



FINANCIAL INVESTIGATIONS AND CONFISCATION OF PROCEEDS OF CRIME

REGIONAL WORKSHOP ON TRAINING MATERIAL

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TRAINING MODULE AND PLAN

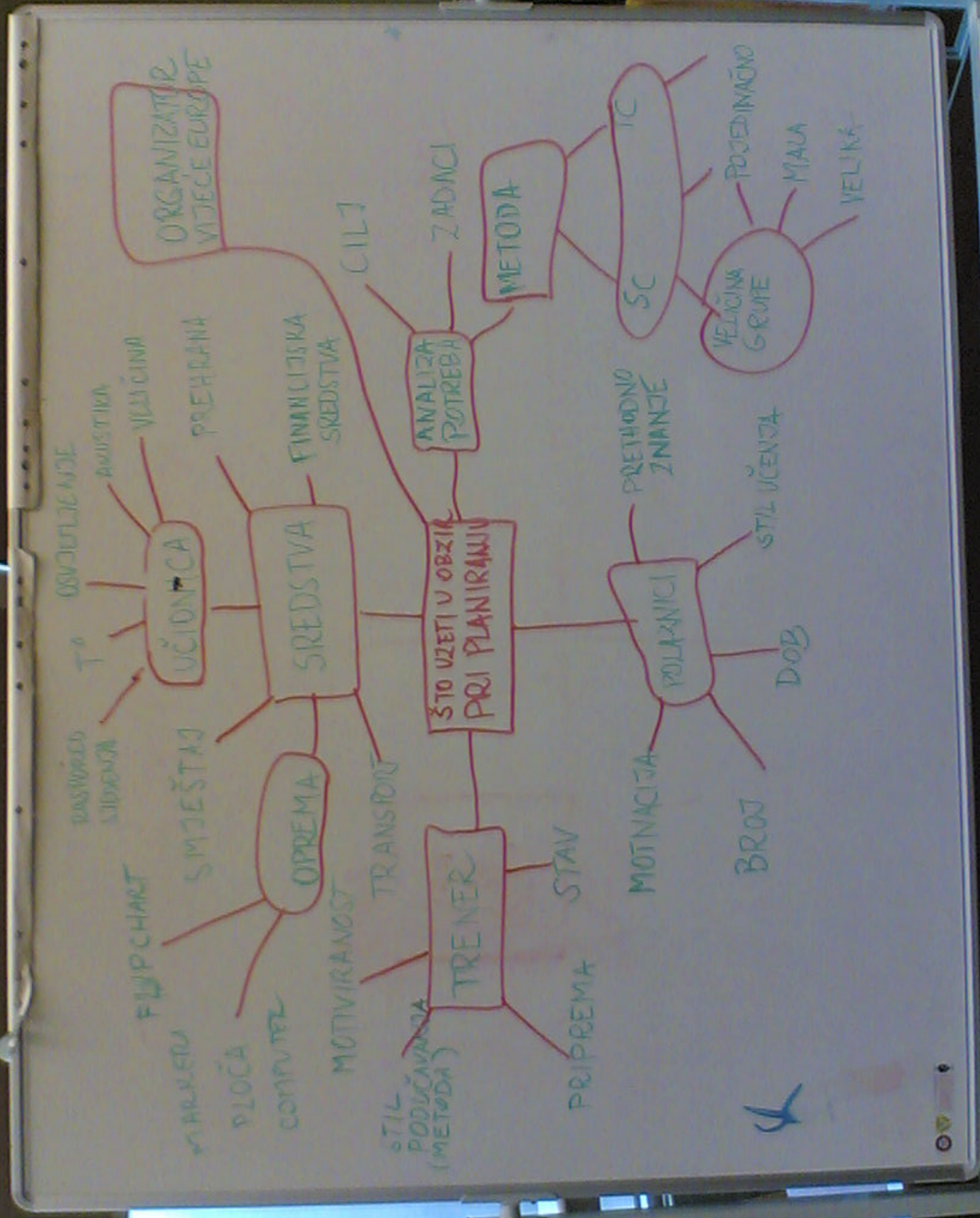
TRAINING MANUAL – GENERAL PART

Preparation activities

- **In-country workshops with WG**
- **regional workshop, BIH, 6-7.4.2005**
- **regional workshop, Albania, 19-20.12.2005,**
- **train the trainers, Strasbourg, 23.2.2006**

- **first round in country trainings**
- **adjustment of manual**

- **2nd round training**



TRAINING

Working groups on FI:

Reasons for the lack of implementation of FI in practice is: lack of awareness, lack of knowledge and lack of experience...

Strategy for the implementation of FI

➤ raising awareness and training of practitioners

TRAINING (approach)

Template for training module and plan (CoE)

Trainers:

- Local practitioners from criminal police, prosecution service and judges
- with experience in investigating crime and
- trained in Financial investigation and for trainers.

TRAINING (approach)

Participants:

- experienced practitioners from criminal police, prosecution service and judiciary
- **selected by services to conduct FI in practice in future (dedicated and specialised for FI)**

TRAINING (approach)

Methods:

- Practically oriented to provide practical guidelines for practitioners
- Interaction among participants from different institutions, exchange of positions and experience
- Case studies and group work

Contents:

Training manual, legal provisions, court practice, forms, climbing up the tree

Duration:

- 2 - 5 days

TRAINING MANUAL (approach)

- informative

To provide the information on FI and confiscation and guidance to conduct it in practice – therefore also country specific

- useful

Practical approach for the use by practitioners (short and substantial)

use of forms, templates,

TRAINING MANUAL – General part

To provide general information on:

- concept of integrated financial investigation
- related issues (investigative measures, confiscation measures and involved institutions)
- international standards and international cooperation
- reversal of burden of proof (identified as main legal gap in PAs)

TRAINING MANUAL – Specific part

template for specific part (CoE):

elements of FI

- explanation of legal provisions,
- practical advice
- institutional view (responsibilities, cooperation)

provide written forms and guidelines



Elements of integrated financial investigation

1. Identify criminal offence / criminals
2. Determine the illegal benefit
(who, how much?: Use of SIMS, access to bank data...)
3. Determine the property that can be confiscated
(PoC or equal value property, persons)
access to data: customs, tax, land register, banks...
4. Propose the **temporary confiscation**:
issue of court freezing /seizing order

LEGAL PROVISIONS - OVERVIEW

	Albania		BIH	CG
	CPC	OK	CPC	
Financial Inv.	274	6, 4	392 prosec	538/2 247
Bank data	210	6	72	237/6
Sims			116,117	237
Temporary freezing order	274	7+9	395 CPC 73, 72	541 + 216 (523 OK)
Pretrial			?	only for OK
Confiscation	36 CC	27	110, 111 CC 396 CPC	112 CC 540
Value confiscation			111 CC	
Reversal	no	8 13/2	110/3? no law	no
Handling		agency	70	no
Leading FI	prosecutor	prosecutor	prosecutor	police

LEGAL PROVISIONS - O W E R V I E W

	HR		Kosovo	Mak	Srb
	CPC	USKOK	CC&CPC +		
Financial Investigation	464, 177, 174	44 21 c,d,e	490, 499	533, 485?	513 504r OK
Bank data	219	42a	256, 257/1,2 258	?	234 (over 4 y) 504 g, lj OK
sims	180		256	limited	232
Temporary freezing order	467 +136/2 +219/5	46 + 50	493 + 116 498 491	220+536 203a	234 bank 516 604k OK
pretrial	no	yes	499/3 yes	no 223?	only OK 504
confiscation	82 CC 464		82/2, 83/2, 85 CC 491, 498 CPC	97 CC	84 91,92 CC
value conf	82/2		83/1 CC + 499 CPC	98/1	
reversal	no		no	359a CC ? officials	no
handle			497	no	

International standards

- DEFINITIONS
- CONFISCATION MEASURES
- INVESTIGATIVE AND PROVISIONAL MEASURES
Access to bank data, Special investigative powers
- MANAGEMENT OF FROZEN OR SEIZED PROPERTY
- INTERNATIONAL CO-OPERATION
investigative assistance, freezing-seizing assistance,
confiscation assistance/asset sharing
- Regional cooperation - contact list of experts (CARPO Project)

IMPLEMENTATION IN PRACTICE ?

SUPPORT BY MANAGERS:

raising awareness meetings (2nd round)

- provide data on implementation of strategy
- provide data on number of real cases
- obstacles identified during the training
- continue the in service trainings





LACK OF IMPLEMENTATION IN PRACTICE ?

JUST DO IT !



Council of Europe
European Commission



Conseil de l'Europe
Commission européenne

CARPSlice