



Mission to Serbia and Montenegro

ORGANIZATION FOR SECURITY
AND CO-OPERATION IN EUROPE

POLICING THE ECONOMIC TRANSITION IN SERBIA

*Assessment of the Serbian Police Service's
Capacities to Fight Economic Crime*

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Policing the Economic Transition in Serbia:

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I. Executive Summary

This research was undertaken in an attempt to assess the Serbian police capacities to fight economic crime. In Serbia during 2004, cases of economic crime comprised 12% of all cases investigated by the Serbian police. It is estimated, however, that the property damage it causes counts for more than 60% of all property damage caused by all forms of crime combined. Economic criminals take advantage of the instability of Serbia's political and economic institutions during the transition to a democracy and market economy.

Serbia's legislation does not always meet modern legal standards for combating economic crime. While legislation regulating this area has gradually improved, it is necessary that all standards of the Financial Action Task Force (FATF) are met and that all new forms of economic crime have corresponding punishments in the forthcoming Criminal Code.

The institutions tasked with the fight against economic crime have some serious shortcomings and need to be enhanced in many respects. Tackling such a complex issue requires an interagency approach of various authorities from the criminal justice system and financial sector.

The specialised police units—Financial Crime Department (FCD) within the Organised Crime Directorate (OCD), Economic Crime Department (ECD) within the Criminal Investigation Directorate (CID), and ECDs within the 33 Police Secretariats (i.e. districts)—are poorly understaffed, in particular the FCD. As such, the investigation units are unable to work properly on all cases, which can then fail in the court of law. The police units also lack adequate premises and equipment, with the exception of the FCD's modern IT system. On the other hand, police investigation units are willing and motivated to succeed. Police officers have differing levels of education and the police education system lacks comprehensive training in economic crime. The police service is still under certain political influence and is hindered from working independently.

The Serbian Financial Intelligence Unit (Administration for the Prevention of Money Laundering, within the Ministry of Finance) is not properly connected to other institutions to enable the exchange of necessary data. The exchange of information is often based on personal relationships rather than on legislative mandate. The Ministry of Finance's Tax Police Directorate deals strictly with tax-related crime. Such cases constitute a very important part of economic crime, but the tax police have no legal competence to work on the same level as the Ministry of Interior's police service.

The prosecution and judiciary in Serbia lack staff specialised in this type of crime. They have specialists for organised crime but not for economic crime. They are also

not supported by independent external experts who would have the necessarily high level of expertise to operate in this field.

There is also a certain mistrust and rivalry between these institutions. This is mainly due to overlapping responsibilities, lack of regulations on mutual co-operation, and sometimes due to the lack of knowledge about each other's work.

Serbian police units engaged in fighting economic crime need strong and uncompromising support from both the government and the international community. The support needs to address four main fields: (i) **legislation**, (ii) **policies and procedures**, (iii) **education** (providing specialist knowledge in methodologies of fighting economic crime), and (iv) **infrastructure** (bringing technical equipment up to modern standards and providing premises that suit professional needs). In addition, the support needs to facilitate effective communication, co-ordination and co-operation with other institutions, at the national, regional and international levels.

The Serbian government needs to make the fight against economic crime a priority. First, this would be an effective means of strengthening Serbian democracy by purging remnants of the authoritarian regime. Second, it would also be an investment in the economy, because the effective and efficient prevention and suppression of this form of crime would channel money into the legal economy and help create a safe environment for investment.

In this endeavour, Serbia needs strong support from the international community. It is a necessity that international organisations and individual donor countries co-ordinate their work towards a mutual goal of significantly diminishing this form of crime.

II. Introduction

The fledgling Serbian democracy is being endangered by the destructive influence of economic crime. It makes Serbia's tough political and economic transition even more difficult. OSCE support to the Serbian authorities in their fight against economic crime has not been focused on the police service, one of the key institutions in that fight. This has inspired the authors—members of the Strategic Development Unit within the Law Enforcement Department of the OSCE Mission to Serbia and Montenegro—to begin this assessment.

The aim of the report is to provide an assessment of the Serbian police service's capacity to fight economic crime. The initial purpose of the assessment was to create a document that would serve as a basis of future OSCE engagement. However, while conducting the assessment, the authors were faced with the complexity of this issue and have decided to additionally address a number of recommendations to the Serbian authorities and to other relevant international actors. Those recommendations are meant to serve as guidance to all those interested in contributing to fight against this type of crime, thus promoting a stable political, economic and security environment in Serbia and the Balkans.

In the period between September 2004 and February 2005, the authors made a series of interviews with the officials of the Serbian Ministries of Interior and Finance and the National Bank of Serbia, representatives of the prosecution and judiciary, the Serbian Government's Anticorruption Council, with civil society, academia, and international organisations. The authors would like to express sincere gratitude to all 28 individuals from 18 organisations, who dedicated their knowledge and time to participate in this assessment.

The authors have also used a variety of open sources dealing with the topic of this assessment. Besides information from the Serbian press, a number of studies have been used (see Annex D: Some Sources for Further Reading).

The Forty Recommendations on Money Laundering and *The Nine Recommendations on Terrorist Financing* made by the Financial Action Task Force (FATF)¹ were also used as a methodological tool for assessing Serbia's compliance with internationally-recognised standards to fight economic crime.

Michela Carboniero and Milan Bajić from the Economic Transparency Unit of the OSCE Mission's Rule of Law and Human Rights Department joined the authors at

¹ "The Financial Action Task Force (FATF) is an inter-governmental body whose purpose is the development and promotion of policies, both at national and international levels, to combat money laundering and terrorist financing. The Task Force is therefore a 'policy-making body' that works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas." (www.fatf-gafi.org)

almost every interview. The two of them were truly members of the assessment team and the authors owe much to their insight and advice. Krsto Perović from the same Department provided invaluable feedback on matters related to the prosecution and judiciary. The authors received the generous support of colleagues within their own Department: The professional advice and experience of organised crime experts Jan Kruszewski and Kjell-Åke Larsson, as well as Anne-Siri Svensson, Dan Gothberg, Ole Hortemo and Aleksandar Jakovljević, have greatly helped this assessment. Biljana Marković deserves a special mention for her diligent work in collecting information on economic crime from the Serbian press. Inspiring discussions with Sonja Stojanović have greatly contributed to the content and structure of the report. Roger Berg, Head of the Law Enforcement Department, supported the research from its beginning and gave useful suggestions for its final shaping. Finally, authors owe much to the great amount of valuable work that Sharon Riggle and Helena Kolozetti kindly dedicated for editing this report, preparing it to be shared with the reading audience.

It goes without saying, however, that only the authors are responsible for the views expressed in this assessment report, as well as for any possible inconsistencies. Any issue taken with the views expressed in this document should not be a reflection of those who gave their time and expertise to the completion of this study.

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Belgrade, February 2005

III. List of Abbreviations

APML	Administration for Prevention of Money Laundering (Serbian FIU, within the Serbian MoF)
CID	Criminal Investigation Directorate of the Serbian MoI
CoE	Council of Europe
EAR	European Agency for Reconstruction
ECD	Economic Crime Department (within the Serbian MoI's CID)
EU	European Union
FATF	Financial Action Task Force
FCD	Financial Crime Department (within the Serbian MoI's OCD)
FIU	Financial Intelligence Unit
GRECO	The Group of Countries against Corruption
LED	Law Enforcement Department (within the OMiSaM)
MoF	Ministry of Finance
MoI	Ministry of Interior
OCD	Organised Crime Directorate of the Serbian MoI
OMiSaM	OSCE Mission to Serbia and Montenegro
OSCE	Organisation for Security and Co-operation in Europe
STR	suspicious transactions reports
TPD	Tax Police Directorate (within the Serbian MoF's Tax Administration)

IV. Background

Economic crime (both organised and individually-committed) is a very destabilising factor in Serbian society. It is highly developed and sophisticated, and its perpetrators are well versed in the legal and economic environment in which they function. Economic criminals take advantage of the instability of political and economic institutions that form the basis of emerging democratic societies and open market economies. In Serbia during 2004, cases of economic crime comprised 12% of all cases investigated by the Serbian police. However, senior police officials, as well as some other interviewees estimate that economic crime counts for more than 60% of all property damage caused by all forms of crime combined.

Difficult economic transition is one of the biggest hurdles on Serbia's path to a democratic polity with a market-oriented economy. It started worse-off than some other post-communist countries in its proximity, although it was—as a part of former Yugoslavia—economically much better-off than the rest of Central and Eastern Europe. One of the biggest obstacles in its political and economic transition is widespread economic crime.

The economic system of the former Yugoslavia could be described as predominantly state socialism with certain elements of a market economy. The system was much more open than in Soviet-dominated central and eastern European countries. An increasing unemployment problem, for instance, was solved by opening borders and letting people go work in the West. However, any significant liberalisation in the economy would have undermined the regime's monopoly in politics. A brief attempt of economic liberalisation in Serbia was crushed by Tito in the early 1970s. Another attempt by Yugoslav Prime Minister Ante Marković was undermined by the new political elites of Serbia and Croatia in 1991, on the eve of the Yugoslav War².

The Milošević-era economic system (1991-2000³) was characterised by a war economy, large grey economic sector, the black market, an oligarchy of tycoons controlling the large state-owned and private business enterprises, state-driven hyperinflation, state-sponsored smuggling, client-patron relationships, state-backed pyramidal schemes, inefficient fiscal system, and lack of investments. The UN embargo also was a significant factor of the country's isolation. Probably the best

² 'Yugoslav War' is a generic name for all secession wars, civil wars, armed rebellions, external military interventions, and other forms of conflicts in former Yugoslavia since 1991.

³ Slobodan Milošević's rise to absolute power begun in 1987 and he became the unchallenged ruler of Serbia in 1989, but year 1991 is taken for the beginning of his economic system due to efforts to finance the Yugoslav War.

and most concise definition of the Milošević-era economy was given by the title of Mladen Dinkić's⁴ book *The Economy of Destruction*, published in 1996.

That period saw an enormous increase of economic crime and corruption, and crime became a norm in the country's economic life. Not only was economic crime considered 'normal', it was also actively encouraged to the extent that it became the regime's unofficial arm. The lines between the 'official' and the 'unofficial' blurred to such an extent that the 'shadier' parts of society found welcome protection under the regime of Slobodan Milošević. The regime was kept on a network (a pyramid, rather) of client-patron relationships that encompassed the whole society. The whole system engaged thousands, if not tens of thousands of individuals. At the top of the pyramid was Milošević himself. He sat on top of an oligarchy of tycoons running a variety of large state-owned and private companies. The next layer was comprised of managers of many small- and medium-sized enterprises. Numerous smugglers and black marketeers were at the bottom. Throughout the whole pyramid SPS⁵ and JUL⁶ party structures were reflected, and the secret service also participated.

Although Milošević was swept from power in the democratic overthrow on 5 October 2000 and his crime pyramid fragmented, most of its elements were left untouched. The new governing coalition DOS⁷ was formed from 18 political parties with strong rivalries amongst themselves. The internal power struggle weakened democratic momentum. Instantly after 5 October 2000, many of the pyramid's parts—people who became rich in the time when the vast majority of population was extremely impoverished—shifted their loyalties to one or another party of the new, heterogeneous, governing coalition.

Nevertheless, significant economic reforms were made after the fall of Slobodan Milošević. While budgetary, fiscal or banking system reforms are going quite well, the privatisation has created many opportunities for different economic crime activities, and will continue to do so if measures are not taken to counter it. War and embargo profiteers are using privatisation to enter into the legitimate economic system. Unfortunately, such controversial businessmen (as they are referred to in Serbian) continue the old habits and fail to become 'proper' capitalist entrepreneurs. In fact, many are still known better under their aliases than under their real names. They thrive in unstable conditions, perpetuate the instability and profit from it.

Organised economic crime hinders political and economic transition, as well as the country's prospects for European integration. It has penetrated political structures, public administration, the commercial sector, and the criminal justice system. It has created an atmosphere of instability that discourages much-needed direct foreign investment.

⁴ The current Minister of Finance and the first post-Milošević National Bank Governor became famous in 1996 when he—as yet an anonymous Belgrade University teaching assistant—published this book which described the features of the Milošević-era economy.

⁵ SPS – Socialist Party of Serbia, headed by Milošević.

⁶ JUL – Yugoslav Left, small but very powerful party headed by Milošević's wife Mira Marković.

⁷ DOS – Democratic Opposition of Serbia.

At the moment, Serbia's legal instruments and law enforcement capacities are not adequate to effectively and efficiently deal with organised economic crime. Concerted efforts and investment are desperately needed by Serbian and international authorities to rectify the situation.

There is a clear need for the Serbian Government to make the fight against economic crime a priority. First, it would be an effective means of strengthening Serbian democracy by purging remnants of the authoritarian regime. Second, it would also be an investment into the economy, because the effective and efficient countering and preventing of this crime would channel money into the legal economic system and help create a safe environment for investments.

V. Legislative Framework for the Fight against Economic Crime

The fight (monitoring, prevention and suppression) against economic crime requires a complex and multilateral approach of various state authorities. Such an approach needs to be reflected in various pieces of legislation. The two most relevant pieces of legislation in Serbia for fighting economic crime currently are the Criminal Code and the Law on the Prevention of Money Laundering.

Criminal Code

The current Criminal Code was adopted in 1977. At that time the country's economy—according to the official Self-Management ideology—was based predominantly on state socialism with some elements of a market economy. After that, the economy was drastically changed by two factors: Milošević-era economy and post-Milošević transition marked by significant reform endeavours. Post-Milošević political and economic transition still struggle with strong remnants of both Tito- and Milošević-era economic systems. When the criminal legislation was adopted in 1977, many forms of modern business were unknown in the country, and thus there was a lack of modern forms of economic crime. Hence, many acts are not defined and criminalised in current legislation. It is essential that the new Criminal Code contain separate provisions that give the basis for investigating and prosecuting crimes such as: corruption, simple fraud, gross fraud (e.g. pyramidal schemes)⁸, insurance fraud⁹, tax fraud, credit card fraud, cyber-crime, possessing equipment for committing economic crime (e.g. equipment for producing forged credit cards¹⁰), etc.¹¹ The general intent of people who are working on drafting the new Criminal Code is that criminal offences linked with organised crime be punished more effectively and more severely. Having in mind the sensitive period of economic transition in which Serbia is today, it is worth of considering applying the same principle to offences in the sphere of economic crime, regardless whether it is organised or committed by individuals (e.g. white-collar crime).

⁸ The gravity of fraud is determined by a certain limit (e.g., in Norway it is approximately 10,000 Euros).

⁹ One of the interviewed investigators explained that all fraud is now covered by a single article of the current Criminal Code. He illustrated it by saying that selling a fake gold ring and an insurance fraud worth 10 million Euros are both covered by the same article of the current Criminal Code.

¹⁰ One of the interviewed investigators gave an example of a police raid in which a specialised device for producing forged credit cards and 200 blank plastic cards were found, but the suspect had to be released because there is no legal basis for prosecuting him although the intent was quite obvious.

¹¹ In general, Serbian legislation need to be compliant with all *designated categories of offences*, as per the FATF definition (http://www1.oecd.org/fatf/40Recs_en.htm#GLOSSARY).

The new Draft Criminal Code defines money laundering as a specific criminal act. By means of this provision, Serbia will fulfil a major obligation under the relevant international conventions. This initiative related to the Criminal Code is to be linked to the simultaneous adoption of a new Law on the Prevention of Money Laundering (see below). Together, these measures would help raise necessary public awareness about a topic that affects their daily lives.

Law on the Prevention of Money Laundering

The current Law on the Prevention of Money Laundering was adopted in 2001 at the federal level and it does not entirely meet international standards. The Law set up the FIU as the independent Federal Commission for the Suppression of Money Laundering. After the constitutional rearrangement and transformation of the Federal Republic of Yugoslavia to the state union of Serbia and Montenegro, fighting money laundering was transferred to the level of the republics and the ex-federal FIU became a part of the Serbian Ministry of Finance. It was renamed the Administration for the Prevention of Money Laundering (APML). The Serbian FIU has drafted and now advocates the adoption of a new Law on the Prevention of Money Laundering. The draft was adopted and endorsed by the government in end-2004 and is in parliamentary procedure at the time of writing. It is expected to be adopted during 2005.

The draft Law on the Prevention of Money Laundering prescribes actions and measures to be undertaken for the purpose of detecting and preventing money laundering. Its adoption would mean compliance with all ratified international conventions. The main novelties are the longer period of FIU authority to suspend suspicious transactions (from 48 to 72 hours) and a wider list of obligors. Article 4 of the draft Law defines obligors as 'legal entities and responsible persons within the legal entities who are obliged to undertake actions and measures for the detection and the prevention of money laundering'. It specifies the list of obligors:

- 1) banks and other financial organisations (savings banks, savings and credit organisations and savings and credit co-operatives);
- 2) bureaux de change;
- 3) postal and telecommunication enterprises, as well as other enterprises and co-operatives;
- 4) insurance companies;
- 5) investment funds and other institutions operating in the financial market;
- 6) stock exchanges, broker-dealer associations, custody banks, banks authorised to trade in securities and other entities engaged in transactions involving securities, precious metals and precious stones;
- 7) organisers of classical and special games of chance (casinos, slot-machine clubs, betting places), as well as of other games of chance;
- 8) pawnshops.

The draft Law also defines as obligors other legal entities and individuals doing business related to:

- 1) asset management for other persons;
- 2) factoring and forfeiting;
- 3) leasing;

- 4) issuing payment and credit cards and performing operations with the cards;
- 5) real estate business;
- 6) trade in artworks, antiques and other valuable objects;
- 7) trade in automobiles, vessels and other valuable objects;
- 8) treatment and trade in precious metals and jewels;
- 9) organisation of travels;
- 10) mediation in negotiations related to granting credits;
- 11) mediation and representation in insurance business;
- 12) organising auctions.

The draft is generally in compliance with FATF-recommended measures to be undertaken by financial institutions to prevent money laundering. However, it does not meet FATF recommendations (especially Recommendation 12.d¹²) as far as non-financial businesses and professions, lawyers, notaries¹³, other independent legal professionals and accountants are concerned. The draft Law exempts them from the customer due diligence and record-keeping requirements¹⁴. Introducing this recommendation might provoke strong opposition by the 5000-member Bar Association of Serbia, so the APML-FIU decided against including this provision in the draft Law. Interestingly, law firms were also not included on the list of the specific obligors to this law, so they are not obliged to report regularly on transactions exceeding the limit provided by the law. However, the draft Law gives attorneys certain obligations, binding them to notify to the APML-FIU within three days regarding any suspicious transaction within their practice, including possible money laundering activities (Articles 27-29). Even these provisions, which are in accordance with the Second EU Directive on Money Laundering (December 2001), are strongly criticised by Serbian attorneys, who deem them to be detrimental to the confidential attorney-client relationship. However, not introducing FATF Recommendation 12 could simply serve to funnel money laundering activities to independent legal professionals and accountants.

Notwithstanding its limitations, adopting the draft Law would bring Serbia up to 'Largely Compliant'¹⁵ status in relation to FATF recommendations. It would also bring the country closer to fulfilling EU standards in this field.

Keeping in mind the sensitivity of the transitional period Serbia is going through, it is worth considering that the APML-FIU also be tasked to analyse (with full co-

¹² The FATF Recommendation 12.d states that the customer due diligence and record-keeping requirements apply to 'Lawyers, notaries, other independent legal professionals and accountants when they prepare for or carry out transactions for their client concerning the following activities:

- buying and selling of real estate;
- managing of client money, securities or other assets;
- management of bank, savings or securities accounts;
- organisation of contributions for the creation, operation or management of companies;
- creation, operation or management of legal persons or arrangements, and buying and selling of business entities.'

¹³ Notaries are still not part of the Serbian legal system, but that is envisaged to be addressed soon.

¹⁴ As set out in the FATF Recommendations against money laundering 5, 6, and 8-11.

¹⁵ 'There are only minor shortcomings, with a large majority of the essential criteria being fully met.' (Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 8 Special Recommendations, p.3, Paris, 2004)

operation of other relevant authorities) the origin of money used in privatisation process. Checking if that money comes from bank accounts in countries on the FATF blacklist and from other countries with a history and reputation of money laundering would be especially important. The burden of proof in these cases needs to be shifted to suspicious legal entities and individuals (applying the balance of probabilities principle), and such checks need to be followed by possible confiscation of assets. While the Draft National Anti-corruption Strategy envisages the elimination of legal entities convicted of criminal offences from public tenders (see Annex C), this needs to be expanded to eliminate such entities and individuals from the privatisation process.

Other Relevant Legislative Issues

Although legislation in the area of asset seizure, freezing, and confiscation is relatively adequate, police, prosecutors and judges in Serbia are reluctant to implement it. It is essential that asset seizure, freezing and confiscation be legally regulated and utilised, in accordance with standards in developed democracies and economies. Besides the punitive and prevention aspects of this measure, the fight against economic crime would be greatly enhanced if the government decided to invest a portion of confiscated criminal assets into developing institutional capacities to carry out that fight¹⁶.

The Draft National Anti-corruption Strategy was adopted by the government and is in parliamentary procedure at the time of writing (see Annex C for details).

The Law on the Prevention of Conflict of Interest was adopted in April 2004. Conditions for its implementation have recently been fulfilled by the appointment of the Executive Board. The Board, however, is in its infancy, still lacking defined rules for carrying out its activities according to the Law. It is responsible for collecting property declarations and controlling potential conflicts of interest. The Board's first challenge will be to collect data relating to the property of approximately 10,000 officials and their relatives and to design adequate tools to process such data.

Regarding public procurement, unsuccessful bidders continue to complain of irregularities encountered in public tendering procedures.

In 2004, the presidential and local elections have shown the shortcomings of the Law on Financing of Political Parties. It is too vague in key areas (open to misinterpretation, in particular concerning the amount of budgetary funding) and the institutions in charge of implementing it (Republican Electoral Commission and Finance Committee of the National Assembly) do not have adequate human and material resources to perform the duties as prescribed.

¹⁶ This is already the case in some developed countries.

Since there is no system of external budgetary oversight, a new Law on Establishing the Supreme Auditing Institution¹⁷ is currently being drafted by the National Assembly.

The Serbian legislation and criminal justice system—being very positivistic and conservative—puts the burden of proof for finding out the origin of suspects' property exclusively on prosecution. Shifting it to suspects would, however, significantly improve the work of crime investigators and prosecutors. The failure of suspects to prove the legality of their property would need to be followed by confiscation of such illegally gained assets. Criminals usually find losing money more painful than spending years in prison. Besides punitive and retributive functions, confiscation would serve as a means of prevention, because it strips criminals of money and status as grounds for future crime activities. This very effective tool for fighting crime can potentially be very dangerous if misused. Therefore it needs to be paired with strict application of the balance of probabilities principle, and regulated by clear and transparent procedures.

¹⁷ In accordance with FATF Recommendation 29: 'Supervisors should have adequate powers to monitor and ensure compliance by financial institutions with requirements to combat money laundering and terrorist financing, including the authority to conduct inspections. They should be authorised to compel production of any information from financial institutions that is relevant to monitoring such compliance, and to impose adequate administrative sanctions for failure to comply with such requirements.'

VI. Institutional Framework for the Fight against Economic Crime

Fighting economic crime is a very complex task for any state. A multi-institutional and multidisciplinary approach is needed. In Serbia, it is currently shared among two ministries, the criminal justice system and the National Bank. The Ministry of Interior is responsible for supervising the Serbian Police and the specialised Directorates like the Organised Crime Directorate (OCD)¹⁸ and the Criminal Investigation Directorate (CID). The Ministry of Finance is responsible for the Administration for the Prevention Money Laundry (APML) – Serbian Financial Intelligence Unit (FIU), the Tax Police Directorate (TPD) within the MoF's Tax Administration, and the Customs Administration. The justice system deals with economic crime in the Prosecutor's office and the court. Finally, the National Bank of Serbia is responsible for the monetary system and oversees the work of banks, savings, insurance companies, exchange offices, and other financial institutions in Serbia.

Serbia's system to fight economic crime is comparable to that of other countries and, in principle, could function properly. However, some findings of the assessments show that some amendments and improvements are still needed¹⁹.

Police Organisations

The Serbian police service is under the direct supervision of the Ministry of Interior, so there is a partial influence of the government on the police. For example, senior police managers are being replaced after elections²⁰. Some of the interviewees criticised that this politicisation impedes the police service from being able to investigate some important economic crime cases, and are sometimes even directed to investigate previous government officials.

The income of specialised police officers is low in comparison to personnel in the bank system or other financial experts. Most of the highly educated and experienced police officers working with economic crime issues can easily find well-paid jobs in the private sector. Both FCD and ECD are seriously affected by this. It has a direct and negative impact on the ability of the police to produce quality work and on the motivation of officers.

¹⁸ The OCD was founded in 2001.

¹⁹ FATF Recommendation 30: 'Countries should provide their competent authorities involved in combating money laundering and terrorist financing with adequate financial, human and technical resources. [...]'

²⁰ Not only were the most senior chiefs of the police service replaced after the parliamentary elections in 2003, but also managers in lower echelons.

The Serbian police service has a centralised system to collect and process statistics. The different directorates and units report their statistics to the Analytics Directorate in the Ministry of Interior, which are then compiled to give an overall picture of trends in crime. However, there are no national statistics for economic crime that include all related data from the police service, the FIU, Tax Administration, customs, the prosecution, and the judiciary. Different authorities have their own criteria for collecting and processing statistics and these are not standardised.

In general, the knowledge and education level of police investigators are not to the highest possible standard. Basic police education within the Police College and the Police Academy lacks a comprehensive education in fighting economic crime, especially methodologies of money laundering and investigation. They receive a few hours of information on the basics of economic crime, but receive no training in the specific skills to combat it.

The OCD and FCD investigators are trained to investigate through internal training and learning by doing. General knowledge of basic investigation and methodology is adequate, but there are still some shortcomings. The capacity of officers to fight this specific crime varies widely, especially as regards knowledge of relevant legislation, particularly in legal norms outside of the Criminal Code, e.g. banking rules and other economic regulations. Most investigators do not possess a comprehensive knowledge of international law or international obligations (like conventions or FATF recommendations) which Serbia is obliged to enforce.

In general, the knowledge of police officers regarding other institutions fighting economic crime is poor and co-operation amongst the various institutions is primarily based on personal relationships. A certain degree of mistrust and rivalry is also present between them. Co-operation of all relevant agencies needs to be required and regulated.

The OCD is a directorate within the Ministry of Interior (separated from the rest of the police service) responsible for investigating organised crime. As a specialised directorate to fight organised crime, the whole territory of Serbia is within OCD's jurisdiction. The OCD has a specialised Financial Crime Department (FCD) which presently has four units: Anti Corruption, Anti Money Laundering, Cyber Crime, and Fight against Smuggling of Goods.

The FCD investigators can professionally carry out their duties, but they lack regular information on new legislation, especially on international law. They are equipped with the necessary technical tools, such as *IT-notebook*. On the other hand, there is no electronic network between various institutions fighting economic crime.

The biggest obstacle for FCD is a lack of staff. This affects the efficiency of FCD and prevents it from working effectively. They have only 22 investigators, including management. If there is a big and complex case, the FCD has to use more than half of its staff. Other cases are not investigated thoroughly enough and as a result they often fail in the court of law, even if put before the courts for trial. It must be emphasised that this is not based on poor management, lack of professional

knowledge or technical equipment, nor on the lack of willingness of the investigators, but on the insufficient number of staff. Their work environment is very poor and it affects the proper work of the investigators. There is no space for storing and filing seized documents or goods, and they do not have enough interview rooms and small offices inhibit work with evidence and other investigation issues.

Recently, the FCD requested to have 40 staff members. This would be significant improvement to the current situation, but it is still clearly not enough. Serbia faces an above-average level of corruption (especially in privatisation), economic crime, phantom companies, and piracy. The high percentage of cash in financial transactions, compared to developed economies, creates an excellent environment for underground banking and other illegal financial operations.

The Criminal Investigation Directorate (CID) is a part of the Ministry of Interior's Public Security Sector (i.e. police service). It has a specialised Economic Crime Department (ECD). Each of the 33 police secretariats (i.e. districts) in Serbia has its own Criminal Investigation Department, and each has its economic crime investigation component. Economic Crime Departments in secretariats investigate economic crime issues and cases. The Belgrade Secretariat is the biggest in the country and the Belgrade ECD deals with almost 65% of some 13,000 economic crime cases throughout Serbia per year.

The structure of the ECD is outdated and often unprepared to handle new types of economic crime, but the process of change is officially under way. ECD needs modern structures to investigate new forms of crime like Internet crime or varieties of underground banking and phantom companies. They also lack the professional capacity to manage and safeguard data from seized computers.

The ECD has trained and educated police officers for fighting economic crime. However, they still require a wider knowledge of economic crime methodologies and investigation. A better insight into legal matters, especially international law, is also critical. The CID and ECD need to be better integrated into the legislative development process because they, as practitioners, are often not invited to provide feedback to legislative processes related to their work.

The flow of information within the police service needs to be improved. The current problems with information flow are partly due to the lack of an IT system network and partly due to the use of outdated equipment, unfit for intelligence analysis.

In sum, the Serbian police service and its specialised economic crime units require: (1) adequate legislation; (2) consolidated organisation; (3) improved relationships between different police units, including regulated exchange of data between the police units; (4) standardisation and enhancement of professional knowledge and a

higher level of investigators' specialisation; (5) increased number of staff (primarily investigators and analysts); and finally, (6) modernisation of the equipment.

Other Authorities

The Serbian Finance Intelligence Unit (FIU) is called the Administration for the Prevention of Money Laundering (APLM) and belongs to the Ministry of Finance. It has regular contacts with international organisations, mainly as a member of the Egmont Group, a world-wide association of national FIUs. The APLM-FIU is not an independent body but aspires to regain the independent status they had before being integrated into the Ministry of Finance.

The access of the FIU²¹ to the files and data of the police and other state authorities out of the Ministry of Finance is not regulated. The exchange of data is frequent mainly between the FIU and the OCD's FCD. It is effective because of good personal connections. However, these state bodies are not electronically linked. There is no exchange of data between the CID's ECD and the FIU, although the EDC Belgrade investigates nearly 65% of all in economic crime cases in Serbia. The FIU does not have easy access to other state authorities that might possess relevant information.

The FIU produces no public annual reports that would give an open overview of the reports of the banks to the FIU and the reported suspicious issues to the prosecutor's office or the police service. Public annual report would give transparency in the field of the fight against economic crime within the country's financial system.

The Customs Service and Tax Administration are linked electronically, for data on both physical and legal entities. The exchange of data is institutionalised and unrestricted right to access has a basis in law. The co-operation with the OCD is developed and strong because of good personal relations, but it is not institutionalised through legislation.

The Tax Police Directorate (TPD) is part of the Ministry of Finance's Tax Administration. It was set up in mid-2003 on the basis of the former Financial Police and became operational in July 2004. The TPD has 250-260 employees (including management), while the total number is envisaged to be 346 in future²². The TPD is composed of tax experts from the former Financial Police and police investigators from OCD and CID. The TPD is presently working the whole territory of the Republic of Serbia (except the UN-administered Autonomous

²¹ FATF Recommendation 26: '[...] The FIU should have access, directly or indirectly, on a timely basis to the financial, administrative and law enforcement information that it requires to properly undertake its functions, including the analysis of STR.'

²² Compared to only 22 investigators in the FCD.

Province of Kosovo). During 2004, 850 criminal charges were submitted, with an overall value of 3.8 billion Serbian Dinars (approximately 50 million Euros).

The TPD officers have no regular police executive power. They are not allowed to arrest or interview suspects on their own. For any coercion the TPD requires assistance of the police service. The relationship of the institutions between the MoF and MoI is regulated by a legally-binding Memorandum of Understanding. In spite of this Memorandum, there are some criticisms, mostly related to the lack of appropriate competences of the TPD and their dependence on the police service. TPD officers are sufficiently educated to investigate tax-related crime.

The Prosecutor's Office acts as the key investigation office for criminal cases and to supervise the police investigation. After the police pre-investigation, the entire responsibility for pre-trial investigation falls to the Prosecutor's Office. The prosecution is officially independent like the judiciary, yet less autonomous in its work. The Prosecutor's Office does not have prosecutors specialised in investigating economic crime cases, and money laundering in particular.

The relationship between the Prosecutor's Office and the Ministry of Interior is largely criticised by both institutions. Mutual expectations are constantly not met. On the one hand police expect more support and more investigation independence. On the other hand, the Prosecutor's Office expects better reporting from police investigation units. It is essential that mutual co-operation between police investigators and prosecutors is close and based on trust.

The Belgrade District Court deals with more than 70% of the cases in Serbia. Investigative judges co-operate with the Prosecutor's Office. There is a department in charge of economic crime within the Belgrade District Court. District courts throughout Serbia lack judges specialised in dealing with economic crime, money laundering and terrorist financing. The courts rely on independent financial experts with knowledge of investigation methods and who are educated in economic crime issues. The current experts have a low level of knowledge and cannot assess all crime cases²³.

The National Bank of Serbia is an independent and autonomous institution. It is the central bank of the Republic of Serbia and, as such, is tasked with protecting the

²³ A quote from the Downes' Report serves well to describe relations within the criminal justice system: 'The efforts put in to enhance the capacity of the police service to tackle crime will be nullified if the prosecution, judiciary and the prison service cannot ensure that cases will be heard and sentence upheld in a timely and objective manner. In this regard, equilibrium of assistance and capacity should be maintained between all of the institutions of the criminal justice system.' Downes, Mark: *Police Reform in Serbia: Towards the Creation of a Modern and Accountable Police Service*, p. 16 (LED, OMiSaM, Belgrade, 2004).

stability of prices and maintaining financial stability. *Inter alia*, the National Bank's core functions include determining and implementing monetary policy (including the Serbian Dinar exchange rate policy), management of foreign (hard) currency reserves, release of banknotes and coins, and maintenance of efficient payment and financial systems.

The National Bank is also responsible for oversight of exchange offices in Serbia. The findings of this assessment show that exchange offices are used as an instrument for money laundering, as customers can exchange money without providing any identification. This is ideal especially for the exchange of money illegally gained from daily economic crime.

In general, co-operation among various institutions involved in the fight against economic crime in Serbia is rather poor, due to wide-spread and deeply-rooted mutual mistrust and rivalry, a lack of awareness of the other institutions' role and competences, and the lack of specific skills in dealing with this form of crime.

VII. Police Service’s Needs for Enhancing the Fight against Economic Crime

Since the end of World War II, the police service has often been used as an oppressive arm of the government. With the general criminalisation of society during the Milošević regime, the situation did not get any better. Not only the police continued to be a tool of oppression, but the level of professionalism—developed during 45 years of peace—rapidly decreased. Milošević never completely trusted the armed forces and has therefore militarised the police service in an attempt to create his praetorian paramilitary. The main purposes of the police service were the suppression of democratic opposition and the participation in Yugoslav War, while prevention and suppression of crime was almost completely neglected. Criminal investigation capacities fell to a very low level. The uniform component of the police service police was considered more important and thus favoured heavily. Although the vast majority of Milošević’s senior police cadre has been sent to retirement, the Serbian police service still needs a long and serious rehabilitation.

This assessment report highlights the need for reform and modernisation of the Serbian police service economic crime investigation capacity. The Serbian police simultaneously need training in new investigative techniques, as well as proper equipment to enhance the effectiveness of investigations. *OHR Report on a Police Follow-On Mission to UNMBIH and the UN International Police Task Force*²⁴ provides a method of conceptualising the police reform process for countries in transition. This report proposed the following matrix, which highlights the need to develop both individual and structural capacity and integrity of the police service:

	Individual	Structure
Capacity	<ul style="list-style-type: none"> • Aptitude • Knowledge and Performance • Lifestyle 	<ul style="list-style-type: none"> • Infrastructure • Manpower • Finance • Rules
Integrity	<ul style="list-style-type: none"> • Aptitude • Knowledge and Performance • Lifestyle 	<ul style="list-style-type: none"> • Infrastructure • Manpower • Finance • Rules

²⁴ Monk, Richard, Tor Tanke Holm and Serge Rumin: *OHR Report on a Police Follow-On Mission to UNMBIH and the UN International Police Task Force*, 2001.

Achieving the sustainable development of the police service (both its individual and structural capacity and integrity) requires deep structural reforms in five fields primarily:

- 1. normative framework** (see chapter V),
- 2. organisational structure,**
- 3. structural capacity:**
 - a) *human* resources (especially human resources management and training), and
 - b) *technical* and *infrastructure* resources,
- 4. structural integrity:**
 - a) *accountability*, and
 - b) *operational independence from political influence* (through clear division between political and operational components), and
- 5. strategic planning and development.**

It is a necessity that these core elements are taken into account by both the Serbian Government and the international community in decisions to support to the Serbian police service's economic crime investigation capacities.

'The reform processes throughout Serbia and the Balkans have concentrated largely on the development of the capacity and the integrity of the individual. [...] The international community has largely shied away from necessary structural reforms for a number of reasons. Structural reforms require a long-term engagement, political will and the willingness to make difficult decisions. Structural reforms are costly and their outcomes are not always evident in the short term. The development of a structural framework for the criminal justice system and democratic institutions is by far the most important priority of the reform process. The structural framework in this regard should be developed in terms of both structural integrity and structural capacity.

'By developing the structural integrity of the police service in Serbia, the international community will provide the service with the means of self-oversight. Developing the structural capacity of the police service will ensure the transfer of the responsibility for development of the individual to the national police service, thereby making the reform process sustainable and self-sufficient. The lack of focus on establishing and ensuring the 'rule of law' by the national and international organisations in the Balkans undermines the reform processes over time. For this reason, [...] the international community and the OSCE should focus their assistance to the reform process on the structural integrity and structural capacity aspects of the reform process.'²⁵

²⁵ Downes, Mark: *Police Reform in Serbia: Towards the Creation of a Modern and Accountable Police Service*, pp. 16-17 (LED, OMiSaM, Belgrade, 2004).

Reorganisation

There is a need for consolidating (centralising) the police service's capacities for the fight against economic crime. A certain tension between police colleagues in Serbia exists ever since the establishment of the Organised Crime Directorate (OCD) as an entity separate from the Criminal Investigation Directorate (CID) in 2001. The delineation of their respective areas of responsibility remains blurred.

The intention of future rationalisation of the Serbian police service is to bring the OCD into the structures of the CID. Thus, the FCD would probably be brought within the CID's ECD structure. Such a reorganisation may be very beneficial, but it is crucial that strategic, specialised, intelligence-driven, elite capacities be maintained and developed, for the purpose of having an overview of organised economic crime in Serbia, Serbia-Montenegro, and internationally (especially in the Balkans). Such a unit would also be necessary for possible rapid deployment to support the work of local investigators on big cases in any part of the country (and even to assist police services abroad).

While it is clear that all police secretariats in Serbia need to have their own economic crime investigators, five to six regional investigation centres could probably make the procedures shorter and co-ordination of activities much easier. Each regional investigating centre could be in charge of co-ordinating five to seven secretariats, while the Belgrade Secretariat could alone have the status of a regional centre.

Nevertheless, it has to be clear that centralisation—as it is defined here—is to be applied only in those special branches of policing in which the pooling of scarce resources is necessary. This would primarily be an organisational and functional centralisation, and would simultaneously include delegating more decision-making powers down the chain to individual investigators and teams, thus providing them with significantly more flexibility.

Human Resources

All police units tasked with fighting economic crime (OCD's FCD, CID's ECD, and ECDs in Secretariats) face a serious deficit of human resources. Human resources are currently inadequate both in terms of number of staff and their relative level of expertise.

The FCD as an elite unit has only 22 investigators to cover organised economic crime activities in all of Serbia. Belgrade Secretariat's ECD—in whose jurisdiction some 65% of economic crime is happening—currently works with only a fourth of the number of staff that the MoI's new organisational plan envisions.

Just like their counterparts abroad, Serbian economic crime investigation units face the problem of brain-drain. Many experienced investigators have left for significantly higher salaries in the commercial sector. Inexperienced staff make up a large number of the current investigators and they receive little in-service training.

All relevant departments (especially the FCD) clearly need properly educated and adequately paid specialists.

The very nature of fight against economic crime requires a multidisciplinary approach. Police investigators, intelligence analysts, prosecutors, accountants and other economic experts do not work together closely enough. Their work needs to be organised through multidisciplinary teams of specialists. To compensate for the chronically insufficient number of experts, the Serbian police service would need to be allowed to engage specialists from the financial industry and institutions on a part-time basis, for investigation purposes in complex cases. The police service in general suffers from an insufficient number of young professionals – men and women with university degrees in law, economics, ICT, management, political science, and other relevant disciplines. Investigating economic crime is one of the areas of policing that suffers the most. Attracting and employing these professionals needs to be a priority of the recruitment policy. ICT capacities are particularly underdeveloped and vulnerable, so securing evidence requires better ICT forensic expertise.

In cases of trans-national organised economic crime, much seized documentation used for evidence may be in English language, which makes it crucial that the police are able to analyse it. English is also important for international police co-operation. At the moment, the investigators' language skills are inadequate for this task. In the later stages, the international community could also help the Serbian police service by organising 'internship' schemes under which Serbian investigators would spend time in foreign police services' economic crime investigation units, learning modern methodologies and collecting best practices. Police services abroad could in that way also benefit from learning from their Serbian colleagues, as many criminals active in Western Europe are of Balkan origin.

Technical and Infrastructure Resources

Although appropriate manpower is the most important aspect of a police service's structural capacity, developing adequate infrastructure is an integral part of it. It needs to be compatible with the rest of the country's law enforcement system. The most comprehensive method to achieve that is implementing a centralised criminal intelligence system designed to provide all necessary information to credible and effective economic crime investigation.

Police units specialised in investigating economic crime have very scarce technical resources. There is almost no specialised equipment. At the top of the list of needs are analytical IT tools (both hardware and software), ICT forensic capacities, surveillance equipment, and heavy-duty scanners paired with proper software for archiving and keyword searching.

Having adequate facilities for storing evidence also presents a problem currently. There is the problem of protecting sensitive seized documentation that is now sometimes stored on the floor in some office, as well as seized smuggled goods, e.g. vehicles, lorries with smuggled fuel, large cargo of smuggled tobacco.

Operational Independence

In January 2004, the OSCE published Mark Downes' study, *Police Reform in Serbia: Towards the Creation of a Modern and Accountable Police Service*. It was a critical evaluation of the first three years of police reform undertaken after the establishment of democratic government in Serbia. One of the key chapters of this influential report is entitled, *The 3 D's – Decentralisation, Depoliticisation and Demilitarisation*, and describes these as the core challenges of police reform. All three are important for police reform and effective suppression of economic crime, but the second D is key for establishing accountability and the credibility of economic crime investigation.

Unfortunately, political influence has not been completely driven out of the police service. Operational police independence is absolutely crucial for any effective and impartial criminal investigation, including the investigation of economic crime. The police service needs to be freed from self-interested political pressure, primarily through a clearly defined division between political and operational components. The Ministry and the Minister of Interior are to be in charge of general policing policies and ensuring good conditions for police work, but should have no power over the day-to-day, operational work of the police service. That needs to be ensured through a structural division, as well as through establishing the application procedures and clear mandates for all police managers.

Of course, operational independence does not mean that there is no internal and external oversight of police activities, as explained in chapter VIII.

Strategic Planning and Development

Regular and regulated co-operation between all investigative and intelligence authorities engaged in suppressing economic crime is an imperative. Their operational co-operation would be better facilitated if regulated by a series of bilateral memoranda of understanding, or some similar binding arrangements.

In addition to operational co-operation and mutual bilateral support, relevant authorities need to work on a comprehensive multilateral approach to this issue. In that regard they need to be jointly developing a National Plan for the Suppression of Economic Crime, in accordance with the National Strategy for Combating Corruption. During this process, there is a need for the participation of representatives of the prosecution and judiciary. Besides developing the mechanisms of multilateral co-operation, the National Plan needs to outline the aims of this co-operation (e.g. decreasing economic crime by a certain percentage over the next three years) and methods and means for their fulfilment. Legislative initiatives also need to be included. In this endeavour, authorities would benefit from consulting independent expertise in civil society and academia.

There would be no benefit if this were a sporadic initiative, but rather it needs to be a permanent co-operation forum. It could take the form of a steering committee

which could gather the heads of all agencies four to six times a year, while their deputies and assistants would need to meet more frequently to discuss specific topics of co-operation²⁶. This would require strong and uncompromising support from the political sphere, especially from the Ministers of Interior and Finance, in accordance with the Government's prioritising of the fight against economic crime.

²⁶ Eventually, this could possibly lead to the forming of an authority similar to the British Assets Recovery Agency. (For more information, see: www.assetsrecovery.gov.uk)

VIII. Enhancing Economic Crime Investigation Capacities in the Context of Overall Police Reform

Based upon the findings and recommendations of an influential OSCE Report²⁷, the Serbian Ministry of Interior announced ‘Six Priority Areas of Police Reform’ in December 2001. Those were: (1) Education and Development; (2) Accountability; (3) Organised Crime; (4) Community Policing; (5) Forensics; and (6) Border Policing. In November 2004 that was reaffirmed in a Memorandum of Understanding between the Ministry and OSCE, when two additional areas were included: (7) Strategic Planning and Development and (8) War Crimes Investigation.

Enhancing economic crime investigation capacities relates to all eight of the priority areas, to a certain extent. Some would directly benefit from better economic crime investigation (Organised Crime, Border Policing, and War Crimes Investigation), while Community Policing would benefit indirectly. Progress in the rest would directly benefit economic crime investigation capacities.

1. **Police education** reform will lay the groundwork for changing the future culture of the police service, but at the moment Serbian police education system neglects the significance of economic crime investigation in educating detectives. Only a few lessons in both the Police Academy and Police College curricula are currently dedicated to that area of criminal investigation. Development of new, modern curricula for economic crime investigators can develop investigative skills and cement their ethical attitudes.
2. The introduction of a new policing *ethos* is needed as much as the upgrading of economic crime investigative capacities. Therefore, one of the most important policing areas in which police **accountability** must be exercised is the investigation of economic crime. Structural integrity of the police service requires the development of a complex set of regulations and mechanisms. It entails internal affairs procedures, human resources guidelines, internal regulations and a legal framework. Credible internal affairs mechanisms ensure that the police service is free from corruption (which is crucial for their credibility) and acceptable and accountable to the people it serves. It is necessary that internal oversight be supplemented with various forms of external oversight exercised by the parliament, judiciary, media, and civil society. The establishment of two independent oversight institutions—Ombudsman and Supreme Auditing Body—can be crucial for the accountability of economic crime investigation.

²⁷ Monk, Richard: *A Study of Policing in the Federal Republic of Yugoslavia*. OSCE, 2001.

3. **Organised crime** is intrinsically linked to economic crime. Fighting it is by far the most important priority area for both national authorities and the international community. Organised criminals always go for profit and use various economic crime methods, especially money laundering, to pump their illegally-gained assets into the country's economy. This gives them both economic and political influence over the development of Serbia. It undermines the country's transition to an open market economy, as well as hampers democratic institutions. Therefore the *National Strategy on the Fight against Organised Crime* (currently under development) needs to include organised economic crime. The central criminal intelligence system (also under development), from the very beginning needs to be designed to also be a tool for combating economic crime nationally, regionally and internationally. There is a clear need for a criminal intelligence system staffed with properly educated economic crime analysts.
4. **Community policing** in Serbia is usually seen related only to uniform police. The unnatural separation of uniform and investigation components needs to be overcome. Police need to work much closer with the community, which should to be seen as the basis for gathering intelligence on criminals and criminal activities. In turn, enhancing economic crime investigation capacities can have a very positive effect on community safety. Individuals in many Serbian communities are commonly known to be criminals, but no action is taken against them. People having no regular job, but driving expensive vehicles and spending money become role models for youth. Proactive economic crime investigation can strip many of them of their negative influence on safety in many communities in Serbia.
5. **Forensics** as a police reform priority needs to be understood in its broadest meaning – ensuring credible evidence. With the increased sophistication in economic crime, the methods used to combat it also need to be enhanced. Cases can sometimes be very complex and getting credible evidence to the court can be a highly complicated process. Also, quality assuring the methods of obtaining evidence can guarantee a fair court procedure. In general, the Serbian police service has very scarce forensic resources (both technical and human) in this area. Police units tasked with investigating economic crime often do not possess even the most basic equipment. There is also no IT forensic laboratory for extracting data from the computers seized from suspects. Seizing a huge amount of documentation—often necessary in economic crime investigation—becomes an ineffective investigative tool because it is too labour-intensive. At the moment, the police are not equipped with heavy-duty scanners and software for keyword searching. The necessity for proper training of investigators in the use of sophisticated equipment can never be overstated.
6. **Border policing** would very obviously benefit from enhanced economic crime investigation capacities. It is seen as crucial for the fight against organised crime and also for Serbia-Montenegro's future EU membership. It is crucial that the Border Police Service has both adequate human and technical capacities for fighting trans-national economic crime, and that they intensively co-operate with

other law enforcement branches, as well as with fiscal authorities (especially customs).

7. There is a critical need to develop a **strategic planning and development** capacity in the Serbian police service. Capacity in this area is necessary to oversee one of the first major police reform tasks – the comprehensive re-organisation of the police service structure. In future, such a capacity will allow the police service to prioritise and organise its work, creating a more efficient and responsive system. During the strategic planning process, the country's overall reform priorities need to be considered, and thus the development of economic crime investigation capacities needs to have a proper place in planning the development of the police service in general.
8. Credible, professional investigation and prosecution of **war crimes** needs to be connected to investigating the financial activities of the suspects. People responsible for war crimes committed during the Yugoslav War were often not just fanatics, but simply war profiteers. Assets gained in such a way could be confiscated and placed into funds for rehabilitation of victims of war.

IX. Recommendations

1. The Serbian Government should make the fight against economic crime a priority, possibly adopting a National Strategy.
2. Enhancing the police service's capacity to suppress economic crime must be harmonised with developing the same capacities in other segments of the criminal justice system.
3. The new Criminal Code needs to be adopted as a matter of urgency. The Code should contain separate provisions that criminalise all new forms of economic crime.
4. The burden of proof in cases of economic crime investigation should be shifted to suspects, based on the balance of probabilities principle. The failure of suspects to prove the legality of their property needs to be followed by confiscation of such illegally gained assets.
5. It is essential that asset seizure, freezing and confiscation is introduced and legally regulated, in accordance to standards in developed democracies and economies. The Government should use a part of the seized assets to invest into further development of capacities for the fight against economic crime.
6. The National Anti-corruption Strategy should be adopted as a matter of urgency.
7. The Serbian police should be legally protected from any political influence. Operational independence of the police service must relate both to independence of investigation and to the change of managerial staff. The government, police service and other state authorities should focus only on law, not on individuals.
8. The new Law on the Prevention of Money Laundering should be adopted as a matter of urgency. In accordance with the FATF Recommendation 12, the current draft needs to be amended by adding lawyers, notaries, other independent legal professionals and accountants to the list of obligors.
9. The privatisation process in Serbia should be closely monitored by the authorities with investigative powers. APML-FIU should be the lead agency, but must be supported by other authorities, primarily the police service. It is essential that the origin of money used in the privatisation process be analysed. It is especially important to scrutinise if the money comes from bank accounts in countries on the FATF blacklist. The burden of proof in these cases should be shifted to suspicious legal entities and individuals, and

such check needs to be followed by possible seizure, freezing and confiscation of assets in cases when the legality of origin cannot be established. While the Draft National Anti-corruption Strategy envisages the elimination of legal entities convicted of criminal offences from public tenders, this should also be expanded to elimination of legal entities and individuals convicted of criminal offences from the privatisation process.

10. Upon implementing legislative changes, the Serbian Government should invite the FATF to conduct a comprehensive assessment of Serbia's capacities to fight economic crime, especially in preventing money laundering and terrorist financing. A favourable FATF assessment would be an excellent recommendation for foreign investments in Serbia, and an important step towards EU accession.
11. It is essential that a centralised criminal intelligence system be established and supported by the centralised IT system of the Serbian police service. It is also essential that the intelligence system's analytical capacity be supported by a sufficient number of adequately educated economic crime analysts. Sharing access to data among different state authorities and their exchange for investigative purposes should be legally regulated. All institutions engaged in the fight against economic crime should be electronically linked.
12. All prosecution, investigative and intelligence authorities engaged in the fight against economic crime should have regular and regulated mutual co-operation, and should work on overcoming the current mistrust and rivalry. In addition to operational co-operation and mutual support, they should be working together on a National Plan for the Suppression of Economic Crime.
13. All prosecution, investigative and intelligence authorities engaged in the fight against economic crime should have regular and regulated international (especially regional) co-operation with counterparts abroad.
14. A mechanism to gather and process statistics from across the criminal justice system should be established. This would enable appropriate analyses to be carried out, which—given the diverse methodologies used by different authorities—are practically impossible. Such a new system should provide an overview of all stages of economic crime cases. The statistics should include data on the police service, APML-FIU, TPD, customs, Ministry of Trade's Market Inspectorate, prosecution, and judiciary.
15. Police capacities for the fight against economic crime need to be consolidated. It is crucial that strategic and intelligence-driven specialised capacities be maintained and developed, for having an overview of organised economic crime in Serbia, Serbia-Montenegro, and internationally (especially in the Balkans). While all police secretariats in Serbia should have their own economic crime investigators, five to six regional investigation co-ordination centres should be established. Each of them would be in charge of five to

seven secretariats, while the Belgrade Secretariat would alone have the status of a regional centre.

16. The police education system should provide proper police training in economic crime investigation.
17. The police organisations fighting economic crime (OCD's FCD, CID's ECD, and ECDs in Secretariats) should be adequately staffed. Both in terms of number of staff and the level of their expertise. The government should ensure that all departments (especially the FCD) have properly educated and adequately paid specialists. Attracting and employing young university graduates with degrees in economics, management, ICT, law, political science, and other relevant disciplines should be made a priority of the recruitment policy in the police units fighting economic crime. The Serbian police service should also be allowed to engage specialists from the financial market/institutions for investigation purposes.
18. Substantial and significant investments in equipment are needed for any serious enhancement of the Serbian police service's capacities to fight economic crime. Primarily IT investment is needed, in both hardware and specialised software tools.
19. To get to cost-effective, long-term and sustainable results in this area, the international community needs to be well co-ordinated. It is essential that international donors develop a joint approach through common concepts, policies, strategies, and practices. They should establish mechanisms to monitor and evaluate progress and to utilise the lessons learned. There is an urgent need for regular operational meetings of relevant international actors, and also for the development of a comprehensive database of projects. Regular communication and an honest sharing of experiences—good or bad—needs to be supplemented by mechanisms of mutual support among the international donors. Those experienced in the field need to share information with those relatively new to it.
20. International support should be focused on and developed in four primary fields: **legislation, policies and procedures, training and equipment**.
 - A. The **legislation** aspect of international support should focus on advising the Serbian authorities on adopting and implementing legislative changes mentioned in recommendations 3, 4, 5, 7, 8 and 9, as well as on advocating for their adoption. It should also focus on advising the Serbian authorities on adopting and implementing the national strategies mentioned in recommendations 1 and 6.
 - B. The **policies and procedures** aspect of international support should focus on advising the Serbian police service and other relevant authorities on developing modern policies and procedures for the fight (monitoring, prevention and suppression) against economic

crime, in accordance with the best practices of countries with a successful record in this fight.

- C. The **training** aspect of international support should focus on modern investigation methodologies for fighting economic crime, in accordance to best practices of countries with a successful record in this fight. A special emphasis should be given to building the interagency and international co-operation skills of the Serbian economic crime investigators.
- D. The **equipment** aspect of international support should primarily focus on modern IT forensic hardware and software for the Serbian economic crime investigation units. Procurement of this specialised equipment needs to be paired with adequate training for its most effective and efficient utilisation.

Annex A: List of Interviewees²⁸

Ministry of Interior

Criminal Investigation Directorate (CID)

1. Zoran Đokić – Deputy Head
2. Ljubinko Nikolić – Head of the Economic Crime Department (ECD)
3. Vuksan Stojanović – Head of Unit within ECD

Organised Crime Directorate (OCD)

4. Josip Bogić – Head of Financial Crime Department (FCD)
5. Nebojša Tramošljika – Deputy Head of FCD; Head of the Anti-Money Laundering Unit within FCD
6. Dragomir Trninić – Head of the Anti-Corruption Unit within FCD

Belgrade Secretariat

7. Dragoljub Radović – Head of ECD within the Belgrade Secretariat CID

Analytics Directorate

8. Miloš Nedeljković – Head
9. Zoran Srečković – Deputy Head
10. Venezija Ilijazi – Head of Register Department

Bureau for International Co-operation

11. Nataša Petrušić – Head

Ministry of Finance

Administration for the Prevention of Money Laundering – Financial Intelligence Unit (APML-FIU)

12. Oliver Bogavac – Head of APML-FIU; Assistant Minister of Finance
13. Tatjana Đurašinović – Head of International Co-operation Unit

Customs Service

14. Dragan Jerinić – Director
15. Dejan Carević – Head of Internal Control Department

Tax Police Directorate

16. Boris Batarilo – Chief Inspector

²⁸ Positions were current at the time of interview.

Serbian Government's Council for Fight against Corruption

- 17. Verica Barać – President
- 18. Ivan Lalić – Vice-President

Association of Deputy Prosecutors of Serbia

- 19. Aleksandar Milosavljević – Deputy Special Prosecutor for Organised Crime

Belgrade District Court

- 20. Siniša Važić – President
- 21. Miodrag Paunović – Investigative Judge

National Bank of Serbia

- 22. Đorđe Jevtić – Deputy Director General of the Supervision Department

Civil Society and Academia

Centre for Liberal Democratic Studies

- 23. Dr. Boško Mijatović – Director of Economic Studies

Institute for Criminological and Sociological Studies

- 24. Prof. Dušan Davidović

Police College

- 25. Prof. Božidar Banović – Deputy Principal

Forum on Ethnic Relations

- 26. Dr. Dušan Janjić – Director

International Organisations

Council of Europe

- 27. Prof. Silvija Panović-Đurić – Legal Advisor

European Agency for Reconstruction

- 28. James O'Connell – Financial Crime Consultant

Annex B: Serbia's International Commitments: Organisations and Conventions

Serbia (as a part of Serbia and Montenegro) has certain international commitments to help it fight economic crime, through international organisations (Egmont Group, MoneyVAL Committee and GRECO) and conventions. However, many of the provisions that Serbia has committed to apply are not yet part of the national legislation. In fact, the vast majority of individuals working in the criminal justice system are not even aware they are authorised to directly apply those provisions. It is a matter of urgency that they apply the provisions that conventions give them. It is therefore essential that all provisions from currently ratified international conventions be included in the new Criminal Code, thus integrating them into the national criminal legislation.

International Organisations

Egmont Group²⁹

The Egmont Group is an informal group for the stimulation of international co-operation between FIUs. It was founded in 1995 at the Egmont Arenberg Palace in Brussels and presently has 94 members. Serbia has been a member since 23 July 2003. The Egmont Group's goal is to provide a forum for FIUs to improve support to their respective national anti-money laundering programmes. This support includes expanding and systematising the exchange of intelligence, improving expertise and capabilities of the personnel of such organisations, and fostering better communications among FIUs. Countries must go through a formal procedure established by the Egmont Group in order to be recognised as meeting the Egmont Definition of an FIU³⁰:

A central, national agency responsible for receiving, (and as permitted, requesting), analysing and disseminating to the competent authorities, disclosures of financial information:

- 1) concerning suspected proceeds of crime and potential financing of terrorism, or
- 2) required by national legislation or regulation, in order to combat money laundering and terrorism financing.

MoneyVAL³¹

The Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MoneyVAL) was founded in September 1997 by the Committee of

²⁹ For more information, see: www.egmontgroup.org

³⁰ www.egmontgroup.org/egmont_final_interpretive.pdf

³¹ For more information, see: www1.oecd.org/fatf/Ctry-orgpages/org-pcrev_en.htm

Ministers of the CoE under the name PC-R-EV (changed to MoneyVAL in 2002). All CoE members which are not members of the FATF are MoneyVAL members. In its work, it takes into account practices and procedures of the FATF. MoneyVAL activities include encouraging jurisdictions to improve their anti-money laundering measures in keeping with the 40 FATF Recommendations and to enhance international co-operation, as well as organise regular exercises focused on the methods and trends of money laundering. It is also a sub-committee of the European Committee on Crime Problems of the Council of Europe (CDPC).

GRECO³²

The Group of Countries against Corruption (GRECO) was formed by the CoE as a mechanism for monitoring the implementation of *The Twenty Guiding Principles in the Fight against Corruption*³³ and the implementation of international legal instruments adopted in pursuance of the Programme of Action against Corruption, through a process of mutual evaluation and peer pressure. Full membership in GRECO is reserved for those who participate fully in the mutual evaluation process and accept to be evaluated.

International Conventions

Criminal Law Convention on Corruption³⁴ was adopted on 27 January 1999 and applies to Serbia and Montenegro since 1 January 2003. The convention's 42 articles precisely define actions and rules against corruption and outline co-operation between the countries. Related to article 24, GRECO monitors the implementation.

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime³⁵ was adopted in the Council of Europe on 8 November 1990 and applies to Serbia and Montenegro since 1 February 2004.

European Convention on Extradition³⁶ was adopted in the Council of Europe on 13 December 1957 and its additional protocol on 15 October 1975. For Serbia and Montenegro (Federal Republic of Yugoslavia), it entered into force on 29 December 2002.

European Convention on Mutual Assistance in Criminal Matters³⁷ was adopted in the Council of Europe on 13 December 1957 and applies to Serbia and Montenegro since 30 September 2002. Member states agree to supply each other with mutual assistance regarding offences that are punishable within the jurisdiction of the requesting authorities.

³² For more information, see: www.greco.coe.int

³³ [http://www.greco.coe.int/docs/other/ResCM\(97\)24E.pdf](http://www.greco.coe.int/docs/other/ResCM(97)24E.pdf)

³⁴ For more information, see: <http://conventions.coe.int/treaty/en/Treaties/Html/173.htm>

³⁵ For more information, see: <http://conventions.coe.int/treaty/en/Treaties/Html/141.htm>

³⁶ For more information, see: <http://conventions.coe.int/Treaty/en/Treaties/Html/024.htm>

³⁷ For more information, see: <http://conventions.coe.int/treaty/en/Treaties/Html/030.htm>

*European Convention on the Suppression of Terrorism*³⁸ was adopted in the Council of Europe on 27 January 1977 and a protocol amending the convention was signed on 15 May 2003. It applies to Serbia and Montenegro since 16 August 2003.

*United Nations Convention against Transnational Organised Crime (Palermo Convention)*³⁹ was adopted convention on 12 December 2000. Serbia and Montenegro ratified it on 6 September 2001.

*Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism*⁴⁰ was adopted in the Council of Europe on 16 May 2004. Serbia and Montenegro signed it the same day.

³⁸ For more information, see: <http://conventions.coe.int/Treaty/en/Treaties/Html/090.htm>

³⁹ For more information, see: www.unodc.org/unodc/en/crime_cicp_convention.html

⁴⁰ For more information, see: <http://conventions.coe.int/Treaty/EN/Treaties/Html/198.htm>

Annex C: The Draft National Strategy for Combating Corruption of the Republic of Serbia – Chapter “Judiciary and Police System”

The state within the judicial bodies and the police, even after the changes of 2000, has not essentially changed. Independence, impartiality, efficiency and accountability of these institutions is a prerequisite for creating a state ruled by law, and their strengthening the country’s primary task. Despite current legislative measures directed at prevention and sanctioning corruptive behaviour, the problem of corruption still exists. This is indicated by public opinion, phenomena that with a degree of probability indicate that the issue in question is corruption, and a small number of uncovered and prosecuted corruption criminal offences against judicial and police employees.

- The legal definition of corruption;
- Enactment of Police Act and relevant by-laws;
- Increasing the number of police officers engaged in combating corruption;
- Providing relevant expertise and constant specialisation of staff engaged in combating corruption;
- Providing adequate salaries and work conditions;
- Eliminating political criteria for selection of police staff to the advantage of professionalism;
- Ban on political activity of police officers;
- Enhancing internal and external control of police work and ensuring institutional efficiency;
- Consistent implementing of police accountability in cases of infringement of law;
- Eliminating of influence of political structures on actions in pre-trial criminal proceedings;
- Amending the Criminal Procedure Code with the objective of more effective uncovering and prosecution of criminal offences with corruption element;
- Transforming the status of investigative judge;
- Material investment in modernisation of the criminal police;
- Protection of persons reporting corruption (‘whistle blowers’) and witnesses;
- Specifying statutory regulations on application of special investigation measures;
- Expanding use of special investigative measures for criminal offences with corruption element;
- Establishing independent and specialised institutions to provide expertise in criminal proceedings;
- Introducing accountability of legal entities for criminal offences;
- Introducing a list of legal entities convicted of criminal offences and their elimination from public tenders;

- Consistent application of regulations on mandatory confiscation of benefits deriving from corruption;
- Change in the burden of proof in asset seizure;
- Forming of a separate organisational unit for managing temporarily seized, frozen and confiscated assets;
- Amending procedural regulations with the objective of prevention of their abuse by parties in proceedings;
- Introducing additional limitations for persons effectively convicted for criminal offences with corruption element;
- Establishing clear and common election criteria for nomination of judges and holders of public prosecution office (hereinafter “holders of judicial office) and their dismissal;
- Introduction of disciplinary accountability of holders of judicial office;
- Introducing preventive measures and controlling mechanisms for prevention of conflict of interest for holders of judicial office;
- Ban on political engagement of holders of judicial office;
- Ensuring adequate income and working conditions for holders of judicial office;
- Adopting an integrity plan in courts and prosecution;
- Passing of a code of conduct of holders of judicial office, with mandatory regulation of the ban on corruptive behaviour and ensuring its effectiveness;
- Mandatory advanced professional training of holders of judicial office;
- Analysis of the work of bodies engaged in uncovering, prosecution and trial;
- Establishing tenure of office for holders of judicial functions;
- Mandatory periodical evaluation of the work of holders of judicial office based on predetermined criteria;
- Practical training of holders of judicial office for conducting pre-trial criminal proceedings;
- Monitoring of complaints against holders of judicial office, particularly in cases with corruption element;
- Mandatory subsequent review of prosecution decisions not to instigate or discontinue proceedings for criminal offences with corruption element, or in cases of procrastination of criminal proceedings;
- Autonomy of judicial budget;
- Accelerating of court proceedings;
- Mandatory publication of effective court decisions in criminal cases with corruption element and organised crime cases;
- Ensuring effective enforcement of court verdicts;
- Suppression of corruption within court administration;
- Analysis and amending of regulations on the State Advocate.

Annex D: Internet Sources for Further Reading

OSCE:

Monk, Richard: *A Study of Policing in the Federal Republic of Yugoslavia*. OSCE, 2001.

<http://www.osce.org/policing>

Downes, Mark: *Police Reform in Serbia: Towards the Creation of a Modern and Accountable Police Service*. LED, OMiSaM, Belgrade, 2004.

http://194.8.63.155/documents/fry/2005/03/4410_en.pdf

Financial Action Task Force:

The FATF Forty Recommendations on Money Laundering

<http://www.fatf-gafi.org/dataoecd/38/47/34030579.PDF>

The FATF Nine Special Recommendations on Terrorist Financing

http://www.fatf-gafi.org/document/21/0,2340,en_32250379_32236947_34030933_1_1_1_1,00.htm

Methodology for Assessing Compliance with FATF Recommendations

<http://www.fatf-gafi.org/dataoecd/46/48/34274813.PDF>

Centre for Liberal Democratic Studies:

Begović, Boris, and Boško Mijatović: *Corruption in Serbia*. CLDS, Belgrade, 2001.

<http://www.clds.org.yu/pdf-e/e-korupcija.pdf>

Begović, Boris, Boško Mijatović, Robert Sepi, Mirjana Vasović, and Slobodan Vuković: *Corruption at the Customs: Combating Corruption at the Customs Administration*. CLDS, Belgrade, 2002.

http://www.clds.org.yu/pdf-e/corruption_at_the_customs.pdf

Begović, Boris, Boško Mijatović, and Dragor Hiber (eds.): *Corruption in Judiciary*. CLDS, Belgrade, 2004.

http://www.clds.org.yu/pdf-e/Corruption_in_judiciary.pdf

The Management Centre:

Fatić, Aleksandar: *The GRECO Study of Corruption and Anticorruption Policy in Serbia – According to the Council of Europe Guidelines*. The Management Centre, Belgrade.

<http://www.management.org.yu/pdf/greco.pdf>

Fatić, Aleksandar: *Corruption in Serbia*. The Management Centre, Belgrade.

<http://www.management.org.yu/pdf/korupcija2.pdf>

Fatić, Aleksandar: *Stability and Corruption in Southeastern Europe*. The Management Centre, Belgrade.

<http://www.management.org.yu/pdf/korupcija.pdf>