

## **FINAL VERSION**

### **1. Basic information**

**1.1 CRIS Number:** 2009/021-665

**1.2 Title:** Support in the implementation of the reform of the Criminal justice system

**1.3 ELARG Statistical code:** 1.23

**1.4 Location:** Skopje, with nationwide project activities

#### **Implementing arrangements:**

##### **1.5 Implementing Agency**

The Central Financing and Contracting Department (CFCD) will be the contracting authority and will be responsible for all administrative and procedural aspects of the tendering process, contracting matters and financial management including payment of project activities, upon conferral of management. The Head of CFCD will act as the Programme Authorizing Officer (PAO) of the project.

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##### **1.6 Beneficiary (including details of the SPO)**

Ministry of Justice of the former Yugoslav Republic of Macedonia,  
The Public Prosecutor Office of the former Yugoslav Republic of Macedonia

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#### **Financing:**

**1.7 Overall cost (VAT excluded)<sup>1</sup>:** EUR 1 476111

**1.8 EU contribution:** EUR 1 270 000

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<sup>1</sup> The total costs 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.

**1.9 Final date for contracting:**

Two years from the date of the conclusion of the Financing Agreement

**1.10 Final date for execution of contracts:**

Two years from the final date for contracting

**1.11 Final date for disbursements:**

One year from the final date for execution of contracts

**2. Overall Objective and Project Purpose**

**2.1 Overall Objective:**

To enhance the legal security and the protection of human rights and freedoms of the citizens by further supporting an independent and efficient judiciary while strengthening the national capacities for combating organised crime and corruption.

**2.2 Project purpose:**

To promote the capacities of public prosecutors, related law enforcement agents and other actors involved in the implementation of the reformed criminal legal framework so as to effectively fight against crime, with a focus on organized crime, corruption, financial crime and human trafficking, and to enhance the protection of human rights in the criminal procedures in accordance with the European standards.

**2.3 Link with AP/NPAA / EP/ SAA**

**2.3.1 Link with AP**

The project is in line with the **Accession Partnership** which outlines a series of priorities to be addressed in the judicial reform. The Partnership stresses the importance of establishing a sustained track record on implementation of judiciary reforms and strengthening the independence and overall capacity of the judicial system.

**2.3.2 Link with NPAA**

The **National Program for Adoption of Acquis** with respect to judiciary reforms intends to further pursue efficiency and effectiveness in the work of judiciary through legal harmonisation, training and IT infrastructure, strengthening the independence of the judiciary by increasing the capacities of the Public Prosecutor's Office in accordance with the new concept of the criminal justice system.

**2.3.3 Link with SAA**

The programme will contribute towards the implementation of the **Stabilisation and Association Agreement** commitment on increased cooperation in justice and home affairs, its

Article 68 on reform of the judiciary, Article 74 on the reinforcement of institutions at all levels in the areas of administration in general and law enforcement and the machinery of justice in particular and on cooperation in the field of justice with focus on the independence of the judiciary, the improvement of its effectiveness and training of the legal professions and Article 105 on financial assistance to the harmonisation of legislation and cooperation policies of SAA, including justice and home affairs.

#### **2.3.4 Link with EC Progress Report**

The 2008 European Commission Progress report on the former Yugoslav Republic of Macedonia recognises the progress made in the fight against organised crime. It notes that the cooperation between law enforcement agencies and the judiciary remained satisfactory at central level, meeting international best practice and some improvements made at field level. The cooperation between public prosecutors and criminal police has improved, albeit not sufficiently.

#### **2.4 Link with MIPD**

The Multi-Annual Indicative Planning Document (MIPD) indicates that continuous efforts towards full independence, efficiency and accountability of the judiciary remain necessary and a more comprehensive approach to fighting corruption is required. It highlights the judiciary reforms as essential to improving the economic development in the country. It states that particular attention should be paid to completion of the implementation of the Strategy and Action Plan on Judicial Reform, and to further develop it, as well as to support further reform efforts and to improve the overall functioning of the judiciary. Among the specific elements of the judicial reform it underlines the efficiency of the court system and specifically the Public Prosecutors' office.

#### **2.5 Link with National Development Plan**

The National Development Plan underlines the need for judiciary reform in order to enhance the competitiveness of the country's economy. It highlights that the country is facing numerous challenges that derive from, among others, a weak judicial sector. It calls for establishment of an efficient judiciary system through legal development, strengthening the professionalism of the judiciary through a special training institution for judges and prosecutors, overcoming long duration of court processes.

#### **2.6 Link with national/ sectoral investment plans**

The project directly links to the following key strategies and action plans in the sector:

- Strategy of the Reform of the Criminal Legislation, 2007;
- Strategy of the Reform of the Judicial System with Action Plan, 2004;
- Working Programme of the Ministry of Justice, 2009;
- Strategic Plan of the Ministry of Justice 2009-2011;
- Strategy for ICT in Judiciary 2007-2010;
- National Action Plan for Fight against Organised Crime and Corruption, 2003.

### **3. Description of project**

### **3.1 Background and justification:**

In line with the Strategy for Reform of the Judiciary from 2004, a number of reforms in the legal and institutional judicial area have been realised, leading to considerable progress in strengthening the judicial independence, and enhancing the efficiency as well as specialization of the judiciary in order to ensure the free and efficient access to justice and the establishment of the rule of law principle as the basis of a stable and modern judicial system.

Due to the need for strengthening national capacities for the fight against crime and corruption, as a continuation of the reforms the Ministry of Justice adopted in July 2007 the Strategy of the Reform of the Criminal Law 2007. For the preparation of the strategy, a number of field research, workshops, and conferences were conducted in order to analyse the present criminal legal framework, identifying the problems in its implementation and determining the changes which need to be introduced in order to provide modern and efficient mechanisms for the public prosecutors, judges and the related law enforcement agents for detection, investigation, prosecution and punishment of the perpetrators of criminal acts while at the same time ensuring respect of human rights of persons involved in criminal procedures.

Due to the weaknesses in the implementation of the legal framework for investigation and prosecution of crimes, the strategy envisages changes in the entire structure of the criminal system. It envisages reforms of the criminal justice system in several areas, but the major ones will be introduced with respect to the role of the public prosecutor in the criminal procedure.

The Law on the Public Prosecutors Office (2007) enhanced the position of the Public Prosecutor in the system of criminal justice by redefining the role of the public prosecutor's office in the pre-trial procedure and control over the police. The Basic Public Prosecutor's Office for Prosecuting Organised Crime and Corruption is equipped with competences for the entire territory of the country and the Ministry of internal affairs and other state bodies are obliged to inform the Public Prosecutors Office about actions which they undertake in the pre-trial procedure. Employees from law enforcement institutions, such as the Ministry of Interior, the Financial Police and the Customs Administration, can be requested to act under coordination of the public prosecutors. The Law has been aligned with Recommendation (2000) 19 of the Committee of Ministers of the Council of Europe and GRECO recommendations on the public prosecutors function. The Law on the Council of the Public Prosecutors adopted in 2007 enhanced the independence and efficiency of the prosecution service by establishing a Council of Public Prosecutors competent for nominating public prosecutors.

Apart from these measures to increase efficiency in the prosecution of crimes, the implementation of the existing system of preceding procedure, which is regulated in the Law on Criminal Procedure from 1997 with its subsequent amendments, has shown a number of deficiencies in practice. The law does not clearly differentiate between the tasks of the public prosecutors and other law enforcement bodies involved in the procedure such as the police or the investigative judges. It has become difficult in practice to differentiate between the pre-trial procedure and the court investigation. This results in overlapping of the competences between the different actors and sometimes in a failure to act in the specific stages of the procedure. By introducing clear and separate roles for the police, public prosecution and the courts, the reform should eliminate those contradictions. Through amendments of the procedural criminal law, the Law on Criminal Procedure and the related legislation, a new

organisational structure for the investigation of crimes will be set up and the institutional capacities for implementing the changes will be built up.

In line with the Strategy for the Reform of the Criminal Law, the Ministry of Justice is presently preparing a new Law on Criminal Procedure and amendments to the Criminal Code. The criminal procedure will be aligned with the *acquis*, and it will improve the efficiency of the criminal justice system, especially with respect to the prosecution of heavy forms of crime such as organized crime, terrorism, corruption, money laundering and human trafficking. It will foresee an institutional strengthening of the public prosecutor and the police. Prosecutors and courts will have a substantially different role to play. The new legal solutions will provide for redefining the priorities of the criminal police, simplification of the regular court procedures, application of shortened procedures and outside courtroom mediation and agreements on guilt and penalty.

With respect to institutional changes, the criminal investigation will be transferred to the competence of the public prosecutor, which means that the public prosecutors will have leading role in the phase of the pre-trial procedure. The establishment of the Judiciary Police managed by the Public Prosecution Office and the special Investigating Centers of the Public Prosecution Office is the substantial and most ambitious part of the reform. The Judiciary Police will be composed of experts from the Ministry of Internal Affairs, the Police (MoI), Financial Police and Customs Administration. The Investigating Centres will be established for the territory of one or more public prosecutors offices. This reform will change the scope and the nature of the prosecutors' work and the interaction between the institutions involved in the criminal procedure. Presently, the Public Prosecutor's Offices are not organized and set up to perform the leading role in the coordination of the investigation and prosecution of new forms of crime. The capabilities of the prosecutors will have to be strengthened in this direction. The Judiciary police will start with the application of the new laws. Improving their skills for undertaking the new responsibilities will be required.

Such organisational set up will imply changes and consolidation of the Law of the Criminal Procedure with the Law on Public Prosecutors Office, the Law on Police, the Law on Internal Affairs, the Law on Courts, Law on Financial Police, Law on Customs Administration, the Law on Interception of Communications, the Law on Misdemeanours, the Law on Mediation and preparation of the secondary legislation necessary for enabling the implementation in practice. Henceforth, having in mind the load of legislative interventions that have to be made, the internal consistency of the complete legal framework related to the investigation procedure and the consistency with the best EU standards and practices have to be observed.

The 2008 European Commission Progress Report recognises the progress made in the fight against organised crime. It notes that the cooperation between public prosecutors and criminal police has improved, albeit not sufficiently. With the present project, such cooperation will be further promoted.

In addition, in order to implement the efforts of further strengthening the status of the public Prosecution Office, the Strategy for Information and Communication Technology 2007 (ICT) envisages IT technologies, modern case management system, as well as electronic legal database to be introduced in all courts, public prosecutor offices and other relevant institutions in the justice sector. It specifically foresees additional staff, technical equipment, hardware and software IT procurement to be provided for the Public Prosecution. Notwithstanding the measures of the Strategy, the Investigative Centres in service of the Public Prosecutors and

the Judiciary Policy will need to be fully equipped and functional in order to fulfil their role according to the provisions of the new law on criminal procedure. In this regard the project with its activities will contribute to the attainment of this goal.

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

The focused support to the implementation of the Strategy for the Reform of the Criminal Legislation will enable sustainability in the context of the overall judicial reform in the beneficiary country and continuous capacity building of the judiciary system. It will increase the capacities of the prosecutors, judges and the law enforcement agents on a long term to detect prosecute and punish efficiently the perpetrators of crimes. In general, the project will contribute to decreasing organised crime and corruption, increasing legal certainty and the public's confidence in the administration of justice and, consequently, improving the conditions for attracting foreign investments.

The implementation of the project will also enhance the inter-institutional cooperation in combating crime by establishing and strengthening a team of experts in the Investigative centres from different institutions, which will act in the service of the public prosecutors. This will also affect the capacities of the public prosecutors to improve the regional and international cooperation with the relevant institutions in other countries.

### **3.3 Results and measurable indicators**

By the support of the project, the functioning of the judicial system in the area of combating organised crime and corruption will be substantially improved. The capacities of the public prosecutors, the judicial police, the judges and other law enforcement agents for undertaking their new responsibilities in the criminal procedure will be improved. The efficient implementation of the reformed legislation will be ensured by eliminating the inconsistencies and the legal gaps among the laws and implementing legislation which will be put in place.

#### **The project is structured into two components:**

- Strengthening the capability of Public prosecutors, judiciary police and other actors with an active role in criminal proceedings for implementing the new legislation in practice;
- Increasing the efficiency in the implementation of the new criminal legal framework by assessment of its impact and ensuring coherence among the new laws adopted.

#### **Component 1: Strengthening the capability of the public prosecutors, the judiciary police and other actors with an active role in the criminal proceedings for implementing the new legislation in practice**

##### **Results and measurable indicators under Component 1**

##### **The specific results to be achieved include:**

- Institutional capacities of the criminal justice system strengthened;

- Knowledge and skills of the public prosecutors for implementing the new criminal procedural rules, especially as regards the management and coordination of the pre-trial procedure improved;
- Practical preparation of the Judiciary Police for undertaking their new responsibilities in the pre-trial procedure under the control and supervision of the public prosecutors ensured;
- Practical preparation of other law enforcement agents for the new tasks provided by the reformed criminal legislative framework;
- Training of all actors with an active role in the newly established criminal proceedings, including the attorneys, ensured;
- Operational and functional Investigative centres for supporting the public prosecutors in the investigation and prosecution of crimes in place;
- Technical specifications for supply of specialised equipment developed and specialised equipment delivered, installed and tested;
- Potential users of the specialised equipment trained.

The measurable indicators are:

- Number of workshops, round tables, seminars to assess the initial effects of the implementation of the new legislation and preparation of recommendations;
- Training needs of the actors with an active role in the implementation of the reformed criminal proceedings (judges, public prosecutors, including public prosecutors specialised on fight against organised crime and corruption, experts from the MoI, Financial police, Judiciary police, Customs administration, other relevant actors who are engaged in the investigative centres, other law enforcement agents, attorneys, etc) assessed;
- Training strategy for the implementation new criminal procedure legislative framework developed;
- Special curricula for the training of judges of pre-trial procedure, trial judges, prosecutors, Judiciary police, other law enforcement agents and attorneys developed, in cooperation with the Academy for training of judges and prosecutors;
- Number of training events organised for judges of pre-trial procedure, trial judges, prosecutors, Judiciary police, other law enforcement agents, attorneys and other relevant institutions;
- Number of study visits to improve cooperation with peers in other EU countries;
- Assessment of the needs of the Investigative centres for specialised equipment conducted;
- Technical specifications for supply of specialised equipment adopted and specialised equipment installed and functional;
- Number of trainings organised and number of trained potential users of the specialised equipment.

**Component 2: Increasing the efficiency in the implementation of the criminal legal framework by assessment of its impact and ensuring coherence among the new laws adopted. This component will take place in the second year of the project when the new laws will be already enforced in practice for a period of time sufficiently long to make an assessment of the results from the implementation**

Results and measurable indicators under Component 2

The specific results to be achieved include:

- Criminal law framework adjusted to the need for efficient fight against crime reviewed and consolidated;
- Guarantees for protection of human rights improved;
- Efficiency in the implementation increased.

The measurable indicators are:

- Number of laws and implementing legislation reviewed, including review of the rules on special investigative measures, pre-trial procedures, out-of-court mediation, sentence-bargaining, examination methods and administration of evidence during trial procedure, accelerated procedures, etc;
- Number of round tables for assessing the effects from the implementation of the new laws and implementing legislation;
- Findings from the conducted analyses of the impact of the initial implementation of the criminal legislation delivered;
- Number of recommendations for improving the implementation and consistency of the legislation prepared and introduced in the national legislation;
- Number of recommendations implemented.

### **3.4 Activities:**

The specific activities for each component are described hereafter:

#### **Component 1: Strengthening the capability of the public prosecutors, the judiciary police and other actors with an active role in the criminal proceedings for implementing the new legislation in practice**

The activities under this component are:

- Organisation of workshops, round tables, seminars to assess the initial effects of the implementation of the new legislation and preparation of recommendations for practitioners;
- Assessment of training needs of actors with an active role in the implementation of the reformed criminal proceedings (the judges of pre-trial procedure and trial judges, the basic and the higher public prosecutors, the public prosecutors specialised in fight against organised crime and corruption, experts from the MoI, Financial police, Judiciary Police, Customs administration, other relevant actors who are engaged in the investigative centres, other law enforcement agents, attorneys, etc);
- Developing a training programme;
- Developing special curricula for the training of pre-trial and trial judges, prosecutors and Judiciary police, other law enforcement agents, attorneys in cooperation with the Academy for training of judges and prosecutors;
- Delivery of training events targeting the new competences of pre-trial procedure and trial judges, prosecutors, Judiciary police, other law enforcement agents, as well as attorneys; improving coordination of all law enforcement agents within the framework of the new procedures;
- Organisation of study visits to develop cooperation with peers in other EU countries,
- Assessment of the needs of the investigative centres for specialised equipment;
- Preparation of technical specifications for supply of specialised equipment;
- Delivery, installing and testing of the equipment;
- Training of potential users of the specialised equipment.

**Component 2: Increasing the efficiency in the implementation of the criminal legal framework by assessment of its impact and ensuring coherence among the new laws adopted. This component will take place in the second year of the project when the new laws will be already enforced in practice for a period of time sufficiently long to make an assessment of the results from the implementation**

The activities under this component are:

- Organisation of round tables for assessing the effects from the implementation of the new laws in practice;
- Review and analyses of the new legal solutions introduced with the Strategy for Reform of the Criminal Legislation with focus on special investigative measures, pre-trial procedures, out-of-court mediation, sentence-bargaining, examination methods evidence and administration of during trial procedure, accelerated procedures;
- Assessment of the implementation of the laws in practice, preparing recommendations for improving the implementation of the laws and the implementing legislation with special focus on internal compatibility of the laws as well as their compatibility with the EU standards.

**The management and contracting arrangements are as follows:**

- A steering committee will be established for ensuring the coordination of the activities for the different components. The Steering Committee shall meet not less than once per three months;
- The core project team – consisting of the team leader and other expertise will be placed within the Public Prosecution Office;
- The team leader will be responsible for the overall management, representation (coordination with the EU and other international bodies) as well as reporting. The coordination of activity development in the different components of the activity is significantly important. The team leader is responsible for an appropriate management of resources. During the inception phase of the project, a detailed deployment plan will be developed under the coordination of a Steering Committee in which each cooperating national institution will be represented to ensure appropriate inclusion.

**The expected contracting arrangements are:**

- One service contract following an international restricted tender procedure will be developed for the implementation of Component 1 and Component 2. The contract has a budget of EUR 1 086 111 and the amount of EUR 977 500 is funded by IPA Community contribution. The rest of EUR 108 611 is financed by national contribution. The contract has an expected duration of 12 – 24 months, the service contract is expected to start during the beginning of 2011;
- One supply contract following an international open tender procedure will be developed for the provision of equipment for the Investigative centres, following the technical specifications prepared under the service contract. The supply contract has a budget of EUR 390 000, the amount of EUR 292 500 is funded by IPA Community contribution and the amount of EUR 97 500, is financed by national contribution. The contract has an expected duration of 8 – 12 months for delivery and training in equipment use, and subsequent 12 months warranty period, hence overall duration of

20-24 months. The supply contract is expected to start 8-12 months after the beginning of the service contract.

### 3.5 Conditionality and sequencing

The project includes the following conditionalities:

- In the course of 2009 and 2010, the Ministry of Justice will continue the activities of establishing the new legislative and institutional framework according to the Strategy for Reform of the Criminal Legislation. The preparation of the Law on Criminal Procedure and the Criminal code will be finalised and, the laws will be adopted in the course of 2009. A period of *vacatio legis* will be foreseen for preparing the institutions for implementation of the new laws in practice. After adopting the laws, the implementing legislation and the laws which are related to the criminal legislation will be prepared;
- During 2009 and 2010, the Ministry of Justice, Ministry of Internal Affairs, the Public Prosecutor's Office, the Council of Public Prosecutors according to their competences will undertake the activities for:
  - Establishing the Public prosecutors as central actors in the pre-trial and the investigative procedure;
  - Establishing the Investigative centres, furnishing and IT equipping of the premises, appointing/employing or secondment of staff;
  - Establishing the Judicial Police in service to the Public Prosecutors, appointing/employing or secondment of staff.

The above-mentioned activities will be undertaken and finalised before the start of the project.

In addition, the project includes the following conditionalities:

1. Endorsement by all key stakeholders of the Terms of Reference, specifications for the individual contracts to be engaged;
2. Appointment of counterpart personnel by the beneficiaries before the launch of the tender process;
3. Allocation of working space and facilities by the beneficiaries for technical assistance before the launch of the tender process;
4. Participation by the beneficiaries in the tender process as per EU regulations;
5. Organisation, selection and appointment of members of working groups, steering and coordination committees, seminars by the beneficiaries as per workplan of the project;
6. Appointing the relevant staff by the beneficiaries to participate in training activities as per work plan;
7. Sufficient managerial and technical human resources allocated to the relevant Departments.

In the event the conditionalities are not met, suspension or cancellation of projects will be considered.

### 3.6 Linked activities

**CARDS 2005 Fight against organised crime and corruption** is a twinning project of the Public Prosecution of the former Yugoslav Republic of Macedonia/Unit for prosecuting

perpetrators of crimes in the area of organised crime and corruption in partnership with the Italian Ministry of Justice. The activities of the project incorporate: technical assistance for establishment of new Unit for prosecution in the area of organized crime and corruption according to the Action Plan for the Public prosecution of the Government; training for the public prosecutors, their deputies and the administration in carrying their duties and responsibilities provided in the law; as well as technical advices for proposing the Law on Public prosecutors salaries and the establishment of new financing system of Public prosecution. The project will end June 2009.

The ongoing CARDS 2006 regional project "*Support to the Prosecutors' Network*" focuses on strengthening the legislation and institutional capacities of Prosecutors' Offices (POs) of South-eastern Europe in view of a more effective co-operation against serious crime.

The ongoing 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.

**The Association for Criminal Law and Criminology of the former Yugoslav Republic of Macedonia supported by FOSIM, OPDAT, OSCE** is presently implementing a two year project on 'Criminal Justice reform and respect of human rights in the former Yugoslav Republic of Macedonia' (from 1<sup>st</sup> September 2007 to 31<sup>st</sup> December 2008). The main active ties of the project involve planning and organization of comparative and field research, analyses, workshops, conferences for determining the issues and the problems, which have to be addressed in connection with the reform of the criminal justice system. The Strategy for Reform of the Criminal Legislation 2007 was prepared in frames of this project.

**The Public Prosecutors Association (PPA)** in cooperation with **OSCE** presently implements the project for 'Promotion and Strengthening of the Position of the Public Prosecutors'. The overall goal of the Project is to contribute towards the process of strengthening of the public prosecutors position, both in the competences and valuation of the function performance. In frames of the project, 1) draft law for salaries of public prosecutors and draft law for salaries of public prosecutors counsel were prepared through a transparent and open process of discussion and active participation of all prosecutors in the country as main beneficiaries; 2) an analyses of the present conditions in the public prosecution office was developed in order to predict the future needs of the public prosecutors office for implementation of the new legislation. The project was finalised in December 2008. The project is aimed at ensuring transparent and open process of discussion among the beneficiaries for issues related to salaries of public prosecutors, salaries of public prosecutors counsel, the needed staff, premises and material and technical as a result of the new Law on criminal procedure.

**The Programme on anticorruption of the Embassy of the United Kingdom** will be implemented until March 2011 in the country. The anti-corruption program to date was mainly focused on the EU benchmark on corruption, encompassing advice to the various working groups on specific legal provisions related to law enforcement and investigation

measures, advice to the high level Council on Anti-corruption, technical assistance to the Action Plan for Interoperability of the integrated national database (NID) of the law enforcement agencies, support to selected law enforcement agencies (Basic Public Prosecutor's Office for Fight against Organised Crime and Corruption, Anti-Money Laundering Office etc.)

The OSCE project on "**Further development of the Strategy for Reform of the Judicial System**" was implemented from September 2007 – 2008. The activities of the project were divided in three components: 1) planning of the future directions of the judicial system reform, 2) Drafting Strategic Document founded on the proposed-recommendations at the meetings organized in the framework of the first component, 3) Public Debate for the Draft-Strategic Document by all relevant stakeholders. In the course of 2009, OSCE will continue its cooperation with the relevant national stakeholders in the area of criminal justice system reforms. These activities will be focused mainly to the support, research and legislative drafting processes and roundtables that warrant open discussion and participatory approaches that will contribute for incorporation of international human rights standards and best practices. Parallel to the assistance with the drafting of relevant legislation, the OSCE are planning to support practical training for prosecutors, judges related to the up coming changes of the criminal justice system, defence lawyers, as well as various training on international fair trial standards and their practical implementation; human trafficking for the purposes of forced labour etc.

OSCE will continue to support the judiciary, prosecution services and law enforcement agencies in the process of improving the investigation and prosecution of organized crime cases and support the processes of implementation of recommendations aimed at improving the overall response to organized crime.

### **3.7 Lessons learned**

Past experiences with various projects financed by EU in the frame of CARDS assistance and other assistance from OSCE, OPDAT, in general are satisfactory and demonstrates a necessity to reach a shared understanding of what needs to be achieved prior to the programme commencing. Although the previous positive experience, a number of challenges as documented in monitoring and evaluations reports, remain and need to be avoided.

According to the lessons learned from the 2008 Evaluation of the CARDS Programs implemented in the country, despite the positive reforms in the area of judiciary specifically the projects directed towards the establishment of independent judiciary and training of the justice in the past period certain challenges remain:

- Over-ambitious ToRs lead to implementation delays, temporary suspension, and/or time-extension, as well as to the necessity to find extra funds;
- The unsatisfactory quality of reporting can make management and monitoring of a project particularly difficult. It also delays approval of reports due to necessity to provide comments, resubmit a new draft, etc;
- Absorption capacity is often over-estimated, partners are often unable or unwilling to provide the necessary human resources. The availability and permanence of adequate human resources is an issue that should be addressed up-front before implementation of some project's components;

- Delayed inception: Additional problems can appear when projects are characterised by a long take-off. Often preliminary analysis are not conducted in order to check whether circumstances have changed since design phase, which, in turn, could call for an adjustment of ToR prior to embarking into the implementation phase;
- When projects are at the confluence of a diversity of sectors, early internal coordination between the sectors has to be ensured. At the same time, better linkages between projects belonging to the same sector should also be ensured (at both design and implementation levels). External coordination with other international donors has to be also ensured;
- Communication between project management, contractor and beneficiaries: is sometimes unsatisfactory and results in partners not having a clear understanding of the objectives/content of the project as well as the nature/level of the commitment expected from them;
- Although the situation has much improved on the treatment of cross-cutting issues many ToRs are still weak on crosscutting issues, hence “missing” some important beneficiaries and/or reinforcing current (gender/ethnic) discriminations/inequalities as well as a certain lack of awareness on environmental-related issues;
- Visibility strategies are too rarely thought of in anticipation (at the project designing level). Visibility actions kick-in in the course of project implementation and tend to remain on a rather superficial level or passive mode.

#### 4. Indicative Budget (amounts in €)

			SOURCES OF FUNDING										
			TOTAL EXP.RE	TOTAL PUBLIC EXP.RE	IPA COMMUNITY CONTRIBUTION		NATIONAL PUBLIC CONTRIBUTION					PRIVATE CONTRIBUTION	
ACTIVITIES	IB (1)	IN V (1)	EUR (a)=(b)+(e)	EUR (b)=(c)+(d)	EUR (c)	% (2)	Total EUR (d)=(x)+(y)+(z)	% (2)	Central EUR (x)	Regional/ Local EUR (y)	IFIs EUR (z)	EUR (e)	% (3)
Service contract	x		1 086 111	1 086 111	977 500	90	108 611	10	108 611	-	-	-	-
Supply contract		x	390 000	390 000	292 500	75	97 500	25	97 500	-	-	-	-
<b>TOTAL IB</b>			<b>1 086 111</b>	<b>1 086 111</b>	<b>977 500</b>	<b>90</b>	<b>108 611</b>	<b>10</b>	<b>108 611</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>TOTAL INV</b>			<b>390 000</b>	<b>390 000</b>	<b>292 500</b>	<b>75</b>	<b>97 500</b>	<b>25</b>	<b>97 500</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>TOTAL PROJECT</b>			<b>1 476 111</b>	<b>1 476 111</b>	<b>1 270 000</b>		<b>206 111</b>		<b>206 111</b>	<b>-</b>	<b>-</b>	<b>-</b>	

NOTE: DO NOT MIX IB AND INV IN THE SAME ACTIVITY ROW. USE SEPARATE ROW

Amounts net of VAT

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

(2) Expressed in % of the **Public** Expenditure (column (b))

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

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

Contracts	Start of Tendering	Signature of contract	Project Completion
Contract 1: Service contract	Q2 2010	Q 1 2011	Q 4 2012
Contract 2: Supply contract	Q4 2011	Q 1 2012	Q 4 2012

## 6. Cross cutting issues

Cross-cutting issues will be addressed throughout the project. Up to 10% of the budget of the individual service contracts for capacity building – through short term expertise - may be allocated to assist the different beneficiaries to comply with European standards and best practices, implement relevant existing Government strategies and develop internal measures to ensure each cross-cutting issue is appropriately mainstreamed.

The mainstreaming of the cross cutting issues is regarded on two different levels:

- Ensuring that the internal policies, structure or operating procedures of the beneficiary agency will conform to and promote the relevant principles outlined per section below,
- Ensuring that the products, outputs produced by the beneficiaries (e.g. laws, regulations, policies, and strategies) will conform to and promote the relevant principles outlined per section below,

Throughout the project cycle, in particular when developing project ToR, state actors specifically addressing (one of) the cross cutting issues shall be consulted.

### 6.1 Civil Society Development and Dialogue

The project will support the reform which leads to increasing the efficiency against crimes but at the same time strengthening the guarantees for protection of the human rights within the criminal procedure. The civil society will be involved in the assessment of the impact of the reform which will be conducted in frames of the project, for appraising the application of the new legal solutions in practice.

### 6.2 Environmental considerations

The European Community has a longstanding commitment to address environmental concerns in its assistance programmes (as part as a wider commitment to sustainable development). Key references include art. 6 of the Treaty and the Cardiff process which foresees the systematic consideration of environmental aspects into EC development cooperation AND in other policies (hence very important for the *acquis*). The support will include a specific component to assist the beneficiary to implement an ‘internal environment assessment’ to identify areas where it could improve its internal performance vis-à-vis environmental aspects.

### 6.3 Equal opportunities and non-discrimination

The project implementation will ensure the observance of the principles of equal opportunities and non discrimination. Equal gender opportunities will be fully respected in the composition

of the Steering Committee and where necessary. In addition to this, the internal policies, structure or operating procedures of the beneficiaries, as well as products and outputs produced by the beneficiaries (e.g. laws, regulations, policies, strategies) will conform to the relevant principles of equal opportunities and non-discrimination.

#### **6.4 Minority and vulnerable groups**

Where the main reference in the former Yugoslav Republic of Macedonia in relation to minority groups is the Ohrid Framework Agreement, in an EU context, reference is made to the “Race directive” of 2000 (2000/43/EC of 29 June), which has an important impact on employment (incl. vocational training, working conditions, social protection etc.) and is also a crucial aspect of the acquis. The beneficiary will be assisted to implement an ‘internal minority and vulnerable group assessment’ to identify areas where it could improve its internal performance vis-à-vis minorities or other vulnerable groups.

#### **6.5 Good governance, with particular attention to fight against corruption**

The reform which will be supported by the project involve accelerated criminal procedures and measures for strengthening the role of the public prosecutors in the execution of their function, which will lead to more effective fight against heavy forms of crime. The legal provisions foreseen such as application of the special investigative measures, out of court mediation, sentence bargaining, are designed specifically to attain higher efficiency in detection, prosecution and punishment of perpetrators of organised crime, including corruption, financial crime and human trafficking.

## ANNEXES

- 1- Log frame in Standard Format
- 2- Amounts contracted and Disbursed per Quarter over the full duration of Programme
- 3- Description of Institutional Framework
- 4 - Reference to laws, regulations and strategic documents:
  - Reference list of relevant laws and regulations
  - Reference to AP /NPAA / EP / SAA
  - Reference to MIPD
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- 5- Details per EU funded contract (\*) where applicable:
  - For *TA contracts*: account of tasks expected from the contractor
  - For *twinning covenants*: account of tasks expected from the team leader, resident twinning advisor and short term experts
  - For *grants schemes*: account of components of the schemes
  - For *investment contracts*: reference list of feasibility study as well as technical specifications and cost price schedule + section to be filled in on investment criteria (\*\*)
  - For *works contracts*: reference list of feasibility study for the *constructing works* part of the contract as well as a section on investment criteria (\*\*); account of services to be carried out for the *service part* of the contract

(\*) non standard aspects (in case of derogation to PRAG) also to be specified

(\*\*) section on investment criteria (applicable to all infrastructure contracts and constructing works):

- Rate of return
- Co financing
- compliance with state aids provisions
- Ownership of assets (current and after project completion)

## ANNEX 1 - Logical framework matrix in standard format

LOGFRAME PLANNING MATRIX FOR Project Fiche: Support in the implementation of the reform of the Criminal Justice System	Programme name and number: National Programme for the former Yugoslav Republic of Macedonia under the IPA Transition Assistance and Institution Building Component for 2009 CRIS number : 2009/021-665		
	Contracting period expires two years from the date of the conclusion of the Financing Agreement	Execution period expires two years from the final date for contracting	Disbursement period expires one year from the final date for execution of contracts.
		Total budget: EUR 1 476 111	IPA budget: EUR 1 270 000

Overall objective	Objectively verifiable indicators	Sources of Verification	
To enhance the legal security and the protection of human rights and freedoms of the citizens by further supporting an independent and efficient judiciary while strengthening the national capacities for combating organised crime and corruption.	<ul style="list-style-type: none"> <li>- Advanced and simplified criminal procedures implemented in practice;</li> <li>- Advanced efficiency in combating heavy crime;</li> <li>- Increased public trust in the enforcement agencies for criminal justice</li> </ul>	<ul style="list-style-type: none"> <li>- Statistics;</li> <li>- Public surveys;</li> <li>- Reports by the Ministry of Justice and the Public Prosecutor.</li> </ul>	

Project purpose	Objectively verifiable indicators	Sources of Verification	Assumptions
To promote the capacities of public prosecutors and related law enforcement agents in the implementation of the reformed criminal legal framework so as to effectively fight against crime, with a focus on organized crime, corruption, financial crime and human trafficking, and to enhance the protection of human rights in the criminal procedures in accordance with the European standards.	<ul style="list-style-type: none"> <li>- Implementation of the systematic change of the model and the structure of the domestic criminal procedure in the practice,</li> <li>- Active and managerial role of the public prosecution in the pre-investigative procedure with efficient control over the police.</li> <li>- Number of cases prosecuted by the public prosecutor practicing their new competences</li> <li>- Number of indictments filed by the public prosecutors,</li> <li>- Number of court judgments issued for organized crime and corruption.</li> </ul>	<ul style="list-style-type: none"> <li>- Statistics;</li> <li>- Reports by the Ministry of Justice and the Public Prosecutor,</li> <li>- EC Peer reviews.</li> </ul>	<ul style="list-style-type: none"> <li>- Parliamentary elections;</li> <li>- Foreign Policy.</li> </ul>
Results	Objectively verifiable indicators	Sources of Verification	Assumptions
<p><b>Component 1: Strengthening the capability of the public prosecutors, the judiciary police and other actors with an active role in the criminal proceedings for implementing the new legislation in practice</b></p> <p><u>The specific results to be achieved under Component 1 include:</u></p> <ul style="list-style-type: none"> <li>• Institutional capacities of the criminal</li> </ul>	<p><u>The measurable indicators under Component 1 are:</u></p> <ul style="list-style-type: none"> <li>- Number of workshops, round tables, seminars to assess the initial effects of the implementation of the new legislation and preparation of recommendations;</li> <li>- Training needs of the actors with an</li> </ul>	<ul style="list-style-type: none"> <li>Reports on round tables, debates, conferences;</li> <li>- Prepared recommendations for the PPO and the Judiciary police;</li> <li>- Training strategy;</li> <li>- Curricula for courses of the Academy of judges and prosecutors;</li> <li>- Report of the assessment;</li> </ul>	<ul style="list-style-type: none"> <li>- Willingness among trainees to learn the new concept of criminal justice,</li> <li>- Provision of optimal material and financial resources for successful performance of the PPO in prosecuting perpetrators of crime especially in the area of heavy crime.</li> <li>- Sufficient spatial capacities for the</li> </ul>

<p>justice system strengthened;</p> <ul style="list-style-type: none"> <li>• Knowledge and skills of the public prosecutors for implementing the new criminal procedural rules, especially as regards the management and coordination of the pre-trial procedure improved;</li> <li>• Practical preparation of the Judiciary Police for undertaking their new responsibilities in the pre-trial procedure under the control and supervision of the public prosecutors ensured;</li> <li>• Practical preparation of other law enforcement agents for the new tasks provided by the reformed criminal legislative framework;</li> <li>• Training of all actors with an active role in the newly established criminal proceedings, including the attorneys, ensured;</li> <li>• Operational and functional Investigative centres for supporting the public prosecutors in the investigation and prosecution of crimes in place;</li> <li>• Technical specifications for supply of specialised equipment developed and specialised equipment delivered, installed and tested;</li> <li>• Potential users of the specialised equipment trained.</li> </ul> <p><b>Component 2: Increasing the efficiency in the implementation of the criminal legal framework by assessment of its impact and ensuring coherence among the new laws adopted. This component will take place in the second year of the project when the new laws will be already enforced in practice for a period of time sufficiently long to make an assessment of the results from the implementation</b></p> <p><u>The specific results to be achieved under Component 2 include:</u></p> <ul style="list-style-type: none"> <li>– Criminal law framework adjusted to the need for efficient fight against crime reviewed and consolidated;</li> <li>– Guarantees for protection of human rights improved;</li> </ul>	<p>active role in the implementation of the reformed criminal proceedings (judges, public prosecutors, including public prosecutors specialised on fight against organised crime and corruption, experts from the MoI, Financial police, Judiciary police, Customs administration, other relevant actors who are engaged in the investigative centres, other law enforcement agents, attorneys, etc) assessed;</p> <ul style="list-style-type: none"> <li>– Training strategy for the implementation new criminal procedure legislative framework developed;</li> <li>– Special curricula for the training of judges of pre-trial procedure, trial judges, prosecutors, Judiciary police, other law enforcement agents and attorneys developed, in cooperation with the Academy for training of judges and prosecutors;</li> <li>– Number of training events organised for judges of pre-trial procedure, trial judges, prosecutors, Judiciary police, other law enforcement agents, attorneys and other relevant institutions;</li> <li>– Number of study visits to improve cooperation with peers in other EU countries;</li> <li>– Assessment of the needs of the Investigative centres for specialised equipment conducted;</li> <li>– Technical specifications for supply of specialised equipment adopted and specialised equipment installed and functional;</li> <li>– Number of trainings organised and number of trained potential users of the specialised equipment.</li> </ul> <p><u>The measurable indicators under Component 2 are:</u></p> <ul style="list-style-type: none"> <li>– Number of laws and implementing legislation reviewed, including review of the rules on special investigative measures, pre-trial procedures, out-of-court mediation, sentence-bargaining,</li> </ul>	<ul style="list-style-type: none"> <li>- Technical specifications,</li> <li>- EC peer reviews.</li> </ul>	<p>new operational structure of the public prosecution considering the newly transferred competencies.</p>
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<ul style="list-style-type: none"> <li>- Efficiency in the implementation increased.</li> </ul>	<p>examination methods and administration of evidence during trial procedure, accelerated procedures, etc;</p> <ul style="list-style-type: none"> <li>- Number of round tables for assessing the effects from the implementation of the new laws and implementing legislation;</li> <li>- Findings from the conducted analyses of the impact of the initial implementation of the criminal legislation delivered;</li> <li>- Number of recommendations for improving the implementation and consistency of the legislation prepared and introduced in the national legislation;</li> <li>- Number of recommendations implemented.</li> </ul>		
Activities	Means	Costs	Assumptions
<p><b>Component 1: Strengthening the capability of the public prosecutors, the judiciary police and other actors with an active role in the criminal proceedings for implementing the new legislation in practice</b></p> <p>The activities under this component are:</p> <ul style="list-style-type: none"> <li>- Organisation of workshops, round tables, seminars to assess the initial effects of the implementation of the new legislation and preparation of recommendations for practitioners;</li> <li>- Assessment of training needs of actors with an active role in the implementation of the reformed criminal proceedings (the judges of pre-trial procedure and trial judges, the basic and the higher public prosecutors, the public prosecutors specialised in fight against organised crime and corruption, experts from the MoI, Financial police, Judiciary Police, Customs administration, other relevant actors who are engaged in the investigative centres, other law enforcement agents, attorneys, etc);</li> <li>- Developing a training programme;</li> <li>- Developing special curricula for the training of</li> </ul>	<p>One service contract, (following internationally restricted tender),</p> <p>One supply contract (following internationally open tender)</p>	<p>- TA: 1 086 111 EUR (977.500 EUR IPA contribution and 108.611 EUR national contribution)</p> <p>- Supply: 390 000 EUR (292 500 EUR IPA contribution and 97 500 EUR national contribution).</p>	<ul style="list-style-type: none"> <li>- Experts recruited will be of sufficient quality;</li> <li>- Both the Ministry of Justice and the Public Prosecutors Office, the Judicial Police, the investigative centres are sufficient staffed and have sufficient budget;</li> <li>- Full commitment of the involved authorities;</li> <li>- Effective monitoring of project implementation;</li> <li>- Timely availability of adequate resources;</li> <li>- Staff available for training,</li> <li>- Experts recruited will be of sufficient quality;</li> <li>- The Investigative centres will have the basic equipment,</li> </ul>

<p>pre-trial and trial judges, prosecutors and Judiciary police, other law enforcement agents, attorneys in cooperation with the Academy for training of judges and prosecutors;</p> <ul style="list-style-type: none"> <li>- Delivery of training events targeting the new competences of pre-trial procedure and trial judges, prosecutors, Judiciary police, other law enforcement agents, as well as attorneys; improving coordination of all law enforcement agents within the framework of the new procedures;</li> <li>- Organisation of study visits to develop cooperation with peers in other EU countries,</li> <li>- Assessment of the needs of the investigative centres for specialised equipment;</li> <li>- Preparation of technical specifications for supply of specialised equipment;</li> <li>- Delivery, installing and testing of the equipment;</li> <li>- Training of potential users of the specialised equipment.</li> </ul> <p><b>Component 2: Increasing the efficiency in the implementation of the criminal legal framework by assessment of its impact and ensuring coherence among the new laws adopted. This component will take place in the second year of the project when the new laws will be already enforced in practice for a period of time sufficiently long to make an assessment of the results from the implementation</b></p> <p>The activities under this component are:</p> <ul style="list-style-type: none"> <li>- Organisation of round tables for assessing the effects from the implementation of the new laws in practice;</li> <li>- Review and analyses of the new legal solutions introduced with the Strategy for Reform of the Criminal Legislation with focus on special investigative measures, pre-trial procedures, out-of-court mediation, sentence-bargaining, examination methods evidence and administration of during trial procedure, accelerated procedures;</li> <li>- Assessment of the implementation of the laws in practice, preparing recommendations for improving the implementation of the laws and</li> </ul>			<p>- Full commitment of the involved authorities.</p>
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<p>the implementing legislation with special focus on internal compatibility of the laws as well as their compatibility with the EU standards.</p>			
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**Pre conditions**

The project includes the following conditionalities:

- In the course of 2009 and 2010, the Ministry of Justice will continue the activities of establishing the new legislative and institutional framework according to the Strategy for Reform of the Criminal Legislation. The preparation of the Law on Criminal Procedure and the Criminal code will be finalised and, the laws will be adopted in the course of 2009. A period of *vacatio legis* will be foreseen for preparing the institutions for implementation of the new laws in practice. After adopting the laws, the implementing legislation and the laws which are related to the criminal legislation will be prepared;
- During 2009 and 2010, the Ministry of Justice, Ministry of Internal Affairs, the Public Prosecutor's Office, the Council of Public Prosecutors according to their competences will undertake the activities for:
  - Establishing the Public prosecutors as central actors in the pre-trial and the investigative procedure;
  - Establishing the Investigative centres, furnishing and IT equipping of the premises, appointing/employing or secondment of staff;
  - Establishing the Judicial Police in service to the Public Prosecutors, appointing/employing or secondment of staff.

The above-mentioned activities will be undertaken and finalised before the start of the project.

In addition, the project includes the following conditionalities:

8. Endorsement by all key stakeholders of the Terms of Reference, specifications for the individual contracts to be engaged;
9. Appointment of counterpart personnel by the beneficiaries before the launch of the tender process;
10. Allocation of working space and facilities by the beneficiaries for technical assistance before the launch of the tender process;
11. Participation by the beneficiaries in the tender process as per EU regulations;
12. Organisation, selection and appointment of members of working groups, steering and coordination committees, seminars by the beneficiaries as per workplan of the project;
13. Appointing the relevant staff by the beneficiaries to participate in training activities as per work plan;
14. Sufficient managerial and technical human resources allocated to the relevant Departments.

In the event the conditionalities are not met, suspension or cancellation of projects will be considered.

**ANNEX 2 - Amounts (in €) contracted and disbursed by quarter over the full duration of the project (IPA funds only)**

<b>Contracted</b>	<b>2010 Q1</b>	<b>2010 Q2</b>	<b>2010 Q3</b>	<b>2010 Q4</b>	<b>2011 Q1</b>	<b>2011 Q2</b>	<b>2011 Q3</b>	<b>2011 Q4</b>	<b>2012 Q1</b>	<b>2012 Q2</b>	<b>2012 Q3</b>	<b>2012 Q4</b>
<b>Service Contract</b>					977.500							
<b>Supply Contract</b>									292.500			
<b>Cumulated</b>					<b>977.500</b>				<b>1.270.000</b>			
<b>Disbursed</b>												
<b>Service Contract</b>					293.250		195.500	195.500	195.500			97.750
<b>Supply Contract</b>									175.500	87.750	29.250	
<b>Cumulated</b>					<b>293.250</b>		<b>488.750</b>	<b>684.250</b>	<b>1.055.250</b>	<b>1.143.000</b>	<b>1.172.250</b>	<b>1.270.000</b>

## **ANNEX 3: Description of Institutional Framework**

### **MINISTRY OF JUSTICE**

The Ministry of Justice - performs functions related to: the judiciary, public prosecutor's office and public attorney's office; state administration; criminal liability and liability for misdemeanours; notary activities, the bar and other types of legal aid; inheritance, ownership, property rights and obligations; international legal aid; execution of sanctions regarding criminal acts and misdemeanours; organisation and management of penitentiary and correctional institutions; amnesty and pardon; expert testimony, court expertise; the election system, keeping records of the right to vote; criminal, misdemeanour, litigation and no contentious procedure, enforcement, and administrative procedure; administrative inspection.

### **PUBLICS PROSECUTOR'S OFFICE**

The Publics Prosecutor's Office – is sole and autonomous state authority which prosecutes the perpetrators of criminal and other punishable acts as determined by law. The Public Prosecutor of the former Yugoslav Republic of Macedonia shall be appointed and dismissed by the Assembly of the former Yugoslav Republic of Macedonia for a six year term of office and a right to re-appointment. The public prosecutors shall be elected by the Public Prosecutor's Council without limitation to term of office duration. Pursuant to the existing law on the areas of first-instance courts, 22 basic public prosecutor's offices have been established. The Basic Public Prosecutor's Office for Prosecuting Organized Crime and Corruption has jurisdiction on the entire territory of the country. For the area of second instance courts, four higher prosecutor's offices have been established. The Public Prosecutor's Office of the former Yugoslav Republic of Macedonia (PPO) is established for the whole territory of the former Yugoslav Republic of Macedonia and its seat is in Skopje. Public prosecutors have their deputies without limitation of term of office duration.

The Basic Public Prosecutor's Office for Prosecuting Organized Crime and Corruption has competence to act ex officio in cases of criminal offences committed by an organised group comprised of at least 3 persons which acts in a certain period in order to acquire direct or indirect financial benefit or other type of material benefit and commits one or more criminal acts, as well as to act upon other criminal acts that are regulated by law with sentence of imprisonment for a period of at least 4 years.

### **COURTS**

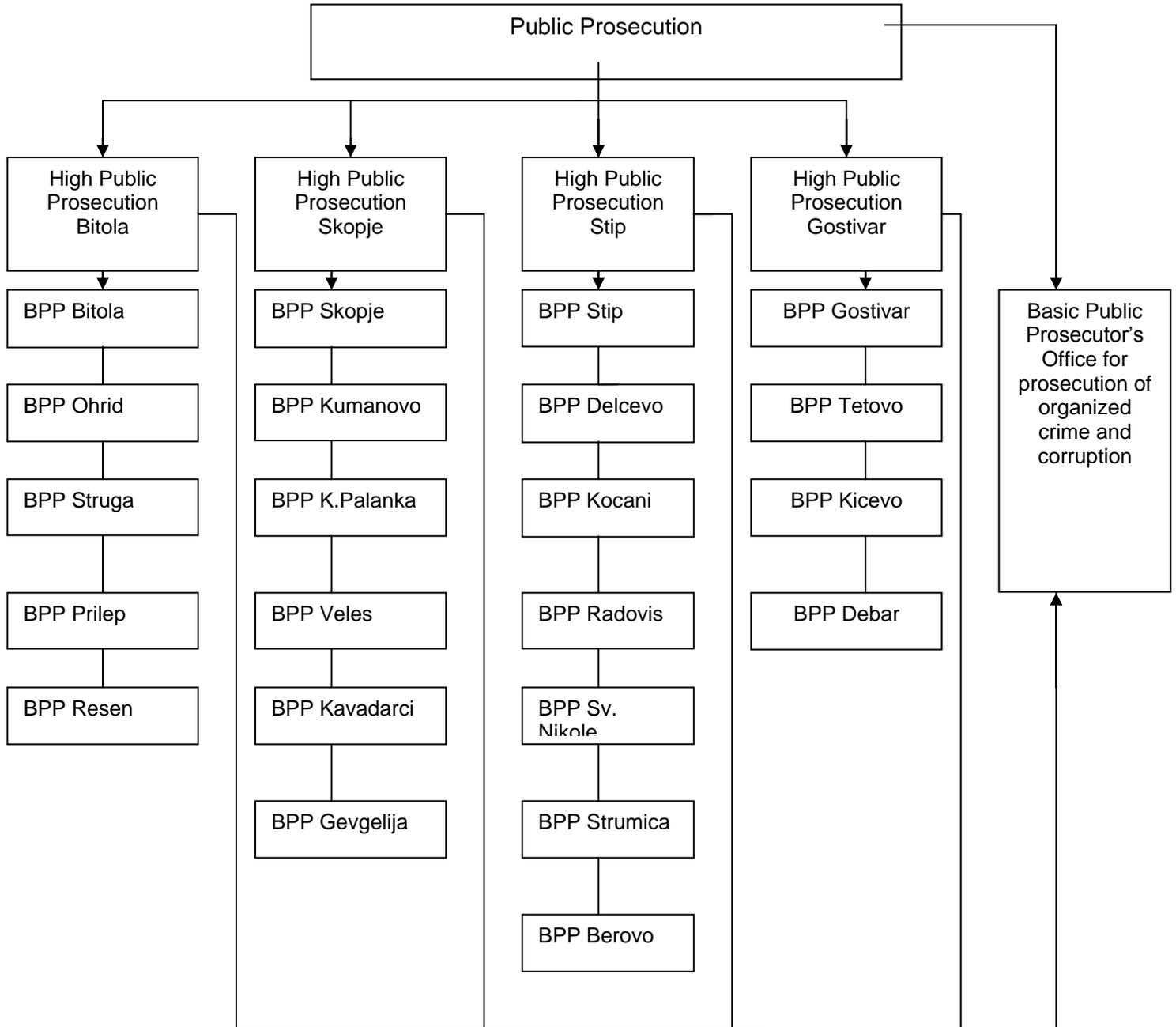
The judicial power is exercised by the courts in the former Yugoslav Republic of Macedonia which are autonomous and independent state bodies. In a procedure specified by law the courts decide upon human and citizen rights and legal interests; disputes between citizens and other legal entities; criminal acts and misdemeanours and other matters within the competence of the court as provided by law. According to the law on courts (Official gazette 58/2006) the judicial power are exercised by basic courts (established for one or more municipalities), the Administrative Court (established and it exercising the judicial power over the entire territory of the country), the appellate courts (established for the territory of several first degree courts) and the Supreme Court of the former Yugoslav Republic of Macedonia (exercising the judicial power over the entire territory of the country). The Basic Court 1 is a criminal court with a specialised department with competence for proceeding cases of organised crime and corruption for the entire territory of the country.

## **ACADEMY FOR TRAINING OF JUDGES AND PUBLIC PROSECUTORS OF THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA**

The Academy was founded with the Law on the Academy for Training of Judges and Public Prosecutors (Official Gazette No.13/06) as of 1 February 2006 and commenced its operations on 22 November 2006. It is a public institution performing activities of public interest, and has the status of a legal entity with registered offices in Skopje. The Academy is an autonomous institution, with its own budget, premises, modern teaching equipment and human resources. The fundamental function of the Academy is to ensure competent, professional, independent, impartial and efficient execution of the judicial and prosecutorial function through selection, organisation and implementation of initial training for candidates of future judges and prosecutors, and through provision of continuous professional training of sitting magistrates and other members of the judiciary.

In 2007, the Academy organised on its own or in collaboration, a total of 123 seminars, with a total participation of 2987 attendees (2048 judges, 681 public prosecutors, 94 legal associates from the courts, 28 administrative staff from the courts, 19 legal associates from the public prosecutor offices, 2 administrative staff from the public prosecutor offices and also 115 other participants and guests) while 34 study visits were organised with a total of 113 participants. The seminars which were organized encompassed: the novelties in the material and procedural legislation in the criminal, civil, commercial law; judicial-prosecutorial practice and jurisprudence; fight against organised crime and corruption, human trafficking; public and media relations, alternative dispute resolution - mediation; specific articles from the European Convention on Human Rights (ECHR) etc.

In the course of 2008, a total 221 workshops were held in the organisation of the Academy or in cooperation with other organisations in which 4723 participants participated, 42 study visits were conducted with 117 participants (academy representatives, judges, prosecutors).



## **ANNEX 4 - Reference to laws, regulations and strategic documents**

### **Reference list of relevant laws and regulations**

Key laws and regulations on the sector:

- Law on Academy for Training of Judges and Prosecutors (2006),
- Law on Criminal Procedure (1997,2005, 2008),
- Criminal Code (1996, 1999, 2002, 2003, 2004, 2005, 2006, 2008),
- Law on Public Prosecutor’s Office (2007, 2008),
- Law on Public Prosecutor’s Council (2007),
- Law on Courts (2006, 2008),
- Law on internal affairs (1995, 1997, 2002, 2003, 2004, 2005, 2008, 2009),
- Law on Police (2006),
- Law on Financial Police (2007)
- Law on Customs Administration (2004, 2005, 2008)
- Law on Interception of Communications (2006, 2008),
- Law on Misdemeanours (2006),
- Law on Mediation (2006, 2007).

### **Reference to AP/NPAA/SAA**

#### Reference to AP

The project is in line with the **Accession Partnership** which outlines a series of priorities to be addressed in the judicial reform. The Partnership stresses the importance of establishing a sustained track record on implementation of judiciary reforms and strengthening the independence and overall capacity of the judicial system.

#### Reference to NPAA

The **National Program for Adoption of Acquis** with respect to judiciary reforms intends to further pursue efficiency and effectiveness in the work of judiciary through legal harmonisation, training and IT infrastructure, strengthening the independence of the judiciary by increasing the capacities of the Public Prosecutor’s Office in accordance with the new concept of the criminal justice system

#### Reference to SAA

The programme will contribute towards the implementation of the **Stabilisation and Association Agreement** commitment on increased cooperation in justice and home affairs, its Article 68 on reform of the judiciary, Article 74 on the reinforcement of institutions at all levels in the areas of administration in general and law enforcement and the machinery of justice in particular and on cooperation in the field of justice with focus on the independence of the judiciary, the improvement of its effectiveness and training of the legal professions and Article 105 on financial assistance to the harmonisation of legislation and cooperation policies of SAA, including justice and home affairs.

#### Reference to Progress Report

The **2008 European Commission Progress report on the former Yugoslav Republic of Macedonia** recognises the progress made in the fight against organised crime. It notes that the cooperation between law enforcement agencies and the judiciary remained satisfactory at

central level, meeting international best practice and some improvements made at field level. The cooperation between public prosecutors and criminal police has improved, albeit not sufficiently

### **Reference to MIPD**

The Multi-Annual Indicative Planning Document (MIPD) indicates that continuous efforts towards full independence, efficiency and accountability of the judiciary remain necessary and a more comprehensive approach to fighting corruption is required. It highlights the judiciary reforms as essential to improving the economic development in the country. It states that particular attention should be paid to completion of the implementation of the Strategy and Action Plan on Judicial Reform, and to further develop it, as well as to support further reform efforts and to improve the overall functioning of the judiciary. Among the specific elements of the judicial reform it underlines the efficiency of the court system and specifically the Public Prosecutors' office.

### **Reference to National Development Plan**

The **National Development Plan** underlines the need for judiciary reform in order to enhance the competitiveness of the country's economy. It highlights that the country is facing numerous challenges that derive from, among others, a weak judicial sector. It calls for establishment of an efficient judiciary system through legal development, strengthening the professionalism of the judiciary through a special training institution for judges and prosecutors, overcoming long duration of court processes.

### **Reference to national/ sectoral investment plans**

The project directly links to the following key strategies and action plans in the sector (see for a more extensive list annex 3):

- Strategy of the Reform of the Criminal Legislation, 2007
- Action Plan for implementation of Law on Criminal Procedure, 2009
- Strategy of the Reform of the Judicial System with Action Plan, 2004;
- Working Programme of the Ministry of Justice, 2009;
- Strategic Plan of the Ministry of Justice 2009-2011;
- Strategy for ICT in Judiciary 2007-2010;
- National Action Plan for Fight Against Organised Crime and Corruption, 2003.

## **ANNEX 5 - Details per EU funded contract:**

### **Management and contracting arrangements**

The Component 1 'Strengthening the capability of the public prosecutors, the judiciary police and other actors involved in the investigation procedure for implementing the new legislation in practice' and the Component 2 'Increasing the efficiency in the implementation of the new criminal legal framework by assessment of its impact and ensuring coherence among the new laws adopted' - will be implemented through one service contract and one supply contract will be concluded for the provision of specialised equipment.

A project steering committee will be established to oversee the implementation process of the project activities. The contract to support the project will contain next to a team leader additional expertise to assist in key tasks, in line with the components and all different activities. Some of these experts will address the cross-cutting issues.

The team leader will be responsible for the overall management, representation (co-ordination with the EU and other international bodies) as well as reporting. The co-ordination of activity development in the different components of the activity is significantly important. The team leader is responsible for an appropriate management of resources. During the inception phase of the project, a detailed deployment plan will be developed under the coordination of a Steering Committee in which each co-operating national institution will be represented to ensure appropriate inclusion.

### **The expected contracting arrangements are:**

- One service contract following an international restricted tender procedure will be developed for the implementation of Component 1 and Component 2. The contract has a budget of EUR 1 086 111 and the amount of EUR 977 500 is funded by IPA Community contribution. The rest of EUR 108 611 is financed by national contribution. The contract has an expected duration of 12 – 24 months, the service contract is expected to start during the beginning of 2011;
- One supply contract following an International open tender procedure will be developed for the provision of equipment for the Investigative centres, following the technical specifications prepared under the service contract. The supply contract has a budget of EUR 390 000, the amount of EUR 292 500 is funded by IPA Community contribution and the amount of EUR 97 500, is financed by national contribution. The contract has an expected duration of 8 – 12 months for delivery and training in equipment use, and subsequent 12 months warranty period, hence overall duration of 20-24 months. The supply contract is expected to start 8-12 months after the beginning of the service contract.