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Expert Opinion on the BiH Draft National Action Plan/Strategy against Organised Crime and Corruption

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1 INTRODUCTION

The Council of Europe, specifically the PACO Impact project and the CARPO (CARDS regional police) project, has been asked by the EC Delegation in Sarajevo to provide an expert opinion on the draft policy papers of the Bosnia and Herzegovina (BiH) Strategy / Action Plan against Organised Crime and Corruption.

For purposes of review and assessment, the documents which have been submitted separately are assembled and attached as annexes to this opinion paper. The views expressed in this technical report are solely those of the experts and do not necessarily reflect the official position of the Council of Europe.

2 GENERAL COMMENTS: (OC AND AC POLICY PAPERS)

Lack of vision:

A fundamental issue of concern with the document(s) provided is the lack of an overarching, convincing vision of why the Bosnian authorities wish to embark on a comprehensive fight against organised crime and corruption. In addition, there is no clear idea on who owns this document, i.e., who has been driving the drafting process, and consequently, who is in charge of leading its implementation. As a result, the document remains vague and timid when describing the causes and consequences of organised crime and corruption, as well as its main actors and beneficiaries.

The issue of political will (or absence thereof) for taking the strategy forward remains unaddressed (except for an extremely general paragraph in the anti-corruption section). It thus remains questionable whether there is a serious commitment to implementation, or whether the document is solely the result of outside pressure on the Bosnian authorities.

Consequently, the different sections do not add up to a coherent policy paper (on the contrary, there is evidence of parts having been cut and pasted from other documents¹) with a statement of purpose, principles, policy guidelines etc. A number of measures proposed seem not to have been carefully deliberated, lest they would not have become part of this strategy (see below).

It remains furthermore unclear how this document relates to other key policy documents, such as the Poverty Reduction Strategy Paper, and obligations specified through the Stabilisation and Association process with the European Union.

Structure of the documents:

Policy papers (strategies) usually have specific forms, which follow the same principle if they are drafted in the same country. Those forms have been developed through decades of drafting and implementing different policy papers and depend on the aims of those papers: sometimes they are just lists of intentions² of the country in a specific area, at other times they are very strong and more concrete documents with an easily recognised goal to really change circumstances and conditions in the area which they are dealing with. Strategies are most often followed by action plans, which are usually based on the structure, and which should ensure the implementation of the strategies. The BiH policy documents – the Strategy for the fight against organised crime (hereafter: the OC Strategy) and the Strategy for the fight against corruption (hereafter: the Corruption Strategy) – can not be listed under the two categories mentioned above, and they

¹ For example, the document erroneously mentions Slovenia instead of Bosnia and Herzegovina when describing involvement in Council of Europe instruments/projects.

² They are also called “lists of good wishes”.

are even not drafted in the same manner. "Action Plans" of both strategies follow different structures, too, albeit very modest ones. It is obvious that the documents were prepared under time pressure, and that they are not completed yet.

It is fair to assume that the OC Strategy was drafted on the basis of the "Regional Strategy on Tools against Organised and Economic Crime with Project Area Specific Actions"³ (hereinafter: the Brijuni paper) in such a way that objectives and actions which were adopted for BiH in this paper were copied into the OC Strategy. "Objectives" set forth for BiH in the Brijuni paper were split into different parts of the OC Strategy and its Action Plan – "goals", "objectives", "actions". The problem is that nothing much was added.

The Corruption Strategy was partly copied from one of the earlier versions of the "National Anti-Corruption Strategy of the Republic of Slovenia", with only very minor adjustments to the BiH conditions. Again, the problem here is that nothing much was added.

For the preparation of all documents – both strategies and action plans – not a lot of time was wasted. Almost nothing original in comparison to their starting points – the Brijuni and Slovenian document – was added, they were not adjusted to the BiH circumstances and conditions and they are not structured in a way which would guarantee their implementation in a real life. In a short: initial draft strategies and action plans are not prepared in a way which would ensure that all major problems in the area of organised crime and corruption in BiH would be effectively tackled.

As a result of the above, there is an almost complete lack of provisions addressing the implementation aspects of this strategy. I.e., it remains unclear which body/structure would be in charge of monitoring the progress of the strategy; no mention has been made on how progress would be measured and which success indicators would be used for that measurement; timelines for implementation are mostly short-term and generally unrealistic (see below for detail); there is a fundamental confusion over goals/objectives and measures that need to be undertaken in order to achieve these objectives (instead, goals and measures are conflated); there is no mentioning nor even analysis of potential risks that could hamper the implementation of the strategy; there is no priority setting among the objectives and, related, the strategy appears to not have been financially estimated (cost analysis) and no mention is being made as to where the funds for the measures proposed would come from.

Therefore and despite the fact that the decision on the structure of strategies and action plans lays with the respective authors, serious policy papers would request to have at least the following elements and characteristics:

1. Strategies: the most important part of the strategies should be a) their goals given in an abstract form and b) actions (needed to achieve these goals) in a concrete form. The rest – introduction, principles, and description of the situation, its causes and consequences, description of the legal documents... – can be given in a very short and concise manner, or even as an annex to the actual policy papers.

Following crucial points of the strategies must also not be forgotten: it has to be clearly indicated which authority adopts them, under which procedure, which authority is charged and authorised with their implementation, what is the procedure which will ensure their implementation and what are the liabilities if there is no or poor implementation of the strategies. A general time span for implementation and revision should also be given.

Strategies must also take into account that they should not deal only with repressive means for the fight against organised crime and corruption, but also with prevention (including education). This is the approach taken by the latest UN conventions in the field – UNTOC and UNCAC. All areas, which are or

³ Adopted on Brijuni, Croatia, in September 2005.

can be affected by the phenomena of organised crime and corruption (i.e., economy, politics, and public administration), should be explored for possible actions/measures to be taken.

2. Action plans: actions listed in the strategies should serve as a starting point for the preparation of action plans and their structures, they need to have at least the following elements: responsible authorities, precise deadlines, possible risks expected, indicators of success, and, where necessary, the expected costs.

Insufficient link between organised crime and corruption:

The nexus between organised crime and corruption appears to be insufficiently understood, especially, having in mind that organised crime and corruption are obviously strongly connected in BiH. As a result, the strategies treat both topics almost entirely separate, and miss to address the links in a convincing manner.

Improvement in this area can be achieved through the content of documents but also through their identical structure. Since the aim of the policy papers and their action plans is the same they should be drafted in a way which would enable clear references between them and enable the reader to recognise substantial links between the problems of organised crime and corruption in the country.

Level of analysis

The analysis offered by the document on causes of organised crime and corruption are inconsistent, varying from citing sources and evidence from research into the topics on some aspects, to remaining entirely general and, as it seems, afraid of calling issues by their name. It is, for example, left blurred who benefits from corruption in BiH today and how this impacts any measures to be undertaken; another example is that one would tend to think that the current manifestations of organised crime and corruption date back to the war, and not, as the document vaguely suggests, to the 'post-war development'.

While the compilation of legal acts in place is possibly useful, it is not sufficient in itself, as it does not answer the crucial dilemma as to why in spite of the existing rather sophisticated legislative framework no impact has been made on levels of corruption. What is, however, necessary to understand is why this framework fails to deliver. The suggestion by the strategy that all that needs to be done is to join international instruments is wrong.

Analysis is further lacking on the causes of failure of previous anti-organised crime and anti-corruption efforts and policies. What has, for example, been the impact of police reform or the reform of the judiciary for the two topics at hand? Where have these reforms failed and, subsequently, what needs to be done next? Any strategy needs to build on the legacy of previous efforts.

Conclusion:

Since drafts of the BiH OC and Corruption strategies and their respective action plans are not substantiated and structured in a way which would enable any serious effort for any limitation of organised crime and corruption in the country, the best possible *recommendation to the BiH authorities would be to prepare completely new initial drafts of the strategies for the fight against organised crime and corruption and relevant action plans*. Some of the substantial parts of the existing drafts might be used for the new texts but a lot more will have to be added if BiH would like to get comprehensive and effective policy papers, which would really serve their purpose.

3 ANTI-CORRUPTION SECTION: COMMENTS AND ISSUES OF CONCERN

It has to be noted that general comments concerning both – the OC and the Corruption – strategies are valid for the “Strategy for fight against corruption”, too, and they will therefore not be repeated here.

There is no clear distinction between the Strategy and the relevant Action Plan despite the fact that the nature of both documents differentiates a lot - strategy is a conceptual document, which has to be adopted by one of the most important public institutions (parliament or government), expressing in such a way a clear political decision and will of the most relevant actors in the country to limit the phenomenon of corruption. Responsibility for its implementation has to be raised to a very high level, and this can be achieved only through underlining the importance of a strategy by decision on its adoption by a high-level political body.

An Action Plan serves the purpose of the implementation of the strategy and therefore it is not necessary to adopt it in the same procedure. It is even not recommendable, since the action plan as an operational document has to be changed (amended, up-dated, etc.) on a regular, frequent basis and raising the responsibility for its adoption to a very high political level could cause insurmountable obstacles in case of a need for quick amendments. This has to be the task of an expert institution, which has to be in a position to change the action plan on a daily basis.

3.1 Anti-Corruption Strategy

Elements of the structure of the “Strategy for fight against corruption” (hereinafter: the Strategy) is not completely corresponding to elements of other known anti-corruption strategies. Nevertheless, it has to be mentioned that some substantial parts of the Strategy have their merits deserve to be inserted in the final text of the Strategy.

The following text follows the structure of the Strategy. Where there are no comments, the experts did not feel the need to make any additional remarks, proposals or criticisms.

3.1.2 Introduction

The substance of this part is generally a solid one. Maybe it would be better to split this part into several sub-chapters. At least “Consequences of corruption”⁴ and “Basic Principles” should find their separate place in the introduction, but for the moment they lack visible relevance and connection to the specific Bosnian context. For example, it is unclear what should be concluded from the explanations given under ‘Political willingness’.

There is also a mistake in the part describing the importance of prevention, which first wrongly states that “preventive measures require adequate criminal laws and a law enforcement system...”, which is later improved by the correct statement on the “appropriate rules and institutional checks and balances aimed at prevention of corruption...”.

⁴ Although it is not clear if the consequences listed in the document refer to the BiH conditions or are just general consequences of corruption anywhere in the world.

3.1.3 Domestic legal framework for the fight against corruption

This part is extremely wide and includes some parts which are clearly not part of the legal framework but more the consequences of corruption⁵.

It is also unclear what results this legal framework has yielded so far. For example, the positive impact of conflict of interest legislation is being mentioned, yet, it is not specified what this would mean precisely.

3.1.4 International documents

Maybe it would be *recommendable to also mention relevant EU conventions on corruption*⁶. BiH is not an EU member State and can not ratify them, but the accession process will undoubtedly ask from the country to implement the substance of these conventions in its national legislation.

3.1.5 Models of corruption

Despite the fact that it is omitting the role of politicians as beneficiaries of corruption, this is substantially a very good and very relevant chapter and could be completed only by the list of reasons for the mentioned types of corruption. For purposes of internal logic it could also be moved to the beginning of the Strategy.

3.1.6 General anti-corruption policy

This chapter is incomprehensive, as BiH has undergone far more anti-corruption measures than suggested in this paragraph. An analysis of the track record of these measures is missing.

It would also be much better if this part would be included in the introduction.

3.1.7 Goals of the strategy for combating corruption

This chapter should be the key section of the document. However, there is a complete confusion as to what a goal/objective is, and, by contrast, what a measure to achieve this goal is. *Doubtless, the key objective of the strategy must be to reduce the overall levels of corruption in BiH.* The general and specific goals listed in this section are measures/outputs to achieving this goal, not, however, goals in themselves.

The most important loop-hole of the Strategy is the fact that the list of activities needed for the achievement of the goals in different sectors (at least: politics, public administration, law enforcement and judiciary, economy, media, civil society and general public) and the system for its implementation are not given in the text of the Strategy (see also General Comments!).

3.1.8 Participation of BiH in international efforts aimed at preventing corruption

This chapter is an illustration of the key dilemmas of the Strategy, i.e. the overall impression of a lack of vision as to what BiH wants to achieve and how it wants to do this.

It is unclear, for example, what promise membership in the OECD and its anti-corruption instrument would hold for BiH at this point in time. The OECD Anti-bribery Convention is an international legal instrument specifically designed for big exporting nations. Participation in the monitoring of the implementation of this

⁵ Paragraphs starting with "Crimes of corruption and crimes against official duty" and "Violation of citizens' right or other individual ...".

⁶ EU Convention on the fight against corruption involving officials of the EC or officials of the EU Member States and EU Convention on the Protection of the European Communities' Financial Interests and relevant Protocols.

instrument carries substantial financial and human resource commitments. It should not be the priority of BiH to enter such commitments, in particular against the backdrop of more pressing objectives, such as EU membership for which it will have to mobilise all existing resources.

It is unclear as to whether the section on the Council of Europe is a translation mistake, or whether it reflects the state of thinking of the Bosnian authorities vis-à-vis the country's membership in the Council of Europe and its instruments and projects to help member States achieve commitments undertaken. The mentioning of the Council of Europe's MONEYVAL project should be part of the organised crime section and the word "Slovenia" will have to be replaced by "Bosnia and Herzegovina":

3.2 Anti-corruption Action Plan

The methodological problems from the strategy section are echoed in what is supposed to be a breaking down of objectives into operational level activities/measures to achieve these in the Action Plan.

Since the Strategy does not give the list of activities for the achievement of the goals there is no real basis for the action plan. Therefore, the initial draft of the Action Plan has "invented" its own activities, which sometimes follow the goals given in the Strategy and sometimes not. It is also very strange to see how one of the most important problems of the country, namely corruption, could be solved by only 17 (seventeen) activities. Countries much less affected by corruption are dealing with much larger number of activities in order to improve the situation in this area.

Objectives and activities to achieve these objectives are being confused. The objectives specified are heavily slanted towards adoption of legislation. Other areas, such as co-operation with the media and the non-governmental sector remain very vague. There is hardly any objective that goes beyond 2007. No mentioning is made as to how to measure the success of the measures or who is in the lead for specific measures.

Key sectors such as the health and education sectors and measures relating to private sector development are completely omitted.

Also the structure of the so-called "Action plan" consists only in the following elements: activities, responsible authorities, deadlines and objectives/comments, which are far from being enough (see also [General Comments!](#))

Analysis of the given 17 fields in the initial Action Plan shows that:

- activities are confused with the objectives,
- some objectives just repeat the substance of the activities,
- sometimes there are no links between the activities and the relevant objectives,
- some deadlines are much too optimistic,
- some of the objectives simply ask for additional explanations (i.e. on integrity checks), which are not given,
- at least one activity makes no sense ("defining of corruption criminal offences in parallel with the changes in the social and political system..."),
- some objectives simply copy the measures from the OC Strategy,
- some objectives solve the problems in a improper way (reporting of financial assets can not be regulated by a "Rulebook"),
- some activities are too general ("strengthen repressive activities in the fight against corruption"),
- some responsible institutions are mentioned too general (i.e. at activity Nr. 16),
- some objectives have nothing to do with the fight against corruption (i.e. at activity Nr. 17).

3.3 Recommendations

The risk is that this strategy becomes another unimplemented half-hearted approach to corruption in BiH. It would be useful to go back to the drafting table and address the key issues highlighted in this document. These are broadly clarification of the political will and commitment to tackle corruption and a resulting serious, frank and honest description and analysis of causes and main players of corruption in today's BiH; detailed and specific implementation provisions and adequate funding; built-in measurements of success/progress; realistic and detailed measures for action to implement the overall goals and objectives.

A final draft should also make a convincing point that this strategy and the operational level action plan have been part of a wide stakeholder consultation process, both within the government and administration as well as with outside stakeholders.

Therefore, based on the previous observations there can be only one recommendation concerning the initial strategy and action plan for the fight against corruption in BiH:

The authorities of BiH shall, as soon as possible, through a high-level political body adopt a completely new text of the national anti-corruption strategy and give the task of drafting of a completely new action plan to a proper public administration body. The text of the strategy should at least include list of activities needed for the achievement of strategic goals in different sectors (at least: politics, public administration, law enforcement and judiciary, economy, media, civil society and general public) and system for the implementation of the Strategy. The new Action Plan shall follow the activities described in the Strategy and entail all necessary structural elements for its effective implementation.

4 ORGANISED CRIME SECTION: COMMENTS AND ISSUES OF CONCERN

It has to be noted that general comments concerning both – the OC and the Corruption – strategies are valid for the “Strategy for fight against organised crime” (hereinafter: the OC Strategy), too, and they will therefore not be repeated here.

There is no clear distinction between the Strategy and the relevant Action Plan despite the fact that the nature of both documents differentiates a lot – a strategy is a conceptual document, which has to be adopted by a proper political body, expressing in such a way clear political decision and will of the most relevant actors in the country to limit the phenomenon of organised crime.

An Action Plan serves the purpose of determining the implementation of the strategy and therefore it is not necessary that it is adopted in the same procedure. It is even not recommendable, since the action plan as an operational documents has to be changed (amended, up-dated, etc.) frequently, and raising the responsibility for its adoption to a political level could cause insurmountable obstacles in case of a need for quick amendments. This has to be a task of an expert institution, which has to be in a position to change the action plan on a daily basis.

Accordingly, it has to be *recommended to the authorities of BiH to first adopt a national anti-organised crime strategy by a political body and give the task of the drafting of an action plan to a proper public administration body.*

4.1 Organised Crime Strategy

The elements of the structure of the OC Strategy do not completely correspond to elements of other known anti-organised crime strategies. Nevertheless, it has to be mentioned that some substantial parts of the Strategy have their merits, and they deserve to be inserted in the final text of the Strategy.

The following text follows the structure of the Strategy. Where there are no comments, the expert did not feel the need to make any additional remarks, proposals or criticisms.

4.1.1 Introduction

This part is a little bit too short and further elaborations on the causes of OC in BiH are needed.

4.1.2 Principles for drafting the strategy

There are some important principles missing: at least “respect of basic human rights”, “political will”, “prevention before repression”, “co-operation of public and civil sectors”, etc.

Also, the order in which principles are listed is an important point. Therefore, *it is recommended to rewrite the list of principles.*

4.1.3 Existing domestic and international framework documents

The following documents should also be explicitly mentioned: the Brijuni Joint Declaration and Paper of September 2005, and the Vienna Conclusions of November 2005. *It would be recommendable to include this part into the chapter 3.4.8. (International obligations).*

4.1.4 Institutional Capacities

This part has to be completed by a proper description of institutions listed under 3.4.2, 3.4.3. and 3.4.4. There are also some very important institutions missing (i.e. the national Financial Intelligence Unit...).

It is recommended to rewrite this chapter again and to include all really relevant institutions.

4.1.5 International obligations

This part and chapter 3.4.6. could be merged into one comprehensive chapter.

4.1.6 Organised crime – term, definition, basic characteristics

This chapter is a very wide one. It is questionable whether citations from the relevant UN and EU instruments are really needed, but what is surely missing here is the description of compliance of the relevant BiH definitions on OC with international legal requirements.

4.1.7 Organised crime in Bosnia and Herzegovina

Despite the fact that this chapter still misses some very relevant parts (the ones on OC Groups in BiH, securities, money laundering, copyright infringement, terrorism and funding terrorist activities), it is questionable whether such an extensive description is complete and whether it is really needed for the purposes of the OC Strategy. In comparable texts (anti-OC strategies of other countries) this is hardly the case, especially due to the fact that the strategy is a policy paper, which can not be changed easily. If the conditions on the ground change, then this OC Strategy will not reflect them anymore. It would be advisable to draft this chapter in a more abstract way, pointing at the most important problems or to clearly indicate that the extensive description was drafted at a certain point in time which served as a basis for the first draft of the strategy.

4.1.8 General objectives

There are 8 “general objectives” given, but they are given in a very concrete manner – they look much more like activities which have to be undertaken to achieve the goals of the strategy. The problem is that there is no mentioning of more general aims of the strategy. The structure of 8 general objectives is a simple: they deal with legislation, institutional set-up and co-operation, research and civil society. Such a structure could prove to be efficient if some really general goals would be added to it.

In addition, there are no real goals mentioned (with the exception of public awareness) which would serve the purpose of preventing OC in the country, which makes this Strategy not a national but a law enforcement policy paper. This is something which is simply not enough in the fight against organised crime at the national level.

4.1.9 Special Objectives

Some of the 19 “special objectives” are almost the same as the general ones, the others are linked to specific forms of organised crime, just asking for their reduction or prevention, basically following the list of OC problems given in the descriptive part of the Strategy. It would be much better and logical if 7 (the first 6 and No. 8) “special objectives” would be attached to the general ones and the remaining 13 would be further elaborated. There is also no mentioning of the organised economic crime.

The most important loop-hole of the Strategy has to be again repeated here: the list of activities needed for the achievement of the mentioned objectives and the system for its implementation are not given (see also General Comments!).

4.2 Organised Crime Action Plan

It has to be mentioned that the OC Strategy and the Action Plan are not formally divided and they are just attached to each other.

The structure of the Action Plan has four elements: goals (divided into general and special ones), actions, implementing authorities and deadlines. Under the sub-titles “general goals” and “special goals” general and special objectives from the Strategy are copied. Actions for the implementations of the goals are basically following (sometimes literary) the objectives given to BiH in the “Regional Strategy on Tools against Organised and Economic Crime with Project Area Specific Actions” adopted on Brijuni in September 2005. But there is a huge difference – actions mentioned in this national Action Plan are much more general (sometimes even completely abstract) than the objectives of the document, which was adopted at the international level. Basically, “actions” are presented in a way, which gives them more the nature of another set of goals. They are simply not concrete and straight-forward enough to ensure achievement of any goals of the OC Strategy.

Therefore, it is also understandable, that the list of implementing authorities is a very broad and general one and that the deadlines are very general and very short.

In the part dealing with “special goals” no implementing authorities and no deadlines are foreseen.

In short: the Action Plan as provided for by the authorities of BiH can not make any major impact on the fight against organised crime in the country.

5 CONCLUDING RECOMMENDATIONS

Based on the previous observations there can be only one recommendation concerning the initial strategy and action plan for the fight against organised crime in BiH:

The authorities of BiH shall, as soon as possible, through a proper political body adopt a completely new text of the national strategy against organised crime and give the task of drafting of a related and completely new action plan to a proper public administration body. The text of the strategy should at least include list of activities needed for the achievement of strategic preventive and repressive goals and system for the implementation of the Strategy. The new Action Plan shall follow the activities described in the Strategy and entail all necessary structural elements for its effective implementation.

6 ANNEX I : OC AND AC POLICY PAPERS

6.1 Introduction (Chapter 1)

Bosnia and Herzegovina suffered the most extensive devastation and destruction of its economy and infrastructure. In addition to a large number of casualties, many people were forced to move and emigrate, and the full implementation of Annex 7 of the Peace Settlement has not been achieved to the present day.

The post-war development of Bosnia and Herzegovina, including the transition of ownership, did not progress as expected, which was surely one of the causes for the rise of all forms of crime, in particular organized crime. The disorderly situation in other countries in the region and wider led to the appearance of organized groups which adjusted their interests to the current situation for personal gain. These organized groups naturally had support of the political structures which were organized strictly on ethnic principles, again for personal benefit. The rise of organized crime in the forms such as human trafficking, production and trafficking of drugs, illegal migration, money counterfeiting, theft of motor vehicles, trafficking arms and related materials, computer crime, etc., ran rampant in such a context and stayed in the areas of Bosnia and Herzegovina.

The strategy for fight against organised crime and corruption defines the risk factors, principles of fight against organised crime, general and special goals, measures, implementing agencies and deadlines, responsible for prevention and fight against forms of organised crime.

6.2 Principles for Drafting the Strategy (Chapter 2)

1. **Principle of respect of freedoms and rights of citizens** – activities in strategy implementation guarantee the exercise of all human freedoms and rights of citizens.
2. **Principle of non-discrimination** – all specific activities in this fight refer to all actors involved in illicit activities, regardless of gender, ethnic or religious background.
3. **Principle of political willingness and priority** – active fight against organized crime represents a political willingness and priority in the activities of the institutions of BiH.
4. **Principle of legality** – compliance with the Constitution and domestic legislation in this field as well as with specific provisions of international agreements signed by Bosnia and Herzegovina.
5. **Principle of single and global vision** – fighting organized crime is based on single and global perception of the problem.
6. **Principle of coordination and mutual cooperation between all involved agencies** – practices and procedures for fighting organized crime will be based on a single national concept of public and private sectors, international organisations in BiH, civic society and citizens.
7. **Principle of professionalism and harmonisation in all areas of activity** – fighting organized crime implies high professional training of experts and exchange of experiences, practices and new tools for working in all areas, along with harmonisation of the above with preventive and oppressive measures.
8. **Principle of active international cooperation** – active cooperation in the preparation for association with the EU and ensuring BiH's active international role.
9. **Principle of respect to obligations in the strategy implementation** – monitoring strategy implementation and defining responsibilities of institutions competent to implement the strategy with clearly defined obligations within anticipated deadlines.
10. **Principle of continuity** – activities implemented in fighting this phenomenon are of permanent character.
11. **Principle of confidentiality** – personal data arising from specific activities will not be publicized, except in cases and under conditions specified by law.
12. **Principle of analysis** – periodic analysis and estimate of implemented goals and actions.

7 ANNEX II: ORGANISED CRIME (CHAPTER 3)

7.1 Existing Domestic and International Framework Documents

In the framework of criminal legislation of Bosnia and Herzegovina, organized crime is primarily criminalized in the Criminal Law of Bosnia and Herzegovina¹. Apart from the criminal offence of organized crime, the law also criminalizes the actions of agreement, preparation and association as forms of complicity or preceding stages in an act of commission of a criminal offence. These illegal actions are systemized into a special chapter of the Criminal Law, which indicates the seriousness to the approach of fighting organized crime. The solutions contained in the Criminal Law, when it comes to issues of regulating provisions referring to organized crime, are consistent with standards and solutions contained in international documents which were accepted by Bosnia and Herzegovina by that time.

The most important international documents treating directly the area of fighting organized crime are: The United Nations Convention against Transnational Organized Crime² from 15 November 2000; Recommendation Rec(2001)11 of the Committee of Ministers to member states concerning guiding principles on the fight against organized crime from 19 September 2001; Joint Action of 21 December 1998 on making it criminal offence to participate in criminal organization in the Member States of the European Union³. What is of extreme importance for Bosnia and Herzegovina in the context of harmonizing its regulations with those of the EU is acceptance of guidelines specified in the Action Plan to Combat Organized Crime⁴ and Pre-Accession Pact on Organized Crime Between the Member States of the European Union and Applicant Countries of Central and Eastern Europe and Cyprus⁵

Apart from the mentioned international documents, there is a whole range of conventions, protocols and recommendations of the UN, European Union and Council of Europe, as well as of other organizations which are considered to be important legal instruments in fighting organized crime and which must be observed in the legislation harmonization process. Bosnia and Herzegovina has concluded bilateral and international agreements on cooperation in the field of fighting crime, border zone cooperation, exchange of security data with a majority of the countries in the region, European Union and wider.

Bosnia and Herzegovina has signed and ratified six bilateral agreements on cooperation in the area of fighting crime (Republic of Croatia, Turkey, Hungary, Italy, Russia and Iran), while an agreement with Greece has been initialed and the report accepted by the BiH Presidency. For other agreements, the Presidency has decided that agreements may be signed and ratified with the following countries: Switzerland, Egypt, Moldova, Slovenia, Macedonia, Pakistan, Montenegro, Romania, Austria, Spain, Saudi Arabia. The BiH Presidency has also accepted the decision and report on the signing of an Agreement on Border Zone Cooperation with the Republic of Croatia. The Agreement on Exchange of Security Information with the European Union was signed in 2004.

¹ Criminal Law of Bosnia and Herzegovina, "Official Gazette of BiH", No 3/03.

² Signed on 12 December 2000, ratified on 24 April 2002.

³ Joint Action of 21 December 1998 adopted by the Council of the Basis of Article K.3 of the Treaty of European Union, on making it criminal offence to participate in criminal organization in the Member States of the European Union OJ L351 of 29.

⁴ Action Plan to Combat Organised Crime (Adopted by the Council on 28 April 1997); OJ C 251.

⁵ Pre-Accession Pact on Organised Crime Between the Member States of the European Union and Applicant Countries of Central and Eastern Europe and Cyprus (Text approved by the JHA Council on 28 May 1998); (98/C220/01).

7.2 Institutional Capacities

The following agencies, among others, fighting organized crime operate within the Ministry of Security at the level of Bosnia and Herzegovina:

- Investigation and Protection Agency (SIPA),
- State Border Service (SBS),
- Office for Co-operation with Interpol

Competencies of the Investigation and Protection Agency (SIPA) are specified by the Law on Investigation and Protection Agency⁶ and mainly refer to organized crime, terrorism, war crimes, human trafficking and other criminal offences against humanity and values protected by international law, and serious financial crime. SIPA processes information and keeps records in accordance with the Law on Police Officials of BiH, Law on Personal Data Protection and other regulations of Bosnia and Herzegovina.

Competencies of the State Border Service are regulated by the Law on State Border Service⁷ and they include: enforcement of the Law on Supervision and Control of State Border, enforcement of the Law on Movement and Stay of Foreigners, prevention, discovery and investigation of criminal offences regulated by criminal legislation of Bosnia and Herzegovina when these criminal offences are directed against the security of the state border or against execution of tasks and duties of the SBS. They include criminal offences in accordance with the provisions of abuse of public documents serving as proof of identity and obligation of possessing a visa, and provisions related to movement and stay of foreigners and asylum, if criminal offences are committed during border crossing or are directly related to border crossing, and criminal offences related to transport of illicit goods across the state border, transport of goods without official approval or in case of violating an enforced ban.

Within the SBS is a Central Investigation Office, which is responsible for recording, discovering and processing criminal offences in the area of organized crime, in particular in the segment of organized human trafficking, illegal migration and organized forms of goods smuggling.

Within the Ministry of Security is also the Office for Cooperation with Interpol, which is an independent service whose rights and duties are specified by special regulations. Its task is to ensure and promote cooperation with police authorities, judicial bodies in fighting international organized crime and other forms of international crime, in the spirit of the «Universal Declaration on the Human Rights».

The BiH Prosecutor's Office is an institution whose competencies are defined by the Criminal Codes of BiH. Among other issues, the Prosecutor's Office is competent for organised crime at the level of BiH and particularly for crimes of international trafficking of narcotics, human trafficking, corruption, committed by representatives of BiH institutions, as well as economic crime endangering economic integrity and the single market in BiH. In order to investigate more efficiently and criminally prosecute the said crimes, a Special Department for Organised Crime, Economic Crime and Corruption was established within the Prosecutor's Office of BiH, and a number of international prosecutors were appointed to work there, together with domestic prosecutors, during the transition period.

Intelligence and Security Agency (OSA) operates as an independent agency for gathering security and intelligence information. It is directly responsible for its work to the Parliament of Bosnia and Herzegovina, i.e. a parliamentary commission. The Security and Intelligence Agency's competencies are specified by the Law on Security and Intelligence Agency of Bosnia and Herzegovina⁸, which, among other things,

⁶ "Official Gazette of Bosnia and Herzegovina", No 27/04.

⁷ "Official Gazette of Bosnia and Herzegovina", No 50/04.

⁸ "Official Gazette of Bosnia and Herzegovina", No 12/04.

encompass gathering, analyzing and distributing data on organized crime directed against Bosnia and Herzegovina, in particular in the fields of drugs, arms and human trafficking, illicit international production of arms of mass destruction or components, materials and devices required for their production; illicit trading in products and technologies which are under international control.

Indirect Taxation Authority of Bosnia and Herzegovina, as an independent administrative organization at the level of Bosnia and Herzegovina, enforces legal and other regulations on indirect taxation and policy laid down by the Council of Ministers of BiH at the proposal of the Steering Board of the Indirect Taxation Authority of Bosnia and Herzegovina. It was established under the Law on Indirect Taxation System⁹ and is directly responsible to the Council of Ministers of BiH through its Steering Board. Competencies of the ITA are regulated by the Law on ITA¹⁰ which, among other things, reflect in prevention, discovery and investigation of customs, tax and other violations, and, in accordance with instructions of the responsible prosecutor, taking activities in connection with investigating criminal offences related to indirect taxation through its organizational part of the Sector for Enforcement and Compliance with Customs and Tax Legislation.

Other institutions, besides state-level institutions, are Federation Ministry of Internal Affairs (FMUP), Ministry of Internal Affairs of the Republika Srpska and Brčko District Police at entity and Brčko district levels respectively.

Federation of Bosnia and Herzegovina consists of ten cantons. Each canton has its Cantonal Ministry of Internal Affairs, consisting of Police Administrations formed on the territorial and functional principle. Police Administrations consist of two or more Police Stations (municipal level). Competencies of the Federation Ministry of Internal Affairs (Federation MUP Police Administration) are regulated by the Law on Internal Affairs of the Federation of Bosnia and Herzegovina¹¹ and refer to prevention of terrorism, inter-cantonal crime, trafficking drugs, organized crime and discovery and apprehension of perpetrators of these criminal offences in accordance with the mentioned Law.

Cantonal Ministries of Internal Affairs' competencies are specified by the Cantonal Laws on Ministries of Internal Affairs which are consistent with the Federation Law on Internal Affairs. Apart from maintaining public peace and order in the cantonal territory, these competencies also refer to organized crime, drugs, terrorism and others, as regulated by the cantonal law.

The competencies of the Ministry of Internal Affairs of the Republika Srpska are specified by the Law on Internal Affairs of the Republika Srpska¹². The Ministry is organized into five Public Security Centers, which are directly linked to the Ministry. Functionally, the Ministry consists of seven administrations, one of which is the Crime Police Administration, consisting of seven departments. Crime Police Administration deals, among other things, with prevention of organized crime, production and trafficking of drugs, business crime and corruption, theft of motor vehicles and partially with issues in the domain of general crime.

Brčko District Police has full real and territorial competence on the territory of Brčko District as regulated by the Law on Brčko District Police¹³. The Crime Police Unit exercises its duties in accordance with the Law, focusing on fighting serious and organized crime.

⁹ "Official Gazette of Bosnia and Herzegovina", No 44/03 and 52/04

¹⁰ "Official Gazette of Bosnia and Herzegovina", No 89/05

¹¹ "Official Gazette of the Federation of Bosnia and Herzegovina", No 49/05

¹² "Official Gazette of the Republika Srpska", No 48/03

¹³ "Official Gazette of the Brčko District", No 2/00-33/05

7.3 International Obligations

Bosnia and Herzegovina's commitment to European integration requires a serious analysis of the scope, nature and characteristics of economic and organized crime. International obligations of Bosnia and Herzegovina in the field of organized crime arise from the obligations from the signed bilateral agreements, UN Convention against Transnational Organized Crime, Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime¹⁴, Protocol against the Smuggling of Migrants by Land, Sea and Air¹⁵, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children¹⁷, and BiH membership in the Interpol Organization.

In the area of free trade, Bosnia and Herzegovina has signed bilateral agreements with the countries of the region (Republic of Croatia, Serbia and Montenegro, Macedonia, Albania, Romania, Moldova, Turkey and Bulgaria), and agreements on mutual customs cooperation with the Republic of Croatia, Slovenia, Turkey and Serbia and Montenegro.

Stabilization and association negotiations were officially opened on 25 November 2005 and they regulate political, economic and trade relations between the EU and the acceding country. Provisions of the Agreement can be classified into several areas: political dialog and regional cooperation; trade relations and free movement of goods, persons and capital; harmonizing legislation in some areas (including the judiciary and internal affairs); determining areas and policies of cooperation and assistance; and institutional mechanisms for implementing the SAA.

7.4 Risk Factors and Domestic Weaknesses

In order to analyse the situation, define strategic goals, and determine the plan of further activities of competent institutions of BiH, the key risk factors and domestic weaknesses, which should be taken into account when drafting and implementing the strategy, were identified. Risk factors and domestic weaknesses, among others, include economic and political domain, political and institutional aspects and historical and geographical position of BiH.

Risk factors in the field of economy are: capital ownership structure and its delayed transformation, unnecessarily intensive intervention of the state in the field of economy in certain situations, insufficient compliance with economic rules, poverty which has reached a worrying extent, as well as negative trade balance of BiH.

Risk factors in the field of politics are reflected in the non-functional Constitution of BiH, limited competencies of the State, Entity and Brčko District authorities, influence of the International Community, the issue of political consensus on strategic goals in development of the state etc.

When it comes to the legal aspect, the following risk factors are identified: inadequate criminal policy, lack of harmonisation of regulations with the EU standards, conventions, recommendations and guidelines.

Risk factors identified in the institutional field are: non-existence of necessary institutions, inadequate efficiency of newly established institutions, and lack of adequate and good-quality coordination among institutions.

¹⁴ Ratified on 30 March 2004.

¹⁵ This Protocol supplements the UN Convention against Transnational Organised Crime.

¹⁷ This Protocol supplements the UN Convention against Transnational Organised Crime.

Additional risk factors are the consequences of the war in BiH, high tolerance for inappropriate behaviour, insufficient cooperation of citizens with institutions, the distorted system of social values and its frequent changes.

From the geographical standpoint, the risk factor is the position of BiH in the region and Europe, as well as the characteristics and the length of its border.

7.5 Organised Crime – term, definition, basic characteristics

It is a generally accepted view that the first step in successful fighting and control of organized crime is the very definition of the term of organized crime. However, such a definition has not been found to the present day so there is no single and unified definition of organized crime. However, there is a high level of agreement on certain characteristics defining the criminological phenomenon of organized crime. For the purpose of this document, two concepts will be used: definition of the **organised criminal group** in light of the UN Convention on Transnational Organised Crime and lists of special characteristics differentiating organized crime from other forms of crime, which is used by the European Union.

1.1. Criminal organization

The UN Convention on Transnational Organised Crime, for its own purposes, adopts the following definition of an **organized criminal group**:

Organized criminal group shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit; (Article 2 of the Convention).

1.2. Standards of the European Union concerning the basic characteristics of organised crime

The European Union did not accept the model of a single definition of organized crime, but instead, adopted a list containing 11 characteristics of which 6 need to be met in order to qualify an offence as organized crime. Of these six, four are mandatory and they are: 1, 3, 5 and 11.

1. association and cooperation between at least two persons,
2. each member has a specific task,
3. exists for a definite or indefinite period of time,
4. using some form of discipline and control,
5. existence of suspicion of committing serious criminal offences,
6. operating at international level,
7. using violence or other methods suitable for intimidation,
8. using commercial or other structures similar to business,
9. involvement in money laundering,
10. exerting influence on policies, media, public administration, judicial authorities or economy,
11. motivation through obtaining profit and/or power.

1.3. The importance of defining organised crime

When drafting the basic document defining the criminal policy of a state in the field of organised crime, it is particularly important to accurately define its form. Specifically, organised crime should not in any case be perceived only through the prism of criminal law definition of organised crime as a criminal activity. Especially since the greatest deception when defining organised crime is the notion of organised crime as a monolith entity with firm internal structure, i.e. that organised crime exists only in case of mafia-like organisations. In many countries, and the available information indicates that it is also the case in BiH,

organised crime manifests itself in the form of well-organised criminal activities conducted by more or less organised networks, structured, inter alia, on the basis of a regional or functional principle, i.e. in line with the type of criminal “business” activities (narcotics trade, car theft, tax evasion, money laundering, etc.).

Hence, organised crime, both in functional sense and from the perspective of planning law enforcement agencies’ activities, should be approached as a social occurrence, which, both in its forms and consequences, gives rise to serious consequences to the society as a whole. At the same time one should particularly insist on descriptive formulation of organised crime activities in line with the established basic characteristics of organised crime, such as the above mentioned criteria of the UN and the EU.

1.4. Criminal law definition of organised crime

The Criminal Law of Bosnia and Herzegovina defines a criminal organization as an organized criminal group consisting of at least three persons, and which exists for a certain period acting for the purpose of committing one or more criminal offences punishable by law with a three year prison sentence or a more severe punishment.

The Criminal Law of Bosnia and Herzegovina, similarly, defines separately the criminal offence of “organised crime” in Article 250 in the following way:

1. Whoever perpetrates a criminal offence prescribed by the law of Bosnia and Herzegovina as a member of an organised criminal group, unless a heavier punishment is foreseen for a particular criminal offence,

shall be punished by imprisonment for a term not less than three years.

(2) Whoever as a member of an organised criminal group perpetrates a criminal offence prescribed by the law of Bosnia and Herzegovina, for which a punishment of imprisonment of three years or a more severe punishment may be imposed, unless a heavier punishment is foreseen for a particular criminal offence,

shall be punished by imprisonment for a term not less than five years.

(3) Whoever organises or directs at any level an organised criminal group which by joint action perpetrates or attempts to perpetrate criminal offence prescribed by the law of Bosnia and Herzegovina,

shall be punished by imprisonment for a term not less than ten years or a long-term imprisonment.

(4) Whoever becomes a member of an organised criminal group which by joint action perpetrates or attempts to perpetrate criminal offence prescribed by the law of Bosnia and Herzegovina, unless a heavier punishment is foreseen for a particular criminal offence,

shall be punished by imprisonment for a term not less than one year.

(5) A member of an organised criminal group referred to in paragraph 1 through 4 of this Article, who exposes the organised criminal group,

may be released from punishment.

From the aspect of effective criminal processing, existence of two legal solutions contained in this criminalization is particularly important. So it is stipulated that criminal responsibility will also be borne by the person who becomes just a member of a criminal organization which commits or tries to commit a criminal offence through its joint action. In other words, this member need not necessarily participate in the commission or attempt to commit the criminal offence in order for him or her to be criminally liable for the criminal offence committed or attempted by the organization of which he or she is a member.

7.6 Forms of Organised Crime in BiH

7.6.1 Forms of Organised Crime in BiH

Through the activities of competent institutions and law enforcement agencies in BiH, the following forms of organised crimes are identified:

7.6.2 Economic Crime and Tax Evasion

Economic crime certainly represent the most serious problem for Bosnia and Herzegovina, considering the damage that this type of crime - tax and other duties evasion, inflicts upon the country's Budget and the society as a whole. Some assessments show that the damage caused in this way exceeds 1 billion KM.¹⁸

Cases in this field that have been treated so far usually pertain to crime in import and circulation of goods. According to available data, illegal import of so-called luxury goods (oil, alcohol and cigarettes) prevails, as well as import of excessive quantities of textile and technical equipment by illegal import across the State border (smuggling) and use of forged import documentation (customs fraud).

Regarding illegal import across the State border and cigarette smuggling as a prominent form of criminal activities, the agencies have been continuously collecting information on these incidents and investigating illegal activities that took place mostly at places suitable for crossing the State border. In these cases and in cases of customs fraud, it has been noticed that some members of institutions responsible for the State border and cross-border goods circulation and trade control abused their position and enabled smugglers' networks to conduct their unlawful activities.

In internal trade, we have noticed cases of organized tax evasion by means of so-called fictitious companies, which was enabled by the previous tax system. This system enabled transfer of tax payment liability to the final consumer, so so-called fictitious companies formally assumed the final consumer's role while taxable goods ended up at the black market. It has to be said that organized groups established entire systems and networks for tax evasion and legalization of illegally acquired profit (money laundering) and provided their services, with some commission, to a huge number of companies throughout Bosnia and Herzegovina.

Notwithstanding the fact that the great number of these cases causing losses of several million in the country's Budget were identified and prosecuted, the significant number of cases remains in the "dark figure" of crime.

With the commencement of the implementation of indirect taxation system in early 2006, it is expected that some modalities in crime will change in line with the new taxation system.

In addition to tax evasion, smuggling and customs fraud, we have also registered a number of abuses in the process of State-owned company ownership transformation into private property. This caused huge damages to privatized companies and the State as a whole.

The above and similar unlawful activities in economic crime, along with other forms of organized crime, have negative impact on attracting foreign investment - the basis for progress. It is assessed that all effects of these activities will continue to have significant impact on the general situation in BiH and directly endanger economic stability of the country.

¹⁸ Possibly quote the source; EU Report on BiH's Readiness to Commence the SAA Process

7.6.3 Illegal Trade in Narcotics

Illegal trade in narcotics is one of the most important activities of the organized criminal groups. Considering the geographic position of BiH and the importance of so-called "Balkan Route" that partly runs through Bosnia and Herzegovina, illegal trade in narcotics is one of the most important aspects of crime in Bosnia and Herzegovina. Information on the seized quantities confirms these claims, although the seized quantities represent just a small portion of the quantities presumed to be smuggled through and to Bosnia and Herzegovina. In 2005, the agencies seized 58,539 kg of heroin, 9,961 kg of cocaine, 161,572 kg of marijuana and different synthetic drugs in Bosnia and Herzegovina. Almost all cases include activities of organized criminal groups. In addition, available data show that although some results have been achieved in prevention and by severing illegal activities, trade in narcotics keeps increasing, especially in terms of number of people involved in those activities and number of consumers in Bosnia and Herzegovina. The law enforcement agencies have identified some persons and organised groups that organize their activities within the so-called "Balkan route" and Bosnia and Herzegovina itself.

7.6.4 Illicit Arms Trade

According to the available data, the national security of Bosnia and Herzegovina is endangered by illegal trade in arms conducted by individuals and groups at inter-Entity and partly at the international level. Trade in arms mostly involves residual arms from the war, in storage at concealed locations or arms stolen from military warehouses. The final user is mostly unknown. In most of the cases, the arms from BiH are smuggled to Albania, Kosovo and through the neighboring countries to EU. We have recently identified a group of BiH citizens involved in *Simitex* explosive smuggling from Bosnia and Herzegovina to France. We have also identified cases of illegal arms trade to the Netherlands and Sweden. Numerous information indicate the existence of connections between persons involved in illegal arms trade from BiH and criminals in countries in the region. The fact that some illegally acquired arms remain with individuals and in warehouses in BiH may have a bearing on possible security threats in BiH in the future. In addition, the arms remaining in BiH at secret locations may be, in some circumstances, further distributed or used for some terrorist and other activities that may be threatening for BiH or some other country. Our information indicate that those activities may go beyond the BiH territory and have an international dimension as well as strong organisational elements.

7.6.5 Human Trafficking

Human trafficking represents one of the most serious and brutal forms of violation of fundamental human rights by various forms of exploitation, such as prostitution and sexual exploitation. Activities registered in this domain in BiH are especially prominent for their good organisation. Well-organised groups from the territory of BiH, within the country but also on the regional scene, have developed entire networks for finding, recruiting, transporting and providing shelter to victims of human trafficking, where the majority of cases are cases of women trafficking for the purpose of sexual exploitation.

In addition to the violation of victims' rights and the exploitation of victims of trafficking, human trafficking brings substantial profit to organisers of these activities, wherein the risk factor, especially in the past period, was relatively low given that the measures of control of these activities were rather poor, while the anticipated criminal sanctions were not sufficiently severe in order for them to have any preventive effect on perpetrators.

With regard to the victims of human trafficking, in the period up to 2005 the majority of cases included female citizens from Ukraine, Moldavia and Romania, while a significant increase of women from Serbia and Montenegro, as well as Bosnia and Herzegovina, was registered during the last year.

With respect to the very organisation of illegal services of prostitution, these activities are most often organised in the so-called night clubs, where victims of human trafficking are kept in extremely difficult

conditions with their fundamental rights denied, such as freedom of movement and possession of travel documents.

Taking into account the seriousness of this occurrence, in the past few years Bosnia and Herzegovina has undertaken significant efforts to prevent human trafficking for the purpose of sexual exploitation. A Task Force for prevention of human trafficking was established, and the results thus achieved contributed to classify Bosnia and Herzegovina among those countries that are making the fastest progress in this area. These activities are continuously underway and are gaining additional intensity and seriousness.

Furthermore, there are certain indications of cases of trafficking of human organs, although this form has not been sufficiently researched and there are no exact and precise data to confirm the indicated cases.

Along with the repressive measures, i.e. criminal processing of organisers of human trafficking, Bosnia and Herzegovina has significantly improved the institutional and functional capacities pertaining to issues of foreigners, asylum, protection of victims of human trafficking, humanitarian asylum, etc.

7.6.6 Illegal Migration

In the sphere of illegal migration Bosnia and Herzegovina represents a country of transit on the immigrants' route to Western Europe. At the moment, the dominant role among foreign citizens who use it for transit have citizens of Serbia and Monte Negro from Kosovo and citizens of Albania.

The strengthening of the State Border Service and control at the Sarajevo and Tuzla Airports have both significantly improved the situation in this field which is in the best way proved by the decrease in the number of received persons in the year 2005 and the number of whom is more than 32 times less than in 2000 (from 5,361 in 2000 to 170 in 2005) and is further decreasing.

The accentuated interest of some categories of population from the high-migration risk countries to come to the territory of Western Europe is in favour of the crime group's activities which herein recognize their interest in human trafficking, see a possibility to illegally earn considerable profit. At the same time illegal migrants, depending of the point and methods of their entering Bosnia and Herzegovina, continue to move towards the northwest (broader area of Velika Kladuša) or south (Čapljina, Ljubuški and Posušje) part of Bosnia and Herzegovina, where they try to illegally cross the state borderline. The non-existence of integrated information system with the assistance of which would be possible to follow the movement and stay of foreigners in every phase of their entry to and stay in Bosnia and Herzegovina, impedes successful prevention of this kind of criminal activities. The same is true about the non-existence of adequate migration and asylum centres as the basis to implement the return of immigrants to their countries of origin.

However in last couple of years Bosnia and Herzegovina becomes a country of the origin of illegal migrants considering that there is noted increase in the number of citizens of Bosnia and Herzegovina who reach Western European countries as illegal migrants. Thus a network of illegal migrations of the citizens of Bosnia and Herzegovina to Western European countries and particularly to France was cut off during 2005. It is assumed that the well-organised network, whose individual members were arrested and subject to criminal proceeding from 2003 to 2005, facilitated illegal leaving of 3,000 citizens of Bosnia and Herzegovina to France whereto the organizers acquired considerable illegal profit.

7.6.7 Car Theft

One type of crime that is becoming more and more organized in BiH is car theft and re-sale of stolen motor vehicles. Persons involved in this type of crime are well organized and equipped by sophisticated machinery. We have identified tens of groups that were involved in car theft and re-sale. In particular, we had the case of a group from Banja Luka, consisting of some 30 members. Criminal groups have good

cooperation throughout BiH and at the regional and international level. It indicates that there is organized car theft activity in BiH, both locally and internationally.

7.6.8 Money and Securities Counterfeiting

The agencies focused their efforts on identification of individuals and groups involved in illegal activities that undermine the BiH monetary system, such as production and use of counterfeit notes. To this end, we managed to locate some persons from BiH involved in this type of crime and in putting into circulation counterfeit notes, usually notes originating from Bulgaria and other East European countries.

Gathered information on circulation of counterfeit notes in BiH show that counterfeit EURO notes make the majority of forged banknotes that usually end up in West European countries. This can have direct and indirect impact on the overall economic stability and legal money flows.

Mirsad to include the text on securities

7.6.9 Robberies

In the previous period we have registered a huge number of robberies involving well-organised groups and their attacks at banks and post offices. In addition, we have also recorded cases of robberies of different facilities such as shopping centers, gas stations, betting places etc. Robberies of private residential premises cause special concern. The common feature of all these crimes is the use of firearms and different coercive force and every crime is well prepared and organized. In addition to damages amounting to several million, this type of crime has a very negative effect on the feeling of safety among citizens.

7.6.10 Illegal Production and Trade in Weapons of Mass Destruction and Similar Materials

The competent authorities and bodies of Bosnia and Herzegovina work on the establishment and implementation of systemic oversight over weapons of mass destruction and similar materials; these activities are in their initial phase. The law enforcement agencies do not have information on the BiH citizens' participation in illegal trade in weapons of mass destruction or materials used for their production or information that such illegal activities have been conducted or are taking place within BiH. In addition, there are no information showing an intention or plan to use BiH for such activities in the future. Although this possibility cannot be completely ruled out (absence of relevant information does not mean absence of any threat), it has to be emphasized that, according to available information, this possibility does not seem realistic.

In terms of so-called ecological crime in BiH, the competent authorities have not gathered credible information on deliberate and organized activity aimed at preparing or committing this type of crime. Registered cases in this area indicate irresponsible conduct of individuals or groups in handling dangerous materials and not planned and organized actions.

In BiH there are so-called double purpose goods that can be used for civilian and military purposes and their export is therefore controlled. For this reason, BiH should continue its active participation in all relevant international activities.

7.6.11 Money Laundering

Laundering of money earned by organised crime and corruption greatly undermines frail BiH economy and seriously threatens to substantially corrode democratic political structure and economic and political stability of the country. Furthermore money laundering represents an exceptional threat to the integrity of financial institutions in BiH and it brings business subject, which operate legally, in a less favourable position.

Significant funds earned through money laundering generate unrealistic increase in demand for luxurious goods (cars, yachts etc.), an increase in the price of real estates and certain consumption goods which further encourages speculative behaviour of all sorts and forms of working participation, which are in line with law, become less valued.

During 2005, the State Investigation and Protection Agency forwarded to the Prosecutors Offices in BiH 38 criminal reports on committed money laundering crime against 52 persons and the amount of incurred damages and/or gains is KM 113,249,839.23 and the amount of frozen assets of legal and physical persons is KM 2,039,554.03.

Bosnia and Herzegovina established FOO at the state level since Dec 28, 2004 and it is a member of Egmont Group since 2005.

7.6.12 Copyright Infringement

During previous years Bosnia and Herzegovina has faced serious problem with regard to copyright infringement. It was particularly the case with illegal market of pirate copies of audio and image media (music compact discs, audio tapes, movie DVDs) as well as pirate copies of computer applications. This occurrence was spread to such extent that the legal sale of original copies was almost non-existent. Furthermore, based on collected evidence it was possible to conclude that it was well-organised business activity with the fully established infrastructure and pirate copies' distribution, as well as production, capacities.

First significant activities in preventing this were conducted during 2004 and particularly in 2005. Thus during 2005 a series of actions in controlling illegal market were conducted in order to prevent copyright infringement as a part of an investigation led by the Prosecutor's Office of Bosnia and Herzegovina. These activities resulted in the seizure of over 300,000 copies of different audio and image media and computer applications and initiating criminal proceedings against hundred-odd persons involved into these activities.

As a direct consequence of these activities, extent of the occurrence decreased to substantial degree, which not the least bit means that such activities have not been conducted any longer. It is thus necessary to continuously and systematically continue with efforts to put under control the infringement of copyright and related rights.

7.6.13 Illegal Logging and Transport of Wood

Illegal activities in the forestry sector mostly include the sale of wood by public forestry companies. The problem of illegal logging and transport of wood is of particular interest, given the well-known fact that Bosnia and Herzegovina is the fourth country in Europe with its forest reserves (45% of BiH territory is covered with woods). Illegal logging of woods continued with the same intensity in 2005, which has negative consequences on the BiH Budget. Many persons participate in the chain of illegal activities, starting with workers on logging all the way to the end-users, with negligible or almost no control by the competent inspection and other authorities. During 2005 the police agencies and EUFOR increased the control of logging, processing and transport of timber and timber products, which resulted in closing down several illegal sawmills and removal of managers and directors of forest estates. Except for indications, there has been no concrete proof that some of the proceeds of illegal exploitation of forests are directed for financing certain political parties and anti-Dayton activities.

With the purpose of prevention of illegal activities of logging and transport of woods, the BiH State Investigation and Protection Agency drafted an Action Plan for Prevention of Illegal Activities in the Sector of Forestry and Wood Industry in Bosnia and Herzegovina.

7.6.14 Computer Crime

The Cyber Crime Convention of the Council of Europe foresees sanction for actions directed against confidentiality, completeness and access to computer data and systems.

Illegal access means every deliberate act of illegal access to the entire or parts of computer systems. The Convention treats as a criminal act every illegal interception that represents every deliberate act of unauthorized interception of non-public transfer of computer data to a computer system, from or within the system (including electromagnetic emission from a computer system that transfers the data), committed by a technical instrument. Data interference represents every deliberate act to illegally damage, delete, spoil, alter or suppress computer data. System interference represents every deliberate act of serious unauthorized prevention of the computer system operation by inputting, transferring, damaging, erasing, spoiling, altering or suppressing the computer data.

Crimes within the cyber crime area, aimed at causing deliberate or unauthorized damage to another person's property, include the following: a) any input, alteration, deletion or suppression of computer data; b) any interference with the functioning of a computer system, c) with fraudulent or dishonest intent of procuring, without right, an economic benefit for oneself or for another person.

It is necessary to emphasize in particular crimes related to child pornography that include: producing child pornography for the purpose of its distribution through a computer system; offering or making available child pornography through a computer system; distributing or transmitting child pornography through a computer system; procuring child pornography through a computer system for oneself or for another person; possessing child pornography in a computer system or on a computer-data storage medium.

Special areas of cyber crime include criminal offenses of the infringement of copyright, as defined under the law of the Party, pursuant to the obligations it has undertaken under the Paris Act of 24 July 1971 revising the Bern Convention for the Protection of Literary and Artistic Works, the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Copyright Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed willfully, on a commercial scale and by means of a computer system and pursuant to the obligations it has undertaken under the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention), the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Performances and Phonograms Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed willfully, on a commercial scale and by means of a computer system.

In BiH, cyber crime follows the degree of the information society development and IT development. So far we have registered two types of cyber crime in Bosnia and Herzegovina. The first pertains to illegal use of computer programs (unlicensed software) and its widespread copying and use.

The second pertains to companies that act as a middleman in rendering telecommunication services – Internet telephony (VoIP).

7.6.15 Terrorism and Financing of Terrorist Activities

In the past period competent institutions and law enforcement agencies in BiH have undertaken numerous activities in the fight against terrorism and financing of terrorist activities. With regard to that, and in cooperation with international institutions, several investigations were planned and conducted within NGOs brought into a direct or indirect relation with the financing of some terrorist organizations and terrorist

activities. The result of these activities was a ban on work and inclusion of 11 NGOs on the UN Consolidated List²⁰, including six persons who directly or indirectly supported terrorist financing and terrorist activities. Law enforcement agencies identified a group of four members, two of them being citizens of BiH while the other two are foreign citizens (Sweden and Turkey), brought into a connection with illegal trade of weapons and explosives and preparing terrorist acts against certain diplomatic and consular missions in BiH.

Taking into account the above facts, BiH continues to actively participate in the international fight against terrorism, wherein particular attention is given to improving the legal framework, developing institutional capacities for the fight against terrorism. In that context, the Strategy of Fight Against Terrorism in BiH is currently being drafted.

7.7 General Objectives

1. Harmonize legal regulations of Bosnia and Herzegovina with international conventions, agreements, recommendations and standards governing the area of fight against organized crime and confiscation of illegally obtained assets.
2. Develop and strengthen BiH institutions for fight against organized crime, identification, freezing and seizure of illegally obtained assets, and efficient and rational management of confiscated assets and different gains.
3. Education, professionalization, modernization and specialization of human resources of the BiH institutions for fight against organized crime.
4. Strengthen and develop further inter-institutional cooperation in Bosnia and Herzegovina.
5. Develop international cooperation in fight against all types of organized crime.
6. Support the development of independent research and institutions dealing with multidisciplinary research of organized crime, and improve cooperation with scientific and academic organizations.
7. Increase civil society awareness and educate the public about risks and damaging effects of organized crime for the society as a whole.
8. Create awareness among judicial institutions and law enforcement agencies about the need to cooperate with broadcasters and the press to provide objective and timely information to the public about factors that generate organized crime, big organized crime cases and examples of confiscation of illegally obtained assets and gains.

7.8 Special Objectives

1. Improve legal framework and institutional capacities in crime analysis area and criminal intelligence activities.

²⁰ Information published at the web site: www.un.org/DOCS/sc/committees/1267/1267listEng.htm

2. Establish legal framework and strengthen institutional capacities for conducting financial investigation within crime investigations and in the proceedings relevant to confiscation of illegally obtained assets and gains.
3. Provide standardized and efficient legal framework and institutional capacities for conducting special investigative actions.
4. Provide standardized and efficient legal framework for the implementation of witness protection measures in Bosnia and Herzegovina, and financial requirements for the implementation of Witness Protection Program.
5. Establish and develop international judicial cooperation in criminal law cases that will enable joint criminal and financial investigations.
6. Establish and develop cooperation between law enforcement agencies at the international level to enable implementation of, in particular, joint operations.
7. Intensify activities in the area of fight against illegal trade in narcotics and precursors.
8. Establish new and standardized information systems and database and develop, maintain and update the existing information systems and databases of the law enforcement agencies and ensure continuous computer education of the employees.
9. Full implementation of international standards and recommendations in the prevention of money laundering and terrorism funding.
10. Continue activities aimed at the prevention of illegal human trafficking and illegal migration.
11. Reduce the number of robberies.
12. Continue activities aimed at the prevention of car theft and re-sale.
13. Decrease the quantities of counterfeit notes in circulation and the number of fraud cases involving forged securities and value marks.
14. Reduce the number of cases of copyright infringement.
15. Reduce tax evasion, smuggling of high value goods and customs fraud.
16. Prevent illegal trade in arms and military equipment and enforce the ban on purchasing, transporting, warehousing and disposing of nuclear waste within the territory of Bosnia and Herzegovina.
17. Prevent sale, procurement and exchange of goods or items that are a subject to the sale ban or restrictions by the regulations of Bosnia and Herzegovina or international law.
18. Prevent production and processing of goods that are a subject to the production or processing ban by the regulations of Bosnia and Herzegovina or international law.
19. Prevent and fight against computer crime.

7.9 Organised Crime Dynamic / Action Plan

GENERAL GOALS

GOAL	ACTIONS	IMPLEMENTING AUTHORITY	DEADLINE
Harmonization of legal regulations of Bosnia and Herzegovina with international conventions, agreements, recommendations and standards dealing with fighting organized crimes and confiscation of the assets gained by criminal activities.	<p>Ratification of international conventions and agreements not yet ratified.</p> <p>Adjustment of domestic legislation with <i>aquis communautaire</i>.</p> <p>Amendments to criminal codes, criminal procedure codes and criminal sanctions enforcements laws.</p> <p>Establishment of legal framework in the field of seizure of assets acquired by criminal activities.</p> <p>Ensure bilateral and multilateral agreements for the sake of cooperation in organized crime prevention.</p> <p>Implement fully international and European legal instruments which regulate international and mutual cooperation in criminal matters.</p> <p>Enact the Law on legal aid in criminal matters.</p> <p>Amendments to the laws regulating judicial field.</p>	<p>BiH Justice Ministry</p> <p>BiH Security Ministry</p> <p>Directorate for European Integration</p> <p>High Judicial and Prosecutorial Council</p>	End of 2007
Development and strengthening of the institutions of Bosnia and Herzegovina to fight against organized crime, to identify, freeze and seize gains of criminal activities and efficiently and rationally manage seized properties and other gains.	<p>Material, technical and personnel strengthening of institutions in charge of fighting organized crime.</p> <p>Establishment of agency/agencies to identify, freeze, seize and manage property gains acquired by criminal activities.</p> <p>Develop and adopt the model of policing based on crime-intelligence model in the struggle against organised crime.</p>	<p>BiH Council of Ministers</p> <p>BiH Security Ministry</p> <p>BiH Ministry of Finance and Treasury</p> <p>BiH Police Reform Directorate</p>	End of 2007

	<p>Establish state-level system for the collection of statistic and other data on organised crime.</p> <p>Establish single information police system in BiH.</p> <p>Establish single system to apply special investigative measures of technical supervision of communication and the use of covert investigators.</p>		
<p>Education, professionalization, modernisation and specialisation of human resources in the institutions of Bosnia and Herzegovina to fight organized crime.</p>	<p>Personnel improvement of competent ministries and their full affirmation in taking over envisaged competencies.</p> <p>Ensure systematic and permanent training of appropriate clerks on organized crime and methods and prevention techniques.</p> <p>Introduction of unique standards to select, appoint and promote staff in law enforcement agencies.</p> <p>Sub specialisation and specialist training of judges and prosecutors involved in criminal prosecution of organized crime.</p> <p>Organisation of training for authorised officials in law enforcement agencies as well as in other agencies dealing with financial investigations, including judges and prosecutors in charge of financial investigations.</p>	<p>BiH Council of Ministers</p> <p>BiH Security Ministry</p> <p>Civil Service Agency</p> <p>Law enforcement agencies</p> <p>Training Centres for Judges and Prosecutors</p>	<p>Continuous</p>
<p>Strengthening and development of inter-institutional cooperation in Bosnia and Herzegovina.</p>	<p>Facilitate mutual cooperation by enabling the exchange of relevant information among competent law enforcement agencies, both in legal and operative terms.</p> <p>Support the identification and adoption of common methodology to collect data on organized crime and the procedures for the exchange of those data.</p>	<p>BiH Council of Ministers</p> <p>Law enforcement agencies</p>	<p>First half of 2007</p>

	<p>Strengthen cooperation among the agencies involved in financial investigations.</p> <p>Promote inter-institutional cooperation in the field of application of special investigative actions, use of registered informants and witness protection.</p> <p>Ensure close cooperation of prosecutor's offices and law enforcement agencies in fighting organized crime.</p> <p>Establish joint task forces and operative teams to fight organized crime.</p> <p>Secure required financial and material funds for the work of joint task forces and operative teams.</p>		
Development of international cooperation in fighting all forms of organised crime.	<p>Enhance international cooperation by facilitating the exchange of relevant information and conducting joint investigations and police actions both in legal and operative terms.</p> <p>Active partaking in international anti-organized crime programs and associations (SECI, EUROPOL, INTERPOL, EUROJUST, etc.).</p> <p>Enter into protocol on police and judicial cooperation with neighbouring and other countries.</p>	<p>BiH Council of Ministers</p> <p>Law enforcement agencies</p>	Continuous.
Development of scientific research of organised crime and support to institutions dealing with multidisciplinary research of organised crime with the promotion of cooperation with scientific and academic organizations.	<p>Facilitate the use of state institutions' data in exercising scientific research.</p> <p>Use results of scientific research in creating modalities of organized crime prevention.</p> <p>Plan and provide funds for scientific research.</p>	<p>BiH Council of Ministers</p> <p>Law enforcement agencies</p> <p>Scientific and academic institutions</p>	Continuous
Raising awareness of civic society and organise public awareness training on risks and harmful consequences	Continuously initiate and organize fora of academicians and scientists, business and professional associations and	<p>BiH Council of Ministers</p> <p>Ministry of Finance</p>	Continuous

<p>organized crime has on the entire society.</p>	<p>NGOs on the topics treating, in both narrow and broad sense, organized crime.</p> <p>Follow and enhance drafting, adoption, publicizing and presentation of the Strategy with intensive activities of civil society.</p> <p>Organize international conferences, seminars, symposia, fora, round tables and forms of professional reference gathering to present national analytical expertise and publications related to organized crime.</p> <p>Organize on permanent basis presentations of practical models of inclusion and influence of civil society on fighting organized crime by activists from countries that have rich tradition.</p> <p>Create material prerequisites for publishing and presentation of scientific and other papers related to organized crime.</p>	<p>Law enforcement agencies NGOs</p>	
<p>Creation of awareness of judicial institutions and law enforcement agencies on the need to cooperate with electronic and written media for the sake of objective and timely informing the public on factors generated by organised crime, important cases of organised crime and examples of confiscation of properties and gains acquired by criminal activities.</p>	<p>Provide domestic and foreign media with timely, original and quality information on organized crime cases.</p> <p>Organize periodic meetings of the chief prosecutor with editors of written and electronic media for the purpose of focusing on security situation and/or factors generating organized crime, and improvement in the manner of communication applied to date.</p> <p>Initiate organization of special shows and campaigns to deal with organized crime with obligatory professional participation.</p>	<p>BiH Court Chief prosecutor Law enforcement agencies NGOs</p>	<p>Continuous</p>

SPECIAL GOALS

GOAL	ACTIONS	IMPLEMENTING AUTHORITY	DEADLINE
<p>Improvement of legal framework and institutional</p>	<p>Ratify provisions of the Convention for the protection</p>	<p>BiH Presidency</p>	<p>End of 2006</p>

<p>capacities in crime analysis and crime- intelligence work.</p>	<p>of individuals with regard to automatic processing of personal data and Additional Protocol to the Convention for the protection of individuals with regard to automatic processing of personal data, particularly taking into account oversight authorities and cross-border flow of information.</p> <p>Develop and adopt policing model based on anti-organized crime crime-intelligence model and ensure that input and output of crime-intelligence work would be integrated in the police work at state and local level.</p> <p>Strengthen crime analysis units.</p> <p>Train staff on rime analysis.</p> <p>Develop single-fold methodology with regard to collecting crime-intelligence data and statistics.</p> <p>Introduce standard way to collect, exchange, store, process and deliver information.</p> <p>Establish procedures and control the access to crime – intelligence data and analysis.</p> <p>Establish procedures to exchange crime-intelligence information at international level in line with appropriate rules on data protection.</p>	<p>Council of Ministers</p> <p>Ministry of Security</p> <p>Ministry of Foreign Affairs</p> <p>Law enforcement agencies</p>	
<p>Establishment of legal framework and enforcement of institutional capacity to conduct financial investigations as a part of criminal investigations and seizure of illegal gains.</p>	<p>Harmonise criminal legislation with the Convention to prevent money laundering, to seize and confiscate gains acquired by acts of crime in</p>	<p>Ministry of Security</p> <p>Training Centres for judges and prosecutors</p> <p>Law enforcement</p>	<p>End of 2006</p> <p>Continuous</p>

	<p>the field of the application of financial investigations.</p> <p>Train staff to conduct financial investigation.</p> <p>Strengthen cooperation between the State Investigation and Protection Agency <i>SIPA</i> (Financial-intelligence Department - FOO and Crime-investigation Department - KIO) and Entity Interior Ministries, Police Force of the Brčko District and BiH Prosecutor's Office.</p> <p>Strengthen cooperation between the Indirect Taxation Authority (Department for the enforcement of customs and tax actions) and other institutions involved in financial investigations (SIPA, State Border Service, Entity Tax Administrations and the Tax Administration of the Brčko District).</p> <p>Accelerate the process of establishing single database of all legal entities registered into court registers; establish other single databases accessible to all institutions.</p>	agencies	
<p>To ensure standardised and efficient legal framework as well as institutional capacities for the application of special investigative actions.</p>	<p>Amend criminal legislation along with precise definition of crimes, which can be subject to special investigative measures.</p> <p>Develop and adopt Rulebooks and guidelines for the use and implementation of special investigative actions.</p> <p>Establish nation-wide reporting system on the use of special investigative</p>	<p>BiH Prosecutor's Office</p> <p>Ministry of Security</p> <p>Ministry of Finance and Treasury</p> <p>Law enforcement agencies</p>	<p>First quarter of 2007</p>

	<p>measures.</p> <p>Adopt regulations on the use of funds to enforce special investigative measures (special funds) particularly with regard to funding secret operations, covert investigators and informants with provision of efficient supervision over their use.</p> <p>Provide required technical and material assets and equipment to implement special investigative actions.</p> <p>Ensure that specialized and trained staff implements special investigative measures.</p> <p>Introduce permanent professional training of the staff on the application of special investigative actions.</p> <p>Besides controlling prosecutors and judges, it is also necessary to introduce mechanisms for efficient supervision of the use of special investigative actions by special supervisory panels of judges or in any other way.</p> <p>Ensure close cooperation between prosecutor's offices and police force in the application of special investigative actions.</p> <p>Strengthen mutual and international cooperation in the application of special investigative actions.</p>		
<p>To ensure standardised and efficient framework for the implementation of witness protection measures in Bosnia and Herzegovina and financial presumptions for the</p>	<p>Improve functioning of Witness Protection Department within the Investigation and Protection Agency – SIPA</p>	<p>Council of Ministers Ministry of Security Law enforcement agencies</p>	<p>Half of 2007</p>

<p>implementation of witness protection program.</p>	<p>Harmonize rules and procedures in the work of the Witness Protection Department using positive experiences from countries having tradition in the field.</p> <p>Improve cooperation between the Registrar's Office and the Witness Protection Department.</p> <p>Provide technical capacities in courtrooms to enable video-link testimony, including practical training of judges and prosecutors to adopt rules in line with international procedures while using technical capacities for video-link testimony.</p> <p>Establish cooperation with witness protection units in the region for the purpose of standardization of rules and procedures while enforcing witness protection measures, in particular the measure of protected witness relocation.</p> <p>Ensure bilateral and multilateral agreements within the scope of witness protection program for the purpose of providing witness protection program in countries in the region and transfer of protected witness in third countries.</p>	<p>Registrar's Office</p>	
<p>Establishment and development of international cooperation of judicial authorities in criminal and legal matters, which would particularly facilitate the conduct of joint criminal and financial investigations.</p>	<p>Create legal prerequisites for conclusion of bilateral and multilateral agreements and/or arrangements according to which law enforcement agencies would establish joint investigating teams in one or more states.</p> <p>Until conclusion of bilateral and/or multilateral</p>	<p>Council of Ministers</p> <p>Ministry of Security</p> <p>Ministry of Justice</p> <p>Law enforcement agencies</p>	<p>Half of 2007</p>

	<p>agreements and/or arrangements on joint investigations, conclude agreements, within the scope of domestic legislation, with other countries from case to case with consistent respect for the sovereignty of each country.</p> <p>Additionally train prosecutors and staff of law enforcement agencies to conduct joint investigations of organized crime in two or more countries.</p> <p>Through communications with media, publicize widely the cases of joint investigations and their results.</p>		
<p>Establishment and development of cooperation of law enforcement agencies at international level, which would particularly facilitate the conduct of joint operations.</p>	<p>Acting in line with agreement</p> <p>Create legal preconditions for conclusion of bilateral and multilateral agreements and/or arrangements according to which multi-agency bodies to conduct joint operations would be established in one or more countries.</p> <p>Until conclusion of bilateral and/or multilateral agreements and/or arrangements on joint operations, conclude agreements, within the scope of domestic legislation, with other countries from case to case with consistent respect for the sovereignty of each country.</p> <p>Additionally train prosecutors and staff of law enforcement agencies to conduct joint operations against organized crime in two or more</p>	<p>Council of Ministers</p> <p>Ministry of Security</p> <p>Ministry of Justice</p> <p>Law enforcement agencies</p>	<p>Half of 2007</p>

	<p>countries.</p> <p>Through communication with media, publicize widely cases of joint operations and their results.</p>		
<p>To intensify activities in fighting illicit trafficking of narcotics and precursors.</p>	<p>Consistently implement the Law on Prevention and Control of Abuse of Narcotics.</p> <p>Establish Commission and Department for Narcotics Abuse Control</p> <p>Adopt the National Strategy for Narcotics Misuse Prevention</p> <p>Create the narcotics abuse prevention policy</p> <p>Enact bylaws establishing the legal control of production, trade in, distribution and fabrication of narcotics and precursors for medical use in order to be used for legal purposes, and enact procedures for enforcement of control measures.</p>	<p>Council of Ministers</p> <p>Ministry of Security</p> <p>Law enforcement agencies</p>	<p>End 2006</p>
<p>Drafting of new standardised and development, maintenance and updating of the existing information system and databases of law enforcement agencies as well as continuous information technology training of the staff.</p>	<p>Adopt the Law on Information Society Agency.</p> <p>Implement initiated projects of the European Commission in BiH and of ICTAP in the domain of telecommunications, envisaged for the security segment.</p> <p>Stipulate use, input and protection of databases in the domain of organized crime.</p> <p>Secure funds for further development of the existing and improvement of planned</p>	<p>Council of Ministers</p> <p>Ministry of Security</p> <p>Ministry of Transport and Communications</p> <p>Ministry of Finance and Treasury</p> <p>Law enforcement agencies</p>	<p>Half of 2006</p>

	<p>information systems to be used by law enforcement agencies.</p> <p>Organize continuously information training of staff in law enforcement agencies.</p> <p>Train specialist staff for updating, maintenance and control of access to databases while using and protecting central databases.</p>		
<p>Full implementation of international standards and recommendations in money laundering prevention and terrorism funding.</p>	<p>Ensure consistent application of forty recommendations and eight Special recommendations of FATF by all institutions that make the institutional framework for BPPN and BPFT.</p> <p>Pay special attention to implementation of the Document on prevention of criminal use of banking system for money laundering, key principles for efficient supervision of banks and due diligence analysis of bank clients (Basel Commission), Document on guidelines against money laundering for supervisors of insurance and insurance companies (IAIS) and Money Laundering Resolution (IOSCO).</p> <p>Ensure efficient system of measures for freezing and confiscation of property the income of which or the property itself is being used or is intended to be used or allocated for financing of terrorism, terrorist acts or terrorist organizations.</p> <p>Ensure mechanisms and procedures through which the financial institutions,</p>	<p>Council of Ministers</p> <p>Ministry of Security</p> <p>Ministry of Finance and Treasury</p> <p>Regulatory agencies</p> <p>Law enforcement agencies</p> <p>Financial institutions</p>	<p>End of 2007</p>

	<p>which have reasonable suspicion that certain transaction is linked with or related to and/or will be used for terrorism, terrorist acts or by terrorist organizations, must immediately inform responsible institutions.</p> <p>Through international legal aid and other accessible mechanisms, provide to other countries the highest possible extent of aid with respect to criminal, civil and administrative procedures pertinent to financing of terrorism, terrorist acts and terrorist organizations.</p> <p>Ensure that legal entities and individuals securing transfer of money or valuables, including transfer through informal systems or networks for transfer of money or valuables, have license that is the product of the consistent application of FATF Forty Recommendations.</p> <p>Ensure that all financial institutions dealing with money transfer obligatorily insist during electronic transfer on correct and explicit data on sender and all recommendations attached to the transfer.</p> <p>Assess the adequacy of laws and regulations related to nonprofit organizations in order to eliminate the risk of their use for financing of terrorism.</p> <p>Establish the appropriate system for protection of privacy, which would not be the obstacle to crimes prevention and identification</p>		
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	<p>as well as to following and confiscation of proceeds of crime.</p>		
	<p>Develop comprehensive and efficient local capacities for financial institutions supervision.</p> <p>In financial institutions establish and maintain, without any exception, efficient internal control and procedure to prevent abuse of these institutions for money laundering and terrorism funding purposes.</p> <p>Employment and appointment of officials responsible for BPPN and BPFT administration of all financial institutions should be carried out in line with special procedure and criteria to minimize the risk of money laundering and terrorism funding.</p> <p>Financial institutions have to establish efficient auditing, separated from other functions, to be able to objectively review adherence to requirements.</p> <p>Ensure permanent training for the staff of financial institutions, FOO, law enforcement agencies and prosecutors to provide them with relevant updates and enable them to acquire latest information in terms of work-related knowledge.</p> <p>Ensure full independence of FOO from political interference as well independence of competent or different supervisory institutions along with appropriate accountability</p>		

	system.		
Continue activities aimed at preventing human trafficking and illegal migration.	<p>Intensify activities of the existing Task Force for Fight against Human Trafficking</p> <p>Improve SIPA operations on prevention and identification of human trafficking-related crimes</p> <p>Complete institutional development of "Foreign Nationals Department" for the entire Bosnia and Herzegovina</p> <p>Consistent implementation of the Law on Aliens</p> <p>Provide material and technical resources for Asylum Seeker Centers and accommodation of foreign nationals</p> <p>Use the best examples of other countries in their fight against human trafficking, and focus in particular on prevention and identification of illegal trade in human organs</p> <p>Training for police agencies staff and foreign national's inspectors in fight against human trafficking</p>	<p>Council of Ministers</p> <p>Ministry of Security</p> <p>Ministry of Finance and Treasury</p> <p>BiH Prosecutor's Office</p> <p>Law Enforcement Agencies</p>	Second half of 2007/Continuous
Reduce the number of pilfering cases.	<p>Consistent implementation of regulations governing the operations of security-services agencies</p> <p>Introduce more strict mandatory security measures for institutions that deal with financial transactions in cash.</p> <p>Introduce more strict sanctions for non-compliance with regulations and procedures in this</p>	<p>Ministry of Justice</p> <p>Law Enforcement Agencies</p> <p>Banking Agencies</p>	End of 2006/Continuous

	<p>area.</p> <p>Introduce more strict sanctions against pilferers.</p>		
<p>Continue activities on prevention of car theft and resale.</p>	<p>Establish a database on stolen motor vehicles</p> <p>Efficient sanctioning of violations of regulations governing the registration procedure and transfer of ownership over motor vehicles</p> <p>Launch an initiative to harmonize basic regulations on registration procedure and on transfer of ownership over motor vehicles in the region.</p> <p>Educate police staff on stolen car identification techniques.</p>	<p>Ministry of Security</p> <p>Law Enforcement Agencies</p>	<p>End of 2006/Continuous</p>
<p>Reduce forged money inflow and fraud cases involving forged securities and value marks.</p>	<p>Improve procedures of financial institutions, market agents and their regulations in identification of clients and transactions of securities to improve the ability of law enforcement agencies to timely and efficiently identify suspicious transactions and/or forged securities.</p> <p>Ensure that legal persons involved in transactions of securities, issuance, distribution and use of administrative and tax stamps and post stamps as well as other stamps of value, establish and maintain adequate procedures for monitoring and protection.</p> <p>Consider measures to reduce cash transactions related to securities.</p> <p>Improve the existing legal</p>	<p>Council of Ministers</p> <p>Ministry of Finance and Treasury</p> <p>Regulatory Agency</p> <p>Law Enforcement Agencies</p> <p>NGOs</p>	<p>First quarter of 2008</p>

	<p>framework regulating registration and licensing of stock exchange brokers and investment advisors to minimize the possibility of organized crime control over this specific area.</p> <p>Strengthen technical capacities of law enforcement agencies for issuance of expert opinions and re-enactment of forged securities transactions and early identification of specific features of forged securities, value stamps and stamps marking on goods, weight indicating measurements and weights used on scales.</p> <p>Remove identified restrictions in NGOs activities that articulate consumers' interests and educate consumers in recognizing forged stamps marking goods, weight indicating measurements and weights used on scales.</p> <p>Within the existing legislation governing measurements, standardization and control of items made of precious metals pay special attention to prevention of forgery.</p> <p>Permanent education of prosecutors and law enforcement agencies about technical and technological trends and methodologies used for forging securities, value stamps and stamps marking on goods, weight indicating measurements and weights used on</p>		
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	scales.		
Reduce the number of copyrights infringement cases.	<p>Consistent implementation of Law on Copyrights and Similar Rights</p> <p>Train police staff in Bosnia and Herzegovina in fight against of copyrights abuse and unlawful use of copyrights and the rights of audio recordings manufacturers.</p> <p>Provide material and technical resources for improvement of operations of the BiH Intellectual Property Institute.</p> <p>Establish a database available to law enforcement agencies, containing information on licensed products, manufacturers and shops within the BiH territory.</p> <p>Uninterruptedly continue activities at identifying and processing persons who abuse and unlawfully use copyrights.</p>	<p>Council of Ministers</p> <p>Ministry of Security</p> <p>Ministry of Finance and Treasury</p> <p>BiH Prosecutor's Office</p> <p>Law Enforcement Agencies</p>	First half of 2007/Continuous
Reduce evasion of public revenues incurred by tax evasion, high-tariff goods smuggling and customs frauds.	<p>Establish and improve cooperation with tax and customs administrations of neighboring and other countries via the establishment of a electronic data exchange system in order to prevent goods smuggling and tax and duty evasion at the BiH border.</p> <p>Review experiences of countries with long VAT practice to anticipate conduct of economic subjects and different fraud modalities within the VAT and customs systems.</p> <p>Implement programs of technical and financial</p>	<p>Council of Ministers</p> <p>Entity and Brcko District Governments</p> <p>Indirect Taxation Authority of BiH</p> <p>Entity and Brcko District Tax Bodies</p> <p>Prosecutor's offices and courts in BiH</p> <p>Law Enforcement Agencies in BiH</p>	End of 2006/Continuous

	<p>support to tax and customs administration training in fight against international tax and customs frauds.</p> <p>Improve the quality of tax and customs legislation to improve functioning and reduce possibilities for tax evasion and customs frauds.</p> <p>Improve efficiency of tax bodies in BiH through better tax discipline, preventive and educational actions, efficient sanctioning of any failure to meet tax obligations and improved control and review system.</p> <p>Permanently integrate principles, methods and techniques of selection criteria, risk analysis and monitoring of possible tax and customs laws violations.</p> <p>Establish an efficient intelligence unit within ITA to collect, classify, assess, analyze and distribute information on goods smuggling and other tax and customs frauds.</p> <p>Regularly oversee non-border crossings and carry out controls beyond the border zone, especially along the established routes for goods smuggling to prevent and identify tax and customs offences and frauds, on its own or in coordinated actions with other law enforcement agencies in BiH.</p> <p>Establish an efficient organizational unit within ITA to control and process tax and customs fraud cases and timely report to</p>		
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	<p>competent prosecutor's offices pursuant to Law on Criminal Procedure of BiH.</p> <p>Prosecutor's offices and courts have to speed up prosecution of tax and customs fraud cases from the previous period.</p> <p>Strengthen and establish functional cooperation between ITA and other law enforcement agencies in BiH.</p> <p>Reform the direct tax system to harmonize tax rates at the BiH level.</p>		
Prevent illegal arms and military equipment and ban purchasing, transportation and warehousing of nuclear material and its disposal within the BiH territory.	<p>Enact a Law on Purchasing, Keeping and Carrying Weapons and Ammunition of BiH</p> <p>Enact legislation and other regulations on banning purchase, transportation and warehousing of nuclear materials and its disposal within the BiH territory.</p> <p>Education of and technical equipment for competent agencies.</p>	<p>Council of Ministers</p> <p>Ministry of Foreign Trade and Economic Relations of BiH</p> <p>Ministry of Foreign Affairs</p> <p>Ministry of Defense</p> <p>Ministry of Security – OSA</p> <p>Law Enforcement Agencies</p>	Mid 2007/ Continuous
Prevent production, processing, selling, purchasing and exchanging of goods or items which production, processing or trade is banned or restricted by the BiH regulations or international law.	<p>Enact legislation and other regulations to upgrade the rules on strategic material and double-use goods.</p> <p>BiH access to international arrangement and regimes in export of these goods and technologies (the Wassenaar Arrangement on Conventional Weapons Export and Dual-Use Goods and Technologies Export Regimes; Missile Technology Control Regime; Nuclear Non-Proliferation Group; the Australia Group on Chemical and Biological</p>	<p>Council of Ministers</p> <p>Ministry of Foreign Trade and Economic Relations of BiH</p> <p>Ministry of Foreign Affairs</p> <p>Ministry of Defense</p> <p>Ministry of Security – OSA</p> <p>Law Enforcement Agencies</p>	Enactment of the Law and other regulations by mid 2007/ Continuous

	<p>Weapons).</p> <p>Further implementation of international standards by competent BiH institutions in this area (International Programs: Export Control and Related Border Security –EXBS and Wisconsin Project on Nuclear Arms Control – Risk Report – a database on dual-use goods in the world).</p>		
Prevention or fight against cyber crime.	<p>Ratify the Cyber Crime Convention</p> <p>Regulate rules on prevention and fight against computer crime and use of Internet services and providers.</p> <p>Introduce digital signature into legal transactions.</p> <p>Establish departments, equip and train law enforcement agencies staff to prevent and fight against computer crime.</p>	<p>Presidency of BiH</p> <p>Council of Ministers</p> <p>Ministry of Transport and Communications</p> <p>Ministry of Security</p>	End of 2006

8 ANNEX III: STRATEGY FOR THE FIGHT AGAINST CORRUPTION

Generally speaking corruption refers to an abuse of public service for personal gain. However, there are certain differences of features that illustrate the complexity of the phenomenon of corruption.

Classical interpretation of corruption in political science is based on the premise that corruption is an indication of degradation of society's moral values (Aristotle, Machiavelli, Montesquieu). Corruption is a pathological occurrence, a systemic aberration within which the ruling political class places its personal interests above the interests of the political community. In such an approach corruption is condemned as immoral and detrimental to the political makeup of society. Political legitimisation is based on the fact that holders of political functions represent the interests of the political community as a whole, without giving preference to personal or group interests (of the party, company, or special interest group).

With the appearance of modern and democratic society, the systemic dysfunctionality of corruption became more prominent. Corruption is considered not only morally detrimental, but also one of the causes of inefficiency of the state. Corruption, therefore, represents a deviation from normal exercise of public duties in order to gain personal (or other: family, private cliques, interest groups) benefit; it represents a violation of norms in order to achieve personal interest. This includes activities such as bribery (acceptance of money or other benefits, thereby influencing decisions made by public authorities), nepotism (patronage and application of ascriptive or family criteria when deciding on a public issue) and an abuse of position for personal gain (illegal disposal of public goods, services, or other gratifications).

BiH is a society in economic and political transition and as such it is susceptible to all forms of corruption, still dominated by a bureaucratic apparatus that is uncontrolled and inflexible, and it cannot keep up with modern trends of development of a democratic society.

Corruption as a phenomenon in BiH has not been sufficiently researched and its effects on society are unknown. Transition processes, privatisation and the very process of building a state on entirely new basis, were conducive to the spread of corruption at all levels and in all areas of social life.

Results of research carried out by some nongovernmental organisations indicate that the citizens of BiH view the state apparatus of BiH as extremely corrupted, and the same applies to civil servants. Consequences of corruption are excessively negative when it comes to confidence among the citizens, as well as their confidence in the institutions. Furthermore, corruption has an exceedingly negative effect on the business environment and it hinders the development of small companies as well as operations of those that observe the rules of business.

The legal framework for the fight against corruption in BiH is adequate to some degree, and one could say that it is harmonised with the international obligations of BiH. However, it is necessary to sign and ratify the key international documents that have not undergone this process so far, i.e. apply those that have been signed and ratified but have not been applied yet. Furthermore, the legal documents of Bosnia and Herzegovina need to be harmonised with those provisions of international documents that are not legally binding for BiH. However, ratification and application of these additional standards would bring BiH closer to the European Union, as most of these documents are a part of EU regulations.

Institutional communication in the fight against corruption is not satisfactory, and the implementation of laws and regulations is not at the best level due to lack of communication and coordination between the institutions. Furthermore, the capacities of institutions are limited due to the fact that the institutions themselves are new and it takes time for them to strengthen their capacities.

One should also take into account that efficient fight against corruption can hardly be successful without active participation of responsible and informed citizens, coordinated cooperation of governmental, nongovernmental and international organisations, and the appropriate level of media and public support.

Establishment of a State Office for Fight Against Corruption is a systematic step forward aimed at defining measures for the fight against corruption and ensuring regular development of society and the respect of human rights, which are often jeopardized because of corruption. Establishment of this Office is also envisaged in the UN Merida Convention, i.e. Article 6 of this Convention.

Corruption is a multidisciplinary phenomenon with several different courses of consequences, which can only conditionally be classified into narrowly defined categories. Despite that, such classification at least enables the determination of their basic characteristics:

Economic consequences – corruption hinders the growth of national economy and the functioning of market economy, of free competition in particular, it increases the costs of work of public and private sectors, it has a negative influence on competitiveness, it disrupts and thus reduces investments, distribution of property is carried out in a non-transparent way in violation of generally accepted rules,

Socio-political consequences – social tensions increase, the principle of equality before the law is infringed and the patterns of behaviour adjust to it, success becomes easily achievable not to the most competent, but to individuals with best “connections”, citizens and the private sector slowly lose their confidence in the state institutions, the rule of law yields to political interests to the detriment of general welfare,

Consequences in state administration – functioning of the state administration does not meet the optimal quality standards, many decisions are made “behind the curtains” and non-transparently, public administration costs keep increasing.

The fight against corruption should be carried out at multiple levels, it envisages the involvement of numerous institutions, relying on each other in order to function properly. The key institutions for prevention and control of corruption should be: *the parliament, executive authorities, judiciary, supreme auditor, ombudsmen, monitoring agency, public services, media, citizens’ associations, private sector, international community.*

The adequate balancing of three aspects of fight against corruption (education, prevention and repression) has proved itself very efficient in international practice, it resulted in permanent positive effects and influenced the fight against corruption. Preventive measures require adequate criminal laws and a law enforcement system, capable to investigate and judicially prosecute corruption cases; prevention requires appropriate rules and institutional checks and balances aimed at preventing acts of corruption (code of ethics, transparent and efficient administrative procedures etc.); education of public requires close cooperation between the Government and public, as well as civil society, with the aim of building confidence in government’s anti-corruption reforms in order to gain confidence and support for the process of implementation of such reforms.

8.1 General Principles of Anti-Corruption Strategy

8.1.1 Respect of fundamental human rights

Anti-corruption measures in this strategy fully observe human rights and freedoms, in full compliance with the Constitution of BiH, its laws, bylaws and international legal instruments, and especially in accordance with the European Convention on Human Rights. The abstract danger of corruption is general in nature, while specific danger of certain acts of corruption enables departure from certain standards in the domain of protection of human rights and freedoms, only if permitted and to the extent permitted by BiH Law and International Law.

8.1.2 Political Willingness

Prevention, detection and criminal prosecution of corruption without an appropriate and clearly demonstrated political support is simply not possible. Fundamental changes in this area cannot be expected without a widespread social consensus with regard to dangerous consequences of importance of anti-corruption measures.

8.1.3 Participation of public and private sectors and civil society

Acts of corruption are detrimental for the public and private sector, for civil society and individual citizens, and thus require involvement of all stakeholders and various activities in preparation and implementation of the national anti-corruption policy. The sole involvement of state administration authorities or law enforcement agencies only results in incomplete and inappropriate responses to the complex issue of corruption. Therefore, the entire civil society must get actively engaged in all activities as an equal partner, especially in overseeing the implementation of common objectives, and it must be given an opportunity to participate in making the most crucial decisions.

8.1.4 Prevention before suppression

A solely repressive response to corruption results only in eliminating harmful consequences in individual cases, while the causes, motivation and circumstances giving rise to corruption stay untouched. As a reflection of global tendencies, and with a view to efficient and adequate preventive measures, the essence and implementation of anti-corruption measures are based on prevention, detection of causes and conditions resulting in corruption, and their elimination, while repressive action still represents corrective measures implemented in the most visible individual cases.

8.1.5 Progressiveness

According to modern theory and practice, corruption is understood as a deeply rooted system in social, cultural and political traits of each individual country, and such a system cannot be eliminated on a short-term basis or in one single surge. Measures can only be efficient if priorities have been defined and a realistic timeline for their methodical implementation adopted. Understanding the principles, causes, consequences and rational progressiveness are absolute prerequisites for planning activities, their importance lies both in the content and implementation of a national anti-corruption policy.

8.1.6 Project transparency and openness

By definition, national policy for the fight against corruption is intended for all citizens, which means that it must be a fully transparent and open project, in both its preparation and implementation phases. All the procedures leading to individual solutions must be equally transparent. One of the basic principles and conditions for a successful fight against corruption, transparency, can only be achieved by full clarity of all actions and absolute response to all the reactions by the community.

8.1.7 Implementation

Given the fact that complete elimination of corruption is impossible, it is the relentless and permanent prevention, detection and suppression of all its manifestations that make the nature of anti-corruption activities permanent. Each instance of yielding or temporary inactivity is immediately and directly reflected in an increased danger of corruption. Due to the above, the anti-corruption policy strategy in BiH must be a document that will enable both in its drafting and implementation stages, full completion of all the tasks from the first and last stages.

8.1.8 Organised and spontaneous supervision

Despite the inclusion of the widest possible number of subjects into the implementation of the Strategy, some subjects are more responsible than others. For that reason it is necessary to precisely determine the method of supervision over the implementation of the Strategy, and entrust the most qualified body with the task of supervision. At the same time, the general public must be encouraged to closely follow the implementation of the Strategy, while the procedures for exerting influence over the institutions responsible for implementing Action Plans also need to be specified.

8.1.9 Assessment of corrective measures

Each document is a reflection of time in which it was drafted. Corruption and other related occurrences are not only permanent phenomena, but they also have many different, varying manifestations. For that reason special procedures must be established as well as methods for monitoring the conditions that give rise to corruption, but also for an appropriate response to conditions applied. On a long-term basis such corrective measures will not represent a criticism of the basic text of the strategy, but will rather work in cooperation with its permanence, flexibility and efficiency.

8.2 Domestic legal framework for the fight against corruption

Corruption (lat. *corruptio* – depravity, bribability, venality, distortion), as a general phenomenon in the world, and particularly in post-conflict and transition countries, is an exceptionally pressing problem in BiH as well.

Within the criminal legislation of Bosnia and Herzegovina corruption has been criminalized in the Criminal Codes of Bosnia and Herzegovina⁷, FBiH CC, RS CC, and the BD CC, whereby all acts of corruption and other crimes against official and other responsible duties were classified under a separate heading of the law. The stipulated incriminations are in compliance with provisions of the key international documents treating the issue of corruption, which have been signed and ratified by Bosnia and Herzegovina, and therefore they can be said to meet the international standards, as defined in accepted international documents, with regard to legislative treatment of this phenomenon. Laws on conflict of interest, passed at the state,⁸ entity,⁹ and district¹⁰ levels play a particularly positive role in the fight against corruption.

Crimes of corruption and crimes against official and other responsible duties are stipulated in the BiH Criminal Codes, special section in Chapter XIX, crimes of bribery and crimes against official and other responsible duties are stipulated in the FBiH Criminal Codes, special section in Chapter XXXI, crimes against official duties are stipulated in the RS Criminal Codes, special section in Chapter XXVII, acts of bribery and crimes against official and other responsible duties are stipulated in the Brčko District Criminal Codes, special section in Chapter XXXI.

Crimes of corruption and crimes against official duty represent illegal actions directed against normal functioning of public services, composed of office holders or authorised persons exercising their official duties. This type of crime falls under the category of criminality with an exceptionally high danger risk for the society, bearing not only material consequences but destroying and disrupting at the same time the basic currents of social life by attacking moral values. The essential feature of these acts is violation of official

⁷ Criminal Codes of Bosnia and Herzegovina, "Official Gazette of BiH," no: 3/03.

⁸ Law on Conflict of Interest in the Institutions of Bosnia and Herzegovina, "Official Gazette of BiH," no: 13/02-323; 16/02-404; 14/03-310.

⁹ Law on Conflict of Interest in the Institutions of Bosnia and Herzegovina, "Official Gazette of Republika Srpska," no: 34/02-14; 36/03-15, that is "Official Gazette of the Federation BiH," no: 25/02-1049 and 1053; and 44/03-2267.

¹⁰ Law on Conflict of Interest, "Official Gazette of Brčko District of BiH," no: 11/02-704; 9/03-555; that is the Law on Conflict of Interest in the Institutions of Brčko District of Bosnia and Herzegovina, "Official Gazette of Brčko District BiH," no: 2/03-17.

duty by illegal use of office and competencies. These are, in fact, acts of abuse of power that represent a great evil for each society and are typical for all types of state system and organisation. Particular danger lies in the fact that they represent an attack on the integrity of service, i.e. on the state institutions within. Abuse of power, unconscientious, irregular and improper exercise of official duty, of public and other competencies, lead to expansion of bureaucracy and corruption of the administration. If there is a connection between administration and perpetrators of some other crimes, it opens endless possibilities for spreading lawlessness that is difficult to control and detect. By perpetrating these types of crimes the reputation of government gets destroyed while citizens' confidence in the official apparatus of their state weakens. For all these reasons it is necessary to undertake measures to suppress and prevent all unconscientious actions and abuse in the exercise of duties and other public competencies. All acts stipulated in this section of Criminal Codes are essentially acts of abuse of official duty and competencies. From this general reference also arise crimes violating or jeopardising personal rights of man, his property etc. This creates problems in determining the object of protection with these acts, although the primary object of protection is the lawful, conscientious and proper exercise of official duty and competencies, which is in general interest of the entire society and each individual citizen.

Violation of citizens' rights or other individual values has some other consequences as well. In this manner the object of protection is not only limited to lawful action within the typical state administration, but it also encompasses all public services (social, cultural, educational, health, services in banking and financial operations, transaction of goods and services, international economic transactions etc.). An important feature of this group of crimes is the fact that the perpetrator is an office holder, even though, given that these are specific crimes, other persons in service or persons generally employed in state bodies can perpetrate them; furthermore, all other persons can perpetrate these crimes (mediation, bribery, etc.).

Most often the perpetrators of these crimes are members of highest social classes, because they are persons holding important offices and should therefore be reputable, highly-positioned holders of state and economic functions and competencies, persons in responsible positions (commercial, financial, customs operations, goods traffic, travelling salespersons, sales managers etc.). Some crimes characterised as corruption have been classified in CC under other groups of crimes, despite the fact that they are carried out by office holders, but the reason being that their primary object of protection is some other value (violation of equality of man and citizen – Article 145 of the BiH CC, non-enforcement of court rulings – Article 239 of the BiH CC, violation of laws by a judge – Article 238 of the BiH CC etc.). For these reasons all crimes against official duty may be classified as direct, indirect, general or special official crimes.

Direct official crimes are acts that can only be perpetrated by an office holder (abuse of official duty, unconscientious work in service, fraud in service, violation of laws by a judge, non-enforcement of legally valid court rulings, some crimes against rights and freedoms of citizens – Articles 145-149 of the BiH CC).

Indirect official crimes are acts that can be perpetrated by some other person in addition to the office holder, perpetrating the act outside the scope of official duty but in connection to its exercise (giving gifts or other benefits, illegal mediation, embezzlement in service, attendance in service etc.). An act is considered serious when perpetrated by an office holder by abusing office.

Classification of crimes in this manner is of practical importance, due to the issue of participation and accomplices in their perpetration. With direct official crimes, person who does not act in the capacity of office holder cannot be a co-perpetrator in these acts but he/she can be an accomplice. With indirect crimes, person who does not act in the capacity of office holder can act both as co-perpetrator and accomplice, wherein the office holder will be held responsible for more serious crimes. General official crimes are acts that can be perpetrated in the exercise of any service, and any office holder may be the perpetrator of these crimes.

Special official crimes are acts that can only be perpetrated within a special (within the legal definition of crime) designated service and the perpetrator can only be a certain office holder (illegal release of apprehended persons, illegal seizure of items during search or enforcement). This classification is also relevant in order to determine co-perpetrators or accomplices.

Crimes of corruption and crimes against official and responsible duties stipulated in Section XIX of the BiH CC are the following:

- **Accepting gifts and other benefits – Article 217 of the BiH CC**, represents the basis and most significant act in the category of corruption crimes, because it is one of the greatest threats to the society and its normal functioning. Given today's contemporary scene, i.e. very fast modes of international communication, concealed financial transactions etc., they are an important feature of this type of criminality and the reason for its connection with organised crime that disposes of substantial financial assets, obtained by smuggling drugs, people, weapons etc. For these reasons the spread of corruption is evident on national and international scene, and these are the very reasons why this type of crime should be strictly controlled, detected and prevented, quickly and efficiently. This crime is difficult to detect, especially given that corruption, like many other contemporary types of crime, assumes international and trans-national features. Due to this, more wide-reaching scope, many countries have passed special laws governing corruption which anticipate an extensive system of preventive measures and instruments for suppression.
- **Giving gifts and other benefits – Article 218 of the BiH CC**, is a crime functionally connected with the crime referred to in Article 217, because it implies inducing an office holder or responsible person to violate a lawful service, and the perpetrators do not have the capacity of office holders, so they jeopardise the service from outside, and not within.
- **Illegal mediation – Article 219 of the BiH CC**, is a crime of using or abusing official position or a person's status while simultaneously receiving an award or any other benefit, and has the features of an act of abuse of power or authority and the act of acceptance of bribe. The difference in comparison to acceptance of bribe is that the perpetrator receives some benefit not to carry out or fail to carry out some official action, but to exert influence on some other person to do so.
- **Abuse of power or authority – Article 220 of the BiH CC**, is a crime by which the perpetrator abuses the service, his/her official competencies and acts in an illegal manner, contrary to the interests and goals of the service. It has the character of a general crime against official duty and it is applied if the act thus perpetrated cannot be classified as another special crime. Furthermore, by perpetrating this crime the perpetrator obtains for himself/herself some benefit or inflicts damage or severely violates the rights of others.
- **Embezzlement in office – article 221 of the BiH CC**, is a criminal offence which is treated also as the criminal offence against the property since the object of protection, in addition to official duty, is also a conscientious discharge of official duty as well as the property.
- **Fraud in office – article 222 of the BiH CC**, is a criminal offence which represents a special type of fraud being committed by an official or responsible person with a view to acquiring for himself/herself or others illegal gain by submitting false calculations or otherwise misleading the official person to make an illegal disbursement.
- **Profiting from office – article 223 of the BiH CC**, is a criminal offence in which an authorized person uses money or other things that have been entrusted to him/her in office or at work and it is similar to the criminal offence "embezzlement",
- **Unconscientious work in office – article 224 of the BiH CC**, is a criminal offence in which authorized persons while carrying out their duty do not act conscientiously and legally which might be a basis for disciplinary responsibility under certain conditions,
- **Revealing official secret – article 225 of the BiH CC**, Interest of the office or general interests represent a basis to treat certain information or facts as secret and impose a need to secure and preserve the secrecy of certain data that are available to the official person in carrying out his/her

office. If the revelation or dissemination of these by the official person jeopardized a proper and efficient performance of duty and in general the trust of the public into professionalism and impartiality of the functioning and actions of public services and institutions, the official person has committed a criminal offence.

- **Forging an official document – article 226 of the BiH CC**, Security of legal traffic is ensured also by the criminal protection i.e. by incriminating certain types of conduct that jeopardize the security of legal traffic. Confidence into the authenticity of documents is of special importance when it comes to those documents being issued by the state authorities and other subjects that carry out public authorizations and guarantee with their authority the accuracy of the contents and origin of such documents. By using false documents, the security and confidence of the public in this important part of the legal order and the authority of the institutions issuing public documents are being jeopardized, thus this type of crime is very dangerous for the society.
- **Illegal collection and payment – article 227 of the BiH CC**, is a criminal offence appearing as a financial abuse,
- **Illegal release of apprehended persons – article 228 of the BiH CC**, is a criminal offence which represents a special form of abuse of official position given that the intent of the perpetrator to acquire some gain for himself/herself or others i.e. to damage others, must be established,
- **Illegal seizure of items when making a search or performing duty – article 229 of the BiH CC**, is a criminal offence that represents a special form of criminal offence of theft and criminal offence of abuse of office.

The Criminal Code has established a criminal responsibility of a legal person for criminal offences that the perpetrator has committed on behalf, for or in favor of the legal person, independently of the responsibility of the physical person within the legal person. (Chapter 14 of the BiH CC) The injured party may get a compensation of the damage done by the legal person in a legal action.

Responsibility of the legal person does not exclude the responsibility of the perpetrator nor the responsibility of the person within the legal person.

Since there is no separate criminal offence of “corruption” within the criminal legislation of Bosnia and Herzegovina, criminal offences falling under this term come down to criminal regulations of the entities, Brcko District, as well as regulations at the level of Bosnia and Herzegovina as a state, as follows:

1. Criminal Code of BiH

- Chapter XIX (Criminal offences of corruption and criminal offences against official and other duty of responsibility – total of 13 criminal offences),
- Chapter XX (Criminal offences against judiciary – total of 20 criminal offences)

2. Criminal Code of the Federation of BiH

- Chapter XXIX (Criminal offences against judiciary – total of 20 criminal offences),
- Chapter XXXI (Criminal offences of bribery and criminal offences against official and other duty of responsibility – 12 criminal offences),

3. Criminal Code of RS

- Chapter XXVII (Criminal offences against official duty – total of 18 criminal offences),
- Chapter XXVIII (Criminal offences against judiciary – total of 16 criminal offences).

4. Criminal Code of the Brcko District

- Chapter XXIX (Criminal offences against judiciary – total of 20 criminal offences)
- Chapter XXXI (Criminal offences of bribery and criminal offences against official and other duty of responsibility – total of 13 criminal offences)

8.3 International documents

The most important international document dealing with this area, which have been signed and ratified by Bosnia and Herzegovina, are the following:

- Criminal Law Convention on Corruption dated January 27, 1999 signed on March 1, 2000, ratified on January 30, 2002, and put into application as of July 1, 2002.
- Civil Law Convention on Corruption dated November 4, 1994, signed on March 1, 2000, ratified on January 30, 2002, and put into application as of November 1, 2003.
- United Nations Convention against transnational organized crime dated November 15, 2000; signed in 2005, not ratified yet.

It must be emphasized that to date Bosnia and Herzegovina has not signed and ratified the following international documents: Additional Protocol to the Criminal Law Convention on Corruption dated May 15, 2003⁵; UN Convention against Corruption dated October 31, 2003⁶; OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions dated November 21, 1997⁷.

8.4 Models of corruption in BiH

Comprehensive research by the governmental bodies speaking about the state of corruption within the society has not been carried out in BiH. The analysis of the state of corruption in Bosnia and Herzegovina done by the World Bank back in 2000, which served as a basis to take future steps for combating corruption, identified a low level of confidence of citizens and public officials in authorities. Approximately 40% perceive the authorities as dishonest and have very little confidence in these, whereas more than 70% believe that corruption is part of the culture and mentality in BiH. It is important to mention that more than 50% are ready to report cases of corruption.

The majority of interviewees in various polls conducted in BiH believes that the level of corruption in BiH is extremely high. Almost 100% believe that corruption exists and that it causes extremely difficult problems such as moral erosion, increased crime, reduced safety, in equality, etc.

The degree of the influence of corruption on policy making is extremely high, and BiH comes third among the transition countries when it comes to "state capture"⁸. Also, Transparency identified two forms of corruption which have different effects, corruption and the highest level of government, and administrative corruption. The former enables big companies to change laws, regulations and orders according to their needs, which makes it possible for them to increase returns on investments. Further on, the business environment being created as a result of this is extremely detrimental to the development of small

⁵ Additional Protocol to the Criminal Law Convention on Corruption (CETS No. 191).

⁶ UN Convention against Corruption.

⁷ OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. (Given that BiH is not a member of OECD, access to the Convention would be enabled upon getting full membership within the OECD Working group against bribery of foreign public officials who take part in international business transactions).

⁸ The English term which is translated in B-C-S as the "captured state", i.e. when the state apparatus works in the interest of a group of people, most often, politicians, who control the governing system.

enterprises, and enables the development and success of companies with questionable business abilities. Contrary to this, the administrative corruption, as a mechanism, enables the survival of weak companies which would disappear under normal conditions of market competition, and at the same time it increases business costs for successful firms (Transparency International, 2002).

It is alarming that giving bribes in the daily life gets a “moral asylum”, as part of the efficiency of the system and thus directly causes a moral erosion of the society. In the polls conducted by TI BiH, 84.7% interviewees believe that it is necessary to offer money to an official in order to solve the problem. Interviewees gave a similar response when it comes to giving gifts: 85% interviewees believe that there is a great probability to solve the problem when they offer a gift to some of the officials, and 82% of interviewees believe that it is probable that they will solve their problem if they do some favor in return for them. Especially striking is the result of a poll among public officials, which shows that one third of interviewees believes that colleagues who refuse to ask for or accept a bribe are sometimes isolated, criticized, victimized or forced to leave their institutions.

Also, there is a clear correlation between the bribe and administrative inefficiency. For instance, delays in the process of license issuing is often a way to extort a bribe from companies. Reasons for the link between corruption and inefficiency are clear since, under conditions where civil servants are poorly paid, and where the work environment is unprofessional and inefficient, there are clear reasons for corruption.

Further on, the average number of days needed to complete the process of company registration is extremely big in Bosnia and Herzegovina. Whereas the average for the Balkans is approximately a month, in the Federation of BiH this process lasts for 124 days, 56 in Republika Srpska, and 8 days in the Brcko District. In addition to a long procedure of registration, back in 2001, 23.1% of owners of private companies were in a position where they were asked for a bribe at the customs; 31.1% were asked for a bribe by utility companies; and 25% were asked for a bribe by tax inspection (Transparency International in 2002). As a consequence of such a situation, according to the research done by the World Bank in 2000, companies in BiH spend 8% of their annual costs on gifts, and other forms of bribe.⁹

According to the research so far, the following professions or areas have been defined as areas where the phenomenon of corruption is present to the greatest degree. Customs, political parties, tax administration, state companies, police, judiciary, health sector and education as well as local administration.

According to the research so far, the following professions or areas have been defined as areas where the phenomenon of corruption is present. Customs, political parties, tax administration, state companies, police, judiciary, health sector and education as well as local administration.

The overview of reported corruption-related crimes indicates the basic forms of corruption in BiH. It is apparent that these are primarily “white-collar crimes” – abuse of office or powers, misconduct in office, tax evasion and money laundering. These are immediately followed by crimes of giving/receiving bribes (presents or gifts). It is easy to note the direct correlation between the identified causes of corruption and its registered forms.

It is particularly worrying that police or customs officials, i.e. law enforcement agencies’ officials, are among the reported persons, which indicates that particular importance in fighting corruption must be given to prevention of corruption within law enforcement agencies. This strategy outlines a number of activities whose primary goal is the prevention of all forms of corruption within law enforcement agencies, from preventive activities (restricting the possibilities for corruption, education, training), to repressive ones (undertaking concrete action).

8.5 General anti-corruption policy

⁹ The tabular overview of the cases processed in the area of fight against corruption follows, which overview will be forwarded by the law enforcement agencies.

As of 1998, governments on all levels in BiH have been initiating organized activities in the fight against corruption. The World Bank prepared, on request and in co-operation with the Council of Ministers of BiH, the Diagnostic study on corruption in BiH, which was published in 2001, and which gave the first findings on causes of corruption in our country. The global framework of the strategy of the economic development of BiH (I-PRSP), which served as a basis for the preparation of the Middle-term development strategy of BiH (PRSP), emphasized corruption as one of the most difficult problems in ensuring economic development and growth of the country, thus the suppression of the corruption has been classified within the most important priorities. Special activities were conducted within the Stability pact program i.e. within its part called SPAI, with the primary goal to adopt and implement European and international instruments in the fight against corruption.

In August 2002, the Council of Ministers of BiH presented to the Peace Implementation Council the document called "Jobs and justice" which contained urgent measures for establishing system to combat crime and corruption.

In September 2003, the strategy to combat organized crime and corruption was passed, which strategy has been implemented to a great extent.

8.6 Goals of the strategy for combating corruption

Goals of the strategy for combating corruption could be divided in three groups as follows:

General goals

- Sign and ratify key international documents which have not undergone this process, i.e. apply those that have been signed and ratified, and have not been applied to date.
- Harmonize all legal regulations with the provisions of international documents, which are not binding for Bosnia and Herzegovina, but the standards of which should be incorporated into the domestic legislation, and these are primarily the documents of the European Union.
- Establishment of the state-level Office for combating corruption.
- Intensifying the participation in international organizations, initiatives, working groups and clubs, along with the efficient and timely implementation of decisions and conclusions originating from their activities.
- With a view to ensuring a Normative framework for combating corruption, it is necessary to issue regulations within the shortest possible deadline at the state, entity and District levels, in the following areas: establishment of stricter standards for immunity in carrying out public functions; stipulating a strict code of conduct of members of the state law enforcement services, transparent use of budget funds etc.
- Continuously conduct and stimulate education of experts in the area of fight against corruption, in line with the stipulated standards of acquis – judiciary and internal affairs.

Special goals of the strategy

- Identify sectors most open to corruption.
- Consistent application and control of the financing of political parties.
- Overcoming conflicts of interest in public functions.
- Guaranteeing legal, professional and responsible adoption of decisions.
- Establishing appropriate mechanisms for reporting acts suspected of being corruption.
- Strengthening functional and independent law enforcement bodies.
- Efficient functioning of supervisory mechanisms.
- Open and transparent procedures in cases where budget funds are used.
- Stimulating co-operation between public and private organizations and civil society.

- Increasing general awareness on the rights and duties of individuals and institutions.
- Intensify co-operation with media at all levels.
- Establishing appropriate ethical standards.
- Long-term and constant elimination of conditions and circumstances conducive to the appearance and development of corruption.
- Establishing and strengthening the appropriate legal and institutional environment for the prevention of corruption.
- Creating unambiguous system of zero tolerance for all acts of corruption through different forms of training and instructions.
- Efficient use of internationally recognized standards in this field and the participation of BiH in international efforts aimed at preventing corruption.
- Strengthening coordinated co-operation of governmental, non-governmental and international organizations, as well as the appropriate level of support of media and the public.

8.7 Participation of BiH in international efforts aimed at preventing corruption

8.7.1 Organisation of the United nations – UN

BiH ratified the “UN Convention against transnational organized crime”, as well as three accompanying Protocols, adopted in Palermo on November 15, 2000. Upon signature of the “UN Convention against corruption – 2005”, as the uniform global legal act regulating this area, BiH will have to ratify this convention as well.

The UN regularly assesses the situation regarding corruption within its members and BiH will have to continue to submit reports, and upon adoption of the Convention against corruption, it will have to become a member of the assessment mechanism which will supervise the implementation of the Convention.

8.7.2 European Union

BiH will continue to fulfill the provisions of the Pre-accession pact on organized crime and stability pact – PAPEG, as well as its obligations to contribute into the Anti-corruption initiative – SPAI.

BiH is already active in all forms of co-operation with the EU and the candidate countries, and, in the future, it will have to be more consistent in the carrying out of its duties.

8.7.3 Organization for economic co-operation and development – OECD

BiH has not signed the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions dated November 21, 1997 (Given that BiH is not a member of OECD, access to the Convention would be enabled upon getting full membership within the OECD Working group against bribery of foreign public officials who take part in international business transactions).

8.7.4 Council of Europe

BiH will have to continue with the work in the Group of states against corruption – GRECO. Other programs of the Council of Europe that are also important for the prevention and removal of corruption, and in which Slovenia has the right to participate in the future, are as follows:

PACO (Program of action against corruption and organised crime in South East Europe), and MONEYVAL (Elected committee of experts of the Council of Europe for the assessment of measures against money-laundering).

8.7.5 International Chamber of Commerce

Institution which is important, primarily for the business sector, adopted the Rules of action with regard to eradication of bribery in international business transactions in 1996, which are not obligatory for stakeholders in the sphere of economy but rather, the adoption of these and their implementation is a reflection of the national economy.

It would be good if BiH companies were to implement such rules directly or through the existing ethical codes.

8.7.6 Regional initiatives

As the new country, BiH was, and still is, invited to join different regional integration fora, and was the initiator of these occasionally as well.

8.8 Matrix (Plan of Measures) on Anti-corruption Strategy

No.	Activities	Responsible Authorities	Deadlines	Objectives/Comments
	Anti-Corruption Strategy			
	Ratification of the UN "MERIDA" Convention Against Corruption	Ministry of Justice, Ministry of Foreign Affairs, Council of Ministers, Parliament of BiH.	Second half of 2006	Fulfillment of international obligations. Harmonization of the BiH legislation with international legal instruments.
	To harmonize legal regulations with provisions of international documents, which are not binding for BiH, but which standards should be incorporated into domestic legislation, particularly EU documents.	Ministry of Foreign Affairs Ministry of Justice Ministry of Security	Second half of 2006	Fulfillment of international obligations.

No.	Activities	Responsible Authorities	Deadlines	Objectives/Comments
	Anti-Corruption Strategy			
	<p>Harmonization of the criminal legislation with the Convention on Money Laundry, Search, Seizure, and Confiscation of the Proceeds from Crime, and with the Criminal Law and Civic Law Conventions on Corruption, in those fields in which the harmonization has not been done yet.</p>	<p>Council of Ministers, Parliamentary Assembly, Ministry of Justice, Ministry of Security, BiH Prosecutor's Office, BiH Court.</p>	<p>First half of 2007</p>	<p>Fulfillment of international obligations. Improvement of legal settlements in these fields. To achieve prerequisites to efficiently use possibilities offered by the membership of the International Associations against money laundry. To narrow the room for money laundry activities both for domestic and international networks, To ensure an efficient access to sources of financial/banking information with regard to a precise definition of the status of money flow by potential "money launders", Adoption of a separate Law on seizure of property acquired through criminal offences, To work on specialization of judges, prosecutors, and authorized officers from the law enforcement agencies, who work on investigations of corruption, money laundry or financial offences in general, To determine measures for early freezing or temporary seizure of funds, which are suspected to derive from crimes, To ensure that all serious crimes become predicate crimes in regard to money laundry,</p>
	<p>PACO Impact</p>	<p>CARPO</p>	<p>62</p>	<p>Bosnia & Herzegovina</p>

No.	Activities	Responsible Authorities	Deadlines	Objectives/Comments
	Anti-Corruption Strategy			
	Establishment of the Office against Corruption at the state level	Ministry of Security	Second half of 2006	<p>Establishment of a state authority for coordination of all activities against corruption</p> <p>Establishment or appointment of a central national anti corruption authority, which shall be responsible for the implementation of the national program for corruption prevention in BiH</p> <p>Analysis of corruption phenomenon in BiH</p> <p>Assembling of property disclosure cards of the office holders.</p> <p>To draft of the Code of Conduct.</p> <p>To conduct integrity tests in private and public sectors.</p>
	Strengthening of crime analysis teams through selection and training of an appropriate number of analysts and crime experts on criminal [<i>does not say what! Interpreter's remark</i>]	BiH Prosecutor's Office, SIPA, SBS, MUP RS, FMUP, OSA/OBA, UIO, Brčko District Police.	Continuously	<p>Strengthening the capacity for proving corruption crimes.</p> <p>Establishment and strengthening of the central units for criminal analysis, which is professionally capable and adequately equipped,</p> <p>Establishment of a single state system for collecting of crime and intelligence data and recording of crime statistics with a separate appropriate processing of corruption crimes,</p> <p>Development of a single methodology of collection and exchange of data on all forms of corruption,</p>

	<p>To conclude administrative agreements between responsible authorities aiming at the implementation of the 2nd Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, particularly in part which refers to joint investigation teams.</p>	<p>SIPA, State Border Service, Interpol, RS MUP, FMUP, BIH Prosecutor's Office. Brčko District Police.</p>	<p>Strengthening the capacity in joint activities of the law enforcement agencies. Amendment on Law of Legal Assistance in Criminal Matters with provisions of the 2nd Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, particularly in part related to the means of communication, including the mail service, temporary transfer of persons deprived of freedom, presence of the party requesting the legal aid, etc. To sign and ratify relevant international and European legal instruments aimed at compliance with police and judicial cooperation in order to expand the international cooperation system in criminal matters among signatories. Concluding of bilateral and multilateral agreements or arrangements for the realization or improvement of the cooperation efficiency in criminal matters and undertaking of measures, which will make possible that joint actions between the police and the law enforcement agencies can be done along with involvement of international officers and judges (establishment of joint investigation teams) Signing of the Cooperation Protocol with similar structures in the neighbouring countries Participation in actions of international cooperation with SALW, with the Cooperation Initiative of South-East Europe under auspices of SECI</p>
			<p>Second half of 2006</p>

	<p>Establishment of an efficient system at the state level for collection of data and recording the statistics of corruption crimes.</p>	<p>Ministry of Security, SIPA, SBS, Interpol, RS MUP, FMUP, Prosecutor's Office, Brčko District Police.</p>	<p>Second half of 2006</p>	<p>Systemic overview on the state of corruption in BiH. Defining of sectors, which are particularly exposed to the corruption. Coordination of activities against corruption. Drafting a single monitoring model of statistic records with regard to corruption.</p>
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	<p>To undertake measures for increased involvement of internal control authorities.</p>	<p>Ministry of Security, SIPA, SBS, UJO, Interpol, RS MUP, FMUP, BiH Prosecutor's Office, Brčko District Police, Public Administration.</p>	<p>Strengthening of internal capacities against corruption within institutions of the law enforcement/internal control agencies. To adopt a Rulebook on Internal Control where not done so far. To adopt a Rule of Procedures on activities, a Rulebook on discipline accountability and a Rulebook on Award System. To train and educate the internal control teams. To find a possibility for more independence and accountability of the least number of persons. [sic] To ensure the adequate awarding system, along with prescription of drastic accountability measures for non-compliance of commissioned tasks and all forms of office misconduct and deriving of material use. To monitor, control, check the findings of the internal control – to find out various modi of verification. To conduct all previous activities and all necessary tests of the internal control members and select the best ones. Within agreed timelines, the rotation, i.e. selection of new members should be done along with their pertaining mandate determined within a reasonable timeframe. To insist that certain investigations should be done by two members and never independently. In case of obvious indicators of diligent performance, it is necessary to provide an adequate awarding of members and ensure funds, which shall be used to stimulate the future performance. Drafting of Code of Conduct for internal control teams. To provide the adequate protection of internal control members.</p>
<p>PACO Impact</p>	<p>CARPO</p>	<p>66 Bosnia & Herzegovina</p>	<p>Continuously</p>

No.	Activities	Responsible institutions	Deadlines	Objectives/Comments
	Anticorruption strategy			
9	Drafting of Codes of Conduct	Civil Service Agency of BiH, RS and FBiH, HJPC, Subdivision for Human Resources of the Brčko District Government, Law Enforcement Agencies	Second half of 2006	<p>Fulfillment of international recommendations</p> <p>Drafting and updating of Code of Conduct for various public sectors, in particular in law enforcement agencies</p> <p>This Code should obligatorily include moral, disciplinary responsibility, responsibility for petty offences as well as criminal individual responsibility for conducts that are not in line with the Code.</p> <p>Amendments to and/or updating of internal normative deeds and rulebooks that regulate noncompliance with the Code of Conduct</p>
10	Precise defining of corruption criminal offences in parallel with the existing changes in our social and political system	Parliamentary Assembly Ministry of Justice	2007	Harmonization of legislation

No.	Activities	Responsible institutions	Deadlines	Objectives/Comments
	Anticorruption strategy			
11	<p>Initiate the procedure for adoption of the Law on the Origin of Property whereat the burden of proof shall be borne by the party whose property is subject to proving, or amend the Criminal Code and the Criminal Procedure Code in terms of specifying clear procedures for conducting of the proceedings.</p>	<p>Parliamentary Assembly of BiH, Council of Ministers</p>	<p>First half of 2007</p>	<p>The Law should specify documents and testimonies of persons that may be deemed evidences in the procedure of property origin examination and specify the very proceedings and the body to conduct it.</p>
	<p>PACO Impact</p>	<p>CARPO</p>	<p>68</p>	<p>Bosnia & Herzegovina</p>

No.	Activities	Responsible institutions	Deadlines	Objectives/Comments
	Anticorruption strategy			
12	Legally regulate the obligation of giving the statement on movable and immovable property for all officials and elected persons before assuming the office and after termination of office.	Election Commission, Responsible Ministries and institutions	Second half of 2006	<p>Transparent relation of officials and elected persons with the public for the purpose of preventive actions.</p> <p>Adopt precise Rulebook to regulate giving the statement with all relevant data pertinent to movable and immovable property with the obligation to register it before start and termination of employment in specific office within one mandate.</p> <p>Obligatorily check data given in the statement and, in all cases of false disclosure, take appropriate sanctions against such persons and this will be made public.</p> <p>In order for the mentioned measures to be more efficient while enforced, it is necessary to adopt the Law on the origin of property.</p>

No.	Activities	Responsible institutions	Deadlines	Objectives/Comments
	Anticorruption strategy			
13	Strengthen repressive activities in the fight against corruption	SIPA, State Border Service, Interpol, RS ministry of Interior, FBiH Ministry of Interior, BiH Prosecutor's Office, Police of Brčko District, ITA, OSA, Public administration	First half of 2007	More efficient discovery, resolving and proving of corruption crimes. Drafting of special operational plans for the fight against corruption within law enforcement agencies. Planning of joint activities for implementation of plans. Establishment of mixed operative teams of law enforcement agencies in order to proceed according to joint plans. Organization of operative structures of law enforcement agencies in order to increase the capacity for border control. Initiating stronger cooperation with police authorities of neighbouring and other countries for the purpose of establishment of data exchange system relative to corruption crimes. Rotation of personnel, staff in sectors or fields being found corruptible.

No.	Activities	Responsible institutions	Deadlines	Objectives/Comments
	Anticorruption strategy			
14	Establishment of continuous and appropriate cooperation with mass media	SIPA, State Border Service, Interpol, RS Ministry of Interior, FBiH Ministry of Interior, Prosecutor's Offices in BiH, Police of Brčko District, ITA, OSA; Public administration	Continuous	More significant role of media in overall efforts in the fight against corruption, which could be used as the source of information on committed corruption crime. Define obligations of agencies in timely public informing on all corruption cases. Define the standard of regular press conferences in order to avoid speculations in mass media. Encourage mass media for creation of the climate of trust between law enforcement agencies and the public.

No.	Activities	Responsible institutions	Deadlines	Objectives/Comments
	Anticorruption strategy			
15	<p>Use achievements of other sciences, which were applied in crime investigation and law enforcement, the application of which may yield relevant data and information.</p>	<p>Ministry of Security, SIPA; State Border Service, Interpol, RS Ministry of Interior, FBiH Ministry of Interior, BiH Prosecutor's Office, Police of Brčko District, ITA, OSA, Public administration</p>	<p>Continuous</p>	<p>More efficient discovery of corruption crimes Establish permanent cooperation with higher education institutions in the domain of technical disciplines aimed at monitoring the trend of development of technical capacities applicable to discovery and proving of corruption crimes Establish cooperation with educational institutions in the domain of security and criminal sciences aimed at improving the measures for the fight against corruption Establish occasional contacts with scientific and research institutions (Institute for Protection and Education, Bureau of Standards etc.) Improve cooperation with institutions such as the Banking Agency, Securities Registry, Bureau of Statistics, Institute for Physical Planning etc.</p>
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No.	Activities	Responsible institutions	Deadlines	Objectives/Comments
	Anticorruption strategy			
				<p>Improve cooperation with the Civil Service Agency for the purpose of improving the criteria for the selection of candidates to be employed by state authorities</p> <p>Accelerate the introduction of the process of safety checks of candidates for specific positions.</p>

No.	Activities	Responsible institutions	Deadlines	Objectives/Comments
	Anticorruption strategy			
16	<i>Intensify cooperation with nongovernmental organizations</i>	SIPA, State Border Service, Interpol, RS Ministry of Interior, FBiH Ministry of Interior, BiH Prosecutor's Office, Police of Brčko District, ITA, OSA, Public administration	Continuous	<p>Identification of sectors most prone to corruption crimes.</p> <p>Monitor permanently the results of survey of nongovernmental organizations on corruption and monitor corruption trends on the basis of them.</p> <p>Based on surveys made, locate corruption focal points and focus the activities of responsible institutions on corruption discovery and prevention.</p> <p>Encourage activities of nongovernmental sector in terms of permanent education of BiH citizens through public fora and seminars with a view of increasing awareness on corruption damage, its recognition and the need to report it to responsible institutions.</p>
	PACO Impact	CARPO	74	Bosnia & Herzegovina

No.	Activities	Responsible institutions	Deadlines	Objectives/Comments
	Anticorruption strategy			
17	Strengthening of technical capacities within law enforcement agencies	SIPA, State Border Service, Interpol, RS Ministry of Interior, FBiH Ministry of Interior, BiH Prosecutor's Office, Police of Brčko District, ITA, OSA, Public administration		<p>Modernization and outfitting of border crossings conforming to available budget and donor funds.</p> <p>Installing video surveillance units and travel document readers.</p> <p>Electronic records keeping on persons crossing the state border.</p>

