



UNODC

United Nations Office on Drugs and Crime

UNODC XCE/S50 Project: "Enhancing operational capacity to investigate and disrupt Human Trafficking activities in the Western Balkans"

Regional Workshop to Finalize Guidelines on International Legal Cooperation Instruments in the Area of Anti-Human Trafficking and Smuggling of Migrants

Belgrade, Serbia
24-26 November 2009

Meeting Report

1. Purpose

A regional workshop involving judges, prosecutors and law enforcement officers dealing with cases of human trafficking and smuggling of migrants was held in Belgrade, Serbia from 24 to 26 November 2009, within the German funded extension of the UNODC Project: "Enhancing Operational Capacity to Investigate and Disrupt Human Trafficking Activities in the Western Balkans".

The workshop was held under the auspices of the Ministry of Interior and the Ministry of Justice of the Republic of Serbia.

The aim of the workshop was to finalize the consultative and inclusive process of developing guidelines on international legal cooperation instruments in the area of anti-human trafficking and smuggling of migrants. The UNODC experts presented the draft version of the Guidelines, which development was based on previous UNODC workshop in Budva and on a series of bilateral missions to the project beneficiary countries/territories. The Guidelines cover both legal and law enforcement aspects of regional cooperation instruments.

Furthermore, one day of the workshop was devoted to the initiation of the discussion on the topic of "Human Trafficking and Corruption", with the emphasis on interconnectivity between these two criminal activities and the methods to fight them.

2. Background

The opening remarks were made by:

- Mr. Dragan Markovic, State Secretary, Ministry of Interior, Republic of Serbia
- Ms. Dragana Lukic, Assistant Minister, Ministry of Justice, Republic of Serbia
- Ms. Sybille Pfaff, First Secretary, Political Section, Embassy of the Federal Republic of Germany
- Ms. Carla Ciavarella, UNODC Regional Programme Coordinator

There follows a list of the presentations delivered:

UNODC Project: “Enhancing Operational Capacity to Investigate and Disrupt Human Trafficking Activities in the Western Balkans” – overall project development – Ms. Claudia Gioffre, Consultant

Presentation of the Draft Guidelines on International Legal Cooperation Instruments in the Area of Anti-Human Trafficking and Smuggling of Migrants - Mr. Almir Maljevic and Mr. Roger Britton, UNODC Consultants

Trafficking in human beings in Romania; Issues related to international judicial cooperation – Ms. Raluca Simion, Legal Advisor in Ministry of Justice and Citizens Liberties, Romania

Presentation on Joint Investigative Teams – Mr. Bernie Gravett, Superintendent and Mr. Colin Carswell, Chief Inspector, Metropolitan Police Service, UK

Introduction to the United Nations Convention against Corruption - AHT perspective – Mr. Erik N. Larson, Crime Prevention Expert, UNODC

The Role of Corruption in Trafficking in Persons- Ms. Silke Albert, UNODC HQ

Fight against human trafficking and corruption – The experience of Austria – Mr. Harald Craigher, Public Prosecutor, Public Prosecution Office in Vienna

UNODC Project to fight human trafficking and corruption in Colombia – Mr. Carlos Andres Perez Gallego, UNODC Office in Colombia

Presentation on the amendments to the Draft Guidelines - Mr. Almir Maljevic and Mr. Roger Britton, UNODC Consultants

Following the presentation of the draft version of the Guidelines by the UNODC experts, two working groups were conducted with the aim of further discussing the draft and sharing ideas and suggestions on how to enhance regional cooperation. The working group moderated by Mr. Roger Britton concentrated on the law enforcement aspects of regional cooperation, while the group moderated by Mr. Almir Maljević focused on the legal perspectives.

3. Outcomes of the working groups and general discussion

General remarks made during the joint debate:

- Delegations expressed their general satisfaction with the format and structure of the document, as these reflected the issues raised during the consultation process;
- UNODC Representatives and Delegations agreed that the consultation process for finalizing the Guidelines should continue until the end of the year.

More concrete suggestions are given in the working groups, as follows:

I. Working Group on Legal Aspects

Participants:

- Albania – Mr. Arben Brace, Ministry of Justice
- Bosnia and Herzegovina – Mr. Sanin Prašović, Ministry of Security BiH
- Croatia – Mr. Marino Hrain, Prosecutor
- Croatia - Mr. Mirko Klinžić - Judge
- FYR Macedonia – Mr. Vladimir Tufegdžić, Judge
- FYR Macedonia - Ms. Vilma Ruskovska - Public Prosecutor
- FYR Macedonia -Ms. Violeta Andonovska - National Anti-Human Trafficking Coordinator, State Secretary
- Montenegro - Ms. Mira Samardžić, Prosecutor
- Montenegro - Ms. Valentina Pavličić, Judge
- Serbia - Mr. Aleksandar Vujičić, Judge
- Serbia - Mr. Dragan Često, Deputy Prosecutor
- EULEX - Mr. Ferdinando Buatier de Mongeot - Criminal Judge
- Austria - Mr Harald Craiger - Public Prosecutor
- Romania - Ms. Raluca Nicoleta Simion, Ministry of Justice and Citizen's Liberties
- UNODC- Mr. Erik Larson
- UNODC - Mr Almir Maljević
- UNODC - Ms Claudia Gioffre

There follows the list of specific issues raised in this working group, and the recommended actions:

1. **Issue:** Guidelines should be more TIP / SOM specific

Recommended action: This can be done by expanding the Guidelines to include examples of successful cooperation (formal and informal) in TIP / SOM cases. They should also include references to domestic legislation relevant to International Cooperation in TIP / SOM cases.

2. **Issue:** Guidelines' Chapters should be more evenly balanced and it should be recognized that JITs are not the only form of international cooperation in the fight against TIP / SOM.

Recommended action: Chapter 1 of the Guidelines (Definitions of Trafficking in Persons and Smuggling of Migrants and the Applicable National Framework) to be expanded to include additional information, e.g. from the UNODC training manual for investigations in TIP. Chapters 2 (Overview of the issues relevant to International Cooperation in the Investigation and Prosecution of Trafficking in Persons and Smuggling of Migrants) and 3 (Mutual Legal Assistance and the Use of the UNODC MLA Writer Tool) should be expanded to include more information on alternative means of international cooperation.

3. **Issue:** Modification of the content of Guidelines in relation to Model Agreement on Joint Investigative Teams (JITs).

Recommended action: The Guidelines should be expanded to include the reference on exchange of evidence. The Agreement should precisely state that it applies to both investigative and pre-investigative stage. When defining the period during which the JIT is going to be functional, Parties should be mindful of the duration limits defined by domestic legislation of the Parties for particular special investigative techniques.

II. Working Group on Law Enforcement Aspects

Participants:

- Albania – Mr. Alban Çela, Police
- Bosnia and Herzegovina – Mr Midhat Hasanspahić, Head of Counter Trafficking Unit, State Investigation and Protection Agency
- Bosnia and Herzegovina - Mr. Radivoje Ćučić, Central Investigation Unit
- Croatia – Mr. Zlatko Koštić, Organized Crime Department
- Croatia – Ms. Daniela Gaube, Governmental Counsellor
- FYR Macedonia - Mr. Mome Jakimovski - Chief Inspector in the Sector for Human Trafficking and Smuggling of Migrants
- Montenegro - Ms. Irena Pejović – Senior Police Commissioner for Suppressing Illegal Migration
- Montenegro - Ms. Sonja Perišić, Office of National TIP Coordinator
- Serbia - Mr Dragan Timotijević, Head of Department Ministry of Interior / Service for Combating Organized Crime
- Serbia - Mr Mitar Djurašković, National TIP Coordinator
- EULEX - Mr. George Mills, Anti Corruption Expert
- EULEX - Mr. Zhivko Zhivkov, Investigator
- EULEX- Mr Phillipe Leys, Investigator
- RCC - Mr Predrag Vujičić, Expert on Justice and Home Affairs
- SECI - Mr. Corneliu Alexandru Dragne - Criminal Analyst
- UNODC- Mr Roger Britton
- UNODC- Viktor Damjanovic

Specific issues raised in this working group and recommended actions:

1. **Issue:** Unclear instruction as to factors to consider when deciding where a JIT case is to be prosecuted.

Recommended action: Guidelines section to be added to cover the issue of jurisdiction for trial of a JIT case, based, for example, on definitions of crime in question, sentences prescribed for the investigated criminal activities, or rules and regulations on asset freezing, seizure, recovery and similar.

2. **Issue:** Discussion on whether domestic legislation within / between countries in the region needs to be harmonized to facilitate JIT formation

Recommended action: Guidelines should be extended so as to include clear reference to the existing domestic (criminal) legislation giving supremacy to international legal instruments that provide a legal basis for establishing and running JITs.

3. **Issue:** Difference in opinion between judges / prosecutors (even within the same jurisdiction) as to the supremacy of international legal instruments.

Recommended action: Guidelines to be extended as mentioned under 2 above. Furthermore, the national authorities will be trained in Turkish International Academy against Drugs and Organized Crime on international treaties, the direct use of intl. legal instruments, and national legislation of the SEE countries that regulate international cooperation in fight against crime.

III Issues raised in *both* working groups and the recommended actions:

1. **Issue:** Unclear differentiation between the concepts of Joint Parallel Investigations/ Joint Investigative Teams / Joint Investigative Bodies.

Recommended action: Section 1 of Chapter 4 (Joint Investigations and Joint Investigation Teams) of the Guidelines is to be improved by clarifying the differences (advantages / disadvantages) between JPIs and JITs.

2. **Issue:** Unclear role of the informal network of national experts on JIs, similar to the network of experts established within the EU (described in Section 7.2 of Chapter 4 (Guidelines in relation to the national JIT experts/focal points)).

3. **Recommended action:** Section 7.2 of Chapter 4 to be elaborated as to include structure and the role of the network; role of the national experts on JI within the network (exchange of experiences / knowledge); role of the national experts on JI within their respective countries and possible future UNODC interventions in this area (technical assistance, monitoring, training, mentorship).

4. **Issue:** The role of the SECI Centre in the JIT operation in the region

Recommended action: Chapter 4 of the Guidelines to be modified as to elaborate on the potential role of the SECI in JIT cases in the region

In order to finalize the Guidelines, it was agreed that the UNODC will heed all the comments and suggestions. To that end, participants will provide to the UNODC experts the relevant national legislation documents and list of agreements between the countries of the region relating specifically to TIP / SOM. Finalized draft of the guidelines will be translated and distributed to the authorities of project beneficiary countries/territories for the feedback and comment. Subject to the availability of

funds, the UNODC is willing to assist in monitoring the implementation of the guidelines beyond 2009, and work closely with national and international actors in this regard.

4. Corruption and Human Trafficking

The second day of the workshop was devoted to the discussion on the topic of "Human Trafficking and Corruption"-namely the problem of corruption in the context of human trafficking, the linkages between these two criminal phenomena, and international/regional strategies and responses against them.

Mr. Erik Larson, from the UNODC Vienna, gave presentation on the main provisions of The United Nations Convention against Corruption (UNCAC).

Ms. Silke Albert (*UNODC Vienna*) presented the paper "The Role of Corruption in Trafficking in Persons". She pointed out that corruption can be both a root cause for trafficking in persons and an impediment for effective criminal justice responses.

The presentations were followed by an open discussion, in which all delegations took an active part. The participants agreed that greater attention should be paid to linkages between TIP and corruption, in order to more effectively combat these two crimes. Criminal justice practitioners need to adopt a comprehensive approach to the problem and not to exclusively concentrate on either of these two criminal activities, so as to detect indications for corruption in trafficking in persons cases and, vice versa, for trafficking in persons in a corruption cases. Significant obstacles to jointly tackling the two phenomena remain, including the lack of data and reporting in regards to TIP and corruption.

It can be concluded that knowledge on the linkages between these two crimes should be enhanced in order to strengthen the capacities of criminal justice systems in fighting TIP and corruption, including the introduction of innovative approaches which address both issues jointly.

Further to the above, a promising practice was shown in the UNODC project "Combating trafficking in persons in Colombia", presented by Mr. Carlos Andres Perez Gallego from the UNODC Office in Bogota. The presentation illustrated how the UNODC developed activities, in the framework of a cooperation agreement with national authorities, to investigate and prosecute the crimes of human trafficking and corruption in Colombia. The results can be divided into three phases: the first one, from 2003 to 2005, consisted of a legislative harmonization period, the second phase, from 2005 to 2007, was focused on institutional strengthening and the third phase, from 2007 until present, concentrated on specialized training of local officials responsible for the prevention, investigation and prosecution of these crimes.

In addition, Mr. Harald Craigher, a Public Prosecutor from Austria, shared his country experiences in the fight against corruption and human trafficking.

4. Follow-up Action

The meeting report, presentations and list of participants to be circulated to all participants for further study and discussion. **Action:** UNODC

The draft version of the Guidelines to be amended to include the suggestions and comments of the participants **Action:** UNODC

The final version of the guidelines to be distributed to the authorities of the project beneficiary countries/territories and to the international partners **Action:** UNODC

Report prepared by:

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