somewhere. For the tracing of cargo there is an age-old instrument: the bill of lading. This, together with an identity description, at present a bar code, follows the cargo wherever it goes, all the way literally producing a ‘track record’. At each phase an operator adds something about the phase of handling, keeps a copy and forwards the parcel to the next addressee. Arriving its destination, a copy is sent back to the sender who is informed of its orderly arrival’.

The ICDET would update and integrates the existing information-gathering systems of the police, prosecution and courts. The report explained: ‘The basic requirement for

such a tool is that the basic counting units (cases and suspects) can be followed throughout their whole history in the criminal procedure: the suspects and cases must be followed from entry at the police till their finalisation at any level of the criminal law institutions'. As things stand, they say, 'a simple question such as "what % of the filed cases of 2010 led an indictment or to a conviction", remains unanswered'. This is because it is impossible to relate what happened in the courts to the original criminal complaint – at the moment each case gets 3 separate 'bills of lading'.

Their proposed ICDET, whose contents they set out in detail, would combine the existing SK1 and SK2 forms used by prosecutors and would be person-based. As noted below, the UK offers an example of an alternative, offence-based system.

The Van Duyne report also provided a project proposal to take the issue forward, but it does not appear to have received serious consideration in Serbia. It concludes: 'there are neither fundamental objections against the proposed information system, nor could any noticeable enthusiasm be recorded. Suggestions to take these proposals into consideration were lightly passed over by the Ministry of Justice'.

5.3 European Commission

On 22 April 2013 the European Commission issued a Report on Serbia's progress in achieving the necessary degree of compliance with the membership criteria . That report noted that 'A number of investigations have been launched, including into high level corruption, in part on the basis of the problematic privatisations cases identified in the past by the Anti-Corruption Council'. It also states that: 'Serbia's track record in effectively investigating, prosecuting and convicting perpetrators of corruption and organized crime needs to be further improved.'

Clearly, in order to demonstrate progress in this context, it will be important to track cases, such as those identified by the ACC. That can be done on an ad hoc basis but it will be far easier once a unified system should be introduced. This will require detailed examination of options, involving IT and statistics experts. The system will need to be backed up by effective IT. The potential solution as depicted by the 'bill of lading' scenario is actually dealt with by most IT systems now with 'real time updates ' and an accompanying audit trail that shows when an entry was made, by whom and what was changed. As long as the same ICDET is used, irrespective of the part of the criminal justice system making the entry, it should be possible to track all activity, sequentially and determine the eventual outcome.

It could be said that one of the problems arises from the fact that two different Criminal Procedure Codes are in operation, with organised crime dealt with under the new code and corruption under the old. It would be highly desirable to have the new code fully operational along with the new unified system.

6 Crime Reference Numbers (UK)

The Ministry of Justice informed the experts team that they had visited the UK and had been impressed by the English system of tracking criminal cases by using a unique Crime Reference Number (CRN). The CRN is an identification tag which represents one method of implementing the principles of the ICDET recommended by the Van Duyne report.

The CRN follows the case through the system from the point of recording a crime to the final disposal of the case. There are many different police forces in the UK, each one with its own IT-based crime recording system which establishes the structure of the CRN allocated. However, broadly all forces follow a similar structure with some variations. In the Metropolitan Police the CRN is composed of the following elements:

- Code for the Metropolitan Police on the Police National Computer (which is 01);
- Code for the Police Station(s) (e.g. AX);
- The number of the case within that station and area for the year (so if it is the first case it is number 1);
- The Year that the case file was opened (e.g. 13).

Thus an example of their CRN would look like this: 01/AX/01/13.

The CRN relates to the record of the crime committed – it exists independently of the offender, who may not be identified at that stage. It is created when the police reasonably believe that a crime has been committed. A separate incident number is allocated on first reporting – the police should allocate such a number to each allegation or report made. But these may not all be crimes (the reporting person may be mistaken or indeed lying) so the Police need a little time to assess and consider the facts – but what is then important is that they ethically and professionally record the crimes when made out. Once the decision to record the crime is made the CRN will follow.

There are nationally agreed rules, backed by statutory authority, that determine when and where crimes must be recorded and the types of crime that should be recorded. These are known as the Home Office counting rules and they are available online. Statistical consistency requires that such rules and provisions exist alongside a system of CRNs. The CRN is linked with the type of crime it relates to (e.g. burglary). It is the count of the CRNs linked with each crime type that provides the criminal statistics.

If and when an offender is identified then that person will either have already, or have newly created for him, a number on the Police National Computer (PNC) that relates to him individually. That number can be related to any number of crimes. For example, person X is shown for the first time as the offender for a crime of burglary. Person X will have a criminal offender number on the PNC which will be linked to the CRN for that burglary. Later the person X is shown as the offender for a crime of assault. Person X's criminal offender number will be the same but will now be linked to the CRNs for both crimes. Law enforcement professionals will be readily able to tell, by looking at X's overall record on the PNC how many crimes he has been associated with and in what geographic areas. The PNC contains over 9.2 million nominal (personal) records, 52 million driver records and 55 million vehicle records and is used by all forces in the UK to keep track of individuals and vehicles, and show people who are wanted and/or missing etc.

The CRN makes an important contribution to transparency in policing. If a CRN is allocated the citizen who reported the crime is given the CRN. This is important to them as a recognition that 'their' crime has been recorded and something is being done about it, in principle. If they wish to make enquiries about the progress of the case, they can quote the CRN and the police database will be able to retrieve the details of the crime given and to provide updates on progress. Also, if a crime resulted in a loss the citizen

was insured against, then it may be a condition of insurance that the crime was reported. The CRN is proof that a report was made and CRNs are usually readily recognized by, for example, insurance companies for what they are. In the UK the existence of a structure of nationally supported counting rules for crime linked to a high level recording standard serves to support and underpin this process, building trust in the statistics and also seeking to ensure that victims receive the service they should. A number of other countries (e. g Australia) have already adopted similar recording rules and systems based closely on those of the UK.

The proper recording of crimes at an early stage and their continued tracking also contributes to reducing the risk that a case will be quietly dropped for improper reasons (including corruption). In June 2013 victims of crime in the UK were given the right to challenge prosecutors' decisions to drop cases, and if they do so the case will be reviewed.

In the UK, on receiving a case it is practice for the Crown Prosecution Service (CPS) to record the case details on their Case Tracking System. They include the CRN as well as basic details about the defendant (first name, surname, date of birth and, at least, the main offence). The CPS also allocate a case reference number, for their own purposes. Whether this is essential, in view of the CRN, is debateable, but the vital point is that the CRN should stay attached to the case.

In UK practice the stage of court appearance would generate another identifier (the unique identifier for the court) to enable the defendants to be traced through the court, and to note any changes in charges. Defendants may be joined with or severed from the original CRN always staying on the IT record ensuring that they can be traced back to their original interaction with the system even if they are arrested and charged elsewhere. However, again, all these objectives could be achieved using the CRN.

7 Possible adaptation of principles for Serbia

The first requirement for introducing such a system is for a suitable IT system to be in place. It needs to be able to be searched by users to ensure nothing is either duplicated or missed. The 2010 UNODC report states that all 128 police stations in Serbia have internet access so there is at least the beginnings of the necessary IT system there. Indeed, the experts team understands that a complete software case tracking package known originally as CMIS (and latterly as 'Jade') was gifted to the Serbian Border Police some years ago by the Australian Federal Police and the UK FCO. The experts team have been unable to ascertain whether it is still in use and the current state of play. It is worth further inquiry as this may represent a potentially free IT package for future development.

A CRN should be allocated as soon as there are reasonable grounds for believing that a crime has been committed. Under Article 281 of the 2011 Serbian Criminal Procedural Code (CPC), criminal complaints must all be sent to the prosecutor and if the police receive one they are required to deliver it immediately to the prosecutor. If the police arrest a person, they are required to bring him to the prosecutor without delay and must explain any delay longer than 8 hours (Art 291). It is thus logical that in Serbia any unique identifier for crimes should be allocated by the prosecutor rather than the police. Most criminal complaints should be submitted directly to the prosecutor under Art 281,

so the police would not know about them. There is also in the CPC the possibility of the prosecutor opening an investigation against an unknown person (Art 295).

The CRN is best attached to the crime, not the offender. There is a need for numbers to be attached to offenders, but the numbers and details are best done centrally, not each time a new crime is committed. The advantage of keeping offender details at a central point (such as the PNC in the UK) is that, once recorded there they do not have to be repeated every time he commits a new offence.

The CRN could be said to already exist in Serbia, as the UNODC report that a unique identifier (the KU number) is given to each police case. The issue is that the KU number does not travel through the system with the case.

The CRN should be allocated when an investigation file is opened, though it seems appropriate that a separate reference system would be needed for the pre-investigative stage (which does not exist as a separate concept in the UK). That would recognize the reality that the pre-investigative stage might go nowhere or might result in more than one investigation file. Under Art 44 of the CPC, that stage is also under control of the prosecutor, who must be informed of all activities aimed at detecting a crime. There would need to be a link on the database to the CRN for the investigation file where an investigation has resulted. A link up is needed which doesn't compromise the confidentiality of the intelligence phase.

Whether a new identifier needs to be attached to the case by courts and/or prosecution (for practical purposes it is called Criminal Procedure Number (CPN) in this paper) is debateable. This does happen in the UK, and is more or less congruent with the existing SK2 in Serbia. It does allow these other services to have their own sequences which helps their own statistics and may also help ensure nothing is lost. The vital point is that the CRN should stay attached to the case file.

8 Conclusions

It is acknowledged that the fact that police, prosecution and courts operate different systems makes for problems in tracking cases through the system and in comparing data.

Police statistics is based on number of reported criminal offences. The prosecutors statistics is grounded on reported persons, and courts statistics is based on cases. A unified system would certainly bring benefits.

Serbian authorities are aware that current state of play concerning statistics is unsuitable for measuring progress and level of efficiency, thus even if there are improvements in the effectiveness in suppressing the corruption and economic crime there are no instruments to measure that.

Also, variables/ data in the table of Republic Prosecutor's Office and those of Courts are different. Lack of statistical coherence is pointing at a random organisation of records keeping, analysis and evaluation, thus being unsuitable for measuring progress and level of efficiency of tracking/handling of corruption/economic crime cases.

However it should be borne in mind that the number and type of cases pursued do not make sense on their own. They need to be considered against the number and type of reports from the public. For example, there is a specific provision in the Law on Courts (Art 8) which allows any party to a case to complain about illegal influence on the courts. Trends and results of the use of that important and specialized provision will be useful’.

Below is the summary of the major findings elaborated in this paper:

- Database of Statistical Office of the Republic of Serbia, for the Prosecution Offices and that for the Courts, are based on two different forms (the forms sent by the Prosecution Offices SK-I and the Courts SK-II) which at this point do not allow a fusion into one database, as the identification numbers and variables appear to differ.
- Police statistics is based on number of reported criminal offences, from criminal complaints lodged against known and unknown perpetrators, submitted to the competent Public Prosecutor’s Office, regardless the result of the further processing or dismissal of these complaints.
- The statistical data processed in this way is different from the way official statistics are kept by the Republic Statistical Office, based on data concerning the persons against whom the criminal proceedings are launched/criminal complaint submitted, and on the result of the proceedings led against these persons (based on the records of the prosecutions and courts).
- The police, the prosecution and the court statistics allow quantitative analysis concerning the ‘case turnover’ for internal use.

9 Recommendations

Given the complexity to successfully measure the progress made in suppression of corruption in the country this paper aims at recommending certain steps that would be tested in the practice first and then possibly further elaborated and developed in cooperation with the stakeholders. Needless to say that their active participation in this process is considered to be a crucial factor for potential improvements in this area.

First of all, Sections 6 and 7 of this paper referring to unification of reference numbers for the cases lays basis for introduction of this tool in order to track the case and improve compatibility of statistics within different state organs. The experts team strongly suggests that the authorities decide on future steps that would enable setting up of the system based on findings of this paper and its Section 7. Once that is done, further experts assistance by the project would follow.

Second recommendation aims at establishment of the track record of serious corruption and economic crime cases, within the framework of the existing material and human resources in the Republic Prosecutor’s Office. This would enable effective evaluation of the developments in prosecution of corruption and economic crime cases at all stages of their handling.

Creating track record would include three major steps:

- 1) Identification of the appropriate level of management for the procedure (process owner).
- 2) Selection of the employees and give them the training and authority to manage the process.
- 3) Displaying the plan so that tasks, responsibilities and deadlines can be clearly seen.

So, taking into account the fact that current state of play concerning statistics in Serbian institutions is unsuitable for measuring progress and level of efficiency, this recommendation and guidance aim to give advise on how to create and keep track record in line of the observation the European Commission “Staff Working Paper: an Analytical Report with the “Commission Opinion on Serbia’s application for membership of the European Union”.¹¹

After management approves the specifics of the plan, appropriate individuals are to be empowered to carry it out, than every individual would be informed what changes in his/her work procedure are expected.

Keeping track record in the Republic Prosecutor’s Office allows merge of the database of police and the courts, because the prosecutors participates in all phases of the criminal procedure. As noted above, the prosecutor receives criminal complaints from other sources and not just the police (directly from the citizens, other state institutions, legal entities).

The recommendation is to create and keep the overview of serious criminal offenses of corruption and economic crime. This would aim at increasing the capacity for measuring the progress and would enable clearer and more accurate picture reflecting the real developments and making the effectiveness visible and transparent in the country and outside. The following criteria shall constitute the above mentioned overview:

- a very brief description of the case,
- the function of the suspect,
- the value of pecuniary gain,
- the sector involved,
- the related decisions on restriction of freedom,
- use of special investigative measures,
- fines and confiscation of assets both during investigation and prosecution and after courts decision,

Furthermore, the experts team suggests creation of a track record table (eg. in the Addendum IV) with the following data about the serious criminal offenses of corruption and economic crime: Case No, Applicant and date (who submitted the charge), Name of suspect (or just number), Criminal offences (art. CC, list all offences), Investigation- date, Description of the offence - very brief description of the case, including the function of the suspect, the value of pecuniary gain/damage, Area-sector involved (eg- political parties, judiciary, police, health sector, public procurement, education sector, private

¹¹ EUROPEAN COMMISSION , 12.10.2011 SEC(2011) COMMISSION STAFF WORKING PAPER , ANALYTICAL REPORT, Accompanying the document COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL Commission Opinion on Serbia's application for membership of the European Union {COM(2011) 668}

sector, media, etc), International cooperation (country), Detention (duration) Evidence collecting actions- special investigation means (yes or no), other – (Search of apartment, person etc), Freezing of assets, Indictment- date, JUDGMENT- date, kind, punishment including confiscation, agreement, APPEAL- input art. CPC, FINAL VERDICT.

Fact is that some of these data are already in the several records that prosecutors office keeps, but point is to give more then just a number of perpetrators, and merge the relevant information about the serious criminal offenses of corruption and economic crime, as to give the most clear and accurate picture reflecting the real developments and to make effectiveness visible and transparent in the country and outside.

So, the first step shall be the identification of serious criminal offenses of corruption and economic crime, then filling in the data into the track record table that contain indicators about criminal offences (high, middle, low level, including sector involved), investigation approach (proactive-reactive, financial investigation), duration of investigation and trial, and the court decisions. This would enable the effective evaluation of the developments in the prosecution of corruption and economic crime cases at all stages of the proceedings. One shall also bear in mind that not all criminal offences of serious corruption nature are under jurisdiction of the prosecutor for organized crime – the criminal offences of the abuse of office when the value of the acquired financial gain does not exceed the amount of RSD 200,000,000, in some cases are under the jurisdiction of the Higher Prosecutor.

Further work is needed on this important systemic issue. It is essential to involve the RSO in that work. If Serbia is interested in adapting the UK or some other advanced model then further assistance from, e.g. from the Crime Registrar in the Home Office would be beneficial. As the RSO provided us with the Van Duyne report they are presumably taking a new interest in it. In taking forward any new system, the advice of Professor Van Duyne would be most useful.

To identify the concrete steps that need to be taken to implement improvements in case tracking this paper recommends that further work is initiated with regard to possible software solution that would such system to function in practice. A software package will need to be identified that can perform this function and can be rolled out across the various sections. If the Border Police software still exists it might be that it can be adapted - or even that it already fulfills the requirements. However, local knowledge of systems is vital in ensuring any software solution fulfills local requirements.

Addendum I

The statistic form: SK-I

Questionnaire for person full of age against whom the criminal procedure is finished

_____ Public Prosecution Service

Register no. _____

Serial number of statistical sampler _____

A. Data of criminal act injurer

(in the time of criminal act)

1. Criminal act injurer

Known _____ 1

Unkown _____ 2

2. Last name _____

First name _____

3. Sex

Male _____ 1

Female _____ 2

4. Year of birth _____

B. Data about the criminal act

3. Legal term of criminal act

Article _____ Paragraph _____ Point _____ related to criminal act

From Article _____ Paragraph _____ Point _____

4. Title of applied low (code)

Criminal code _____ 1

Criminal code of the Republic of Serbia _____ 2

Elementary Criminal Code _____ 3

Special code out of Criminal Code _____ 4

5. Year when criminal act was dispatched _____

6. Did criminal act injured any assets

Yes _____ 1

No _____ 2

C. Data about jury trial

7. Who applied criminal report

Aggrieved citizen _____ 1

Other citizen _____ 2

Aggrieved company or other legal entity _____ 3

Inspection _____ 4

Ministry of internal Affaires _____ 5

Other part of directory _____ 6

In-line acknowledgement of Public Persecution Service _____ 7

Others _____ 8

8. How was report applied to the Public Persecution Service

Own information _____ 1

Through Ministry of Interior _____ 2

9. The type of decision and reasons

Dismissed report:

Act is not criminal act _____ 11
There are circumstances that challenge prosecution _____ 12
There are no evidences against applied person _____ 13
Forgiveness of prosecution because of regret _____ 14
No viability to prosecute because of the true remorse. _____ 15
Because of settlement between the aggrieved and the accused ____ 16

Disrupt investigation

Appearance of temporary mental disease or disorder _____ 21
The accused one is escaped or not in range _____ 22

Abolition of investigation

Act is not criminal act _____ 31
There are circumstances that challenge prosecution _____ 32
There are no evidences against applied person _____ 33

Applied accusation- proposition:

In-line _____ 41

After investigation _____ 42

Was injurer in custody and how long:

Yes: 15 days or less _____ 1

15-30 days _____ 2

1-2 months _____ 3

2-3 months _____ 4

3-6 month _____ 5

Injurer wasn't in custody _____ 6

Unknown injurer _____ 0

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D. Data of jury trial length

Date of receiving report Day __ Month __ Year _____

Date when the investigation started Day __ Month __ Year _____

Date of decision making Day __ Month __ Year _____

_____ 200 year _____ Prosecutor/deputy

Date of data entry

Signature

The statistic form SK-II

Questionnaire for convicted adult person against whom a criminal procedure has been finished by law

_____ Court in _____

Register no. _____

Serial number of statistical sampler _____

A Data of criminal act injure
(at the time of offending)

1. Last name _____

First name _____

2. Sex

Male _____ 1

Female _____ 2

3. Year of birth _____

4. Municipality _____

5. Employment

Employed _____

Unemployed _____

Inactive (student, housewife, retired) _____

Unknown _____

6. Vocation _____

7. Nationality _____

8. Citizenship _____

9. Marital status:

Single _____ 1

Married _____ 2

Widowed _____ 3

Divorced _____ 4

Unknown _____ 9

10. Education

No school _____ 1

Unfinished primary school _____ 2

Primary school _____ 3

High school _____ 4

Graduate school

College _____ 5

University _____ 6

Unknown _____ 9

11. The perpetrator committed the crime:

Alone _____ 1

With other persons as:

Performer _____ 2

Accomplisher _____ 3

12. How many persons are involved in criminal act _____

13. Was perpetrator convicted before

Yes:

For same type of criminal act _____ 1

For different type of criminal act _____ 2

For same and different type of criminal act _____ 3

Not convicted before _____	4
Unknown _____	9
14. Was perpetrator in custody and how long:	
Yes:	
30 days or less _____	1
1-3 months _____	2
3-6 month _____	3
6-12 month _____	4
12-18 month _____	5
18-24 month _____	6
2-4 years _____	7
Over 4 years _____	8
Not in custody _____	9
B. Data about the criminal act	
15. Legal term of criminal act	

Article ___ Paragraph ___ Point ___ related to criminal act	
From Article ___ Paragraph ___ Point ___	
16. Title of applied law (code)	
Criminal code _____	1
Criminal code of the Republic of Serbia _____	2
Elementary Criminal Code _____	3
Special code out of Criminal Code _____	4
17. Did criminal act injured any assets	
Yes _____	1
No _____	2
18. Did criminal remained an attempt?	
Yes _____	1
No _____	2
19. Year of performing criminal act _____	
20. Municipality of performing criminal act _____	
C Data of court decision	
23. The type of decision and reasons	
Dismiss private prosecution _____	11
Disrupt investigation or Dismissed report:	
Act is not criminal act _____	21
There are circumstances that challenge prosecution _____	22
There are no evidences against applied person _____	23
The prosecutor dismissed the charges before the main hearing _____	24
Free from accusation:	
Act is not criminal act _____	31
There are circumstances that challenge prosecution _____	32
Accusation refused:	
There are circumstances that challenge prosecution _____	41
The prosecutor dismissed the charges before the main hearing _____	42
Security measure without sentence _____	51
Voted guilty _____	61
D. Data of predicted sanctions	
A) Type of sentence:	
Jail _____	1
Penal sum _____	2

Public work _____ 3
 Taking drivers license _____ 4
 Court denunciation _____ 5
 Corrective measures _____ 6
 Voted guilty, freed from sentence _____ 7
 B) If under section A answer is 1 on the line write length: years ____ months _____
 C) If under section A answer is 2 on the line write penal sum: _____

25. Is sentence probation
 Yes _____ 1
 No _____ 2

26. Besides of probation, is there any special responsibility or measure
 Yes:
 Surveillance _____ 1
 Other responsibilities _____ 2
 art.65, point 2.
 No _____ 3

27. Are there any side sentence
 Yes:
 Penal sum _____ 1
 Taking drivers license _____ 2
 No _____ 3

28. Predicted security measures:
 Obligatory psychiatrically treatment and keeping in hospital _____ 11
 Obligatory psychiatrically treatment without keeping in hospital _____ 12
 Obligatory treatment for drug addiction _____ 13
 Obligatory treatment for alcohol addiction _____ 14
 Prohibition of work _____ 15
 Prohibition of driving _____ 16
 Deportation foreigner from the country _____ 18
 Public judgment _____ 19
 No security measure _____ 20

29. Was there confiscation of assets
 Yes _____ 1
 No _____ 2

E. Data of injured (victim)
 30. Number of injured _____

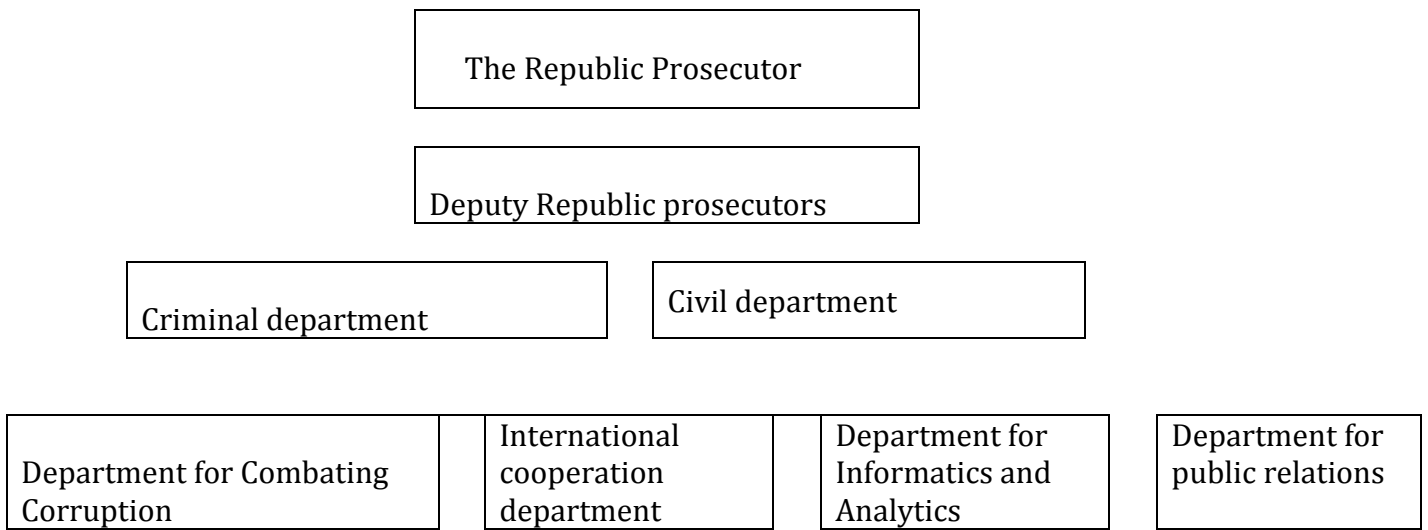
a) Sex:
 Male _____
 Female _____

b) Age:
 Children under 14 years old _____
 Underage persons 14-18 years old _____
 Adult _____

F. Data of procedure length
 Date of receiving report Day __ Month __ Year ____
 Date of receiving charges Day __ Month __ Year ____
 Date of decision making Day __ Month __ Year ____

Addendum II

ORGANISATION CHART OF THE REPUBLIC PROSECUTOR'S OFFICE



References

- UNODC Technical Assessment Report Serbia 2010;
- «Law enforcement policy in Serbia- Evidence based transparent policy making”, published in 2012. by Petrus C. van Duyne, Elena Stocco, Jelena Dimitrijević;
- Responses to the Questionnaire-Information requested by the European Commission to the Government of Serbia for the preparation of the Opinion on the application of Serbia for membership of the European Union-CHAPTER 18: STATISTICS, Chapter 23: Judiciary and fundamental rights and Chapter 24: Justice, freedom and security;
- EUROPEAN COMMISSION , 12.10.2011 SEC(2011) 1208 COMMISSION STAFF WORKING PAPER , ANALYTICAL REPORT , Accompanying the document COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL Commission Opinion on Serbia's application for membership of the European Union {COM(2011) 668};