

## ESI analysis

### The final sprint: Albania's and Bosnia's progress in reaching the remaining open benchmarks

9 August 2010

On 27 May 2010, the European Commission presented a legislative proposal, suggesting to lift the visa requirement for the citizens of Albania and Bosnia and Herzegovina if the two governments meet a few remaining open benchmarks from their “visa roadmaps”. The Commission had already identified these benchmarks a few weeks earlier and asked the two governments to work on them and to send progress reports by 25 June 2010.<sup>1</sup>

For each country, there are three open benchmarks. Both have to strengthen capacities and fully implement legislation to fight organised crime and corruption. Albania also has to implement legislation on the confiscation of assets that are the proceeds of crime, and it has to adopt a strategy to reintegrate Albanian citizens that are returned to Albania. Bosnia, on the other hand, has to harmonise all the criminal codes across the country, and it has to make progress in establishing an electronic system through which its police agencies and prosecutors at the various administrative levels will exchange information.

ESI has analysed Albania's and Bosnia's progress reports of 25 June<sup>2</sup> and come to the conclusion that both countries have made very good progress. Already now, the two countries have taken impressive steps to reach the open benchmarks, and they are likely to achieve further progress by the time the European Parliament and the Council will vote on the Commission proposal. Albania has practically already met all three open benchmarks, while Bosnia has by and large met two, and one partly. Bosnia still needs to make further progress with regard to the establishment of the exchange server. What is needed is the adoption of a bylaw and a decision by Bosnia's government, the Council of Ministers. Bosnia must also extend the mandate of the acting director of the Anti-Corruption Agency.

The European Parliament will vote earliest in September, and the Council earliest in October 2010. At the end of August, both countries are due to submit updates of their progress to the Commission. There is time for Bosnia's Council of Ministers to adopt the necessary bylaw and decision, and for Bosnia's House of Peoples to extend the mandate of the acting director of the Anti-Corruption Agency.

<sup>1</sup> Letters by Jean-Louis De Brouwer, acting Deputy Director-General for Justice, Freedom and Security at the European Commission, to the coordinators of the visa liberalisation processes in Albania and Bosnia following Senior Officials' Meetings on 6 May 2010, available at <http://www.esiweb.org/index.php?lang=en&id=359>.

<sup>2</sup> The progress reports are available at <http://www.esiweb.org/index.php?lang=en&id=359>.

During evaluation missions that took place 5 to 8 July in Bosnia, and 12 to 15 July in Albania, experts from the Commission and from EU member states verified the situation on the ground. Provided that the experts have come to similar conclusions as ESI (unofficial reports indicate they have), and provided that Bosnia will take the last couple of necessary steps, the decision-making process leading to visa-free travel should begin in September.

Both countries are also ready to launch extensive public information campaigns about the provisions of visa-free travel. They will inform their citizens that visa-free travel only applies to holders of the new biometric passports, that it allows visits of up to 3 months within a 6-month period and that it does not entitle to working and residing in the EU. Albania already ran a TV campaign in April and will repeat it in the run-up to visa-free travel. It is also planning further activities together with the EU Delegation in Albania. Bosnia plans to launch a 3-month multi-media campaign, which it has coordinated with the EU Delegation in Sarajevo, around a month before the start of visa-free travel.

The Commission and a few EU countries consider these campaigns important to prevent unintentional abuse of visa-free travel.

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## **Bosnia and Herzegovina**

Please note: For each benchmark, the Commission has listed a number of elements or “sub-benchmarks” that will determine whether the government has reached the benchmark. ESI has numbered the benchmarks and sub-benchmarks accordingly (1., 1.1, 1.1.1 etc.)

### ***Benchmark 1. The strengthening of capacities of law enforcement and the effective implementation of the legal framework for the fight against organised crime and corruption (including adequate allocation of financial and human resources) (Block 3)***

#### ***1.1 Reporting on the effective implementation of the revised Action Plans and legal framework for the fight against organised crime***

The Action Plan for the Fight against Organised Crime was adopted in February 2010. In its assessment of Bosnia's progress in April 2010, the European Commission remarked that “further efforts are needed regarding its implementation, including via the continuous building of capacities and the achievement of further tangible results in the fight against organised crime”. It therefore made “effective implementation” of the action plan one of the indicators for benchmark 1.

The action plan relates to the new Strategy for the Fight against Organised Crime 2009-2012, which Bosnia adopted in September 2009. The action plan, building on the strategic goals and objectives of the strategy, lists 10 general goals and 18 specific goals that are to be pursued.

Among other things, the goals include the harmonisation of the legal framework in BiH in line with international standards, the strengthening of capacities, full inter-agency coordination and information exchange in BiH, cooperation with international actors, effective prosecution of organised crime, and specific goals such as establishment of efficient systems to confiscate the proceeds of criminal acts and to assess organised crime threats in Bosnia.<sup>3</sup>

In order to analyse the degree of implementation of the action plan, the Bosnian government has simply examined which activities have been undertaken with regard to the vast majority of the goals listed in the action plan (25 out of 28) and attached this 40-page analysis as annex 2 to its report of 25 June.

It seems that Bosnia has made a very good start. By nature, implementation of the action plan will take a while as it extends until 2012, and work on some issues will have to be done on a permanent basis (such as cooperation between various agencies). Bosnia has already started serious work on most issues.

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<sup>3</sup>

Council of Ministers, Action Plan for the Implementation of the BiH Strategy for the Fight against Organised Crime 2009-2010.

## ***1.2 Strengthening the administrative and investigative capacities of the law enforcement authorities. Amongst other measures, the following should be considered:***

### ***1.2.1 Providing specialised training aimed at further developing investigative means and intelligence-led investigations***

The June 2010 report of the Bosnian government lists 40 training events, workshops, seminars, study trips and projects that took place in April and May 2010. The issues tackled include undercover operations, smuggling of contraband, human trafficking, new provisions of the criminal code and other legal provisions, prison management, intelligence-led policing and drugs trafficking. The organisers and donors were domestic institutions, foreign agencies (EUPM; the US-run International Criminal Investigative Training Assistance Programme ICITAP; IOM), individual governments and the TAIEX technical assistance mechanism of the European Commission.

In addition, specialised training has been provided in the framework of an EU-funded twinning project worth 750,000 EUR, under which technical assistance to effectively manage migration will be provided to the Ministry of Security and other authorities. The topics tackled during these specialised training sessions include discovery of forged documents, principles and recent developments in the area of illegal migration/asylum/border control/readmission, risk analysis and witness protection).<sup>4</sup>

It appears that a great number of varied training activities, many of which aim to develop investigative means and intelligence-led operations, have been carried out in Bosnia.

### ***1.2.2 Taking steps to ensure that adequate financial means are available to specialised units in the fight against organised crime and corruption***

In its report, the Bosnian authorities write that “adequate financial means are available to specialised units in all police agencies in the fight against organised crime”. They list the overall budgets of the relevant ministries and law enforcement and other agencies, always singling out the budget line for constructions works and the purchase and maintenance of equipment. The amounts are of varying generosity and sometimes modest, but funding is clearly available.

A few examples from the report (1 BAM = 1 *Konvertibilna marka*, Bosnia's currency = 0.51 EUR):

- Ministry of Security - 11.663.000 BAM (900.000 for land and construction works and 2.322.000 for purchase of equipment and its maintenance)
- State Investigation and Protection Agency - 60.008.000 BAM (2.061.000 for construction works and 3.677.000 for purchase of equipment and its maintenance)
- Border Police - 75.328.000 BAM (300.000 for construction works and 7.119.000 for purchase of equipment and its maintenance)
- Ministry of Interior of Republika Srpska – 149.587.000 (6.650.400 for purchase, renting and maintenance of equipment)
- Federal Ministry of Interior 45.727.536 (7.901.174 for purchase, renting and maintenance of equipment)

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<sup>4</sup> Report on the implementation of the EU-funded project “Assistance to the Ministry of Security, Ministry of Foreign Affairs, Ministry for Human Rights and Refugees and other competent authorities in effectively managing migration”, Annex III of the 25 June report.

The Bosnian authorities also mention the EU and the US “Export Control and Related Border Security Assistance (EXBS) program” as donors that donate equipment. They also stress that “all police agencies have available funds for special purposes like purchase of information and other costs related to investigations”.

### ***1.2.3 Strengthening human resources in police bodies***

According to the report of the Bosnian government, “all police agencies recruit new officers and train them in line with dynamic plans of recruitment”. The reports mention that Bosnia’s State Investigation and Protection Agency (SIPA, Bosnia’s state-level police force) increased its staffing percentage to around 70% during the reporting period. On 17 June 2010, 120 new police officers started working with the Border Police, and another 4 civil servants were hired. The Brcko District police hired an additional 12 police officers for the Criminal Police Unit for Investigations, and the Federation Police Administration employed 12 investigators for the Criminal Police Department.

Efforts to improve staffing are being made.

## ***1.3 Reporting on improving operational cooperation between law enforcement agencies in the fight against organised crime and corruption. This should include:***

### ***1.3.1 Initiatives to reinforce systematic cooperation and exchange of intelligence amongst different agencies***

Bosnia’s government writes in the June 2010 report that all police agencies cooperate and exchange information and intelligence on a daily basis, adding that this is also evident from the number of investigations (see 1.5 “Reporting on investigative and judicial activities...”).

The 25 June report also mentions a number of initiatives, including:

- Regular meetings of the Board of Police Directors. The board brings together directors of law enforcement bodies and the prosecution including police directors from State and Entity level bodies (SIPA, Border Police, Service for Foreigners’ Affairs, and Federation and RS police), a representative from the Cantonal police services, the Brcko District and the chief state prosecutor, and a representative of the Ministry of Security. The aim of the meetings is to improve operational cooperation, particularly in the fight against organised crime and corruption. The directors exchange intelligence and have created two operational teams, one tackling organised car theft and the other, possible terrorist activities.
- Daily information from the Border Police to SIPA and the Entity Ministries of the Interior (56 communications in May 2010).
- Cooperation between the various police agencies in the follow-up on calls received on the Crime Hotline, a service accepting anonymous calls from the public.
- A new cooperation agreement between police agencies and penal correctional institutions, which was concluded on 11 June 2010.
- Under the EU-funded twinning project providing assistance to the Ministry of Security and other authorities in effectively managing migration, preparatory activities took place between March and June 2010 to improve the functionality of all agencies involved, and to improve

coordination and cooperation in combating trafficking in human beings. Concrete measures will be taken in the coming months.<sup>5</sup>

#### ***1.4 Reporting on continued implementation of the action plan on the fight against corruption, including strengthening the institutional capacities***

The Bosnian report mentions the appointment of an acting director (Mijo Kresic) of the Agency for the Prevention of Corruption and the Coordination of Activities in the Fight against Corruption by the BiH Parliament on 24 June 2010. His mandate, which initially ran until 1 August, was extended by the BiH House of Representatives, the lower house of parliament, on 28 July, until such time as the permanent director is appointed. However, the House of Peoples, the upper chamber, has not yet followed suit given that its last session before the summer recess scheduled for 29 July, was boycotted by the largest party, the SNSD from Republika Srpska, over the census law and did not take place.

In the April 2010 assessment, the European Commission had asked Bosnia to fill the vacancy rapidly. The anti-corruption agency, which will be based in East Sarajevo, will play the central coordinating role in the implementation of Bosnia's Anti-Corruption Strategy and Action Plan. As long as it is not fully functional, the BiH Ministry of Security oversees the strategy's implementation.

The Bosnian government also attached as an annex to its report an "Analysis of the Degree of Action Plan Implementation related to the Anti-Corruption Strategy of Bosnia and Herzegovina".<sup>6</sup>

The analysis mentions:

- an anti-corruption public campaign undertaken by Bosnia's law enforcement agencies;
- activities undertaken by Bosnia's Public Procurement Agency to prevent corruption (monitoring, drafting of a strategy on public procurement system development, new content on the agency's website, a new public procurement manual, development of an electronic public procurement system);
- activities undertaken by Bosnia's Civil Service Agency (adoption of new regulations and decisions on the conduct of civil servants; introduction of e-recruitment and other systems of e-governance; more content on the website to create transparency; a new guide how to obtain information in line with the law on Access to Information);
- activities undertaken by Bosnia's Central Election Commission (amendments of the Personal Data Form and Declaration of Property for elected and appointed officials and advisers; procedures how to obtain and handle this information);
- activities undertaken by the Office of the Coordinator for Public Administration Reform (implementation of the action plan for public administration reform, which will increase the efficiency of institutions and prevent and combat corruption; appointment of an information officer; guide on access to information; establishment of mailboxes for comments and complaints; adoption of a code of ethics for the employees of the Service for Foreigners' Affairs and establishment of an Inspectorate for Internal Control and Supervision Systems in this service);

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<sup>5</sup> Report on the implementation of the EU-funded project "Assistance to the Ministry of Security, Ministry of Foreign Affairs, Ministry for Human Rights and Refugees and other competent authorities in effectively managing migration", Annex III of the 25 June report.

<sup>6</sup> Annex II of the 25 June report.

- as well as similar activities undertaken by the Civil Service Agency of the Federation, the Government of Republika Srpska as well as the RS Ministry of the Interior, the RS Ministry of Justice, the RS police, the RS Ministry of Health and Social Welfare, the Police of Brcko District;
- activities related to anti-corruption training of civil servants and police officers, and training of judges and prosecutors in prosecuting corruption;
- legal changes to strengthen the fight against corruption (particularly the confiscation of proceeds of crime and harmonisation of the Entity and Brcko Criminal Codes with the state-level Criminal Code);
- strengthening of institutional capacities (establishment of a new Department for Financial Investigations at the RS Ministry of the Interior; a sufficient budget for the Brcko police to increase the number of processed corruption cases; formation of a working group at the RS Ministry of the Interior, which will draft a plan of action against corruption);
- preparation of the third GRECO evaluation round (the GRECO evaluation team will visit Bosnia in September 2010);
- participation in international projects and conferences.

Background: Bosnia's new Anti-Corruption Strategy and Action Plan 2009-2014 have four key objectives:

1. To put in place an effective system for coordinating the anti-corruption efforts of the BiH authorities, thus ensuring the consistency and sustainability of the actions taken under the strategy;
2. To implement anti-corruption systems within the structures of Bosnia's public administrations, thereby minimising opportunities for corruption;
3. To strengthen the capacities of BiH anti-corruption bodies at all levels of governance with regard to effectively managing corruption prevention programmes; educating BiH society on the risks of corruption; coordinating the fight against corruption; and detecting, investigating and prosecuting identified cases of corruption.
4. To raise the awareness of the whole BiH society and of the particular professional groups and associations of the risks and dangers of corruption and to engage civil society in the fight against corruption.

The strategy specifies individual actions to be taken in the short term (end-2010), medium term (end-2012) and long term (end-2014) for the strategy's objectives to be reached. The related action plan elaborates the individual actions further, identifies the responsible authorities, sets deadlines and establishes indicators of success.

Based on Bosnia's June 2010 progress report, it appears that the implementation of the action plan is well underway. It is disconcerting that the BiH House of Peoples has not yet extended the mandate of the acting director of the Anti-Corruption Agency until a permanent director is appointed. It should do this as a matter of urgency as soon as the summer recess ends.

## **1.5 Reporting on investigative and judicial activities undertaken by the competent authorities in cases of organised crime and corruption**

Bosnia's progress report lists 12 police operations conducted between mid-April and mid-June 2010 against drugs trafficking, counterfeiting of CDs and DVDs, organised smuggling of migrants, and arms smuggling. Most operations involved cooperation between several law enforcement agencies from across Bosnia, and some were conducted together with police from Croatia, Serbia and Montenegro. The report also quotes EUPM's Monthly Report for May 2010, which states under the heading "Drugs":

*"During the reporting period, various BiH law enforcement agencies seized approximately 60 kg of Skunk and 11.4 kg of heroin through successful operations tackling drug related crimes. [...] The investigations, operations as well as the cooperation, between various LEAs have been performed in a very professional manner in accordance with best European Police standards.*

*"Since January 2010 to date, further confirmations of the level of police professionalism were proven by entity and state law enforcement agencies (LEAs), and all anti drug operations represented an additional blow for criminal organizations involved in drug trafficking in BiH. Approximately 306 kg of marijuana/skunk, 22.5 kg of heroin, 2.55 kg of cocaine and 754 grams of Speed were seized all over BiH in the past five months."*

The report also lists progress between mid-April and mid-June in 9 court cases against organised crime activities, including the first-instance conviction to 20 years in prison of Djordje Zdrave, the leader of one of the largest organised crime groups in Bosnia, and convictions of other individuals for drugs trafficking, human trafficking, tax evasion, money laundering, abuse of office, and counterfeiting money.

Furthermore, the report mentions that the US State Department's "[Trafficking in Persons Report for 2010](#)", which was published in June 2010, has moved Bosnia to Tier 1 of countries.<sup>7</sup> There are four categories: Tiers 1, 2, 3 as well as a "Tier 2 Watch List". Tier 1 countries are "countries whose governments fully comply with the Trafficking Victims Protection Act's (TVPA) minimum standards". Bosnia and Croatia are the only Western Balkan countries placed on Tier 1. Not even all EU member states find themselves on Tier 1: Estonia, Greece, Hungary, Latvia, Malta, Portugal, Romania and Slovakia all are on Tier 2 or Tier 2 Watch List.

The Bosnian government report also mentions the visit of the BiH Minister of Security Sadik Ahmetovic to INTERPOL in Lyon, France, on 8 June 2010. According to an [INTERPOL press release on this visit](#), Bosnia was among the first countries in April 2010 to expand access to INTERPOL's databases to its border police, enabling officers at border checkpoints to carry out instant checks against INTERPOL's databases on Stolen and Lost Travel Documents (SLTD) and Stolen Motor Vehicles (SMV). According to INTERPOL, Bosnia is one of the highest users of the SLTD database, having carried out nearly 1.2 million queries and generated 217 hits in the first six months of 2010 alone. INTERPOL's Secretary-General Ronald K. Noble is quoted as saying:

*"Bosnia and Herzegovina is not only one of the leading countries in Europe in preventing dangerous criminals from using fraudulent travel documents and stolen motor vehicles to*

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US Department of State, Trafficking in Persons Report 2010, 14 June 2010, available at <http://www.state.gov/g/tip/rls/tiprpt/2010/#>.

*cross borders, but also one of the leading countries in the world, and it is therefore to be commended for its leadership.*”<sup>8</sup>

Lastly, the BiH government report mentions a few relevant activities undertaken in the framework of the EU-funded twinning project “Assistance to the Ministry of Security, Ministry of Foreign Affairs, Ministry for Human Rights and Refugees and other competent authorities in effectively managing migration”, the implementation of which began in January 2010. These activities are mostly training and an assessment and first recommendations with regard to coordination and cooperation among all the stakeholders involved in the migration system. Further activities are planned.

Bosnia has clearly stepped up its activities to investigate and prosecute cases of organised crime and corruption.

### **ESI conclusion on benchmark 1**

Bosnia seems to have reached benchmark 1. It has strengthened law enforcement capacities through training, the allocation of financial and human resources, successful cooperation and information exchange between the law enforcement agencies, and it is implementing the action plans for the fight against organised crime and corruption. The result is an increase in successful investigations and prosecutions of organised crime cases.

## ***Benchmark 2. Progressive implementation of the action plan from March 2010 on establishment of electronic data exchange between police and prosecution bodies (Block 3)***

***2.1 Adoption and starting implementation of the internal rulebook of the Police Cooperation Directorate;***

***2.2 Progressive recruitment of staff in the Police Coordination Directorate;***

***2.3 Allocation of premises to the new Directorate;***

***2.4 In parallel with activities at central level, signatories of the agreement on electronic data exchange should start preparations for future connection to the exchange server (e.g. regarding readiness of their databases and available and planned resources for running and maintaining the data exchange system).***

### **Background:**

In response to the lack of inter-agency coordination and information exchange in the field of law enforcement, which the Commission identified as the main obstacle to effective repressive activities against organised crime, an important agreement was reached in August 2009: Bosnia’s 15 police agencies as well as prosecutor’s offices at State, Entity and Cantonal levels agreed to open up their records and to exchange certain types of information. The data to be exchanged includes:

- Criminal records,
- Records of reports on criminal acts,
- Records of investigations and arrest warrants,

<sup>8</sup> INTERPOL media release, Bosnia and Herzegovina Security Minister visit focuses on key role of INTERPOL network in enhancing national security, 8 June 2010, available at <http://www.interpol.int/Public/ICPO/PressReleases/PR2010/PR047.asp>.

- Records of identity checks,
- Records of persons whose identity has been determined,
- Registers of weapons,
- Records of DNA profiles,
- Records of the automatic system for the identification of fingerprints and palm prints,
- Records prescribed under the Law on the Movement and Stay of Foreigners.

Each agency and office will continue to manage their own databases, and the agreed data will be exchanged via an exchange server in real time. A month later, in September 2009, it was agreed that the server will be located at the premises of the Directorate for the Coordination of Police Bodies in Sarajevo – a new police body that had to be established under the police reform laws of April 2008, but had not yet been set up.

In March 2010, Bosnia's government adopted an action plan on the establishment of the electronic data exchange system, which should become fully functional by March 2011.

Concerning the individual indicators of progress that the Commission asked for, the situation is as follows, according to Bosnia's progress report of 25 June and further research<sup>9</sup>:

**2.1: Rulebook:** The internal rulebook for the Directorate for the Coordination of Police Bodies has been drafted by the Ministry of Security and submitted to the Council of the Ministers, which discussed it at its session on 14 July 2010. It was not adopted due to disagreements about the competencies of the Directorate. Now the rulebook needs to be reworked by the director and deputy director of the Police Coordination Directorate and submitted the Council of Ministers again.

**2.2 Staff:** At its session on 14 July 2010, the Council of Ministers also discussed the draft decision on the transfer of staff, premises, equipment, resources etc. from the Ministry of Security and SIPA to the Directorate. Due to the same disagreements as above, the Council of Minister did not adopt the decision, but asked the Ministry of Security to set up an inter-ministerial working group that will prepare a new draft decision.

According to Bosnia's 25 June report, 18 employees of the Ministry of Security (MoS), the State Investigation and Protection Agency (SIPA) and the Border Police will be immediately transferred to the Directorate to help establish it as soon as the rulebook is approved. These are police officers and civil servants from the MoS IT sector and National Operational Centre (which is equipped to host security databases and to exchange data), the Interpol National Central Bureau, and SIPA's Unit for the Protection of VIPs. Later on, the entire MoS National Operational Centre, the NCB Interpol and SIPA's VIP Protection Unit (1,080 staff) will become part of the Directorate.

**2.3 Premises:** The Directorate has rented premises, and the MoS and SIPA will transfer additional space and equipment to the Directorate as part of the transfer mentioned above. However, no progress has been made without the rulebook and the decision on the transfer.

**2.4 Preparations by the signatories for future connection to the exchange server:** The entire legal framework, including bylaws, has been enacted by all the parties. The database on foreigners and the data exchange system on fugitives are already available to all parties. The RS Ministry of the Interior has developed 5 out of the 6 databases it needs to make available, with the missing being the Database on Criminal Acts Committed, which should become functional when the same database from the Federation and Brcko becomes functional. Brcko District has developed all 6

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<sup>9</sup> ESI phone interview with Bakir Dautbasic, Secretary-General of the BiH Ministry of Security, 23 July 2010.

databases. The Federation Ministry of the Interior, which has to connect the databases of the 10 Cantonal police agencies, has established a Federation Network Operational Centre (FNOC), which is the electronic contact point for all Cantonal interior ministries. The Federation has so far developed 2 databases, on stolen cars and fugitives.<sup>10</sup>

An annex to Bosnia's report of 25 June<sup>11</sup> also mentions progress in other areas. A detailed design of the technical system for the data exchange has been completed, which is the precondition for the launch of a tender procedure for the procurement of the equipment by the European Commission. The Directorate for the Coordination of Police Agencies in BiH and the Service for Foreigners' Affairs have signed the agreement on the establishment of the data exchange system. The RS Ministry of the Interior has agreed to assist all police agencies in the production of electronic records, and all signatories of the agreement have adopted the necessary bylaws and instructions related to the exchange system.

### **ESI conclusion on benchmark 2**

A couple of the elements important to reach benchmark 2 on electronic data exchange between police agencies and prosecutor's offices have not been implemented yet. The main problem is a political disagreement about the competencies of the Directorate for Police Coordination. This issue can and must be urgently resolved. There is time for it since Bosnia needs to submit its next report at the end of August: the Council of Ministers has time to adopt the necessary bylaw and decision until then. There has been progress in other areas related to this benchmark, such as the preparations of the databases to be connected to the exchange server and the finalisation of the technical design of the data exchange system. It should be possible for Bosnia to reach benchmark 2 in the coming weeks.

### ***Benchmark 3. The harmonisation of the entity-level and Brcko district criminal codes with the state-level criminal code (Block 3)***

#### ***3.1 Adoption of the amendments to the criminal code in the two entities and the Brcko District***

The Brcko District assembly finished the adoption procedure on 16 June 2010. The RS assembly finished in on 7 July 2010, and the Federation on 8 July 2010.

**Background:** Amendments of the BiH Criminal Code have brought it in line with relevant Council of Europe and UN Conventions, in particular regarding human trafficking and the confiscation of criminal assets. The Commission has requested that the Entity and Brcko Criminal Codes be harmonised with the new State-level law.

### **ESI conclusion on benchmark 3**

Bosnia has fully reached benchmark 3 related to the harmonisation of the Entity-level and Brcko district criminal codes with the State-level criminal code.

<sup>10</sup> ESI phone interview with Bakir Dautbasic, Secretary-General of the BiH Ministry of Security, 23 July 2010.

<sup>11</sup> Annex VI of the 25 June report, Detailed report on the implementation of the action plan for the establishment of an electronic data exchange system between police and prosecutors.

## **Albania**

Please note: For each benchmark, the Commission has listed a number of elements or “sub-benchmarks” that will determine whether the government has reached the benchmark. ESI has numbered the benchmarks and sub-benchmarks accordingly (1., 1.1, 1.1.1 etc.)

### ***Benchmark 1. Development of a strategy and policy to support the reintegration of Albanian returnees (Block 2)***

#### ***1.1 Finalisation of the inter-ministerial assessment study and the adoption of decision laying down the basis for Albania’s reintegration policy***

Initially, Albania did not plan to have a reintegration strategy. Its National Strategy and Action Plan on Migration (NAPM) from 2005 already include measures to reintegrate returned citizens. Albania planned to carry out an inter-ministerial assessment study - in Albania also called a “policy paper” in the framework of the NAPM - to assess the effectiveness of these measures and to make improvements if necessary. When the Commission requested a specific reintegration strategy, the assessment study became the basis of this strategy. Hence there is no separate inter-ministerial assessment study.<sup>12</sup> However, this sub-benchmark can be considered reached as the study became the strategy and was finalised. Its adoption on 9 June 2010 by the Council of Ministers represents the decision laying down the basis for Albania’s reintegration policy.

#### ***1.2 Adoption of a specific strategy for the sustainable reintegration of Albanian citizens readmitted from the EU, which should:***

***1.2.1 Take into account the inter-ministerial study carried out as well as existing experience of non-governmental organisations;***

***1.2.2 Include concrete measures in areas such as information, education and training, documentation, housing and social support, in particular for vulnerable groups;***

***1.2.3 Involve all relevant state agencies in the reintegration process, in particular the National Employment Service and clearly define their competences and responsibilities.***

As mentioned above, the Strategy on the Reintegration of Returned Albanian citizens for 2010-2015, which includes an action plan, was adopted by the Albanian Council of Ministers on 9 June 2010. The inter-ministerial assessment study became the basis of the strategy, so there is no separate inter-ministerial study. The study had been drafted in consultation with international organisations and NGOs involved in the reintegration process.<sup>13</sup>

According to the new Strategy on Reintegration, the reintegration measures envisaged by the National Action Plan on Migration (which was initially intended to be the main policy document on reintegration of returned citizens) include, among other things, reintegration support such as administrative assistance to receive health care, career guidance, vocational training and support schemes for agricultural activities; reception at the border of unaccompanied returned minors;

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<sup>12</sup> Information provided by Sokol Dedja, Political Affairs, Albanian Mission to the EU, 23 July 2010. Also see the Albanian government’s report of 26 May 2010, at <http://www.esiweb.org/index.php?lang=en&id=359>.

<sup>13</sup> Albanian government report of 26 May 2010, at <http://www.esiweb.org/index.php?lang=en&id=359>.

leaflets to be distributed abroad on return procedures and available social services; and capacity-building for the National Employment Service and its local branches and currently 14 Migration Counters that provide reintegration services at the local level (the number of Migration Counters is due to be increased to 22).

In addition to the National Action Plan on Migration, a set of specific strategies and the corresponding laws deal indirectly with readmitted persons (such as strategies on employment and vocational training, on social protection, on social inclusion, against trafficking in human beings, on children etc.) The institutions in charge of different policies for returned persons include a range of ministries and the Social Insurance Institute.

The reintegration strategy identifies a number of short-comings, including a lack of information on the services available; an insufficiently functioning referral system; the lack of a distinction between voluntarily returning emigrants and forcefully returned persons and their different needs; and some legal definitions that are too narrow. The strategy therefore envisages a set of measures to fix the short-comings, specifically considering the needs of readmitted persons:

- Establishment of a central database of returned Albanian citizens at Ministry of Labour, Social Affairs and Equal Opportunities to collect data and monitor reintegration assistance;
- Provision of information to the Migration Counters on forced return, return flows and the profile of returned citizens;
- Communication and information exchange between the institutions involved and improvement of the referral of returned persons to public services of interest to them;
- Improvement of the legal framework to ensure a smooth functioning of the referral mechanism and to give more space to marginalised groups among the returned citizens (Roma, the disabled, minorities, victims of trafficking, citizens in need of social assistance etc.);
- Capacity building for the bodies dealing with returned citizens (Migration Counters and Local Employment Offices);
- Identification of opportunities for vocational training of returned citizens;
- Identification of opportunities for the returned persons to practice their skills acquired abroad through assistance to find employment, vocational training and further education;
- Encouragement of returned citizens to contribute to Albania's development through investments, particularly in rural areas;
- Cooperation with civil society on joint projects supporting reintegration.

The strategy lists the steps that need to be taken to achieve the envisaged improvements. The action plan, which is attached to the strategy, specifies them further, allocates responsibilities, sets deadlines and clarifies how the measures will be financed. For example, the action plan envisages very concrete measures such as information on how to start a business in Albania, information on social insurance schemes, inclusion of returned persons in employment promotion schemes, Albanian language classes for returned children, vaccinations, information on local housing programmes, psycho-social assistance, etc.

It appears that Albania meets all the requirements that the Commission has formulated in relation to the new Strategy on Reintegration.

**1.3 Adoption of an Action Plan for the implementation of the abovementioned strategy including:**

**1.3.1 Capacity-building for relevant agencies;**

**1.3.2 Allocation of financial and human resources;**

**1.3.3 Regular monitoring of the implementation of the strategy.**

The action plan for the implementation on the reintegration strategy was adopted by the Council of Ministers of Albania together with the strategy on 9 June 2010.

It envisages capacity-building for relevant agencies, such as:

- training of the staff of Migration Counters, which provide reintegration services at the local level, in interview techniques, needs evaluation, provision of information and referral to other, more specialised services;
- training of staff at border crossing points that receive persons readmitted by foreign police agencies, in interview skills, accommodation of the returned persons and their transportation; and provision of food, water and medication;
- training of teachers to help readmitted children reintegrate in the long-term.

The action plan allocates financial and human resources for each action.

According to the reintegration strategy, its implementation will be monitored by the Inter-institutional Committee on Measures against Organised Crime, Trafficking and Terrorism, which will receive every six months a report from the Directorate for Migration Policy, Return and Reintegration at the Ministry of Labour. Where possible, the directorate will use quantifiable indicators of success, ranging from the number of returned Albanian participating in active employment promotion programmes to the number of returned children receiving additional Albanian language classes in summer schools.

**ESI conclusion on benchmark 1**

Albania appears to have reached benchmark 1. It has adopted a strategy and action plan to support the reintegration of returned Albanian citizens. Both documents seem to meet the requirements put forward by the Commission.

**Benchmark 2. Strengthening capacities in the area of law enforcement and effective implementation of the legal framework for the fight against organised crime and corruption, including through allocation of adequate human and financial resources (Block 3)**

**2.1 Reporting on effective implementation of the Action Plans and legal framework for the fight against organised crime**

According to the 25 June report of the Albanian government, the Inter-sectoral Strategy against Organised Crime, Trafficking and Terrorism and the related Action Plan from October 2009 are being implemented. The newly established Inter-institutional Technical Secretariat, which brings together representatives from all the relevant institutions, met four times between 1 March and 22

June 2010 to discuss the implementation of all the individual actions, particularly the “Anti-Mafia Law” (confiscation of assets) from December 2009.

A ministerial-level Inter-institutional Committee for Measures against Organised Crime, Trafficking and Terrorism headed by the prime minister has been set up and met on 1 June 2010. It agreed on the tasks of the immediate future and decided to increase human and budgetary resources for the institutions directly involved in the fight against organised crime.

The government has adopted and sent to the parliament amendments to the law on the judicial police, which define the role and duties of this police force and clarifies how disciplinary proceedings are conducted against judicial police officers. In Albania, the judicial police exercise investigative functions in cooperation with the prosecution.

Another measure to implement the action plan for the fight against organised crime is the establishment of a Directorate of Special Operational Forces in the Department against Organised Crime and Serious Crime of the State Police. The directorate gathers all the specials ops forces and technical support structures, which will allow for streamlined management and greater efficiency.

Albania is in the process of reaching this sub-benchmark. The government reports a number of measures it has taken to effectively implement the action plans and legal framework for the fight against organised crime. The report could be more comprehensive, but it is to be expected that the experts from the Commission and EU member states, who were in Albania 12 to 15 July to assess progress, made further inquiries. Albania is also due to submit another report by 31 August 2010.

## ***2.2 Strengthening the administrative and investigative capacities of the law enforcement authorities. Amongst other measures, the following should be considered:***

### ***2.2.1 Providing specialised training aimed at enabling the development of more proactive investigative means and intelligence-led investigations (e.g. case management, handling of international cases, identification of victims of trafficking)***

According to Albania’s 25 June report, 30 officers and officials dealing with anti-drug measures were trained in May and June 2010 in special investigative methods (10), the use of fire arms (10), investigation of criminal assets (5) and intelligence-led policing (2), the activities of the SECI Centre (1), communication with the public and the media (1), and the provisions of the Police Cooperation Convention (1). In addition, anti-drug staff from the State Police and the Prosecutor’s Office participated in a joint training event on international drugs production, smuggling routes and how to handle discovered drugs.

60 police officers dealing with trafficking in human beings (THB), from the Border Police and from Crime Prevention and Domestic Violence structures, participated in three training seminars on THB and the identification of the victims of THB.

64 officers and officials dealing with the fight against corruption received training in May and June in the criminal prosecution of corruption (23), corruption in the judicial system (18), passive corruption of public officials (15), the use of the criminal information management system MEMEX (4), investigation of corruption in the public administration (3), and communication with the media (1).

38 officers and officials dealing with cyber-crime received training in May and June in computer crime (2 x 15 personnel), computer and electronic investigations (7), and the use of the criminal information management system MEMEX (1).

Albania has provided training to police and other civil servants dealing with organised crime activities and corruption. This training should improve their investigative skills.

### ***2.2.2 Strengthening human resources in relevant police structures, in particular in the units dealing with trafficking in human beings and drugs***

According to the June 2010 report, 47 new positions have been created at the Directorate against Organised and Serious Crime, out of a total of 93 new positions created at the State Police.

Of those, 10 posts have been allocated to the central level (which is a 6% increase): 2 for anti-trafficking specialists, 2 for computer crime specialists, 3 for forensic specialists, and 1 specialist each in the anti-drugs department, the special forces, and the witness protection department.

Another 23 specialists' posts have been created at local police structures dealing with drugs and illegal trafficking in the regions. Of those, 10 specialists' posts have been created in the anti-drug departments (10% increase). The number of employees in the anti-drug structures is now 106. The total number of police fighting drugs is now 119 (central level and regions).

The other 13 specialists' posts have been created in local police structures fighting trafficking in human beings. The number of employees dealing with THB at the local level is now 79 (17% increase). If the central level is also considered, it is 88.

Also, a new Directorate for International Cooperation and Coordination in the fight against organised crime has been set up at the General Directorate of the State Police. It represents the first ILECU (Law Enforcement Coordination Unit) in the region created under an EU-funded project.

In conclusion, Albania is strengthening human resources in police structures, in particular in the units dealing with trafficking in human beings and drugs.

### ***2.2.3 Continuation of efforts to develop and efficiently use the MEMEX criminal information system as a tool for intelligence-led policing, including continued training provided to its users and efforts to extend access to the system***

In order to further develop the MEMEX system, 30 million Albanian Lek (217,000 €) have been allocated from the state budget. The funds will be used to buy servers with updated characteristics, and licences, and to train administrators. Concerning training, also see 2.2.1.

Albania seems to be working on this issue, although further efforts could be made.

**2.3 Improving operational cooperation in the fight against organised crime between central and local police structures on the one hand, and the prosecution and the police on the other. This shall include initiatives to:**

**2.3.1 Providing joint training to the prosecution and the police**

According to the information provided by the Albanian government, eight joint training courses on different topics for police and prosecution took place in May and June 2010, for a total of 138 employees involved. The report states that further trainings are planned in the forthcoming months. Amendments to law on judicial police (see above) make training compulsory for the judicial police.

It appears that Albania is fully complying with this requirement.

**2.3.2 Implementing the Order of 25 January 2010 of General Director of State Police regarding the coordination of work between central and local structures for the fight against trafficking in human beings**

The 25 June report states that, as envisaged by the mentioned Order, coordination meetings between the central and local structures fighting trafficking as well as partner NGOs have taken place on a monthly basis.

The sub-benchmark seems to have been reached.

**2.4 Reporting on the continued implementation of the 2010 Action Plan and the legal framework for the fight against corruption**

Albania adopted in October 2008 the inter-sectoral Anti-Corruption Strategy 2008-2013. The basis for its implementation is annual integrated action plans. A new action plan for 2010 was adopted in March 2010. In its April assessment of Albania's progress, the Commission requested its effective implementation, and this became one of the sub-benchmarks that Albania now needs to reach.

The 25 June report lists a number of activities that have taken place under the 2010 action plan. In addition, annex 2 (27 pages) lists in detail the activities of the institutions involved in the fight against corruption during the first four months of 2010.

The 25 June report mentions the following:

- The Inter-Ministerial Working Group (IWG) has already met four times in 2010 to discuss and resolve various issues. All the line ministries report regularly on their anti-corruption activities and are addressing problems identified in the reports on the 2009 action plan.
- The 2010 budget allocated to the implementation of the strategy is 110 million EUR (state budget and donations), according to the government report.
- Implementation of an IPA-funded anti-corruption project worth 2.13 million, which is implemented by the Council of Europe (PACA; Project against Corruption in Albania) began in December 2009. The objective of the project is to help implement the Anti-Corruption Strategy as well as GRECO and MONEYVAL recommendations. Among the first activities has been

assistance in drafting the 2009 annual report and the 2010 action plan (training in drafting action plans, meetings, a practical guide, etc.).

- More than 90 mid-level and senior domestic officials received training familiarising them with the strategy in April 2010. In order to raise awareness of the strategy, 250 copies have been printed in Albanian and English and distributed to foreign and domestic key actors.
- Three memoranda of Understanding to improve cooperation have been signed between state authorities dealing with the fight against corruption, and between the Albania's anti-corruption authority, the Department for Internal Administrative Control and Anti-Corruption (DIACA), and its Montenegrin counterpart.
- During the first five months of 2010, DIACA has followed up on 150 corruption reports.
- The Commission on Public Procurement, an independent commission that will review complaints of bidders and suppliers, became operational in March 2010, following amendments of the law on public procurement and the adoption of all necessary bylaws.
- In its April 2010 assessment of visa roadmap-related progress in Albania, the European Commission stressed that Albania had to address the remaining recommendations from the third GRECO evaluation round. The third evaluation round, which focuses on the criminalisation of corruption and transparency of party funding, took place in Albania in 2007. GRECO addressed 12 recommendations to Albania.<sup>14</sup> The 25 June report explains that, concerning incriminations (5 recommendations) the Ministry of Justice has drafted the necessary amendments of the Albanian Criminal Code and has submitted them to the other ministries and institutions, after which they will be adopted by the government and the parliament. Concerning political party funding (7 recommendations), the Central Election Commission has taken action, amendments to the Law on Political Subjects are being prepared and two roundtables on reforming political party financing were held under PACA in April and June 2010.
- According to the government report, the government has sought the involvement of the public and civil society in fighting corruption by organising conferences and seminars, and by establishing the Agency for Support of Civil Society, which aims to foster civil initiatives that support government priorities such as the fight against corruption. The Agency is close to being launched; the Supervisory Board has been set up and held its first meeting and staff for the agency is being recruited.

These activities reflect the actions foreseen in the 2010 action plan. On top of that, annex 2 (27 pages) elaborates in detail on the activities, in relation to the set objectives, of the Ministries of Justice and Finance, the Customs Administration, the institutions dealing with public financial internal audit, the tax administration, the Internal Control Service of the Interior Ministry, the State Police, and the Ministries of Education and Science; Environment, Forests and Water Management; Health; Defence; Foreign Affairs; Labour, Social Issues and Equal Chances; Culture, Tourism, Youth and Sports; and Public Works and Transport.

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<sup>14</sup> GRECO Evaluation Report on Albania on Incriminations, adopted by GRECO 11-15 May 2009, at [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2008\)7\\_Albania\\_One\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2008)7_Albania_One_EN.pdf), and GRECO Evaluation Report on Albania on Transparency of Party Funding, adopted by GRECO 11-15 May 2009, at [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2008\)7\\_Albania\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2008)7_Albania_Two_EN.pdf).

It appears that a multitude of initiatives have been taken in Albania to implement the 2010 action plan to fight corruption.

## ***2.5 Reporting on investigative and judicial activities undertaken by the competent authorities in cases of organized crime and corruption.***

Albania has provided the Commission with figures on criminal acts committed, operations conducted, suspects arrested/wanted, criminal code articles invoked, destruction of cannabis plants, dates etc. related to illegal trafficking in contraband and humans, drugs production and smuggling, money laundering, illegal currency exchange, abuse of office and passive corruption for the period 1 May to 15 June 2010. While the data is not always clear, both the police and the courts appear to be very active in investigating and prosecuting organised crime and corruption.

Albania has also provided tables for first-instance convictions, and the number of perpetrators convicted, for a number of organised crime activities and corruption for the years 2006 to 2009 and the period January-May 2010.<sup>15</sup> Their activities are trafficking, corruption, organised crime, corruption & organised crime, and money laundering.

The following is the table showing the number of first-instance decisions. While the number of court cases involving trafficking<sup>16</sup> is decreasing, the numbers of rulings against all other crimes belonging to the organised crime category and against corruption are increasing:

### **First-instance rulings in selected criminal cases in Albania 2006 - 2010**

	2006	2007	2008	2009	January-May 2010
<b>Trafficking<sup>17</sup></b>	59	50	63	45	14
<b>Corruption</b>	96	92	118	126	38
<b>Organised crime</b>	334	251	269	352	116
<b>Corruption &amp; Organised Crime</b>	430	343	387	478	154
<b>Article 287 "Laundering of products of criminal offence "</b>	1	3	2	9	1

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<sup>15</sup> Annex 4 of the 25 June 2010 report, Trends of the fight against organized crime and corruption with statistical data.

<sup>16</sup> "Trafficking" seems to include trafficking in humans as well as in contraband, motor vehicles, military arms and ammunitions, etc. This can be concluded from the elaboration in the 25 June 2010 report; the annex itself does not define the term any further.

<sup>17</sup> See previous footnote.

<sup>18</sup> Annex 4 of the 25 June 2010 report, Trends of the fight against organized crime and corruption with statistical data

## **ESI conclusion on benchmark 2**

It appears that Albania has reached benchmark 2 related to the strengthening of capacities and effective implementation of legislation for the fight against organised crime and corruption. Albania has made progress under all indicators relevant for reaching this benchmark: it is implementing the action plans and legal framework for the fights against organised crime and corruption. It is strengthening law enforcement capacities through training, and the allocation of human and financial resources. It is improving operational cooperation between central and regional police structures, and between police and the prosecution. As a result, it is achieving good results in investigating and prosecuting organised crime cases.

## ***Benchmark 3. Effective implementation of the legal framework for the confiscation of organised crime assets (Block 3)***

### ***3.1 Ensuring that adequate human resources and training are provided to the structures working on the implementation of the new law on the confiscation of organised crime assets, and adopting relevant implementing legislation***

Albania adopted the so-called “Anti-Mafia Law” - legislation on the confiscation of organised crime assets - in December 2009. At the General Directorate of the State Police, there are now 5 staff dealing with the investigation of suspicious proceeds, while another 25 have been hired to work in the 12 Regional Police Directorates.

According to the 25 June report, a two-day training seminar on investigating criminal proceeds was held on 14-15 June with 40 officers and experts from various law enforcement agencies and other institutions. In May, three officers of the new department were trained in the use of the MEMEX system.

This sub-benchmark seems to be in the process of being reached.

### ***3.2 Reporting on sustainable development of the structures involved in the confiscation of organized crime assets and on investigative and judicial activities undertaken.***

According to the Albanian government’s June report, the Prosecutor’s Office for Serious Crimes has so far referred 5 criminal asset cases in 2010 to the First-Instance Court for Serious Crimes. All requests resulted in the requested seizure of all the identified assets, which include property, buildings, cars and deposits in banks; a detailed list of the seized assets is attached as annex 3 to the 25 June report.

In addition, preliminary investigations are ongoing to identify crime-related assets in 50 criminal prosecution cases, and the responsible police department and the Prosecutor’s Office have opened investigations into 20 criminal asset cases. The Albanian authorities have also seized the assets of a suspect arrested in the UK (a villa, a travel agency and 170,000 EUR).

The General Prosecutor's has issued an order requiring all prosecutors dealing with crimes that fall under the “Anti-Mafia Law” to send the prosecution acts to the Prosecutor’s Office for Serious Crimes in order to initiate asset prosecution cases.

It appears that Albania has fulfilled this sub-benchmark.

### **ESI conclusion on benchmark 3**

Albania appears to have reached benchmark 3, which is related to the confiscation of assets that are proceeds of criminal activities. Albania has provided additional human resources to deal with this issue, ensured training, investigations are ongoing, and there have been the first seizures of proceeds of crime.