

December 2008

Report (January 2008-December 2008) - „Strengthening Capacities of Judiciary in Montenegro to Fight Corruption and Organized Crime” Project

Timeframe of the Project: January 2008-March 2009

Budget: 224,197.61 USD / 150,000.00 EUR

Donor: Government of Norway

Project Management Unit (PMU):

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Project activities:

Three-track assistance to judiciary was established in January 2008. It comprises the following components:

1. *Support to the Ministry of Justice in its legislative efforts*
2. *Support to the Judicial Training Center*
3. *Supply of the sophisticated electronic equipment to the Judiciary*

In the framework of *the first component*, in the first half of 2008, the Project supported the drafting of the **Law on State Prosecutor**, which brought many important changes in the field of corruption and organized crime, such as the broadening of the competences of the Special Prosecutor for organized crime in the field of corruption, terrorism and war crimes. The Project also supported amendments and changes to the **Law on Courts**, which established the Special Departments for organized crime, corruption, terrorism and war crimes within two High Courts in Montenegro for the first time. Project Management Unit (PMU) provided technical support and consultancy to the Ministry of Justice working groups for drafting of these two laws through facilitating the working groups' daily work and provision of comparative legal documents, consisting of the best regional and international standards and practices.

Furthermore, jointly with the OSCE we have been supporting the public discussion on the **Draft Criminal Procedure Code** in the aim of promoting new

institutes which will contribute to more efficient fight against corruption and organized crime with its new institutes, such as secret surveillance measures for corruption offences. In the scope of the public discussion in April and May 2008, three round tables were organized for the central, northern and southern part of Montenegro. We engaged Mr. Erik Larson, UNODC (United Nations Office on Drugs and Crime) expert, who presented the United Nations Convention against Corruption with an emphasis on Article 50.

As of September 2008, the project is supporting drafting of the new **Criminal Code**. It is expected that that Code will resolve many issues that currently present an obstacle to efficient prosecution and trial of corruption and organized crime cases, such as e.g. solving unclear issues regarding seizure of illicit property. An expert, Ms. Andrea Lang, legal advisor in the Constitutional Court of Slovenia, was assigned to analyze the existing Criminal Code in terms of its harmonization with UN standards. This was done together with OSCE that supported the analysis of the Criminal Code in terms of its harmonization with EU standards. The analysis is expected in December 2008.

As regards the Project's *second component*, we see it as a tool of concrete implementation of the project activities. Under strong cooperation with the **Judicial Training Center (JTC)**, we agreed to support the **training curriculum for judges and prosecutors in the area of organized crime**.

On 8 and 9 May 2008 the first one of the planned seminars was organized, where we worked with judges and prosecutors in a practical way, with the help provided by international experts. We engaged Mr. Drew Engel, international prosecutor and Head of Department for organized crime and corruption in Bosnia and Herzegovina to facilitate the seminar. According to the input that we received by judges and prosecutors, this seminar was the first practical training on pre-trial proceedings provided to them, especially to new judges, coming from recently established Special Departments for organized crime, corruption, terrorism and war crimes. The second seminar with the same content was organized on June 2 and 3, 2008, with the facilitator Prof. Milan Škulić, Criminal Procedure Expert from Belgrade University. The most important output was the resolution of a concrete problem from the practice which was an obstacle for finalizing the organized crime trials. Namely, the Appellate Court was constantly abolishing first instance verdicts on organized crime due to different understanding of the institute of organized crime group. In the seminars, prosecutors and judges were involved in the broad discussion on the above mentioned topic. As a result of the two organized seminars and exhaustive discussion that took place there, the Criminal Department of the Supreme Court of Montenegro adopted official legal stands, which solved these issues. The brochure with both seminar materials is released and submitted to the Judicial Training Center for further use and reference.

In June 2008 two study visits were organized to the highest judicial bodies of Croatia and Serbia. The aim was to acquaint the representatives of the newly formed Special Department for organized crime and corruption and representatives of the Appellate Court as the second instance court with the best regional practices and legislation. The first visit was organized on 10-14 June 2008 to Zagreb, Croatia. The participants had the opportunity to meet the President and judges of the Supreme Court of Croatia and District court in Zagreb, Supreme State Prosecutor, Head and representatives of USKOK (Prosecutor's Office for curbing corruption and organized crime). Legislative solutions and concrete issues from the practice were discussed during the visit.

The second visit was organized on 16-18 June 2008 to Belgrade, Serbia. The President of the Supreme Court, Ms Vesna Medenica, participated in this study visit. The participants met the President and judges of the Supreme Court of Serbia, President of the District Court in Belgrade and the Republic State Prosecutor. A lot of materials were received from both study visits related to legal solutions, laws and bylaws and case law. The brochure with the materials is produced and delivered to the participants and other stakeholders, such as Special Prosecutor for organized crime and corruption, Ms Stojanka Radovic. We plan to organize the same type of visits for the office of the Special Prosecutor, since these visits proved themselves to be useful from the standpoint of the participants.

Study visit to Croatia for the judges of the Administrative court was organized in October 2008 in order to acquaint them with the tools for fighting corruption in the public procurement procedure. The discussed issues were: the structure of the Administrative court of Croatia and its competences (number of judges, expert assistants and cases, work within councils, annual workload, division of work, resources, nomination and disciplinary proceedings against judges), ongoing reform of the Administrative court system, EU reform requirements, especially in terms of Public Procurement Law in order to avoid corruption risks, cooperation with other relevant state authorities, backlog of cases and methods of dealing with that issue, etc.

We plan to continue support in the above mentioned areas, providing the continuity of training and sustainability through supply of materials and curricula that will remain in the JTC for the future use and upgrade.

Together with an international expert, Mr. Drago Kos, the Head of the Office for Anti-corruption initiative in Slovenia and Head of GRECO (Group of States against Corruption of the Council of Europe), the **special Training Programme on anticorruption** for judges and prosecutors in the Judicial Training Centre has been drafted, which contains a situation analysis, suggestions for improvement, training needs assessment and the annual learning plan for 3 groups of judges and prosecutors: all judges and prosecutors in the country, criminal judges and prosecutors and specialized judges and

prosecutors. This will represent a document, which will be used by the Judicial Training Centre in order to unify training and donors who will support anti-corruption efforts. There is a plan to deliver the Anti-corruption training programme to the Coordination Board of the Judicial Training Centre for the adoption in December 2008 and to publicize the programme and make a public presentation at the end of January and the beginning of February 2009. This programme got the positive assessment from the representatives of the European Commission Delegation in Montenegro.

It should be pointed out that Twinning Light Prosecutorial Project was established in the JTC by the European Union as of August 2008 and that PMU had meeting with the EU implementing partner, Austrian Organization Center for Legal Competence (CLC) in order to harmonize the projects' activities and agree on the future cooperation regarding joint activities in the organization of future trainings. UNDP together with EC Twinning Light organized the following events: four seminars on the New Solutions in the draft Criminal Procedure Code (Becici, Kolasin and two in Podgorica, 29/30 September, 2/3 October, 7/8 and 9/10 October), seminar on Organized Crime and Corruption (Podgorica, 21/22/23 October) and International Prosecutorial Conference (Podgorica, 4/5/6 November).

As to *the third component*, the most important activity realized so far is the creation of a **unique database for the police, prosecutors and courts**, which contains the data on persons and cases from the area of organized crime and corruption. The National Commission for implementation of the Action plan for implementation of the Programme of fight against corruption and organized crime is in charge of this database. By means of this, we contributed to the creation of a unique information methodology. UNDP provided a database for the Judicial Training Centre with all data on trainings and trainees in order to facilitate its work and collection of data on judges to the Judicial Council.

We expect the installment of net meeting programme in the courtrooms and supply of necessary hardware and software equipment for the Special Department for organized crime and corruption in High Court in Podgorica, which is also one of the outputs from the study visits to Serbia and Croatia.

References/Project Partners in Judiciary:

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Note: Representatives of the European Commission Delegation in Montenegro are informed on monthly basis on the Project's progress.