

Project Fiche: No. 1

Cooperation in Criminal Justice:

Witness Protection in the Fight against Serious Crime and Terrorism (WINPRO)

1. Basic information

- 1.1 CRIS Number:** 2009/021-373
- 1.2 Title:** Cooperation in Criminal Justice: Witness Protection in the Fight against Serious Crime and Terrorism (WINPRO)
- 1.3 ELARG Statistical code:** 01.24 - Justice, freedom and security
- 1.4 Location:** Western Balkans: Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia as well as Kosovo under UNSCR 1244/99

Implementing arrangements:

- 1.5 Contracting Authority (EC):** European Community represented by the Commission of the European Communities on behalf of the Beneficiaries.
- 1.6 Implementing Agency:** Not applicable
- 1.7 Beneficiary:** The main Beneficiaries are law enforcement agencies and judicial authorities (police, prosecutors, and courts), witnesses and collaborators of justice.

Financing:

- 1.8 Overall cost (VAT excluded)¹:** EUR 4 210 526
- 1.9 EC contribution:** EUR 4 000 000
- 1.10 Final date for contracting:** 30 November 2010
- 1.11 Final date for execution of contracts:** 30 November 2012
- 1.12 Final date for disbursements:** 30 November 2013

¹ The total cost of the project should be net of VAT and/or other taxes. Should this not be the case, the amount of VAT and the reasons why it should be considered eligible should be clearly indicated.

2. Overall Objective and Project Purpose

2.1 Overall Objective

Strengthen cooperation to support the fight against serious crime and terrorism at regional and European level through encouraging witnesses and collaborators of justice to testify in criminal proceedings and give appropriate evidence in return for protection against intimidation, coercion, corruption or bodily injury.

2.2 Project purposes

- Promote a coordinated and harmonised use of witness protection procedural² and non procedural measures³ at regional and European level;
- Facilitate operational cross-border, regional and European cooperation and coordination on relocation of witnesses and change of identity among relevant law enforcement agencies and judicial authorities.

2.3 Link with AP/NPAA / EP/ SAA⁴

This project takes into account the objectives and priorities set out in the recent European and Accession Partnerships with the IPA beneficiaries, which contain relevant provisions on justice, freedom and security and provide the long-term basis for continued cooperation in the field. The 2008 European and Accession Partnerships confirm the importance of regional cooperation in the fight against organised crime and terrorism.

Regarding regional issues and international obligations, IPA beneficiaries still need to enhance cooperation with their neighbours, notably on cross-border cooperation, the fight against organised crime, trafficking and smuggling. In the context of organised crime, stronger trans-national cooperation should be ensured and the legal provisions prohibiting the extradition of nationals and as well as the transfer of serious criminal proceedings amended.. The transfer of serious criminal proceedings should also be taken into account as a result of this project.

Albania

The 2007 law on state police upgraded the witness protection unit into a directorate. However, further amendments to the law on witness protection have not yet been adopted. While some progress can be reported on witness protection in Albania, overall, witness protection remains weak with the result that victims of trafficking are reluctant to report their traffickers to the police.

Bosnia and Herzegovina

In the absence of a revised strategy, Bosnia and Herzegovina needs to prepare and implement all the action plans provided for by the national strategy to combat organised crime and corruption and reinforce international cooperation with law enforcement agencies, including the correct

² Procedural measures: action taken by the court during testimony to ensure that witnesses may testify free of intimidation or fear for their life; such measures include, but are not limited to, videoconferencing, voice and face distortion techniques, conduct of *in camera* proceedings, and the withholding of details of a witness's identity (*Good practices for the protection of witnesses in criminal proceedings involving organized crime, page 5, UNODC, January 2008*)

³ Non procedural measures: basic physical protection offered by the police, relocation, change of identity (special witness protection through witness protection programmes)

⁴ AP = Accession Partnership; NPAA = National Programme for the Adoption of the Acquis (for Candidates), National Action Plan (for Potential Candidates); EP= European Partnership; SAA = Stabilisation and Association Agreement

implementation of international conventions. Bosnia and Herzegovina also needs to take additional steps to protect victims of trafficking and ensure adequate implementation of the witness protection legislation. Effective action needs to be taken to address, *inter alia*, the lack of witness protection for witnesses involved in war crime cases.

Croatia

Croatia needs to further develop its capacities with regard to the protection of witnesses, potential witnesses and victims by establishing and developing special departments for witness protection within the Ministry of Interior, as well as by building administrative and other capacities of special departments in the Ministry of Justice which offer support to victims, witnesses and potential witnesses in most serious organised crime cases and war crimes.

*Kosovo*⁵

In Kosovo, witness protection falls under the competence of the European Security and Defence Policy (ESDP) mission - the European Union Rule of Law Mission (EULEX). There is no law on witness protection. Efficient witness protection inside Kosovo is made extremely difficult due to the close knit social fabric and relocation is problematic due to large size of families. Kosovo still lacks a crime reduction strategy at both central and regional levels. The fight against organised crime, including the fight against trafficking in human beings, remains a major challenge. The legislative framework to tackle organised crime is still incomplete, particularly in the area of witness protection, undercover agents, confiscation of assets and the law on organised crime itself.

Montenegro

In the 2007 European Partnership with Montenegro the development of witness protection and criminal intelligence is outlined as being of particular importance. The country needs to develop an effective system of witness protection, which also incorporates regional elements. Police, anti-money laundering and anti-corruption as well as judicial reform projects are implemented at a national level under the EC Twinning Instrument for Institution Building but none of those are specifically dealing with witness protection.

Serbia

Among the main areas of intervention identified under the political criteria of the recent European Partnership with Serbia are the support to the fight against organised crime, the strengthening of channels of mutual legal assistance between judiciaries in neighbouring states, and the development of an effective system of witness protection. Although some efforts have been undertaken to improve the witness protection system, its capacities remain very limited and it suffers from a lack of trust and cooperation. Serbia needs to ensure that an effective system of witness protection is in place thereby contributing to improvements in regional cooperation. Moreover, the judiciary needs to ensure the implementation of an efficient witness protection security scheme.

The former Yugoslav Republic of Macedonia

Under the IPA National 2007 programme⁶ "Support to the implementation of the Police Reform Strategy", support is provided to improve the capacities of the relevant parties in the fight against organised crime; particular focus is placed on human trafficking. Specific training is targeted at supporting regional coordination on mutual assistance on criminal matters as well as cooperation mechanisms among different witness protection units. Shortcomings in the logistics and funding of the department for witness protection have not been fully addressed.

⁵ under UNSCR 1244/99

⁶ Commission Decision C/2007/3281 of 10/07/2007 establishing a National Programme (Part 1) for the former Yugoslav Republic of Macedonia under the IPA-Transition Assistance and Institution Building component in 2007.

2.4 Link with MIPD

The IPA Multi-beneficiary Multi-annual indicative Planning Document (MIPD) 2009-2011⁷, section 2.3.1.3.3 – Fight against organised crime, corruption, terrorism, trafficking and smuggling, identifies support for regional cooperation between law enforcement agencies and judicial authorities to fight organised crime and terrorism, complementing efforts at a national level, particularly as it facilitates networking and sharing of best practices and lessons learned in the region. More specifically, the MIPD mentions that regional judicial cooperation programme will support enhanced cooperation in prosecution and investigation on criminal matters, the development of efficient communication procedures and mechanisms to exchange information and transfer proceedings, mutual assistance in penal matters, protection of witnesses of serious crime, the approximation of judicial systems and legal frameworks towards EU standards and the *acquis*.

3. Description of project

3.1 Background and justification

Regional law enforcement and judicial cooperation constitutes an important part of the efforts to increase the efficiency of the fight against organised crime, in particular considering the trans-national nature of organised crime and related illegal smuggling and trafficking activities. Regional actions in the fight against organised crime and terrorism are essential not only between the IPA beneficiaries, but also with international partners.

The Communication from the Commission on the Western Balkans of 5 March 2008⁸ outlines that cooperation in the field of justice, freedom and security, notably in combating organised crime and corruption, are of particular importance for the Western Balkans and a core priority for their European agenda. The fight against corruption and organised crime is also defined as a top priority in the Enlargement Strategy and Main Challenges 2008-2009⁹. The Council Conclusions of the Slovenian Presidency of 19-20 June 2008 stress the importance of cooperation and reform in the field of freedom, security and justice as well as the sharing of experiences with EU Member States in combating organised crime and terrorism.

The need to strengthen cooperation between international law enforcement agencies and judicial authorities and to improve cooperation in fighting organised crime, corruption, illegal immigration and counter-terrorism was further underlined during the Ministerial Forum EU/Western Balkans on Justice and Home Affairs held in Zagreb in November 2008. Moreover, the Justice and Home Affairs Council meeting of 27-28 November 2008 recalled that terrorism and organised crime constitute two of the most serious violations of the universal values on which the European Union is founded. They represent one of the most serious attacks on democracy, the rule of law and the area of freedom and security, whose development and reinforcement are essential EU objectives.

One of the priorities of the Czech Presidency for the first semester of 2009 includes countering terrorism and combating organised crime. In this context, the Presidency is focused on strengthening cooperation with its partners in the region. With respect to the criminal law agenda, the Czech Presidency hosted a conference on the protection of vulnerable witness-victims and their position within criminal proceedings in March 2009.

This IPA Multi-beneficiary Project 2009 on criminal justice targets a specialised component of the overall strategy to fight organised crime and terrorism. The protection of witnesses and

⁷ C(2009)5418

⁸ COM(2008) 127, 05.03.08

⁹ COM(2008) 674 final, 05.11.08

collaborators of justice giving evidence in criminal proceedings is widely acknowledged as a necessary tool in helping to penetrate and dismantle criminal organisations. Witness protection is particularly important in the fight against organised crime and terrorism as the closed nature of criminal and terrorist groups makes it very difficult to use traditional investigative methods successfully. Moreover organised crime is well equipped technically and extremely mobile. Therefore special witness protection measures are necessary to: (i) avoid that witnesses themselves are threatened and therefore choose not to testify, (ii) ensure that witnesses are able to give testimony in criminal proceedings and (iii) ensure that their lives are protected before, during and after the trial. It must be considered that in the IPA beneficiaries from Western Balkans, geographical (small territories) conditions make it necessary that the protection of witnesses and collaborators of justice be ensured outside national borders (i.e. international witness relocation).

The IPA beneficiaries have adopted legislation providing for a range of procedural and non procedural protective measures, and have formally established Witness Protection Units (Kosovo has not yet established such specialised units). However, there are a number of concerns: procedural protective measures remain very weak and basic police protective measures of victims in general lack a legislative basis. The challenge now is to strengthen practical implementation of existing key national legislative measures, to improve and facilitate international and mutual co-operation by eliminating legal and practical obstacles, to ensure that the domestic legislation allows for fully meeting obligations under relevant international agreements, to develop the operational capacity of judicial and law enforcement authorities, to facilitate exchange of relevant information, and to enhance the professionalism of relevant authorities through comprehensive training programmes, experiences and expertise.

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

Added value: Although many regulatory and operational issues in witness protection are dealt with at a national level action at regional and European level adds value in fighting organised crime and terrorism by promoting a common approach and fostering cross-border cooperation and coordination through encouraging witnesses and collaborators of justice to give testimony in criminal proceeding in return for protection. A common approach to witness protection could lead to more convictions in cases of organised crime and terrorism.

Impact: The project will contribute to the development of cooperation between the relevant law enforcement and judicial authorities as well as to the development of strategies, techniques and instruments enabling them to improve their performance in preventing and fighting crime. A better legal, regulatory, and operational framework to protect witnesses, to fight organised crime, and to facilitate international cooperation in criminal matters will be established. The main impact of this project is the support of the criminal justice systems, enabling witnesses to serious crime to come forward and give evidence in support of a prosecution in relation to that crime.

The project will be regularly monitored and the performance evaluated to allow for the relevant readjustments. Action plans should be developed to assess progress. Several methods will be used to conduct performance monitoring, in particular regular implementation reviews on specific objectives and related activities and results and external monitoring via the European Commission Results Oriented Monitoring. Regular briefing sessions and reports are planned. Evaluation during implementation and/or at the end of the project may also take place.

Given the amount of coordination and information exchange required to counteract organised crime successfully, wide-ranging international support is crucial to establish effective prevention and response mechanisms. The project will contribute positively to coordination at a regional level although actual results in terms of impact in countering such crime are difficult to evaluate.

Catalytic effect: Most Beneficiaries benefit from membership of international organisations and all have a good number of bi-lateral cooperation agreements. Training, study tours, workshops and seminars organised under this project will contribute to increasing interaction between the relevant services in each Beneficiary and across the region. The project should also be seen as a strong regional catalytic tool for law enforcement cooperation and for the identification and neutralisation of common threats related to organised crime and terrorism.

The project is highly appropriate to address social-cultural aspects. The fight against organised crime is not only for the benefit of the IPA beneficiaries' authorities but also for their citizens. Given the nature of modern organised crime, the project is also highly beneficial for neighbouring countries and those countries that are linked with the criminal operations. The project thereby has direct and indirect benefits, for example from those countries that are destinations for illegal migration and drugs, through to those who (most likely unknowingly) harbour such criminals and their assets. The results against organised crime increase as the cooperation and information exchange mechanisms improve.

Sustainability: The potential sustainability of this project will vary in the region, depending upon the related stages of development of the services, local funding capacities and operational capabilities in terms of equipment and the need for extensive external/international support. The implementation of the project should result, *inter alia*, in amended/drafted laws, bylaws, strategy, action plans and working standards in accordance with the *acquis*, increased number of staff trained and working groups continuously functional and making decisions, opinions, proposals etc.

Ownership will depend on the relative development of each IPA beneficiary regarding, not least, their anti-organised crime laws, structures and service capabilities. Local personnel must be as far as possible involved at both national and regional levels.

3.3 Results and measurable indicators

Increased safety and security of witnesses and collaborators of justice called to testify in criminal proceedings.

Specific results

Results and measurable indicators in relation to activity 1

1. Coordinated and harmonised witness protection systems in place within the region with appropriate procedural and non procedural measures and methods in criminal proceedings.

Measurable indicators:

- Ratio of national key legislative measures and domestic legislation in the field of witness protection aligned to European and international standards;
- Number and quality of strategic documents reflecting agreed upon witness protection policies;
- Ratio of operational/working procedures harmonised at regional level and approved by the governments of the beneficiaries;
- Number of seminars and workshops organised.

Results and measurable indicators in relation to activity 2

2. Measures in place to improve and facilitate cross-border, regional and international cooperation in the relocation of witnesses and change of identity.

Measurable indicators:

- Number of cases where countries cooperate with each other in the relocation of witnesses or other non-procedural measures;
- Number of witnesses and collaborators of justice who fall under the witness protection programme;
- Number of guidelines, manuals, methodologies issued and approved on international relocation and change of identity;
- Number of measures adopted and implemented;
- Number of joint initiatives/operations developed;
- Number of working groups established;
- Number of seminars and workshops organised.

Results and measurable indicators in relation to activity 3

3. Improved protection of witnesses and victims called to testify before the ICTY¹⁰.

Measurable indicators:

- Percentage of victims of war crimes and witnesses who are taken care of by means of witness protection measures;
- Percentage of war crime cases where witness protection mechanisms are used.

Results and measurable indicators in relation to activity 4

4. Improved cooperation between police officers, specialist investigators, border police, prosecutors and courts dealing with witness protection in organised crime, corruption, and terrorism cases.

Measurable indicators:

- Ratio of information successfully exchanged, disseminated and used;
- Number of joint investigations conducted;
- Number of working groups established;
- Number of seminars and workshops organised;
- Number of officials working for law enforcement authorities and the judiciary who have received special witness protection procedures' training in criminal proceedings.
- Number of operations supported by SECI/SELEC¹¹;
- Number of coordinated actions conducted within the International Law Enforcement Co-ordination Units (ILECUs)¹²;

¹⁰ International Criminal Tribunal for the former Yugoslavia.

¹¹ SELEC = Southeast European Law Enforcement Centre. SELEC is the new name of the Southeast European Cooperative Initiative (SECI) Centre

¹² Kosovo has no ILECU in place. An ongoing regional CARDS 2005 project (project ends in February 2011, but follow up will be ensured through an IPA 2008 programme on police cooperation in the fight against organised crime) is establishing international law enforcement coordination units in Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia.

- Models for bilateral or multilateral protocols for international cooperation in witness protection drafted and approved.

Results and measurable indicators in relation to activity 5

5. Fully operational Witness Protection Units in place in the IPA Beneficiaries.

Measurable indicators:

- Number of trainings provided;
- Number of study visits conducted;
- Number of operations conducted by the Witness Protection Units.

Results and measurable indicators in relation to activity 6

6. Improved access to modern telecommunication systems.

Measurable indicators:

- Ratio of cases where witnesses are called to testimony using IT system.

3.4 Activities:

- Activity 1** Enhance the compatibility of national criminal justice systems at regional, European and international levels in relation to the protection of witnesses and collaborators of justice;
- 1.1 Formulate concrete recommendations and practical suggestions to the beneficiaries on procedural and non procedural measures on witness protection, including on alternative measures;
 - 1.2 Strengthen national legislation and policies with respect to collaborators of justice and witness protection in accordance with European and international standards and good practices and in particular remove legal and practical impediments impacting changes in identification or re-identification;
 - 1.3 Support practical implementation of relevant key legislative measures;
 - 1.4 Develop, promote and exchange good practices for the protection and support of witnesses and collaborators of justice.
- Activity 2** Integrate relocation of witnesses programmes in existing national (including those of EU Member States) and international systems of witness protection (including the international criminal courts);
- 2.1 Conduct an assessment and provide recommendations on how to achieve financial sustainability regarding the relocation of witnesses and changes of identity;
 - 2.2 Assist beneficiaries to develop, conclude and implement bilateral and multilateral agreements for the relocation of witnesses;
 - 2.3 Facilitate negotiations and conclusions of memoranda of understanding and agreements between witness protection units, law enforcement and judicial authorities as appropriate for the purpose of cross border and international cooperation;
 - 2.4 Develop agreed minimum standards warranting international relocation;

- 2.5 Assess the application and admission procedures to witness protection programmes to ensure there are no legal and practical obstacles in the implementation of these procedures.
- Activity 3** Facilitate cooperation between relevant witness protection authorities and the ICTY to better identify and address issues with respect to victims and witnesses;
- Activity 4** Further strengthen existing national, regional and European networks of witness protection;
- 4.1 Support the beneficiaries in the adoption of necessary legal provisions allowing for direct contact among relevant officials;
- 4.2 Facilitate the exchange of information, experience and best practices on witness protection at regional and European level;
- 4.3 Support the beneficiaries in developing the communication and operational capacities of the relevant authorities.
- Activity 5** Enhance Witness Protection Units' professional capacities to establish and implement appropriate, effective and sustainable witness protection programmes¹³;
- 5.1. Develop by-laws, standard operating procedures, training standards or guidelines on confidentiality of communications and document handling, security, conducting risk and threat assessments, vetting and other procedures as required for agents working in the Witness Protection Units;
- 5.2 Establish reliable mechanisms of regular monitoring of the effective use of protection measures and witness protection programmes;
- 5.3 Assist the beneficiaries to adopt necessary by-laws which would provide a financial sustainability of witness protection programmes;
- 5.4 Organise working visits /study tours to Witness Protection Units in European Union Member States, as well as missions of European and international experts, liaison officers and magistrates to the Beneficiaries.
- Activity 6** Facilitate access to and usage of modern communication systems by relevant actors in the criminal justice system in witness testimony, witness relocation and cross border cooperation;
- 6.1 Conduct an assessment to identify needs in terms of cross-border compatible equipment (communication devices) to be used in testimonies in the beneficiaries;
- 6.2 Support the beneficiaries in developing modern telecommunication systems for video-link testimonies;
- 6.3 Support the beneficiaries to ensure that witness protection programmes have available the use of secure and confidential data management systems.

¹³ Witness protection programme: a formally established covert programme subject to strict admission criteria that provides for the relocation and change of identity of witnesses whose lives are threatened by a criminal group because of their cooperation with law enforcement authorities (*Good practices for the protection of witnesses in criminal proceedings involving organized crime, page 5, UNODC, January 2008*)

3.5 Conditionality and sequencing:

Not applicable.

3.6 Linked activities

Prior and ongoing Regional or IPA Multi-beneficiary Programmes

The CARDS Regional Programme 2002 – 2003 "*Development of Reliable and Functioning Policing Systems and Enhancing of Combating Main Criminal Activities, and Police Cooperation - CARPO*" provided assistance to develop reliable policing systems and tools against economic and organised crime in the Western Balkans. In particular, the project contributed to the creation of mechanisms to protect witnesses of crime and strengthened the capacities for cooperation in criminal matters. Moreover, the project provided a comprehensive Training Manual for Law Enforcement and Judiciary – Protection of witnesses of serious crime. All the IPA beneficiaries (except Kosovo) have adopted Witness Protection Laws, and have formally established Witness Protection Units. The challenge now is to make Witness Protection Units fully operational and ensure that witness protection programmes achieve sustainable financing and are integrated in European and other international networks and systems of witness protection. Nonetheless, the needs of each beneficiary should be addressed individually in the project planning and implementation, taking into account the specificity of each beneficiary in the field of witness protection.¹⁴

The ongoing CARDS 2006 regional project "*Support to the Prosecutors' Network*" was build on the recommendations of the CARDS 2003 regional judicial reform project "*The establishment of an independent, reliable and functioning judiciary and enhancing of the judicial cooperation in the Western Balkans*". One of the main results achieved under the CARDS 2003 project was the signature of the Memorandum of Understanding for regional cooperation and networking amongst prosecutors. The current CARDS 2006 regional project "*Support to the Prosecutors' Network*" focuses on strengthening the legislation and institutional capacities of General Prosecutors' Offices (GPOs) of South-eastern Europe in view of a more effective co-operation against serious crime.

The ongoing 30-month CARDS 2005 regional project, "ILECUs", supports the creation of special international law enforcement coordination units in the Beneficiaries with a view to supporting the exchange of information in international investigations and facilitating contacts on an operational level. These units will be integrated in national criminal intelligence models and supported by proper data protection and confidentiality regimes.

The CARDS 2006 monitoring instruments project to establish guidelines on collecting and interpreting police and judicial statistics started on 1 February 2009. The need for reliable statistics is important for future regional police cooperation especially as regards the exchange of information.

National programmes and donor activities

Key donors with significant on-going or planned activities in the Justice and Home Affairs sector in the region include U.S. Department of State, USAID, US Marshall Service, Office of Overseas Prosecutorial Development, Assistance and Training OPDAT programme¹⁵, UNODC, OSCE and UNDP. UNDP has supported Croatian judicial system/good governance by several

¹⁴ Please refer to section 3. 7 Lessons learned: *Tailored made approach and synergies*.

¹⁵ OPDAT was created in the Criminal Division of the US Department of Justice in 1991 in response to the growing threat of international crime. OPDAT's mission is to assist prosecutors and judicial personnel in other countries develop and sustain effective criminal justice institutions.

projects/activities: Transitional justice (2006-2007); Witness-victim support – WVS (2007 – research; 2008-2009 Assistance to the Development of witness-victim support in Croatia ; State Election Commission – SEC (SEC project 2007-2008; activities planned for 2009); Croatian People’s Ombudsman –CPO (activities 2008-2009: capacity assessment, conference on antidiscrimination law); and Building of strategic planning capacity of the Ministry of Justice 2009.

OSCE has been assisting with the consolidation of community policing concepts and development of policing education components. The International Criminal Investigative Training Assistance Program ICITAP¹⁶ (US Department for Justice Assistance programme) has been focusing on the development and consolidation of Police Professional Standards. Additionally, important police development actions, focusing on operational capacities, have been undertaken under EU Member States bilateral assistance. Networks of liaison officers drawn from the EU Member States have been established in the Beneficiaries. Police and judicial reform projects are also implemented at national level under the EC Twinning mechanism.

Europol, Eurojust, the European Police College as well as the SECI Centre are developing cooperation and working arrangements with Beneficiaries in the area of police and criminal justice cooperation inter alia to fight organised crime in the region. More specifically Europol has created an informal network of witness protection agencies from European Union Member States and various Beneficiaries. The group meets on a regular basis to discuss the status of witness protection, to exchange information and good practices, to make recommendations for the harmonisation of national legislation and to develop good practice policies for the witness protection agencies of Member States. The Europol Network of Experts on Witness Protection was established in 2000 and is represented by a number of countries in five continents. On the basis of the debates within the Europol network, two documents have been drafted and shared for use as 'EU guidelines': the 'Basic principles in the European Union police co-operation in the field of Witness Protection' focusing on the international relocation of witnesses while the 'Common Criteria for taking a witness into a Protection Programme', deals with the criteria for taking a witness into a protection programme.

Other financial measures support the development of key capacities in each Beneficiary including setting up financial intelligence units and specialised teams of prosecutors and judges to deal with organised crime cases.

The Victim and Witness Support Unit of the International Criminal Tribunal for the former Yugoslavia, which is the most experienced international criminal tribunal in the area of witness protection, applies relevant United Nations standards when formulating its strategy for witness protection. The Tribunal relies on Governments to provide protection to witnesses. As an example, the Netherlands are responsible for providing protection to witnesses located in the Netherlands and the Victim and Witness Support Unit works in close cooperation with the Government to provide relevant data for the set up of appropriate protective measures. The same mechanisms are applicable in any country where the Tribunal's witnesses are located.

As regards other European and international tools and legal instruments touching upon issues related to witness protection, special attention and focus are to be devoted to the work of the Council of Europe, in particular its recommendations regarding different aspects of witness

¹⁶ The mission of the International Criminal Investigative Training Assistance Program is to work with foreign governments to develop professional and transparent law enforcement institutions that protect human rights, combat corruption, and reduce the threat of transnational crime and terrorism. Situated in the Department of Justice's Criminal Division, and funded primarily by the State Department, ICITAP provides international development assistance that supports both national security and foreign policy objectives.

protection¹⁷ and the training manual for law enforcement and judiciary "Protecting Witnesses of Serious Crime"¹⁸, the rulings of the European Court for Human Rights, the UN Convention against Transnational Organised Crime¹⁹ and the UN Convention against Corruption²⁰, and the "UN Good practices for the protection of witness in criminal proceedings involving organized crime"²¹.

However, there are no true European standards in the area of witness protection, since a binding European legal instrument that specifically and comprehensively deals with the protection of witnesses does not yet exist. There are a number of existing binding legal texts addressing the problem of organised crime, different types of crimes and international mutual legal assistance adopted in the framework of the CoE and the EU that touch upon witness protection and can facilitate international cooperation in this area.

EC national programmes (CARDS, IPA)

Police, anti-money laundering and anti-corruption as well as judicial reform projects are implemented at a national level in the Western Balkans under the EC Twinning Instrument for Institution Building but none of these projects are specifically dealing with witness protection.

3.7 Lessons learned

Operational activities: According to the various evaluations and CARDS Monitoring reports, it is necessary to intensify the support to regional operational activities. Operational means, including the safe and secure exchange of data, for increased cross-border cooperation should be developed according to the EU best practices.

Ownership: 'Ownership' of the projects should be secured at an early stage on the programming process. For the "Cooperation in Criminal Justice: Witness Protection in the Fight against Serious Crime and Terrorism (WINPRO)" programme coordination and involvement of the beneficiaries was ensured at the identification phase of the project idea.

Implementation: Although a broad range of specific expertise is required for the regional projects, the contracting of consortia with too many partners for the coming police and judicial cooperation projects should be avoided, as the projects will have a specific and targeted approach, and coordination efforts should not be unnecessarily complicated by a saturation of partners.

Integrated national strategies: An integrated national strategy against organised crime and terrorism is needed, with coordination and cross-sectoral cooperation mechanisms, and with a strong supportive international component.

Ensure sustainability: Police and judicial staff must not only be trained to a high professional level, but also empowered to continue professional work once the programme ends. Proper handover of necessary equipment, information, documentation, curricula etc must be ensured.²²

¹⁷ Recommendation (1997)13 on the intimidation of witnesses and the rights of the defence; Recommendation (2005)9 on the protection of witnesses and collaborators of justice

¹⁸ The manual was published in September 2006 in the framework of the CARPO project mentioned in paragraph 2.2 of this document

¹⁹ UNTOC, A/RES/55/25, January 2001 - Art. 24 Protection of witnesses

²⁰ UNCAC, Art. 32 Protection of witnesses, experts and victims

²¹ UNODC, January 2008

²² OSCE, Implementation of Police-Related Programmes, Lessons Learned in South-Eastern Europe, SPMU Publication Series Vol. 7, Vienna, December 2008

Avoid duplication: In order to avoid duplication and unnecessary cost, the best use of existing judicial and law enforcement tools and networks of national bodies has to be considered instead of creating new ones. Functional, thematic cross border networks of law enforcement authorities shall be reinforced to more effectively combat serious crime and prevent terrorism.

When to create new networks: Creation of new networks should be avoided in the field of witness protection. Existing networks and institutions already in charge of cross border co-operation should be supported so that they increase cooperation in the field of witness protection. In general where a gap is identified, programmes should facilitate the creation of regional networks for stakeholders (police, prosecutors, judges) and support the development of other regional and national initiatives in this area. Networks of stakeholders should serve, *inter alia*, as focal points for collecting and disseminating best practices and lessons learned.

Assess state of play: Rather than starting with an overall objective for the region as a whole and then applying a standard methodology, the programme shall start, with the collaboration of the beneficiaries themselves, with assessing the current situation in the beneficiaries then based upon their specificities and needs, the appropriate regional approach shall be defined.

Tailored made approach and synergies: The different stages of readiness of the beneficiaries shall be taken into account during implementation. The project shall draw on the experience of the most advanced Beneficiaries in the alignment process to the *acquis* and develop synergies among them.

Resources and equipment: The most efficient use of available resources should be ensured, rather than providing new hardware. "While many police services will have legitimate requirements for infrastructure and equipment to support capacity-building, such equipment should only be supplied to meet requirements clearly identified in a needs assessment and an accompanying development plan. This should be clearly communicated at the outset of any reform programme or the promise of material resources may detract from or undermine the more pressing business of institutional reform"²³.

²³ OSCE, Implementation of Police-Related Programmes, Lessons Learned in South-Eastern Europe, SPMU Publication Series Vol. 7, Vienna, December 2008

4. Indicative Budget (amounts in EUR)

			TOTAL EXP.RE	SOURCES OF FUNDING								
				IPA COMMUNITY CONTRIBUTION		NATIONAL CONTRIBUTION					PRIVATE CONTRIBUTION GRANT BENEFCIARY	
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)
Contract 1	x		4 210 526	4 000 000	95	/	/	/	/	/	210 526	5
TOTAL IB			4 210 526	4 000 000	95	/	/	/	/	/	210 526	5
TOTAL INV			/	/	/	/	/	/	/	/	/	/
TOTAL PROJECT			4 210 526	4 000 000	95						210 526	5

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	Launch of Call for Proposals	Signature of contract	Project Completion
Grant contract	Q4 2009	Q1 2010	Q4 2012

6. Cross cutting issues

6.1 Equal Opportunity

The project does not directly target equal opportunities but it will respect gender equality, not least through the inputs to upgrade legislation towards EU standards. There are many high level female officials in the police services, in the prosecutors' offices, in the courts, although the specialised units for witness protection programmes remain predominantly male-dominated.

6.2 Environment

The most recent criminal phenomenon in South East Europe is related to the environment, i.e. eco-mafia. The programme should also contribute in tackling this form of organised crime.

6.3 Minorities

Minority and vulnerable groups' concerns will be reflected in all activities under the programme, in particular when it concerns public services, legislative matters and socio-economic development. Within the project, protection of vulnerable witness and victims will be also tackled, especially children and woman.

ANNEXES

- I- Logical framework matrix in standard format
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ANNEX I: Logical framework matrix in standard format

LOGFRAME PLANNING MATRIX FOR Project Fiche	Programme name and number: Cooperation in Criminal Justice: Witness Protection in the Fight against Serious Crime and Terrorism (WINPRO)	2009/021-373
	Contracting period expires: 30 November 2010	Disbursement period expires: 30 November 2013
	Total budget: EUR 4 210 526	IPA budget EUR 4 000 000

Overall objective	Objectively verifiable indicators	Sources of Verification	
Strengthen cooperation to support the fight against serious crime and terrorism at regional and European level through encouraging witnesses and collaborators of justice to testify in criminal proceedings and give appropriate evidence in return for protection against intimidation, coercion, corruption or bodily injury	Number of serious crime cases dealt with by the competent authorities of the beneficiaries in cooperation with neighbouring countries and EU MS.	Reports of the competent authorities Statistical publications Local and national records (MoI, MoJ) OCTA Report	
Project purpose	Objectively verifiable indicators	Sources of Verification	Assumptions
<ul style="list-style-type: none"> - Promote a coordinated and harmonised use of witness protection procedural and non procedural measures at regional and European level; - Facilitate operational cross-border, regional and European cooperation and coordination on relocation of witnesses and change of identity among relevant law enforcement agencies and judicial authorities. 	Percentage of organised crime and terrorism cases where appropriate cross-border cooperation initiative on witness protection where used.	Reports of the competent authorities Statistical publications Local and national records (MoI, MoJ) Project reports Monitoring reports Progress reports	<p>Adequate political commitment and financial resources of Beneficiaries</p> <p>Timely and adequate resources available.</p> <p>Efficient cooperation between Beneficiaries and Grant beneficiary</p>

Results	Objectively verifiable indicators	Sources of Verification	Assumptions
<p>Increased safety and security of witnesses and collaborators of justice called to testify in criminal proceedings.</p> <p>1. Coordinated and harmonised witness protection systems in place within the region with appropriate procedural and non procedural measures and methods in criminal proceedings.</p> <p>2. Measures in place to improve and facilitate cross-border, regional and international cooperation in the relocation of witnesses and change of identity.</p>	<ul style="list-style-type: none"> - Level of support, assistance, security and safety provided to endangered witnesses - Percentage of serious crime and terrorism cases where witness protection measures are used - Number of witness and collaborators of justice that decide to testify in organised crime and terrorism cases <p>1.</p> <ul style="list-style-type: none"> - Ratio of national key legislative measures and domestic legislation aligned to European and international standards - Number and quality of strategic documents reflecting agreed upon witness protection policies; - Ratio of operational/working procedures harmonised at regional level and approved by the governments of the Beneficiaries - Quantity and quality of evidence provided by witnesses - Number of seminars and workshops organised <p>2.</p> <ul style="list-style-type: none"> - Number of cases where countries cooperate with each other in the relocation of witnesses or other non-procedural measures - Number of witnesses and collaborators of justice who fall under the witness protection programme - Number of guidelines, manuals, methodologies issued and approved on international relocation and change of identity 	<p>Project reports</p> <p>Monitoring reports</p>	

<p>3. Improved protection of witnesses and victims called to testify before the ICTY.</p>	<ul style="list-style-type: none"> - Number of measures adopted and implemented - Number of joint initiatives/operations developed - Number of working groups established - Number of seminars and workshops organised 		
<p>4. Improved cooperation between police officers, specialist investigators, border police, prosecutors and courts dealing with witness protection in organised crime and terrorism cases.</p>	<p>3.</p> <ul style="list-style-type: none"> - Percentage of victims of war crimes and witnesses who are taken care of by means of witness protection measures - Percentage of war crime cases where witness protection mechanisms are used <p>4.</p> <ul style="list-style-type: none"> - Ratio of information successfully exchanged, disseminated and used - Number of joint investigations conducted - Number of working groups established - Number of seminars and workshops organised - Number of officials working for law enforcement authorities and the judiciary who have received special witness protection procedures' training in criminal proceedings - Number of operations supported by SECI/SELEC - Number of coordinated actions conducted within the International Law Enforcement Co-ordination Units ILECU - Models for bilateral or multilateral protocols for international cooperation in witness protection drafted and approved 		

<p>5. Fully operational Witness Protection Units in place.</p> <p>6. Improved access to modern telecommunication systems.</p>	<p>5.</p> <ul style="list-style-type: none"> - Number of training provided - Number of study visits conducted - Number of operations conducted by the Witness Protection Units <p>6.</p> <ul style="list-style-type: none"> - Ratio of cases where witnesses are called to testimony using IT system 		
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Activities	Means	Costs	Assumptions
<p>Activity 1 Enhance the compatibility of national criminal justice systems at regional, European and international levels in relation to the protection of witnesses and collaborators of justice;</p> <p>1.1 Formulate concrete recommendations and practical suggestions to the beneficiaries on procedural and non procedural measures on witness protection, including on alternative measures;</p> <p>1.2 Strengthen national legislation and policies with respect to collaborators of justice and witness protection in accordance with European and international standards and good practices and in particular remove legal and practical impediments for the change identity or re-identification;</p> <p>1.3 Support practical implementation of relevant key legislative measures;</p> <p>1.4 Develop, promote and exchange good practices for the protection and support of witnesses and collaborators of justice.</p> <p>Activity 2 Integrate relocation of witnesses programmes in existing national (including those of EU Member States) and international systems of witness protection (including the international criminal courts);</p> <p>2.1 Conduct an assessment and provide recommendations on how to achieve financial sustainability in cases of relocation of witnesses and change of identity;</p> <p>2.2 Assist beneficiaries to develop, conclude and implement bilateral and multilateral agreements for the relocation of witnesses;</p> <p>2.3 Facilitate negotiations and conclusions of memoranda of understanding and agreements between witness protection units, law enforcement and judicial</p>	<p>A Grant will be awarded through a restricted call for proposals, to be launched 4th Q of 2009.</p>	<p>EUR 4 000 000</p>	<p>Very good management and communication capacities of Grant beneficiary + knowledge and experience of/in the Beneficiaries</p> <p>Efficient cooperation between Beneficiaries and Grant beneficiary</p> <p>Commitment of judicial and law enforcement services in implementing project activities in a professional manner</p>

²⁴ Witness protection programme: a formally established covert programme subject to strict admission criteria that provides for the relocation and change of identity of witnesses whose lives are threatened by a criminal group because of their cooperation with law enforcement authorities (*Good practices for the protection of witnesses in criminal proceedings involving organized crime, page 5, UNODC, January 2008*)

<p>authorities as appropriate for the purpose of cross border and international cooperation;</p> <p>2.4 Develop agreed minimum standards warranting international relocation;</p> <p>2.5 Assess the application and admission procedures to witness protection programmes to ensure there are no legal and practical obstacles in the implementation of these procedures.</p> <p>Activity 3 Facilitate cooperation between relevant witness protection authorities and the ICTY to better identify and address issues with respect to victims and witnesses;</p> <p>Activity 4 Further strengthen existing national, regional and European networks of witness protection;</p> <p>4.1 Support the beneficiaries in the adoption of necessary legal provisions allowing for direct contact among relevant officials;</p> <p>4.2 Facilitate the exchange of information, experience and best practices on witness protection at regional and European level;</p> <p>4.3 Support the beneficiaries in developing the communication and operational capacities of the relevant authorities.</p> <p>Activity 5 Enhance Witness Protection Units' professional capacities to establish and implement appropriate, effective and sustainable witness protection programmes²⁴;</p> <p>5.1 Develop by-laws, standard operating procedures, training standards or guidelines on confidentiality of communications and document handling, security, conducting risk and threat assessments, vetting and other procedures as required for agents working in the Witness Protection Units;</p> <p>5.2 Establish reliable mechanisms of regular monitoring of the effective use of protection measures and witness protection programmes;</p> <p>5.3 Assist the beneficiaries to adopt necessary by-laws which would provide a financial sustainability of</p>			
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<p>witness protection programmes;</p> <p>5.4 Organise working visits /study tours to Witness Protection Units to European Union Member States, as well as missions of European and international experts, liaison officers and magistrates to the Beneficiaries.</p> <p>Activity 6 Facilitate access to and usage of modern communication systems by relevant actors in the criminal justice system in witness testimony, witness relocation and cross border cooperation;</p> <p>6.1 Conduct an assessment to identify needs in terms of cross-border compatible equipment (communication devices) to be used in testimonies in the beneficiaries;</p> <p>6.2 Support the beneficiaries in developing modern telecommunication systems for video-link testimonies;</p> <p>6.3 Support the beneficiaries to ensure that witness protection programmes have available the use of secure and confidential data management systems.</p> <p>The following types of activities could be envisaged:</p> <ul style="list-style-type: none"> - Regional and national thematic meetings, seminars and conferences, round tables with police and security services, intelligence services, judicial authorities, financial investigation; - Study visits, workshops, training activities; - Specialised expert missions and gaps and needs-analysis sessions, specific studies, assessment missions; - Actions improving operational cooperation and coordination (strengthening networking, mutual confidence and understanding, exchange and dissemination of information, lessons learned, experience and best practices); - Development and transfer of technology and methodology; - Awareness and dissemination activities; - Provision of advice on legislation, regulations, operational procedures. 			
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ANNEX II: Amounts (in EUR million) contracted and disbursed per quarter over the full duration of project

Contracted	Q1 2010	Q2 2010	Q3 2010	Q4 2010	Q1 2011	Q2 2011	Q3 2011	Q4 2011	Q1 2012	Q2 2012	Q3 2012	Q4 2012
Contract 1	4											
Cumulated	4											
Disbursed	Q1 2010	Q2 2010	Q3 2010	Q4 2010	Q1 2011	Q2 2011	Q3 2011	Q4 2011	Q1 2012	Q2 2012	Q3 2012	Q4 2012
Contract 1	1.28*				1.6**				0,96**			0,16***
Cumulated	1.28				2.88				3.84			4

*First instalment of pre-financing (80% of the part of the forecast budget for the first 12 months of project implementation)

**Further annual instalment(s) of pre-financing

***Final payment

ANNEX III- Description of Institutional Framework

The authorities responsible of the implementation of the projects will be the Ministries of Interior and Ministries of Justice of the IPA beneficiaries, including law enforcement agencies and judicial authorities (criminal police, border police, government protection bureau, special investigative units, prosecutors' offices, courts) involved in witness protection.

In the context of the project implementation, cooperation with other law enforcement agencies, such as customs and border guards is very important, since Witness Protection Units are obliged to take under protection witnesses who are handed over from these law enforcement agencies.

ANNEX IV: Reference to laws, regulations and strategic documents

- Multi-beneficiary Multi-annual Indicative Planning Document 2009-2011
- Commission's Communication of 5 March 2008 "Western Balkans: Enhancing the European perspective"
- Commission's Communication of 5 November 2008 "Enlargement Strategy and Main Challenges 2008-2009" COM(2008) 674 final
- Commission's Communication of 27 January 2006 "The Western Balkans on the Road to the EU: Consolidation Stability and Raising Prosperity"
- Justice and Home Affairs Council Meeting of 27-28 November 2008
- Council Conclusions External Relations of 9 December 2008
- Work Programme of the Czech Presidency, Europe without Barriers, January 2009
- Millennium Strategy - Witness protection, Multidisciplinary Group on Organised Crime, Europol, CRIMORG 40, 9297/03
- Good practices for the protection of witnesses in criminal proceedings involving organized crime, UNODC, January 2008
- Commission Working document on the feasibility of EU legislation in the area of protection of witnesses and collaborators with justice, Brussels, 13.11.2007, COM(2007) 693 final
- Council of Europe. Protecting witnesses of serious crime; training manual for law enforcement and judiciary. Strasbourg, Council of Europe Publishing, 2006 (published in the framework of the EC funded project CARDS 2003 "CARPO Police"
- Commission's Communication of 6 November 2007 "Stepping up the fight against terrorism"
- Council of Europe: Recommendation Rec(2005)9 of the Committee of Ministers to member states on the protection of witnesses and collaborators of justice (Adopted by the Committee of Ministers on 20 April 2005 at the 924th meeting of the Ministers' Deputies)
- Council of Europe: 2nd Additional Protocol to the Convention on Mutual Legal Assistance in Criminal Matters (ETS 182)
- Council of Europe: Recommendation Rec(97) 13 of the Committee of Ministers to member states concerning the intimidation of witnesses and the rights of the defence
- Council Action Oriented Paper on Improving Cooperation on Organised Crime, Corruption, Illegal Migration and Counter-terrorism, between the EU, Western Balkans and relevant ENP countries of 12 May 2006
- Council Decision of 18 February 2008 (2008/210/EC) on the principles, priorities and conditions contained in the European Partnership with Albania and repealing Decision 2006/54/EC
- Council Decision of 18 February 2008 (2008/211/EC) on the principles, priorities and conditions contained in the European Partnership with Bosnia and Herzegovina and repealing Decision 2006/55/EC

- Council Decision of 12 February 2008 (2008/119/EC) on the principles, priorities and conditions contained in the Accession Partnership with Croatia and repealing Decision 2006/145/EC
- Council Decision of 18 February 2008 (2008/212/EC) on the principles, priorities and conditions contained in the Accession Partnership with the former Yugoslav Republic of Macedonia and repealing Decision 2006/57/EC
- Council Decision of 22 January 2007 (2007/49/EC) on the principles, priorities and conditions contained in the European Partnership with Montenegro.
- Council Decision of 18 February 2008 (2008/213/EC) on the principles, priorities and conditions contained in the European Partnership with Serbia including Kosovo as defined by United Nations Security Council Resolution 1244 of 10 June 1999 and repealing Decision 2006/56/EC
- Council and Commission Decision of 13 December 2004 concerning the conclusion of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part - Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part
- Council and Commission Decision of 26 March 2001 concerning the conclusion of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part - Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part
- Council and Commission Decision of 22 May 2006 concerning the conclusion of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part - Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part
- Albania 2008 Progress Report
- Bosnia and Herzegovina 2008 Progress Report
- Croatia 2008 Progress Report
- The former Yugoslav Republic of Macedonia 2008 Progress Report
- Montenegro 2008 Progress Report
- Serbia 2008 Progress Report
- Kosovo 2008 Progress Report

ANNEX V: Details per EC funded contract

A Grant will be awarded following a restricted call for proposals, to be launched in Q4 2009.

Eligibility criteria for applicants: Public sector operators and International Organisations.

	Type of Contract	Amount in EUR	Duration
Contract 1	Grant Agreement	4 000 000	30 months

The grant beneficiary should contribute with a minimum of 5% of the total eligible cost of the project.