

IPA National Programme 2009 part II – Bosnia and Herzegovina

Fiche 6 "Anti-Corruption"

1. Basic information

1.1 CRIS Number: 2009 / 021-650

1.2 Title: Strengthening the capacities of BiH institutions to combat and prevent corruption

1.3 ELARG Statistical code: 01.24 Political criteria / Justice, Freedom and Security

1.4 Location: Bosnia and Herzegovina

Implementing arrangements:

1.5 Contracting Authority: European Commission

1.6 Implementing Agency: European Commission

1.7 Beneficiary:

Ministry of Security

Project manager: Samir Rizvo, Assistant Minister

Trg BiH 1

71 000 Sarajevo

Bosnia and Herzegovina

Other beneficiaries are:

SIPA

Ministries of Interior, Federation BiH

Ministry of Interior, Republika Srpska

Prosecutors' Office (state and entities level)

Ministries of Justice (state and entities level)

PARCO and other public institutions mandated to fight corruption

Financing:

1.8 Overall cost (VAT excluded): EUR 500 000

1.9 EU contribution: EUR 500 000

1.10 Final date for contracting: Two years following the date of the conclusion of the Financing Agreement.

1.11 Final date for execution of contracts: Two years following the end date of contracting.

1.12 Final date for disbursements: One year following the end date for the execution of contracts.

2. Overall Objective and Project Purpose

2.1 Overall Objective

To strengthen the capacities of BiH institutions to enforce accountability and to effectively fight and prevent corruption

2.2 Project purpose

The project purpose is to:

- Strengthen the institutional and administrative capacities of the Anti-corruption body in order to enable it to fulfil its mandate and objectives
- Improve the anti-corruption capacities and cooperation mechanisms of institutions mandated to combat and prevent corruption on different administrative levels
- Reinforce corruption prevention capacities of public institutions and law enforcement agencies through extensive training and the creation of sustainable training capacities

2.3 Link with AP/NPAA / EP/ SAA

The **European Partnership** identifies under the short term priorities (Section 3.1.) related to the political criteria (Democracy and rule of law) the following measures:

Anti-corruption policy

- Adopt and implement a detailed action plan against corruption, based on the national anti-corruption strategy;
- Implement the recommendations made by the Group of States against Corruption (GRECO) and the obligations resulting from international conventions on corruption;
- Prosecute corruption vigorously and adopt a zero-tolerance policy towards corruption;
- Ensure proper implementation of the law on conflict of interests.

According to Article 78 of the **Stabilisation and Association Agreement (SAA)** on the Reinforcement of institutions and rule of law "the Parties shall attach particular importance to the consolidation of the rule of law, and the reinforcement of institutions at all levels in the areas of administration in general and law enforcement and the administration of justice in particular. Co-operation shall notably aim at strengthening the independence of the judiciary and improving its efficiency and institutional capacity, enhancing access to justice, developing adequate structures for the police, customs and other law enforcement bodies, providing adequate training and fighting corruption and organised crime."

According to Article 84 of the SAA on Preventing and combating organised crime and other illegal activities "the Parties shall cooperate on combating and preventing criminal and illegal activities, organised or otherwise, such as: ...c) corruption, both in the private and public sector, in particular linked to non-transparent administrative practices;..."

The **Bosnia and Herzegovina 2008 Progress Report** points out that "overall, Bosnia and Herzegovina has made very little progress on improving its tools to fight corruption.

Corruption is widespread and remains a serious problem, especially within government. Bosnia and Herzegovina needs to improve its anti-corruption legislation. Proper implementation of the National Anti-Corruption Strategy needs to be ensured. More vigorous investigation and prosecution are necessary."

2.4 Link with MIPD

The **MIPD 2009 – 2011** states that "the assistance to comply with the political criteria will also build on the judicial reform strategy, the strategy of public internal financial controls, the strategy against corruption and organised crime, and others."

Objectives and choices in the field of Rule of Law are to "support the police reform, the reform of the judicial system and assist in the implementation of the **anti-corruption** policy."

Expected results and indicators are that "the anti-corruption policy is implemented. The recommendation made by the Group of States against Corruption (GRECO) and the obligations resulting from international conventions on corruption are implemented. Corruption is vigorously prosecuted and the law on conflict of interest is implemented."

In the field of Fight against organised crime including money laundering and drug trafficking, fight against terrorism and corruption expected results are that "The capabilities of the law enforcement agencies are improved. The conditions to achieve visa liberalisation are met."

Moreover, the fight against corruption is considered a cross cutting issue. "Specific action instruments for the **good governance**, with particular attention to **fight against corruption**, will be incorporated on a horizontal basis."

2.5 Link with National Development Plan

Draft NDS (National Development Strategy) 2008-2013 is currently in the final phase of preparation.

In the 2006 EU Integration Strategy of Bosnia and Herzegovina under chapter 2.1.2, Democracy and Rule of Law, the necessary measures foresee to "ensure that all political subjects and institutions in BiH implement and apply provisions of the law on conflict of interest." Under chapter 2.3.8, Justice and Home affairs, measures include to "adopt and implement a state strategy to combat corruption."

3. Description of project

3.1 Background and justification

The capacity of potential candidate countries in the Western Balkans to design and implement anti-corruption policies is an important political criterion required by the European Commission.

As stated in the 2008 Progress Report, corruption in Bosnia and Herzegovina is widespread and remains a serious problem in the country. It threatens the consolidation of the state and constitutes an obstacle to the implementation of reforms necessary for EU integration. Corruption hampers economic growth and undermines trust in the political system and its institutions.

The Transparency International 2008 Corruption Perception Index (CPI) ranks BiH 92nd on a descending scale of 180 countries with a score of 3.2 which in comparison to past years indicates that the country is not perceived of having significantly improved its anti-corruption stance. Within the region, BiH ranks behind Croatia, Macedonia, Albania, Montenegro and Serbia.

Even though there are not many quantitative assessments of corruption in BiH available, there is evidence for widespread petty and administrative corruption as well as for political and grand scale corruption.

One of the root causes of the latter in BiH goes back to the close ties between a criminal elite emerging from the war and the political elite. Economic power accumulated during the war was turned into political capital; anti-corruption reforms thus might constitute a direct threat to parts of the political elite.¹

Another consequence of the war and of the complex institutional set up of the country is a highly politicised public sector in general and public administration in particular. Different administrative layers with their respective legislation and competencies don't favour the enforcement of accountability of governmental structures and facilitate abuse of office and the diversion of public funds. Moreover, the practice of "ethnic" appointments in the public administration contributes to its vulnerability to corruption.

Petty or low-level corruption in public sector service delivery such as health and education seems to be widespread. Fragmentation and the lack of common oversight structures and government enforcement of standards and performance render even the collection of data and the detection of abusive practices difficult. Petty corruption in these sectors can constitute a heavy burden on the individual household and undermines trust of citizens in the institutions. Since the distribution of negative effects on the population is always to the detriment of the most vulnerable groups, such as the un-employed, low-income groups or the elderly, corruption exacerbates poverty and inequality in the society.

The same can be said about the effect of corruption in the judiciary and the enforcement sector. Fragmentation and undue influence of the political level on the police and the judiciary undermine the rule of law and discourage recourse to legal action.

Legislation and international instruments

The most significant international documents in the field of fight against corruption signed and ratified by Bosnia and Herzegovina are:

- United Nations Convention against Corruption (signed on September 16, 2005, ratified on October 26, 2006);

¹ In the 2006-2009 BiH Strategy for (the) fight against organised crime and corruption it reads:
"Organized crime and corruption are eating away at the foundations of each state, including BiH, especially of a country that has very recently come out of a war and entered the transition process. The absence of an appropriate legislation (we shouldn't forget that Bosnia and Herzegovina was a part of a socialist country with a specific legislation which has, by inertia, been partially implemented in the initial phase of the transition) leads to the increase of organised criminal groups and criminal activities in the larger part of society, which endangered the existence of the legal state. This was the cause of the "deformation" of democracy in making and loosing sight of the goal of the state as a complex system that should, through coordinated functioning of the legislative, judicial and executive authorities, act to ensure and protect the basic human and civic rights. All of this influenced the accelerated coalescence of the highest authorities with organized crime that came into full swing over the course of the war and some of its proponents won political influence."
See also Corruption in BiH – 2005, CMI Report for the Swedish Development Agency

- Criminal Law Convention on Corruption (dated January 27, 1999, signed March 3, 2000, ratified January 30, 2002 and implemented since July 01, 2002);
- Civil-law convention on corruption from November 04, 1994, (signed on March 01 2000, ratified January 30, 2002 and implemented as of November 01, 2003);
- UN Convention against Trans-national organised crime dated November 15, 2000, (signed on December 12, 2000, ratified on April 24, 2002);
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism CETS No 198 (signed on January 19, 2006, ratified on January 11, 2008).

It should be emphasized that Bosnia and Herzegovina and initiated the procedure for the signing of the Additional Protocol to the Council of Europe's Criminal Law Convention on Corruption (CETS No 191), as well as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, dated November 21, 1997.²

In the framework of criminal legislation of Bosnia and Herzegovina, corruption has been primarily criminalised in the Criminal Codes of Bosnia and Herzegovina, where all criminal acts of corruption and other criminal acts against official and other responsible duties have been placed in a particular chapter of the Law. Stipulated charges are in line with the provisions of the essential international documents pertaining to corruption, which have been ratified by Bosnia and Herzegovina and are in accordance with international standards. There are Laws on conflict of interests adopted at the State³, Entity⁴ and District⁵ levels, but their enforcement remains weak. Investigation procedures of corruption criminal offences are stipulated by the Criminal Procedure Codes (BiH CPC, entities CPC, CPC of Brčko District).

In June 2008 Bosnia and Herzegovina adopted the Law on changes and amendments to the Law on Criminal Procedure ("BiH Official Gazette" No 58/08). Changes of the Law enable the use of special investigative techniques for all criminal offences for which imprisonment sentences of 3 years could be rendered. This provides for the application of special investigative techniques during investigations on criminal offences connected with corruption and money laundering. The same amendments have been adopted at the entity level.

Other relevant legislation in the anticorruption field are the Laws on Conflict of Interests at the State, Entities and Brčko District level, the Law on Financing of Political Parties and the Law on Public Procurement.

The latest GRECO Compliance Report (adopted in February 2009) concludes that Bosnia and Herzegovina has implemented satisfactorily or dealt in a satisfactory manner with only a quarter of the recommendations contained in the Second Round Evaluation Report.⁶

² OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. (Considering the fact that BiH is not an OECD member access to the Convention would be made possible upon gain full membership in the OECD Working Group against Bribery of Foreign Public Officials in International Business Transactions).

³ Law on conflict of interests in the institutions of the BiH government, "Official Gazette of BiH" number 13/02-323; 16/02-404; 14/03-310.

⁴ Law on conflict of interests in the institutions of the BiH government, "Official Gazette of Republic of Srpska", number 34/02-14; 36/03-15, and "Official Gazette of FBiH", number 25/02-1049 and 1053; and 44/03-2267.

⁵ Law on conflict of interests, "Official Gazette of the Brcko District" number: 11/02-704; 9/03-555, and the Law on the conflict of interests in the institutions of the Brcko District of Bosnia and Herzegovina, "Official Gazette of BD BIH" number 2/03-17.

⁶ GRECO adopted the Second Round Evaluation Report on Bosnia and Herzegovina at its 31st Plenary Meeting (8 December 2006). In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of Bosnia

Institutional capacities

BiH is currently implementing the 2006-2009 Strategy for (the) fight against organised crime and corruption. An Analysis of the progress of implementation of (the) strategy was adopted by the Council of Ministers in September 2008. A large number of institutions and agencies at all levels of authority should have been implementing the strategy and action plan; however, lack of coordination, monitoring and supervision as well as inconsistent goals which did not sufficiently consider the lack of harmonisation of legislation at different administrative levels resulted in a very low level of implementation.

The lack of a specialised service in BiH dealing exclusively with corruption and having clear coordination competency with regard to public institutions at different administrative levels that are dealing with fighting corruption was identified as one of the obstacles to the implementation of strategy.⁷

There are several institutions with anti-corruption competency; however, the human and financial resources and capacities as well as coordination mechanisms are weak.

Even though legal tools and enforcement capacities do exist, a track record of fighting corruption is missing and the lack of coordinated efforts and will to fight corruption is evident in the low number of cases prosecuted as well as in a lack of implementation of anti-corruption measures. The establishment of a specialised body in charge of high-level corruption and responsible for the enhancement of country-wide anti-corruption activities was recommended by the council of Europe group of states against corruption (GRECO). The GRECO recommendation also addresses the problem of cooperation between different layers of government; *"This mechanism should be complemented at the level of the entities by adequate cooperation mechanisms involving the Entities' police, tax authorities/financial police, Customs, border guards, etc."*⁸

After several unsuccessful attempts to pass a decision about the establishment of an anti-corruption body, the Council of Ministers adopted in March 2009 a *Decision on (the) establishment of (an) interdepartmental working group for (the) preparation of the proposal of the strategy to fight against corruption and the related action plan; and for the preparation of (a) proposal of the law on (the) establishment of (an) anti-corruption body* chaired by the Ministry of Security.

The Decision also enumerates the competencies the future Anti-corruption body should hold:

1. Review of the implementation of the anti-corruption strategy and action plan;
2. Cooperation with other relevant law enforcement bodies (such as SIPA and the Prosecutor's Office in BiH), gathering and analysis of statistical and other data, informing relevant subjects in Bosnia and Herzegovina on investigation results;
3. Coordination of the work of institutions with public authorisations in corruption prevention and prevention of conflict of interest;

and Herzegovina submitted their Situation Report (RS-Report) on the measures taken to implement the recommendations on 11 September 2008 and 19 December 2008. At its 41st Plenary Meeting (Strasbourg, 16-19 February 2009) GRECO adopted a Compliance Report on Bosnia and Herzegovina. The objective of the RC-Report is to assess the measures taken by the authorities of Bosnia and Herzegovina, to comply with the recommendations contained in the Evaluation Report. Recommendations vii, xii, xiii and xv have been implemented satisfactorily. Recommendations ii, iii, iv, v, viii, ix, x, xiv, xvi have been partly implemented and recommendations i, vi and xi have not been implemented.

⁷ Analysis of the progress of implementation of (the) strategy of BiH for (the) fight against organised crime and corruption, Ministry of Security, September 2008.

⁸ GRECO, First Evaluation Round. Comments on Bosnia and Herzegovina, Strasbourg, May 2005

4. Monitoring the effects of the laws and bylaws aiming at anti-corruption measures, and issuing the opinions and instructions related to the implementation of those, initiating activities related to changes and amendments of existing legal solutions and their harmonisation;
5. Cooperation with domestic scientific and professional organisations, media and non-governmental organisations on the issues of corruption prevention;
6. Cooperation with international organisations institutions, initiatives and bodies;
7. Development of educational programmes related to corruption prevention and supervision of the implementation of such programmes;
8. Publications on corruption status on a regular basis including annual reports to the Parliamentary Assembly;
9. Informing competent institutions and the public on obligations related to international legal acts, issuing of recommendations for the realisation of these, related to corruption prevention;
10. Other work related to anti-corruption measures.

The establishment of such a body shall remedy the lack of a sound information base on corruption and its measurement and thus allow getting an overview of the situation with regard to corruption in the country. The anti-corruption body shall also develop and coordinate national anti-corruption policies and overcome the difficulty of coordination and cooperation among institutions at the State, Entities and Cantonal level. Even though the new body will not have enforcement competencies it will emphasise the importance of corruption prevention and might create a new momentum with regard to combating and preventing corruption in the country.

However, the institutional anchorage and set up of this Anti-Corruption Body is not yet defined and its final competencies and organisational structure are still unknown. Institution and capacity building support to the Anti-corruption Body will therefore depend on whether or not it will be established, properly staffed and financed.

In addition to weak institutional anti-corruption capacities within the public administration, a weak civil sector dominated by a relatively high number of NGOs that are mainly implementing partners for donors rather than genuine Civil Society Organisations (CSOs), is not sufficient for the needs of a functioning democracy in terms of rendering government accountable for its actions and the use of public funds. Since the role of civil society and long term constituency building in the fight against corruption is crucial in particular in a situation where political will to tackle corruption is still weak, the EC supports CSOs to build capacity for combating corruption in separate projects.

With the project's support the Government will develop the necessary institutional and administrative capacities to tackle the issue of corruption. The project will contribute to establish a specialised anti-corruption body with clear responsibilities and competences with regard to monitoring and preventing corruption and thus provide the Government for the first time with the means to get an overview of the situation of corruption in different sectors; the anti-corruption body will be able – through its monitoring and information competencies – to pressure for the enforcement of already existing regulations; furthermore through coordination and cooperation mechanisms with relevant institutions it will overcome existing institutional obstacles linked to the multi-layered administration and law enforcement structure.

The project will address corruption throughout the public institutions and at different administrative layers. Since the new monitoring and coordinating anti-corruption agency will closely work with a variety of institutions involved in the fight against corruption, the project will also support these institutions, – *"institutions with public authorisations in corruption prevention and prevention of conflict of interest"* – as well as coordination and cooperation mechanisms among them. This will allow institutionalising measures combating and preventing corruption within a larger number of public institutions as well as improve cooperation among these institutions in a sustainable manner.

Finally, the project will provide specialised and tailor-made training to different professional groups within the public administration and law enforcement agencies and thus create the necessary pool of human resources and capacities to fight corruption in a medium-term perspective and throughout the public sector.

3.2 Assessment of project impact, catalytic effect, sustainability and cross border impact

Considering that corruption is a key deficiency in the functioning of institutions that enables a related crime and causes a lot of damage to the trust of people in the state, the successful prevention of and fight against corruption will have a catalytic effect on the enforcement of the rule of law, security of citizens and public service delivery.

Reducing corruption in BiH will also make it more difficult for cross border criminal networks to operate in the country.

3.3 Results and measurable indicators

Result 1: The institutional and administrative capacities of the Anti-corruption-body are strengthened and it is capable of fulfilling its mandate and objectives

Indicators:

- Anti-Corruption strategy and action plan adopted
- Corruption-monitoring mechanisms in place
- Corruption status report published

Result 2: Anti-corruption capacities of public institutions mandated to fight and prevent corruption are reinforced and cooperation mechanisms involving relevant institutions at the State and Entities level are in place and functioning

Indicators:

- - Anti-corruption ethical codes in public institutions in place
- - All relevant institutions effectively participate in coordination mechanism

Result 3: Selected professional groups in police, judiciary and public administration will have required skills on how to detect, prevent and combat corruption

Indicators:

- - 20 to 25 Trainers trained and carrying out trainings
- - Civil servants adequately equipped with anti-corruption skills

3.4 Activities

All activities are carried out in several components of one service contract (TA). The activities of the project include some or all of the following activities, but should not be strictly limited to them.

Activity 1 is linked to the anti-corruption body and conditioned by its very existence and the availability of appropriate human and financial resources.

Activity 1:

- 1.1 Carry out an institutional appraisal in order to establish which interventions are required to enable the anti-corruption body to fulfil its objectives and mandate;
- 1.2 Support the effective functioning of the anti-corruption body through the preparation of relevant internal documents and guidelines, staff regulations;
- 1.3 Organise strategic planning and policy development trainings and present legal and operational tools for preventing and combating corruption;
- 1.4 Support the set up of cooperation mechanisms with law enforcement bodies and other governmental and non-governmental institutions mandated to combat and prevent corruption;
- 1.5 Set up a monitoring mechanism for anti-corruption legislation;
- 1.6 Reinforce policy-making capacities and support the anti-corruption body to design and carry out anti-corruption measures and to develop, coordinate and implement anti-corruption strategies and action plans.

Activity 2:

- 2.1 Map institutions with an anti-corruption mandate and carry out institutional appraisals in order to identify interventions necessary to reinforce their anti-corruption capacities;
- 2.2 Reinforce policy development capacities and support selected institutions to design and carry out anti-corruption measures and to develop, coordinate and implement anti-corruption strategies and actions plans;
- 2.3 Propose a communication and cooperation mechanism for public institutions and agencies involved in the fight against corruption;
- 2.4 Propose a mechanism of cooperation between anti-corruption services and other services like tax, audit and inspection authorities.

Activity 3:

- 3.1 Map the main risk areas and practices of corruption in the administration and in law enforcement agencies and carry out corruption audits and training needs assessments in selected institutions;
- 3.2 Develop and implement a tailor-made training plan on corruption prevention and countermeasures for different professional groups;
- 3.3 Identify and train trainers for future anti-corruption skills development.

3.5 Conditionality and sequencing

The following conditions to be met or actions to be undertaken or approved before the service contract can start:

- Drafted and adopted Law on Establishment of Anti-Corruption Body
- Relevant institutions are properly staffed
- Sufficient involvement and motivation of institutions and staff

3.6 Linked activities

The project "*Strengthening the Civil Society Organisations to Dialogue with the Government and to Fight against the Corruption in BiH*" planned under IPA 2009 (?) aims at encouraging partnerships and dialogue between the Government of BiH and the civil society on the BiH's reform agenda through structured sectoral Civil Society Organisation (CSO) networks, and increased readiness of civil society to fight against corruption in BiH.

Component II, the "*Grant Scheme to CSOs on Anti-Corruption*" aims at supporting CSOs to become more aware of various types of corruption and what the measures for anti-corruption are. This component is comprised of grant scheme for CSOs in the amount of EUR 750 000 and technical assistance to the final grant beneficiaries in the amount of EUR 250 000. This project is a follow up to the IPA 2008 (EUR 500 000) anti-corruption component. IPA 2008 will focus on small grants provided for CSOs (plus TA to final grant beneficiaries), whereas IPA 2009 will focus on several large grants on specific topics that arise as key areas from IPA 2008 project.

The project "*Joint Training of SIPA Financial Intelligence Unit and Crime Investigation Unit, Prosecutors, Financial Regulatory Agencies and Institutions*" under IPA 2007 aims at improving the capabilities of law enforcement agencies in the implementation of anti-money laundering and financing terrorism measures. Its purpose is to strengthen the capacity of the Financial Intelligence and Criminal Investigation Units (FIU and CIU) in investigating money laundering and financing cases and improve the cooperation with prosecutors and financial regulatory agencies in cases of money laundering and financing terrorism.

3.7 Lessons learned

The approach of the donor community in the past was to integrate corruption concerns into comprehensive sectoral reform efforts and the overall establishment of rule of law, the introduction of legislation focusing on repression and the strengthening of law enforcement and judiciary institutions in general. Only few explicit anti-corruption programs and projects were carried out. Corruption prevention and prevention of conflict of interest were not explicitly addressed.

While it is still a valid consideration that corruption cannot be fought independently from sector reforms and has to be linked to overall institution and capacity building efforts, there is also a risk that without addressing it explicitly it might not be taken into consideration sufficiently; a sound information base – data, information and analysis – regarding the phenomenon of corruption in different sectors as well as knowledge and skills on how to build anti-corruption measures into overall reforms is a necessary precondition for a holistic approach.

As experience in other countries showed, there is a certain risk that a new anti-corruption agency will only serve to avoid addressing the root causes and tackling the problem in a more efficient way; however, given the very specific and very complex institutional set up of the country, a specialised structure with a clear mandate vis-à-vis other institutions and well established monitoring and cooperation mechanisms is indispensable.

There were a few awareness raising and information campaigns on corruption carried out in the past in BiH. However, they were of general nature, not well targeted and potentially counter-productive, since they raised expectations that were not met further on. Institutions up to now don't want to be associated with corruption for fear of further politisation and nationalistic shadow fighting; as long as anti-corruption policies are not higher on the agenda interventions should be focused on capacity building and prevention in order to create the grounds and build constituencies for the future.

4. Indicative Budget (amounts in EUR)

			SOURCES OF FUNDING									
			TOTAL EXP.RE	IPA COMMUNITY CONTRIBUTION		NATIONAL CONTRIBUTION					PRIVATE CONTRIBUTION	
ACTIVITIES	IB (1)	INV (1)	EUR (a)=(b)+(c)+(d)	EUR (b)	%(2)	Total EUR (c)=(x)+(y)+(z)	% (2)	Central EUR (x)	Regional/ Local EUR (y)	IFIs EUR (z)	EUR (d)	% (2)
Activity 1	x		500 000	500 000	100							
1. Service Contract	x	–	500 000	500 000	100							–
TOTAL IB			500 000	500 000	100							
TOTAL INV												
TOTAL PROJECT			500 000	500 000	100							

Amounts net of VAT

(1) In the Activity row use "X" to identify whether IB or INV

(2) Expressed in % of the **Total** Expenditure (column (a))

5. Indicative Implementation Schedule (periods broken down per quarter)

Contracts	Start Tendering	of Signature contract	of Project Completion
Contract 1	Q1 2010	Q2 2010	Q4 2011

The project should in principle be ready for tendering in the 1st Quarter following the signature of the FA

6. Cross cutting issues

6.1 Equal Opportunity

There are various links between corruption and gender. Due to traditional role pattern women are often more vulnerable to corruption than men; there are also ways in which corruption has a particular harsh effect on women, since it might add to already existing social, political, institutional and cultural discrimination.

Therefore the project should assesses the implications for men and women of any planned actions, thereby ensuring that women's as well as men's concerns and experiences are reflected in the design, and implementation of activities, so that men and women benefit equally.

6.2 Environment

The project is not anticipated to have negative effects on the environment within the prevailing laws.

6.3 Minorities

There is a risk that the most vulnerable members of minority groups are more adversely affected by corruption than others. Therefore the project should assess specific implications for minorities when designing and implementing actions.

ANNEXES

- I - Log frame in Standard Format
- II - Amounts contracted and Disbursed per Quarter over the full duration of Programme
- III - Description of Institutional Framework
- IV - Reference to laws, regulations and strategic documents
- V - Details per EU funded contract

ANNEX I

<p>LOGFRAME PLANNING MATRIX FOR Project Fiche</p> <p>Strengthening the capacities of BiH institutions to combat and prevent corruption</p> <p>CRIS Number: 2009 / 021-650</p>	<p>Programme name and number</p> <p><u>IPA National Programme 2009 part II – Bosnia and Herzegovina</u></p> <p><u>Fiche 6</u></p>		
	<p>Contracting period expires: Two years following the date of the conclusion of the Financing Agreement.</p>		<p>Disbursement period expires: One year following the end date for the execution of contracts.</p>
	<p>Total budget : EUR 500 000</p>		<p>IPA budget: EUR 500 000</p>
<p>Overall objective</p>	<p>Objectively verifiable indicators</p>	<p>Sources of Verification</p>	
<p>Strengthening the capacities of BiH institutions to enforce accountability and to effectively fight and prevent corruption</p>	<p>Lower rate of corruption.</p> <p>Political corruption limited.</p>	<p>EC Progress Report</p> <p>Anti-corruption Body Quarterly/Half year/ Annually Monitoring Reports Strategy and Action Plan/strategic documents implementation review</p>	
<p>Project purpose</p>	<p>Objectively verifiable indicators</p>	<p>Sources of Verification</p>	<p>Assumptions</p>
<p>The project purpose is to:</p> <ul style="list-style-type: none"> Strengthen the institutional and administrative capacities of the Anti-Corruption Body in order to enable it to fulfil its mandate and objectives Improve the anti-corruption capacities and cooperation mechanisms of institutions mandated to combat and prevent corruption on different administrative levels Reinforce corruption prevention capacities of public institutions and law enforcement agencies 	<p>Number of drafted/adopted strategic documents prepared by Anti-corruption Body in order to fight corruption</p> <p>Enhanced coordination among stakeholders.</p> <p>Enhanced cooperation mechanisms. Cohesive functioning of stakeholders.</p> <p>Lower number of corruption cases in LEA's and public institutions</p>	<p>Strategic documents in place</p> <p>EC Progress Report</p> <p>Anti-corruption Body Quarterly/Half year/ Annually Monitoring Reports Strategy and Action Plan/strategic documents implementation review</p> <p>Stakeholders Quarterly/Half year/ Annually reports</p>	

through extensive training		Public institutions and law enforcement agencies Quarterly/Half year/ Annually reports/ statistical data Project reports	
Results	Objectively verifiable indicators	Sources of Verification	Assumptions
<p><u>Result 1:</u> The institutional and administrative capacities of the Anti-corruption-body are strengthened and it is capable of fulfilling its mandate and objectives</p> <p><u>Result 2:</u> Anti-corruption capacities of public institutions mandated to fight and prevent corruption are reinforced and cooperation mechanisms involving relevant institutions at the State and Entities level are in place and functioning</p> <p><u>Result 3:</u> Selected professional groups in police, judiciary and public administration will have required skills on how to detect, prevent and combat corruption</p>	<p>Anti-Corruption strategy and action plan adopted</p> <p>Corruption-monitoring mechanisms in place</p> <p>Corruption status report published</p> <p>Anti-corruption ethical codes in public institutions in place</p> <p>All relevant institutions participate in coordination mechanism</p> <p>Adequate number of trainers trained and carrying out trainings</p> <p>Civil servants equipped with anti corruption skills</p>	<p>Anti –Corruption Strategy and Action Plan</p> <p>Anti-corruption Body Quarterly/Half year/ Annually Monitoring Reports</p> <p>Ethnical Codes</p> <p>Anti-corruption Body Quarterly/Half year/ Annually Monitoring Reports</p> <p>Anti-corruption Body Quarterly/Half year/ Annually Monitoring Reports</p>	
Activities	Means	Costs	Assumptions
<p><u>Activity 1:</u></p> <p>1.1 Carry out an institutional appraisal in order to establish which interventions are required to enable the anti-corruption body to fulfil its objectives and mandate;</p> <p>1.2 Support the effective functioning of the anti-corruption body through the</p>	<p>1.1. Institutional appraisal done by the key expert</p> <p>1.2. Guidelines, internal documents, work methodologies and staff regulations</p>	Technical assistance EUR 500 000	<p><u>Activity 1:</u></p> <p>The anti-corruption body management is appointed and financed.</p>

<p>preparation of relevant internal documents and guidelines, staff regulations;</p> <p>1.3 Organise relevant trainings and present legal and operational tools for preventing and combating corruption;</p> <p>1.4 Support the set up of cooperation mechanisms with law enforcement bodies and other governmental and non-governmental institutions mandated to combat and prevent corruption;</p> <p>1.5 Set up a monitoring mechanism for anti-corruption legislation;</p> <p>1.6 Reinforce policy-making capacities and support the anti-corruption body to design and carry out anti-corruption measures and to develop, coordinate and implement anti-corruption strategies and action plans.</p> <p><u>Activity 2:</u></p> <p>2.1 Map institutions with an anti-corruption mandate and carry out institutional appraisals in order to identify interventions necessary to reinforce their anti-corruption capacities;</p> <p>2.2 Reinforce policy development capacities and support selected institutions to design and carry out anti-corruption measures and to develop, coordinate and implement anti-corruption strategies and actions plans;</p> <p>2.3 Propose a communication and cooperation mechanism for public</p>	<p>available</p> <p>1.3 Training needs assessment and presentation of anti-corruption tools available; training workshops carried out</p> <p>1.4 Proposal for a cooperation methodology available; mechanism accepted by all parties and put in place</p> <p>1.5 Monitoring mechanism in place; regular follow-up ensured</p> <p>1.6 Strategic planning and policy development trainings methodology with regard to anti-corruption measures designed and staff trainings carried out</p> <p>2.1 Map and institutional appraisals available; interventions identified</p> <p>2.2 Strategic planning and policy development training methodology with regard to anti-corruption measures designed and staff trainings carried out</p> <p>2.3 Communication and cooperation methodology developed and agreed upon</p>		<p><u>Activity 2:</u></p> <p>Relevant institutions are properly staffed.</p> <p><u>Activity 3:</u></p> <p>Sufficient involvement and motivation of institutions and staff</p>
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<p>institutions and agencies and involved in the fight against corruption;</p> <p>2.4 Propose a mechanism of cooperation between anti-corruption services and other services like tax, audit and inspection authorities.</p> <p><u>Activity 3:</u></p> <p>3.1 Map the main risk areas and practices of corruption in the administration and in law enforcement agencies and carry out corruption audits and training needs assessments in selected institutions;</p> <p>3.2 Develop and implement a tailor-made training plan on corruption prevention and countermeasures for different professional groups.</p> <p>3.3 Identify and train trainers for future anti-corruption skills development.</p>	<p>2.4 Cooperation mechanism identified and agreed upon</p> <p>3.1 Risk areas identified, institutions selected, training needs assessment available</p> <p>3.2 Training methodologies developed per institution, methodology defined and trainings carried out</p> <p>3.3. Trainers trained and equipped with anti-corruption skills</p>		<p>Pre –condition</p> <p>Drafted and adopted Law on Establishment of Anti-Corruption Body</p>
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ANNEX II - Amounts contracted and Disbursed per Quarter over the full duration of Programme

Contracted	Q1/2010	Q2/2010	Q3/2010	Q4/2010	Q1/2011	Q2/2011
Contract 1		500 000				
Cumulated		500 000				
Disbursed	Q1/2010	Q2/2010	Q3/2010	Q4/2010	Q1/2011	Q2/2011
Contract 1		150 000		175 000		175 000
Cumulated		150 000		325 000		500 000

ANNEX III

Description/Overview of Institutional Framework

There are several institutions with anti-corruption competency:

The Ministry of Security established the Department for Organised Crime and Corruption which is dealing with policy development, monitoring and reporting on law enforcement, as well as international cooperation, in the anticorruption field.

The competencies for investigating and prosecuting corruption are shared by investigative agencies (State investigation and protection agency/SIPA, Border Police, the Indirect Taxation Authority, Customs and the Ministries of Interior) and the Prosecutor's Office.

The Ministry and in particular SIPA (see Article 3 of the Law on SIPA, which mentions serious financial crimes and therefore includes corruption) may be considered the strongest mechanisms available to coordinate anti-criminal and anti-corruption efforts in Bosnia and Herzegovina.

SIPA has established a special organisational unit for fighting corruption, the team for Economic crimes and anti-corruption. This team is part of the Department of criminal investigations within the Criminal investigation unit. In addition, there is within the Department of criminal intelligence activities and analysis a section for the analysis of economic crime and corruption.

Within the State border service it is the Central investigation office that is responsible for the fight against corruption as well as the Department for internal control.

The Prosecutors' office has a special Department for Corporate crime, organised crime and corruption, responsible for investigating and prosecuting perpetrators of corporate crime, organised crime and corruption as defined in the legislation of BiH, when that legislation prescribes the jurisdiction of the State Court of BiH.

At Entity level, the Departments for organised crime and corruption of the Entities' Ministries of Interior are other relevant institutions. Anticorruption departments within entity ministries of interior have concrete operational competences to undertake investigations according to relevant criminal procedure codes.

With regard to the Law enforcement agencies in BiH it is striking that a code of ethics exists only in five cantonal ministries of internal affairs⁹ and according to a recent EUPM inspection report (February 2009) on prevention and combating of corruption within BiH police agencies, there are only few action plans and even less projects to fight against corruption within the different police bodies.

With regard to corruption prevention, the Public administration reform coordinators' office (PARCO) and the PAR coordinators of the entities as coordinating institutions should be mentioned, since preventive measures for anti-corruption and mechanism to detect and fight against corruption in the administration constitute an integral part of administrative reforms.

⁹ A. Maljevic, D. datzer, E. Muratbegovic, M. Budimlic, Overtly about police and corruption, ed. Association of Criminalists in Bosnia and Herzegovina, Sarajevo, 2006, p.86.

ANNEX IV

Reference to laws, regulations and strategic documents:

- Law on conflict of interests in the institutions of the BiH government, “Official Gazette of BiH” number 13/02-323; 16/02-404; 14/03-310
- Law on conflict of interests in the institutions of the BiH government, “Official Gazette of Republic of Srpska”, number 34/02-14; 36/03-15, and “Official Gazette of FBiH”, number 25/02-1049 and 1053; and 44/03-2267
- Law on conflict of interests, “Official Gazette of the Brcko District” number: 11/02-704; 9/03-555, and the Law on the conflict of interests in the institutions of the Brcko District of Bosnia and Herzegovina, “Official Gazette of BD BIH” number 2/03-17
- Criminal Code (state level, entity level, BDBiH)
- Criminal Procedure Code (state level, entity level, BDBiH)
- Law on Financing of Political Parties
- Law on Public Procurement
- OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions
- United Nations Convention against Corruption
- Criminal Law Convention on Corruption
- Civil-law convention on corruption
- UN Convention against Trans-national organised crime
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism
- Additional Protocol to the Council of Europe's Criminal Law Convention on Corruption
- GRECO, First Evaluation Round. Comments on Bosnia and Herzegovina, Strasbourg, May 2005
- GRECO Compliance Report on Bosnia and Herzegovina, February 2009
- Analysis of the progress of implementation of (the) strategy of BiH for (the) fight against organised crime and corruption, Ministry of Security, September 2008
- Strategy for fighting organised crime and corruption, 2006-2009

Link with AP/NPAA / EP/ SAA

The *European Partnership* identifies under the short term priorities (Section 3.1.) related to the political criteria (Democracy and rule of law) the following measures:

Anti-corruption policy

- Adopt and implement a detailed action plan against corruption, based on the national anti-corruption strategy;
- Implement the recommendations made by the Group of States against Corruption (GRECO) and the obligations resulting from international conventions on corruption;
- Prosecute corruption vigorously and adopt a zero-tolerance policy towards corruption;
- Ensure proper implementation of the law on conflict of interests.

According to Article 78 of the **Stabilisation and Association Agreement (SAA)** on the Reinforcement of institutions and rule of law "the Parties shall attach particular importance to the consolidation of the rule of law, and the reinforcement of institutions at all levels in the areas of administration in general and law enforcement and the administration of justice in

particular. Co-operation shall notably aim at strengthening the independence of the judiciary and improving its efficiency and institutional capacity, enhancing access to justice, developing adequate structures for the police, customs and other law enforcement bodies, providing adequate training and fighting corruption and organised crime."

According to Article 84 of the SAA on Preventing and combating organised crime and other illegal activities "the Parties shall cooperate on combating and preventing criminal and illegal activities, organised or otherwise, such as: ...c) corruption, both in the private and public sector, in particular linked to non-transparent administrative practices;..."

The **Bosnia and Herzegovina 2008 Progress Report** points out that "overall, Bosnia and Herzegovina has made very little progress on improving its tools to fight corruption. Corruption is widespread and remains a serious problem, especially within government. Bosnia and Herzegovina needs to improve its anti-corruption legislation. Proper implementation of the National Anti-Corruption Strategy needs to be ensured. More vigorous investigation and prosecution are necessary."

Link with MIPD

The **MIPD 2009 – 2011** states that "the assistance to comply with the political criteria will also build on the judicial reform strategy, the strategy of public internal financial controls, the strategy against corruption and organised crime, and others."

Objectives and choices in the field of Rule of Law are to "support the police reform, the reform of the judicial system and assist in the implementation of the **anti-corruption** policy."

Expected results and indicators are that "the anti-corruption policy is implemented. The recommendation made by the Group of States against Corruption (GRECO) and the obligations resulting from international conventions on corruption are implemented. Corruption is vigorously prosecuted and the law on conflict of interest is implemented."

In the field of Fight against organised crime including money laundering and drug trafficking, fight against terrorism and corruption expected results are that "The capabilities of the law enforcement agencies are improved. The conditions to achieve visa liberalisation are met."

Moreover, the fight against corruption is considered a cross cutting issue. "Specific action instruments for the **good governance**, with particular attention to **fight against corruption**, will be incorporated on a horizontal basis."

Link with National Development Plan

In the 2006 EU Integration Strategy of Bosnia and Herzegovina under chapter 2.1.2, Democracy and Rule of Law, the necessary measures foresee to "ensure that all political subjects and institutions in BiH implement and apply provisions of the law on conflict of interest."

Under chapter 2.3.8, Justice and Home affairs, measures include to "adopt and implement a state strategy to combat corruption."

Annex V - Details per EU funded contract

Contract 1

Key Experts

3 Long Term Experts: 18 months each

Pool of Short Term Experts

The project will be implemented through a Technical Assistance Contract.

The contractor shall support the BiH institutions to develop and implement measures to combat and prevent corruption.