



**UNODC**

United Nations Office on Drugs and Crime

Development of **Monitoring Instruments**  
for **Judicial and Law Enforcement** institutions  
in the **Western Balkans**

**Background Research on Systems and Context**

**Justice and Home Affairs Statistics in the Western Balkans**



2009 - 2011



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## Acknowledgements

Funding for this report was provided by the European Commission under the CARDS 2006 Regional Action Programme.

This report was produced under the responsibility of Statistics and Surveys Section (SASS) and Regional Programme Office for South Eastern Europe (RPOSEE) of the United Nations Office on Drugs and Crime (UNODC) based on research conducted by the European Institute for Crime Prevention and Control affiliated with the United Nations (HEUNI) and the International Centre for Migration Policy Development (ICMPD).

UNODC would like to thank the European Commission for the financial support provided for the preparation and publication of this report under the CARDS Regional Programme 2006.

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## Context

This report has been produced within the context of the European Union funded project, Development of monitoring instruments for judicial and law enforcement institutions in the Western Balkans. Under the framework of the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) Regional Action Programme 2006, the project seeks to bring existing national statistics mechanisms in justice and home affairs institutions of the countries and territories of the Western Balkans towards compliance with relevant international and EU acquis, standards and best practices.

The project is carried out through close cooperation with the seven countries and territories of the Western Balkans (Albania, Bosnia and Herzegovina, Croatia, Kosovo under international administration UNSCR 1244), Montenegro, Serbia, and The former Yugoslav Republic of Macedonia). Its specific objective is to assess and commence improvement of the collection, analysis and use of justice and home affairs statistics in the project countries and territories. It will achieve this through the development of country-specific guidelines, the development of regional indicators, and targeted capacity building for justice and home affairs institutions in the area crime and criminal justice statistics systems. Project outcomes should include more effective measurement of crime and public safety and enhanced reporting of comparable statistics at the national, regional and international levels.

The project is implemented by the United Nations Office on Drugs and Crime (UNODC), in partnership with the European Institute for Crime Prevention and Control affiliated with the United Nations (HEUNI), the Joint Research Centre on Transnational Crime (TRANSCRIME) and the International Centre for Migration Policy Development (ICMPD), with the support of the European Commission.

The first phase of the project aims to provide a clear picture to justice and home affairs decision makers of the existing mechanisms, strengths and challenges faced in the collection, analysis and use of crime and criminal justice data.

Such work does not begin in isolation however. For a number of years, criminal justice institutions in the Western Balkans have been the focus of significant internal drives for reform, in addition to the subject of extensive external donor assistance. Much has been achieved in improving respect for the rule of law and the effectiveness of the criminal justice system, including through initiatives such as court automation and the development of police case-database systems. It is important that the project builds on lessons learned and does not duplicate results achieved to date.

This report, which consists of a background research profile for each of the project countries or territories presented in alphabetical order, represents a starting point for further research. The profiles present what is known and what has been achieved to date, offering a starting point for debate and engagement with the project countries and territories. The background reports aim to develop a broad outline of existing crime and criminal justice data collection systems and capacity within the context of the structure of the justice and home affairs institutions in each of the participating countries or territories. In addition to desk-based research conducted by the project partners, the background reports have benefited from the input of a local focal point appointed in each of the project countries or territories.

The report is accompanied by a second project study entitled Developing standards in crime and criminal justice statistics – International and EU Acquis. On the basis of the background research presented in this report and consideration of international and European standards and acquis, the project will continue with the process of further research, the identification of regional indicators and standards, and the development of specific training for the further development of crime and criminal justice statistics systems in the countries and territories of the Western Balkans.

# Executive Summary

## Introduction

The first decade of the new millennium has been a period of pronounced political and socio-economic adjustment in the countries and territories of the Western Balkans. While the political and economic transitions in the 1990s were marked by political disintegration, violent conflict and widespread economic decline, the 2000s have been distinguished by intense restructuring, state-building and economic and administrative reform. Today, all the countries and territories of the Western Balkans share a perspective of eventual EU membership.<sup>1</sup> Croatia and The former Yugoslav Republic of Macedonia<sup>2</sup> have officially been recognized as candidate countries. Albania and Montenegro have recently submitted membership applications, while Bosnia and Herzegovina, Kosovo under international administration UNSCR 1244, and Serbia are all potential candidates for EU membership. In mid-2009, the European Commission recommended visa liberalization within the Schengen area for citizens from The former Yugoslav Republic of Macedonia, Montenegro and Serbia, with the prospect for the other countries to follow in due course.

The aim of EU integration and eventual membership has been a powerful factor in shaping and driving reform processes. Within the EU Stabilisation and Association Process, the EU has signed individual European Partnership agreements with the Western Balkan states that lay out priority actions for closer EU integration. These have been instrumental in structuring and advancing reform processes. For most countries and territories of the region this also applies to their criminal justice systems, where reform has manifested itself through the adoption of a series of new criminal laws, criminal procedure codes and institutional reorganization. New laws against organized crime, corruption, drug trafficking, money laundering, trafficking in persons and migrant smuggling have also been adopted in most countries and territories of the region. International cooperation in criminal matters has been strengthened, border controls and the management of migration have improved and continued efforts are under way to reinforce the independence of the prosecution and court system. While the overall goal of justice system reform is to make justice and home affairs institutions more efficient, fair, transparent and accountable, current

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<sup>1</sup> Commission of the European Communities, (2007): Communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2007–2008, COM(2007) 663 final, 12.

<sup>2</sup> The former Yugoslav Republic of Macedonia is the name of the country under which it was admitted to the United Nations in 1993. The country is referred to as The former Yugoslav Republic of Macedonia (FYROM) throughout this report.



reform efforts equally play an important role in bringing norms and practices for the police, prosecution and courts closer to European standards.

Ensuring that resources are used efficiently and that criminal justice reform projects are monitored effectively requires the availability of comprehensive, reliable, timely and comparable criminal justice statistics at the country and regional level. Such data are necessary to enable justice and home affairs institutions to monitor trends in crime, and to better plan, target and evaluate their own activities. At the international level, a system of comparable crime and criminal justice statistics, including knowledge on corruption and victimization, will lead to an enhanced capacity of participant countries, territories, and of the international community to formulate strategic responses to emerging trends in crime and corruption.

With a view to supporting states in improving systems of crime and criminal justice statistics, both the United Nations and the European Union work towards the development of standards in this area and support technical assistance activities.

Actions by the United Nations in this field are guided by the United Nations Manual for the Development of a System of Criminal Justice Statistics, the UNODC-UNECE Manual on Victimization Surveys, and the UNODC-UNICEF Manual for the Measurement of Juvenile Justice Indicators.<sup>3</sup> Work by the European Union is guided, inter alia, by the European Union Action Plan: Developing a comprehensive and coherent EU strategy to measure crime and criminal justice. The purpose of the EU Action Plan is to outline a coherent framework within which statistical information on crime (including victimization) and criminal justice at European Union level will be developed.

## Criminal justice systems in Western Balkans

An analysis of the current structures, laws and procedures of the criminal justice systems in the Western Balkans must bear in mind that, until 1992, all of the countries and territories covered by this study – with the exception of Albania – were part of the Socialist Federal Republic of Yugoslavia. Whilst the legal and administrative systems of the republics making up the Federal State were not uniform, they had many features in common. Decentralisation meant that, during the 1970s, each republic and the two autonomous provinces (Kosovo and Vojvodina) developed their own criminal codes as well as their own police, prosecution and court systems. These were, nonetheless, based on the previously unified Criminal Code of Yugoslavia. As a result, the codes adopted by each republic and province did not differ substantially from each other, except with respect to certain offences against marriage and the family and economic and property crimes. Although there continued to be a unified Code of Criminal

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<sup>3</sup> See the United Nations Manual on the development of a System of Criminal Justice Statistics, the UNODC-UNECE Manual on Victimization Surveys, and the European Union Action Plan: Developing a comprehensive and coherent EU strategy to measure crime and criminal justice: An EU Action Plan 2006–2010, COM(2006) 437final.

Procedure,<sup>4</sup> approaches to criminal justice policy differed with regard to policing, sanctions and penitentiary institutions. Finally, differences between jurisdictions and different enumerations of the articles identifying criminal offences also implied differences in statistical classifications, data recording formats and data collection. Data were typically collected by statistical offices on the level of the republics, the two autonomous provinces and the Federal State. Larger cities had their own statistical offices and the tasks of data analysis and interpretation (as well as the conduct of sample surveys) were commonly handled by separate institutes of statistics.

With the former constituent republics of the Socialist Federal Republic of Yugoslavia now independent states, we can expect both that differences between their criminal justice systems have become more pronounced, yet also that certain common elements and principles in judicial and law enforcement systems have been retained.

## Justice and home affairs actors

### Law enforcement

Police forces in the project countries and territories are typically organized at the local (municipality), regional (district) and national/territory level. At the national/territory level, all but one police service in the Western Balkans are functionally under the Ministry of Interior.<sup>5</sup> The exception to this pattern is in Bosnia and Herzegovina (BiH), where the police are organized at the local, cantonal (ten cantons in the Federation of BiH), entity (two entities and the district of Brčko) and Federal State level. Each of the cantons and the two entities have their own Ministries of Interior. At the State level of BiH, the police is managed by the Ministry of Security, which includes the State Border Service and the State Investigation and Protection Agency (SIPA) responsible for certain types of international, inter-entity and organized crime.<sup>6</sup> Police reform remains a prerequisite for BiH's integration into the EU.

The internal organization of the police services generally follows the same structure. Under a general police directorate<sup>7</sup> there are regional (or district) police directorates (Albania: 12, Croatia: 20, Kosovo (UNSCR 1244): 6, The former Yugoslav Republic of Macedonia: 8, Montenegro: 7 and Serbia: 27), under which there are local police commands. The general police directorate itself is typically organized into a criminal police directorate (or criminal investigations directorate), with further divisions into departments, sectors or units specializing in organized crime, trafficking in human beings, smuggling of migrants, drug trafficking, corruption, financial crime, money

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<sup>4</sup> Zvekic, U. (ed.) (1992): *Development and Crime. An Exploratory Study in Yugoslavia*, United Nations Interregional Crime and Justice Research Institute, UNICRI Publication Nr. 46, Rome, September 1992.

<sup>5</sup> In Albania, the Ministry of Interior is also called the Ministry of Public Order.

<sup>6</sup> At the State-level there is also a Court Police and the Interpol NCB Sarajevo.

<sup>7</sup> In FYROM, this is called Bureau for Public Security.

laundering and other complex crimes. Additional directorates are typically reserved for public order police, traffic police or border police. While some police services have centralized units or sectors for statistics (also called 'analytics', research or documentation units), other forces have spread this function across several departments and units. BiH, for example, has no centralized police statistics unit but maintains separate statistics units for the state border police and the State Investigation and Protection Agency.

The importance of data on forms of complex crime, including transnational organized crime, trafficking in persons, smuggling of migrants, corruption, money laundering and economic crimes and drugs trafficking, receives particular attention within *acquis* and standards of the European Union and the United Nations. Both the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption highlight the importance of analysing trends, as well as the need for developing common definitions, standards and methodologies.<sup>8</sup> As set out in the accompanying project report *Developing standards in crime and criminal justice statistics – International and EU Acquis*, the European Union has also begun to develop guidance for Member States on the collection of statistics, particularly in the areas of money laundering and trafficking in persons.

Units dealing with organized crime in law enforcement agencies of the Western Balkans are typically located within the criminal police directorate or department. In Albania, the police Directorate for Organized Crime has sectors dealing with special operations, investigations, illegal trafficking and drug trafficking. Economic and financial crime, corruption, as well as money laundering are under the Directorate of Economic and Financial Crime. In BiH, at the state level, one of the organizational units of SIPA is the section for the prevention and detection of organized crime, located within the criminal investigation department. Specialized units for fighting organized crime similarly exist at the level of the BiH entities. In Croatia, the newly established Police National Office for Suppression of Corruption and Organized Crime (PNUSKOK) is located under the criminal police directorate and has four regional branches and six different units (organized crime, narcotics, economic crime and corruption, criminal intelligence analytics, criminal intelligence activities, and special criminal activities). In addition, each county police department has an organized crime unit. The former Yugoslav Republic of Macedonia also has a special department for the fight against organized crime. In Kosovo (UNSCR 1244), the Kosovo Organized Crime Bureau (KOCB) was originally established by the United Nations Interim Administration Mission in Kosovo (UNMIK), but was later integrated into the Department of Organized Crime under the crime department of the Kosovo Police. This department also includes the Trafficking in Human Beings Investigation Section and the Narcotics Investigation Section. In Montenegro, a special unit for the fight against organized crime and corruption has existed since 2003. In Serbia, the responsibility for the fight against

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<sup>8</sup> Article 61 (Collection, exchange and analysis of information on corruption), United Nations Convention against Corruption, and Article 28 (Collection, exchange and analysis of information on the nature of organized crime), United Nations Convention against Transnational Organized Crime.

organized crime is shared between the Organized Crime Department within the Ministry of Interior and a number of specialized police departments.

Departments or units specialized in the fight against corruption are often the same as those responsible for combating organized crime, as the dual names of such units sometimes indicate (Croatia, Montenegro). Law enforcement services in a number of countries or territories have departments which combine anti-corruption activities with work on the prevention and detection of financial crime (SIPA in BiH). Other countries have dedicated structures for the prevention of corruption under the Ministry of Justice (Croatia) or the Ministry of Interior. In the Federation of BiH, ten departments for anti-corruption have been established under the Ministries of Interior at cantonal level. Other countries or territories have granted special status to such departments by establishing direct reporting to the executive. In Albania, for example, the Department of Internal Administrative Control and Anti-Corruption (DIAC) is directly under the Prime Minister's Office. In Kosovo (UNSCR 1244), the independent Anti-Corruption Agency is overseen by a council and reports to the Kosovo Assembly. Montenegro has a special Directorate for Anti-Corruption Initiatives, and in Serbia, the law establishing an Anti-Corruption Agency has entered into force on 1 January 2010.

Many police services in the region also have special units specialized in economic and financial crime. In addition, all countries and territories have special offices for the prevention of money laundering and financing of terrorism, normally located within financial intelligence units (FIU) under the Ministry of Finance. All countries and territories have specific anti-drugs units within the police and all countries and territories have designated a coordinating agency (or a national coordinator) for the protection of victims of human trafficking, in addition to the existence of anti-human trafficking and migrant smuggling units within the police.

The European Union and individual EU Member States actively support projects that aim to strengthen the operation and performance of police services across the region. In addition to many technical assistance projects, there are currently three long-term EU missions in the region that specifically support police reform: the Police Assistance Mission of the EC to Albania (PAMECA), the European Union Police Mission in BiH (EUPM) and the European Union Rule of Law Mission in Kosovo (EULEX). The latter commenced activities in 2008 and is the largest civilian mission ever launched under the European Security and Defence Policy. Its final staff target is around 1,900 international and 1,100 local staff, including approximately 1,400 international police officers.<sup>9</sup>

## Prosecution

The organization of the public prosecution services in the countries and territories of the region follows the structure of the court systems, with public prosecutors most

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<sup>9</sup> <http://www.eulex-kosovo.eu/?id=2>

usually attached to municipal, district, appellate and higher courts. As part of the judicial branch, prosecution offices are generally accorded a high level of autonomy and independence from the executive branch of government. In all countries and territories of the region, with the exception of Bosnia and Herzegovina, prosecution structures are led by a State Prosecutor<sup>10</sup>, who is either appointed by the president with the consent of parliament (Albania) or appointed directly by parliament (Croatia, The former Yugoslav Republic of Macedonia, Serbia). Typically, the State Prosecutor either in turn appoints prosecutors at the district/county and municipal level, or appointment is made by a special Council of Public Prosecutors or, as in the case of Kosovo (UNSCR 1244), by the Kosovo Judicial Council (KJC). In BiH, there is a prosecutor's office at the state-level as well as separate prosecutors' offices at the levels of the Federation of BiH, the ten cantonal prosecutor's offices in the Federation, the Republika Srpska and its five district prosecutors' offices, in addition to the Brčko District. The prosecutor's office of BiH is not superior to the entity prosecutors' offices, and its jurisdiction is limited to that of the Court of Bosnia and Herzegovina.

Under the Criminal Procedure Code of the Socialist Federal Republic of Yugoslavia, the judicial systems of the Western Balkan states used to be of an inquisitorial (as opposed to adversarial) nature. Under this system, a single judge directed or was largely responsible for the investigation once an individual had been arrested.<sup>11</sup> Recent reforms, however, have moved these systems more closely towards an adversarial system. As a result, the public prosecutor, assisted by the police, has increased competences in the pre-investigative procedure and has become the leading institution for conducting criminal investigations (Croatia, The former Yugoslav Republic of Macedonia, Kosovo (UNSCR 1244), Montenegro, Serbia). Prosecutors now typically conduct and direct pre-trial proceedings, request that an investigation is carried out, issue an indictment before the court, and can appeal a court's decision. In Montenegro, the State Prosecutor has the right to be notified by all other criminal justice authorities before they decide to take action. In Serbia, the new *Criminal Procedure Code*, which strengthens the power of the prosecutor further, will be implemented in 2011.

In addition to the State Prosecutor's Office, all countries and territories of the region have one or several Special Prosecutor's Offices tasked with the investigation and prosecution of "complex" crimes. In Albania, this function is carried out by various sectors under the Prosecutor General that deal with organized crime as well as economic crimes and corruption. In Croatia, an Office for the Suppression of Organized Crime and Corruption (USKOK) has been established within the State Prosecutor's Office. In Kosovo (UNSCR 1244), there is a Special Prosecutor's Office under the Criminal Division of the Ministry of Justice focusing on inter-ethnic crime, trafficking in

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<sup>10</sup> Various terms are used for this institution, such as: State Attorney or State Prosecutor (Croatia), State Public Prosecutor (FYROM), Public Prosecutor (Kosovo and Serbia), State Prosecutor (Montenegro) and Prosecutor General (Albania).

<sup>11</sup> UNODC (2008): *Crime and its Impact on the Balkans and affected countries*, United Nations Office on Drugs and Crime, Vienna, March 2008, 32.

human beings, organized crime, terrorism and corruption charges. In The former Yugoslav Republic of Macedonia, there is a special Prosecution Office for Organized Crime and Corruption, headed by the Public Prosecutor for Organized Crime. In Montenegro, specialized prosecutors concentrate on organized crime, and a Special Prosecutor focusing on corruption has been established under the State Prosecutor's Office. In Bosnia and Herzegovina, the Prosecutor's Office at the State-level is limited to jurisdiction over war crimes, organized crime, economic crime and corruption and issues that fall within the jurisdiction of the Court of Bosnia and Herzegovina (criminal offences of terrorism, protection of copyright, counterfeiting of money, and international cooperation in criminal matters).

## Courts

In all countries and territories of the region, courts exercising general jurisdiction in criminal matters (and also usually in civil and administrative cases) are, most usually, municipal courts, district courts, appeal courts, the Supreme Court and the Constitutional Court. BiH has two supreme courts at the level of the entities and three Constitutional Courts at the level of the State and the entities, in place of a single Supreme Court at the State level. Bosnia and Herzegovina further has four court systems dealing with criminal cases, one at the State level, two at the entity levels and one for Brčko District. As noted above, the State level Court of Bosnia and Herzegovina has the same jurisdiction as the Prosecutor's Office of BiH and also deals with third instance appeals from Brčko District. In Kosovo (UNSCR 1244), in addition to the court structure under the government judicial authorities, parallel courts continue to function in regions with a majority of Kosovo Serb inhabitants.

In addition to the general courts, some countries have specialized courts for serious crimes (Albania) or special courts or departments in high courts for prosecuting cases of organized crime, corruption, terrorism and war crimes (Montenegro, Serbia, Croatia). In The former Yugoslav Republic of Macedonia, a specialized court division competent to try organized crime offences has been established in Skopje.

The judicial system in many countries and territories of the Western Balkans continues to undergo reorganization and reform. An important component of reform concerns the process of appointment, election or confirmation of prosecutors and judges in order to secure the independence of the judiciary. In this context, the role of judicial councils or other independent bodies with oversight functions has typically been strengthened, while the role of the Ministries of Justice is restricted to administrative oversight functions.

## Asylum, migration and visa

The primary actor in asylum, migration and visa issues is typically the Ministry of Interior (Ministry of Security in BiH), with various tasks often spread among different



departments. Other important actors are the Ministries of Foreign Affairs, Labour, and Economy.

Border police and general police stations play an important role in the field of asylum by receiving and screening asylum applications at border crossing points or further inland. Police officials then forward applications centrally, usually to a specific department within the Ministry of Interior (Albania: Directorate for Citizenship and Refugees, Bosnia and Herzegovina: Sector for Asylum within the Ministry of Security, Croatia: Department for Aliens and Asylum, The former Yugoslav Republic of Macedonia: Section for Asylum, Kosovo (UNSCR 1244): Department for Borders, Asylum and Migration, Montenegro: Office for Asylum, Serbia: Section for Asylum). These bodies decide on asylum applications in the first instance, while appeals against negative decisions are mostly handled by an independent body (Albania: National Commission for Refugees, Croatia: Commission for Asylum, Kosovo (UNSCR 1244): National Commission for Refugees, Montenegro: State Commission for Deciding upon Appeals, Serbia: Asylum Commission).

Tasks related to migration and border management are also handled mostly by departments within Ministries of Interior. These tasks include the granting or refusal of entry to the territory, the issuance, refusal, revocation or renewal of temporary or permanent residence permits, the registration of residence, the issuance of identification cards or travel documents for foreigners, and termination of stay in the country including readmission and expulsion or deportation. The task of border surveillance and protection is generally covered by the border police, which typically has various sub-units, such as departments for state border protection, for illegal migration and for countering migrant smuggling and trafficking in persons. The border police in all countries and territories are responsible for the control of border crossings, for the prevention and detection of illegal migration, and for fighting migrant smuggling and trafficking in persons. Issues related to the protection of victims of trafficking are usually shared between relevant departments of the border police and the National Coordinators (or agencies) for combating trafficking in persons. General migration policies and the regulation of employment and self-employment within the country are normally handled by the respective Ministries of Labour, Economy and Trade.

As regards visa issues, visa applications are typically processed and screened by the Ministry of Interior, together with the Ministry of Foreign Affairs and, in certain cases, also by the intelligence services of the country. Visa applications are normally received at diplomatic or consular missions abroad or exceptionally, directly at border crossing points by the border police. The visa application is then forwarded to the Ministry of Interior (who may decide to consult with the intelligence service on the eligibility of the applicant) and the final decision communicated through diplomatic or consular missions abroad. Decisions may be taken by ministries jointly (Albania, Bosnia and Herzegovina), or solely by the Ministry of Interior or the Ministry of Foreign Affairs (Croatia). Kosovo (UNSCR 1244) does not yet apply a visa system for foreign citizens,

nor does it provide consular services. In all countries and territories, the border police may also issue a visa directly at the border in exceptional cases.

## Published criminal justice statistics

The effective operation and internal administration of justice and home affairs institutions requires the production and use of adequate data, such as caseload data, process data and information on available resources. Most self-governing units within the administration of justice and home affairs may therefore be expected to collect and compile relevant data, if only for internal resource allocation purposes. In addition to management purposes however, such data is critical for analysing trends in crime and corruption, for assessing risks, and for developing crime prevention strategies. Several criminal justice institutions in the Western Balkans have established their own analytical and statistical units to compile and process data for such internal and external use. These are located either in a central position within the Ministry of Interior or Ministry of Justice, or are distributed across a number of institutions or across several departments within the same ministry.

### Albania

In Albania, the Ministry of Interior has a Unit of Statistics within the Department of Data Processing and Protection in the General Directorate of the State Police. The police collect data on offences committed by penal code category and on the number of offences solved by crime category. A limited amount of statistics is published on the website of the State Police. The Albanian National Institute of Statistics (INSTAT) has also published data on crimes registered by the police and the percentage of cases solved, in addition to information on victims and suspected perpetrators. These data were provided to INSTAT by the Unit of Statistics within the Ministry of Interior.

The Department of Study, Legal Research and Integration at the Office of the Prosecutor General collects and publishes annual statistics on the number of criminal cases recorded (including corruption, economic crime, money laundering, migrant smuggling and trafficking in persons) and the number of criminal cases filed at court. The Ministry of Justice has a statistical office that compiles and publishes annual statistical reports on the functioning of the prosecution and courts, including the number of cases handled by the courts, disaggregated by penal code category, including corruption, organized crime, economic crime, money laundering, migrant smuggling and trafficking in persons. The reports include details of court decisions taken and the length of sentences issued. The Ministry of Justice further sends a copy of their annual statistics to INSTAT. Inspection of the INSTAT website, however, shows that these court statistics are not published in an up-to-date manner.



Whilst some data on asylum in Albania are available from the Border Police and the Directorate for Citizenship and Refugees, no statistical information on either immigration to or emigration from Albania exists. The current population registration system is not yet centralized and does not allow the production of statistics on immigration or emigration, nor on citizenship or country of birth. Data on residence permits issued to foreign citizens are, however, available from the Ministry of Interior.

## Bosnia and Herzegovina

At the State level in Bosnia and Herzegovina, the State Investigation and Protection Agency (SIPA) collects and compiles police data on crimes in its unpublished annual report *Information on the State of Security in Bosnia and Herzegovina*. Data for this report are submitted by SIPA, the border police, the Ministry of Interior of the Federation of Bosnia and Herzegovina (FBiH), the Ministry of Interior of Republika Srpska (RS), and the police of Brčko district. The information differentiates between organized crime (economic crime, drug trafficking and related crimes, car vehicle theft, other property offences, armed robberies, crimes against dignity and morality, illegal possession of weapons, and terrorism), crimes against life and limb, and juvenile delinquency. In addition to data collection at State level, a number of police institutions at the level of the entities and cantons cover statistics on crimes under their jurisdiction. The Prosecutor's Office of Bosnia and Herzegovina and the Court of Bosnia and Herzegovina publish indictments and verdicts under their jurisdiction on their respective websites. Annual Reports of the High Judicial and Prosecutorial Council (HJPC) of Bosnia and Herzegovina also contain data on cases in relation to solved criminal reports, investigations conducted, indictments, and the exercise of prosecutors' discretionary functions, in addition to some data on the categories of general crime, economic crime and war crimes. The Agency for Statistics of Bosnia and Herzegovina does not publish any information on crime or criminal justice. Some judicial data are, however, published in the *Statistical Yearbook* of FBiH, including data on adult and juvenile perpetrators by type of crime committed, separate tables for accused and convicted persons, as well as information on the type of sentences passed. For the Republika Srpska, the RS Institute of Statistics publishes some crime data that refer to violence and discrimination based on gender, as well as family violence in their yearly Gender Statistics Bulletins.

There are no available data sources in Bosnia and Herzegovina that allow the production of annual statistics on immigration or emigration. The border police do, however, collect some data related to asylum, illegal migration, migrant smuggling and trafficking in persons within their area of competence.

## Croatia

In Croatia, the Ministry of Interior has a Department of Analytics and Development directly under the Cabinet of the Minister, in addition to analytical offices in several directorates. Detailed statistics on reported and resolved criminal offences under the *Croatian Criminal Code* are published on the homepage of the Ministry of Interior. Separate tables exist on basic safety indicators, including corruption and organized crime. The Office of the Public Prosecutor in Croatia publishes an annual report with detailed information on prosecutions, convictions, and sanctions. It also maintains a special department for Research and Documentation within the Office for Combating Corruption and Organized Crime (USKOK), which produces data on corruption and organized crime. Detailed statistics on the functioning of the court system (excluding prosecution data) are available from the analytical office of the Ministry of Justice. Statistical reports on the performance of the Supreme Court of Croatia, including the total number of criminal and civil cases disposed of, are available on the Supreme Court website. The Office for Combating Narcotic Drug Abuse produces data on crimes related to drug trafficking and on drug seizures. The Ministry of Interior and the Border Police record data on requests related to asylum, legal entries, refusal of entry, entry bans, document forgeries, illegal migration, migrant smuggling and trafficking in persons as well as on removals and readmissions.

The Central Bureau of Statistics (DZS) of Croatia publishes statistics on the administration of justice in the *Statistical Yearbook*, including information on adult and juvenile perpetrators of criminal offences and the number of crime reports, accusations, convictions and type of sentence. More detailed annual reports on crime-related statistics are made available to relevant governmental and other bodies in hard copy only. These reports include detailed breakdowns of statistics on reported, indicted and convicted criminal offenders. Statistics on sexual offences and domestic violence are also included in the annual *Women and Men in Croatia Yearbook* compiled by the Central Bureau of Statistics. DZS also publishes data on immigration and emigration in its *Statistical Yearbook*.

## Kosovo under international administration UNSCR 1244

The Kosovo Police has a Section for Analysis that publishes an annual report on crime statistics on its website. The report contains data on crimes reported to the police but does not include investigations initiated by the Department of Organized Crime or other specialized units. Data are listed according to higher crime categories (such as crimes against life and body and property crimes). Some limited data from the Organized Crime Department itself are also available on the website, including the number of cases and suspects related to organized crime and narcotics seizures. Statistics on the number of corruption cases reported and processed are available from the Kosovo Anti-Corruption Agency. Statistics on the number of persons accused and convicted of an offence are collected by the Kosovo Judicial Council and forwarded to

the Statistical Office of Kosovo (SOK). Data are also available from the border police on migration-related crimes including migrant smuggling, trafficking in persons, and falsification of documents.

The Section for Jurisprudence Statistics within the Statistical Office of Kosovo (SOK) publishes annual jurisprudence statistics that contain data on persons accused and convicted for minor and criminal offences by Municipal and District Courts. Data are disaggregated by age (adults and juveniles), sex, ethnicity, citizenship and residence status, and type of sentence.

## Montenegro

The Department for Security of the Ministry of Interior in Montenegro publishes regular reports on the number of cases processed. Information is available on the type of crime, the outcome of the investigation and whether the offence was reported to the State Prosecutor. Data on the number of persons charged and the number of cases leading to charges is also available but breakdowns refer only to higher crime categories (crimes against life and body, property crimes). Regarding prosecution and court data, the Judiciary Advisory Board regularly publishes reports on the work of the judiciary, including the number of cases initiated, solved or still in progress, as well as the average length of procedures by court type in Montenegro. The Statistical Yearbook of the Montenegro Statistical Office (MONSTAT) also contains quite detailed data on crime and the functions of courts and prosecution. Data are presented on reported adult and juvenile perpetrators by sex, type of court decision, duration of confinement and persons convicted by top-level crime category (crimes against life and body and property crimes). Information is also provided on sanctions and on victims of criminal acts.

Data on asylum and visa are recorded by the Ministry of Interior and data on migration-related crimes (migrant smuggling, trafficking in persons, document falsifications) by the border police. The Ministry of Interior also maintains data on the number of visas and temporary and permanent residence permits issued. Data on refugees are available at the homepage of the Bureau for the Care of Refugees.

## Serbia

In Serbia, the Criminal Investigation Directorate of the Ministry of Interior has a Department for Analytics responsible for generating detailed monthly crime statistics reports. Data are, however, reserved for internal purposes and are not published. In contrast, data on proceedings conducted by offices of the public prosecutor are available in two annual publications of the Statistical Office of the Republic of Serbia. Data are collected by the Statistical Office from the public prosecutor and regular courts and include statistics on the number of adult and minor perpetrators of criminal offences. Figures are disaggregated by crime category, including common assault,

aggravated assault, homicide, rape, robbery, theft, neglect and maltreatment of minors, non-payment of alimony, domestic violence and human trafficking.

The Ministry of Interior collects data on asylum, visa and residence permits issued, as well as data on migration-related crimes, including migrant smuggling, trafficking in persons, and document falsifications. Data on refugees and internally displaced persons are available from the Commissariat for Refugees.

## The Former Yugoslav Republic of Macedonia

In The former Yugoslav Republic of Macedonia (FYROM), the Ministry of Interior has a sector for Analytical Research and Documentation within its Bureau for Public Security that publishes an annual report on police statistics. More detailed statistics are available in further publications from the Ministry of Interior. The Public Prosecutor also produces an annual report with detailed statistics on prosecution and judicial matters in Macedonian language. The Sector for Social Statistics within the State Statistical Office (SSO) of FYROM has a Department that deals with public statistics and the judiciary. This Department publishes an annual report on perpetrators of criminal offences based on prosecution and court data. The typology of crime categories used is based on penal code categories. The publication contains figures on accused perpetrators by type of criminal offence and sex, adult and minor perpetrators, prosecuted persons, convicted persons, and charges otherwise terminated. There are also data on convictions by type and length of sentences, as well as ethnicity.

Data on temporary and permanent residence permits issued to foreigners are available from the Ministry of Interior. SSO also produces estimates of international migration flows based on statistical paper forms provided by the Ministry of Internal Affairs. The validity of these data is limited, however, due principally to the under-declaration of emigration. No published statistics on asylum or visa could be located.

## Survey capacity of statistical offices

Administrative statistics generated by law enforcement, prosecution and court institutions are capable of providing information on the activity of these systems in terms of the number of criminal cases reported/identified and numbers of persons suspected, prosecuted and convicted. They cannot, however, form a strong basis alone for the measurement of underlying crime trends and the formulation of crime prevention and response policy. It is well known that a sizable portion of criminal events are not reported to the police and remain invisible in official statistics (the “dark number” of crime). A widely used complement to official statistics is the use of crime victimization surveys. Such population-based surveys aim – through statistically relevant samples – to obtain information on citizens’ experience and perception of

crime. In addition to measuring the extent of victimization, surveys are also a useful tool for assessing details on circumstances surrounding victimization, and perceptions of the performance of law enforcement and criminal justice institutions. Surveys may target the general population or specific sectors, such as women, juveniles, migrants or elderly persons. They may be nationwide or geographically limited to local regions, urban areas or specific cities. In addition to 'conventional' crime victimization, surveys may assess specific types of crime, such as corruption or violence against women.

Victimization surveys are particularly effective when conducted as part of a regular programme of surveys within a country. Once baseline data have been established, regular surveys assist in monitoring trends and developments in crime. Because regular surveys require sustainable capacity, a government institution such as the national statistical office is often a suitable actor for coordination of survey activity. Where capacity is limited however, surveys may also usefully be conducted by non-governmental organizations or private survey companies.

The International Crime Victim Survey (ICVS) has been carried out in previous years in Albania (1996, 2000), Bosnia and Herzegovina (2001), Croatia (1996, 2000), Serbia and Montenegro (as one country) in 1996, and The former Yugoslav Republic of Macedonia (1996). A number of surveys on the perception of corruption have also been carried out in recent years by international organizations (including the World Bank and the European Bank for Reconstruction and Development), research institutes or non-governmental organizations (Freedom House and Transparency International), or private survey companies. No corruption survey has been carried out to date by any national statistical office of the region. Most national statistical offices of the countries and territories of the Western Balkans have gained some previous experience with conducting victimization surveys.

The capacity of the Albanian National Statistical Institute (INSTAT) has progressed in recent years, in part through the benefit of cooperation with the Italian National Institute of Statistics and with international organizations in conducting surveys and censuses. Recent corruption surveys have been carried out by the Institute for Development Research and Alternatives (IDRA) and Gallup.

There has also been progress in the area of statistical infrastructure in Bosnia and Herzegovina. The State Agency for Statistics of Bosnia and Herzegovina (BHAS) has conducted some State-wide surveys in cooperation with the Institute for Statistics in FBiH and the Institute of Statistics of Republika Srpska. However, cooperation between BHAS, and the Entity Institutes still needs to be strengthened. Recent surveys touching on the issue of corruption have been carried out by PRISM Research and Gallup.

In Croatia, the Central Bureau of Statistics (CBS) is under the direct responsibility of the Prime Minister. No specific information on survey capacity is available. In recent years, surveys including questions on corruption perception and bribe paying have been carried out by the private Agency PULS and by Gallup.

The State Statistical Office (SSO) of FYROM has a Sector for Social Statistics. No specific information on survey capacity is available. Recent surveys on the perceptions of corruption have been carried out by the Institute for Sociological, Political and Legal Research in Skopje, Transparency International and Gallup.

The Statistical Office of Kosovo (SOK) was re-established in 1999 under the Ministry of Public Services. However, the recent EU Progress Report notes that the statistical infrastructure and resources are weak, and that there are concerns regarding the independence of SOK. Recent surveys that included elements of corruption have been carried out by PRISM Research and Gallup.

According to the EU Progress Report 2008, there has been limited progress on statistical infrastructure in the Statistical Office of Montenegro (MONSTAT), where the overall resource situation and administrative capacity are reported to be weak. However, progress has been made with the introduction of a continuous labour force survey on a quarterly basis. Over the past few years, surveys including elements of corruption have been conducted by Gallup, the Montenegrin Centre for Democracy and Human Rights (CEDEM) and the local branch of the National Democratic Institute (NDI).

In Serbia, the resource situation of the Statistical Office of the Republic of Serbia has improved slightly in the recent past. However, the available funding is not yet sufficient to cover all planned activities, and the new law on statistics has not been adopted. Several pilot surveys, including a labour cost pilot survey have been carried out. Relevant surveys on corruption in Serbia have recently been conducted by the national chapter of Transparency International in Serbia, by the Serbian Agency for Small and Medium-Sized Enterprises, and by Gallup.

## Conclusions

The purpose of this study is to provide a broad outline of existing crime and criminal justice data collection systems within the structure of justice and home affairs institutions in each of the project countries or territories. As such, the report cannot provide an in-depth assessment of data-recording, collection, or analysis methods of crime and criminal justice statistics in each project country or territory. Rather, the Report is designed as a starting point for further research. Nonetheless, a number of themes are apparent at this initial project stage:

- From a structural and institutional point of view, the project countries and territories share a significant number of similarities in the organization of law enforcement, prosecution and judicial authorities. With the exception of particular complexities in Bosnia and Herzegovina (with multiple institutions at the State, Entity and District level) and Kosovo (UNSCR 1244) (with parallel court structures), commonalities between justice and home affairs institutions in the region should facilitate a regional approach to crime and

criminal justice statistics. Work at the regional level is particularly important in light of the need for cross-national cooperation in the area of justice and home affairs in the context of the EU Stabilisation and Association Process;

- Whilst the Western Balkans share, to some extent, a common legal system heritage, a wide range of present approaches to crime and criminal justice statistics is nonetheless evident in the project countries and territories. The crime types reported on, the level of aggregation of crimes (such as ‘crimes against the person’ or ‘serious crimes’), the counting unit used (person, case, offence), the frequency of reporting, the use of justice system performance measures (such as cases solved, conviction rates, or length of court proceedings) and the extent to which data is made public vary between countries and territories;
- Data on specific crime types, including organized crime and trafficking in persons, appears to be quite readily available in the project countries and territories. Data is, however, frequently fragmented across a range of agencies, including border police services, police sub-directorates or units and police special prosecutors. Involved agencies within the same country/territory may make statistics available to differing degrees, with the result that overall law enforcement and criminal justice system performance in these areas is difficult to measure. Survey-based data on the perception of corruption in nearly all countries or territories is available from the non-governmental or private sector. It appears, however, that governmental institutions may generally have limited experience and sustainable capacity for the implementation of corruption surveys; and
- Available data on asylum, visa and migration issues are mostly limited to statistics on asylum applications and outcomes and visas and residence permits issued. Data on immigration and emigration do not appear to be readily available, however, and this may represent one area for future development.

The wide range of approaches to the collection and dissemination of crime and criminal justice statistics in the project countries/territories highlights the need for common regional minimum indicators and standards. As set out in the introduction to this study, such data are necessary to enable justice and home affairs institutions to monitor trends in crime, and to better plan, target and evaluate their own activities.

The accompanying publication *Developing standards in crime and criminal justice statistics – International and EU Acquis* represents the first steps towards such regional indicators and standards. Through systematic examination of work at the European and international level in this area, the project has begun to identify the key features that might constitute a regional approach to crime and criminal justice statistics for the Western Balkans. These features include identification of core ‘conventional’ crimes on which police, prosecution and court statistics could be produced, identification of relevant definitions of complex crimes at the EU level, including organized crime, money laundering and trafficking in persons, identification



of possible key asylum, visa, and migration indicators, and identification of core corruption-survey based indicators. The study also sets out key features of the process of collection of crime and criminal justice indicators, such as possible approaches to information recording and the frequency with which data may be collected and reported.

Future work in the countries and territories of the Western Balkans should focus on in-depth assessment of the components of crime and criminal justice data collection systems. The quality and reliability of published statistics is heavily dependent upon the systematic recording of individual reported crime events, on detailed suspect and offender file management, and on effective and timely reporting of data from the local level to an appointed central location, usually within the Ministry of Justice, Ministry of Interior or national statistical office. Measurable improvement of crime and criminal justice statistics in the countries and territories of the Western Balkans will require the identification of an agreed 'minimum' set of core indicators and system standards that can be implemented and monitored over time.





## Albania

## Outline of the criminal justice system, asylum/visa/migration system and its actors

Institution	Relevant departments/ subdivisions	Existing data availability
<b>Ministry of Interior (Ministry of Public Order)</b>	<ul style="list-style-type: none"> <li>• Department of Data Processing and Protection/Unit of Statistics</li> <li>• Directorate for OC: sectors for 1) illegal trafficking, 2) drugs</li> <li>• Directorate for economic and financial crime: sectors for 1) economic and financial crime, 2) corruption, 3) money laundering</li> <li>• Department of Border and Migration</li> <li>• Office of the National Coordinator for the Fight against TIP</li> <li>• Directorate for Citizenship and Refugees (DfCR)</li> </ul>	<ul style="list-style-type: none"> <li>• General crime data</li> <li>• Data on organized crime</li> <li>• Data on producing, selling, trafficking drugs</li> <li>• Firearm trafficking</li> <li>• Data on economic crime, tax fraud, customs fraud</li> <li>• Data on entry and exit from Albania</li> <li>• Data on illegal migration</li> <li>• Data on trafficking in persons, victims of TIP</li> <li>• Data on asylum and refugees</li> <li>• Data on residence permits</li> <li>• Data on visa</li> </ul>
<b>Office of the Prosecutor General</b>	<ul style="list-style-type: none"> <li>• Office of Prosecutor General</li> <li>• Directorate of Studies, Legal Research and Integration/ Unit for Statistics</li> <li>• Directorate of Investigation and Inspection of Criminal Prosecutions</li> <li>• Sector for organized crime</li> <li>• Sector for economic crimes and corruption</li> <li>• Database on human trafficking (within Unit for Statistics)</li> </ul>	<ul style="list-style-type: none"> <li>• Data on cases recorded, cases submitted to court</li> <li>• Data on corruption, abuse of office, narcotics offences, money-laundering</li> <li>• Data on economic crime: tax fraud, customs fraud</li> <li>• Data on corruption cases and suspects prosecuted, charges filed and convicted persons</li> <li>• Data on OC cases recorded, prosecuted, convicted</li> <li>• Data on money laundering: cases, persons convicted</li> <li>• Data on TIP: persons prosecuted and convicted, victims of TIP</li> </ul>
<b>Ministry of Justice</b>	<ul style="list-style-type: none"> <li>• Statistical Office</li> </ul>	<ul style="list-style-type: none"> <li>• Data on completed cases and decisions by the 3 levels of courts, number and length of sentences</li> <li>• Data on corruption cases, data on OC cases, prosecutions and convictions for OC</li> <li>• Data on SM cases, persons charged and convicted</li> <li>• Data on convictions for TIP, sanctions</li> <li>• Data on money laundering</li> </ul>

<b>Ministry of Foreign Affairs (MFA)</b>	<ul style="list-style-type: none"> <li>• Consular Department: Sector for passports and visas</li> <li>• National visa centre</li> </ul>	<ul style="list-style-type: none"> <li>• Data on visas</li> </ul>
<b>Ministry of Labour, Social Affairs and Equal Opportunities</b>	<ul style="list-style-type: none"> <li>• Directorate of Migration Policies</li> </ul>	<ul style="list-style-type: none"> <li>• Data on work permits, migrant workers</li> </ul>
<b>Prime Minister's Office</b>	<ul style="list-style-type: none"> <li>• Department of Internal Administrative Control and Anti-Corruption (DIAC)</li> </ul>	<ul style="list-style-type: none"> <li>• Collect data on reported/investigated cases of corruption from other institutions</li> </ul>
<b>Ministry of Finance</b>	<ul style="list-style-type: none"> <li>• General Directorate for the Prevention of Money Laundering (Financial Intelligence Unit)</li> </ul>	<ul style="list-style-type: none"> <li>• Data on money laundering investigations</li> </ul>
<b>Albanian National Institute of Statistics (INSTAT)</b>	<ul style="list-style-type: none"> <li>• Social Statistics Directory</li> </ul>	<ul style="list-style-type: none"> <li>• Data on crimes registered by police, suspects and persons prosecuted, data on convictions</li> </ul>

## 1. Short background

Albania is a parliamentary republic with a legal system based on civil law traditions. Over the past decade, the Albanian justice system has undergone radical changes and significant improvement (OSCE 2006, 9). After the fall of communist rule in 1991, the country operated on the basis of a number of interim constitutional provisions, passed in sections by a two-thirds vote of the Assembly. These interim provisions were replaced by a new Albanian Constitution after a referendum in November 1998. The Constitution “incorporates, inter alia, the principles of the separation of powers and political pluralism; guarantees a number of fundamental human rights; and provides for the rule of law, fair and public trial, an opportunity to be heard, and the presumption of innocence”. (American Bar Association 2006, 5.)

Civil unrest, prompted largely by the failure of several pyramid investment schemes, took place throughout Albania in the first half of 1997. A Multinational Protection Force made up of European forces was authorized by UN Security Council Resolution 1101 in March 1997 and order was quickly restored. The Stabilisation and Association agreement between Albania and the European Union was signed on 12 June 2006 and entered into force on 1 April 2009. Albania submitted its application for EU membership on 28 April 2009.<sup>12</sup>

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<sup>12</sup> [http://ec.europa.eu/enlargement/potential-candidate-countries/albania/eu\\_albania\\_relations\\_en.htm](http://ec.europa.eu/enlargement/potential-candidate-countries/albania/eu_albania_relations_en.htm)

## 2. Criminal justice actors

### 2.1 Law Enforcement

The State Police of Albania operates under the responsibility of the Ministry of Interior.<sup>13</sup> At the central level, the General Directorate consists of the public order police, the crime investigation police, the border police, traffic police, special and rapid intervention forces and directorates concerning personnel, logistics and budget. There are 12 regional Police Directorates, which are the administrative bodies of the operational local units. (GRECO 2002, 13.) In addition, there are the Regional Border and Migration Directorates and their subordinate structures (Police Law art 12:1). According to the 4<sup>th</sup> European Sourcebook, there were 12,394 police officers in Albania in 2003, 12,934 in 2004, 12,353 in 2005, 10,500 in 2006, and 9,700 in 2007 (ESB4, 239). The number of police officers has diminished due to restructuring as the number of personnel was considered too high compared to European standards (UNODC Focal Point 2009).

The new *Law on the State Police* (Law no. 9749) entered into force in 2007. It empowers the police to investigate criminal offences and their perpetrators (Police law art 4:1b) and to carry out investigations of criminal offences under the guidance and supervision of the Office of the Prosecutor General (Council of Europe 2006, 14). The *Law on the Organization and the Functioning of the Judicial Police* was adopted in 2000. The Judicial Police is the functional designation of the police when performing criminal investigations under the lead of the Prosecution (GRECO 2002, 13).

The Police Assistance Mission of the European Community to Albania 2008–2011 (PAMECA III) is working together with the Albanian State Police in order to bring the performance of the police closer to EU standards. Activities include the development of new IT- and case reporting systems.<sup>14</sup>

### 2.2 Prosecution

The prosecution structure consists of the Office of the Prosecutor General (OPG), which functions attached to the High Court, prosecution offices attached to the Courts of Appeal, as well as prosecution offices attached to the courts of first instance or to judicial district courts.<sup>15</sup>

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<sup>13</sup> In some reports, also the name Ministry of Public Order is used.

<sup>14</sup> [www.pameca.org.al](http://www.pameca.org.al)

<sup>15</sup> <http://www.pp.gov.al/sq/home/PP/struktura.html>

The OPG is the highest prosecution office in the country and plays an important role in the overall management, supervision and inspection of lower prosecution offices. The OPG is organized into several directorates, consisting of the Prosecution Council, the Directorate of Inspection and Personnel, the Judicial Directorate, Directorate of Investigation and Inspection of Criminal Prosecutions, the Directorate of Foreign Jurisdictional Relations and the Directorate of Studies, Legal Research and Integration. The OPG also includes sectors for organized crime as well as economic crimes and corruption.<sup>16</sup>

The Prosecutor General (PG) is appointed by the President of the Republic with the consent of the Assembly for a five-year term and has wide ranging powers and duties, which are expressly laid down in the Constitution, the *Criminal Procedure Code* and the *Law on the Organization and Functioning of the Prosecution Office* (Law no. 8737 of 12.02.2001 as amended). According to article 3 of this law the prosecution office is a centralized office, which functions attached to the judicial branch under the direction of the Prosecutor General. The prosecutors are independent in carrying out their functions in which they are subject only to the Constitution and laws.

The organizational structure of the prosecution office follows the organizational structure of the judicial branch. At every court level the respective prosecution office is attached. Thus, the law provides that the prosecutors at the OPG carry out their functions attached to the Supreme Court, the prosecutors at the appeal level carry out their functions attached to the Appellate Court and the prosecutors at the district level carry out their functions attached to the district courts. Each office is headed by a chief prosecutor who is responsible to the Prosecutor General.

According to the 4<sup>th</sup> European Sourcebook, there were 253 prosecutors in Albania in 2003, 248 in 2004, 265 in 2005, 286 in 2006 and 299 in 2007 (ESB4, 336).

The Office of the Prosecutor General leads the criminal investigation, exercises criminal prosecution and represents the charges/accusations in court in the name of the state (OSCE 2006, 26; Criminal Procedure Code art 24:1). In April 2008, a cooperation agreement was signed between the Office of the Prosecutor General and the State Police, including measures to improve timely completion of investigations (EU Progress Report 2008, 9).

## 2.3 Courts

Albania has a three-tier court system composed of 22 first instance courts of general jurisdiction, 6 appeal courts and one High Court. There is also a Constitutional Court, one specialized first instance court for serious crime and one specialized appeal court for serious crime, as well as one military court. (Council of Europe 2006, 10; American Bar Association 2006, 7.)

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<sup>16</sup> <http://www.pp.gov.al/sq/home/PP/struktura/organigrama.html>

In 2004, there were 366 judges in first instance and appeal courts plus 17 judges in the High Court for a total of 383 judges (Council of Europe 2006, 12). In 2006, there were 286 judges in first instance courts, 65 judges in courts of appeal, 17 judges in the High Court and 9 judges in the Constitutional Court (American Bar Association 2006, 6–7).

## 2.4 Specialized units: Anti-Corruption

Albania participates in the Group of States against Corruption (GRECO) of the Council of Europe and has undergone both of the two evaluation rounds in 2002 and 2004. In December 2007, GRECO adopted its second report on Albania. Eleven of GRECO's thirteen recommendations have been implemented, including the criminalization and seizure of assets stemming from corruption (EU progress report 2008, 10). In addition, Albania is part of the Regional Anticorruption Initiative (RAI) of the Regional Cooperation Council (RCC), which succeeded the Stability Pact for South Eastern Europe in 2008.<sup>17</sup>

In 1998, an inter-ministerial Steering Group composed of high-level government officials was established to collect information on corruption. In the same year, the Government launched an official anti-corruption strategy, reflected in the National Anti-Corruption Plan, which takes the form of a matrix comprising a comprehensive set of measures in five areas. The Governmental Commission of the Fight against Corruption was established in 1999. Headed by the Prime Minister and responsible to the Government, the Commission revises the National Anti-Corruption Plan and monitors its implementation. (GRECO 2002, 4–5; 11–12.) The National Anti-Corruption Plan is coordinated by the Department of Internal Administrative Control and Anti-Corruption (DIAC), which replaced the previous Anti-Corruption Monitoring Group. It operates under the Prime Minister's office and consists of a director and ten inspectors who analyse reported cases of corruption in all branches of the public administration. (EU Progress Report 2008, 10.)

The government has recently approved a new draft National Strategy for Development and Integration 2007–2013. As part of this strategy, the draft “Cross-cut Strategy for Prevention, Fight against Corruption and Transparent Governance 2007–2013” serves as the government's new anti-corruption plan. (SIDA 2008, 30–31.)

Albania signed the UN Convention against Corruption in 2003 and ratified it in 2006. Most of the provisions of the convention have been adopted in national legislation. The Albanian *Criminal Code* criminalizes active and passive corruption and undue influence of public officials (articles 244, 245, 245/1, 259 and 260). The amended *Criminal Procedural Code* of 2004 includes the regulation of financing of political parties, conflict of interest, rules of ethics in the public administration, criminalization of active and

<sup>17</sup> <http://www.stabilitypact.org/anticorruption/default.asp>

passive corruption, and the use of special investigation means. The *Law on Preventing and Combating Organized Crime* of 2004 (Law no. 9248) provides the legal basis for targeting proceeds of crime generated by organized criminal groups. The *Law on Declaration of Properties by Officials* of 2002 and the *Law on Prevention of Conflict of Interest* of 2005 both provide comprehensive regulations, severe administrative penalties and linkage with the criminal laws. (SIDA 2008, 28–29.)

## 2.5 Specialized units: Organized crime

The Criminal Investigation Department has a specific Directorate for Organized Crime, consisting of sectors for combating illegal trafficking, drug trafficking and the sector for special operations. Another Directorate under this Department is that against Financial Crime, consisting of a sector against economic and financial crime as well as sectors against corruption and against money laundering. There are 220 persons working in the Directorate for Organized Crime. (GRECO 2002, 14; UNODC Focal Point 2009.)

There is also a Serious Crimes prosecution office (EU progress report 2006, 44) and a first instance court and a specialized appeal court for serious crimes. A national strategy for fighting organized crime was adopted in 2008 but by November 2008 had not yet been implemented (EU progress report 2008, 48).

Albania signed the UN Convention against Transnational Organized Crime in 2000 and ratified it in 2002. In 2004, amendments were made to the Criminal Code and new laws were adopted, including the aforementioned Law on Preventing and Combating Organized Crime (CARPO Situation Report 2006, 70).

## 2.6 Specialized units: Trafficking in persons and smuggling of migrants

The Office of the National Coordinator for the Fight against Trafficking in Human Beings (NCTHB; the National Coordinator is also a Deputy Minister of the Interior) was established in 2005, and serves as the focal point for the coordination of anti-trafficking activities in Albania (NCTHB 2007, 2).

The Anti-trafficking Unit in the Ministry of Interior, also established in 2005, acts under the authority of the NCTHB, and is in charge of monitoring and coordinating the activities of all national and international actors involved. The Anti-trafficking Unit also acts as the Technical Secretariat of the Inter-Ministerial State Committee for the Fight against Trafficking in Human Beings. (National Strategy on Combating Trafficking in Persons 2008–2010, 5.)

A specific law enforcement unit is dedicated to investigate trafficking in persons within the Directorate against Organized Crime, which is under the Crime Investigation Department in the Directorate General of the State Police, namely the Sector against

Illicit Trafficking, which deals with all forms of trafficking, such as vehicles, weapons and human trafficking (except narcotics, which is covered by another dedicated Sector).<sup>18</sup> In 2007, thirteen police officers were assigned full time to the policing of human trafficking. (UNODC 2009.) The National Reception Centre for Victims of Trafficking is a state-run centre for the reception of victims of trafficking, in operation since 2003 (US TIP Report 2004).

The Albanian *Criminal Code* has been amended repeatedly to incorporate the crime of trafficking in persons (art 110/a of the *Criminal Code*), trafficking in women (art 114/b) and trafficking in minors (art 128/b) (CARPO Situation Report 2006, 74–75). Criminal offences related to the smuggling of human beings are stipulated in Articles 297 (Illegal Border Crossing) and 298 (Providing Assistance for Illegal Border Crossing) of the Albanian Criminal Code. (Tabaku 2008, 99.)

There is no separate entity that deals with the offence of smuggling of migrants. Those units that deal with the trafficking in human beings also cover the smuggling of migrants. However, when smuggling has no elements of organized crime it is investigated by the Border Police. For example, article 297 of the Criminal Code covers illegal border crossings/smuggling of oneself. (UNODC Focal Point 2009.)

## 2.7 Specialized units: Money- laundering and economic crimes

According to the 2008 EU Progress report on Albania, the *Law on Money Laundering and Financing of Terrorism* was adopted in May 2008, but bylaws to implement it are pending. In 2008, several regulations on the handling of confiscated assets were adopted. Although the law incorporates international instruments, such as the MoneyVal recommendations, “*it is still not fully aligned with the acquis*”. In addition there is insufficient co-operation between the different entities (police, prosecution, special units). “*The lack of coordination between the judiciary and the police also results in unprocessed intelligence, which is subsequently lost.*” (EU Progress report 2008, 46.)

A new Office to Combat Money Laundering, within the State police, became operational in January 2008. This office has powers to investigate money laundering offences and offences related to the financing of terrorism. In addition, Joint Investigation Units were established in 2007 and replaced previous entities, such as the Task Force against Economic Crime under the Office of the Prosecutor General.<sup>19</sup> Currently there are seven Joint Investigation Units for the Fight against Economic Crime and Corruption (JIU) established in the district prosecution offices of Tirana, Durrës,

<sup>18</sup> See the Organigram of the Directorate General of the State Police at: [http://asp.gov.al/anglisht/M.P.O/sp/struktura\\_ang.pdf](http://asp.gov.al/anglisht/M.P.O/sp/struktura_ang.pdf)

<sup>19</sup> See Joint Order of 22 May 2007 between the Prosecutor General, Minister of Interior, Minister of Finance and Head of State Intelligence Service.



Shkodra, Vlora, Gjirokastra and Korca (these Units are often mistakenly referred to as task forces). An agency for the management of sequestrated (seized) and confiscated assets has been set up under the Ministry of Finance.<sup>20</sup> The agency only has powers to manage property seized and confiscated under the *Law on Prevention and Fighting of Organized Crime*. The agency has no investigative powers. The Financial Intelligence Unit (FIU) is established under the *Law on Money Laundering* of 2008 and is only an administrative authority with no investigative powers. It is the authority that receives and analyses suspicious transaction, and reports on money laundering and the financing of terrorism. (EU Progress report 2008, 41–42; 46.) There are thus four units dealing with money-laundering, inclusive of the FIU.

## 2.8 Specialized units: Drugs

The Directorate for the Fight Against Organized Crime in the Ministry of the Interior has a special Sector for the Fight against Drugs. According to the EU progress report, there are also joint counter-narcotic task forces, which include representatives of the Ministry of the Interior, the border police, the tax police, the road police and the customs authorities. There is a National Strategy against Drugs 2004–2010, but its implementation has been limited due to a lack of resources. The Joint Order on the prevention of drug use in schools and universities and on the handling of narcotics was signed in 2007 and the Ministry of the Interior's order against the cultivation of narcotics entered into force in 2008. (EU progress report 2008, 47.)

## 2.9 Planned criminal justice reform projects

There are plans to implement a Case Management System for the prosecution office. The OPG has set up a working group to prepare the terms of reference for the system and has received financial commitment from the EC Delegation in Albania. The Ministry of Justice has plans to implement a case management system for all courts, called CCMIS system and to computerize the processing of court files. (UNODC Focal Point 2009.)

The police have plans to implement a Total Information Management System (TIMS) in all Border Crossing Points. In addition DATAcom is another important ongoing project that aims at connecting all police directorates and commissariats electronically. Currently there is an ongoing pilot project in Police Directorates of Tirana and Durres for using standardized electronic forms for crime reporting and investigations. (UNODC Focal Point 2009.)

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<sup>20</sup> See government Decision no. 968, dated 2.7.2008 *On the organization, competences, and functioning of the Agency for the administration of seized and confiscated assets*.

## 2.10 Asylum

The Directorate for Citizenship and Refugees (DfCR) operates under the Ministry of Interior. It receives asylum applications, grants asylum, withdraws asylum in the first instance, and notifies authorities responsible for deportations in case of rejected asylum applications. The National Commission for Refugees coordinates appeals procedures against the DfCR; it consists of 8 appointed representatives of institutions established by Article 19 of the *Law on Asylum*. (National Guidelines on Asylum, Migration and Visa September 2008, 22f).

The National Commissioner for Refugees (who is also Director of DfCR) reports to the National Commission for Refugees. The Border Police is responsible for pre-screening of asylum seekers (*ibid.*, 22f).

## 2.11 Migration

The Department of Border and Migration of the General Directorate of the State Police operates under the Ministry of Interior and has the authority to supervise migration issues related to foreigners in regard to fair treatment, issuance/refusal of residence permits, issue of identification cards, issue of travel documents for foreigners, refusal of entry into the territory of Albania and deportation from the territory of Albania. The police authorities have the competence to control foreigners inside the territory (National Guidelines on Asylum, Migration and Visa September 2008, 25). In January 2008 a Return and Readmission Unit was established within the Department for Border and Migration, which the EU Progress Report 2008 mentions as inadequately staffed (EU Progress Report 2008, 46).

The Directorate of Migration Policies within the Ministry of Labour, Social Affairs and Equal Opportunities (MoLSAEO) regulates the employment of foreigners while the respective employment offices are responsible for the employment of foreigners at local level. The Ministry of the Economy, Trade and Energy is responsible for the evaluation of the economic benefit of the activity of self-employed foreigners as a condition for the issuance of a self-employment work permit for foreigners (Art. 4, Law 9989/2008 on foreigners).

## 2.12 Visas

The Ministry of Foreign Affairs (MFA), the Ministry of Interior (Moi) and the State Intelligence Service (SIS) are involved in visa applications. Visa applications are received at the diplomatic or consular mission abroad. The data are processed by the Consul and sent electronically or by fax to the MFA. After verification through the Consular Directorate the visa application is forwarded to the Moi and the State Intelligence Service. All three institutions involved take a joint decision on

issuance/rejection of the visa. The Embassy or Consulate is then informed to issue the visa. (National Guidelines on Asylum, Migration and Visa September 2008, 30). The Local Border and Migration Police may exceptionally issue short-term visas for 15 days in case of emergency situations or in cases of state interest (Art. 17, Law on Foreigners 9989/2008).

Steps have been taken to set up a national visa centre (EU Progress Report 2008, 44). It is one of the several constituting components of the National Register for Foreigners and is also called electronic visa. All Albanian competent authorities involved in issuing visas for foreigners will be connected through a network and will have access to a database on electronic visa. The application of the foreigner with all the relevant information will be entered into the system by the Albanian consular or diplomatic mission abroad. The database will be accessed by MFA, Border Police and Migration and SIS. They will be able to provide their information/recommendations online. There is a pilot project currently running in Albanian diplomatic missions in Croatia, Greece and Italy. It is expected that the national visa centre will be operational in late 2009. (UNODC Focal Point 2009.)

## 3. Data Availability

### 3.1 Conventional crime<sup>21</sup>

#### 3.1.1 Police data

There are no agreed common rules or manuals on how to gather, record, compile and produce criminal justice statistics between all relevant authorities. In fact, each authority has issued its own rules and guidelines on how to record, compile and produce such statistics. Thus, the Ministry of Justice, the Ministry of Interior and the Office of the Prosecutor General have each issued orders and guidelines on what and how to record and compile data for statistical purposes. To a great extent, such rules are similar because the ground rule for recording, compiling and producing justice statistics, adhered to by all institutions, is classification of criminal offences according to *Criminal Code* provisions.

The Albanian *Criminal Code* is divided into chapters and each chapter into sections. Each section provides criminal offences of a specific category, such as theft offences in one section, fraud in another section, sexual crimes in another and so on. Data are thus maintained on the number of cases recorded for specific offences, data about the

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<sup>21</sup> As defined in the United Nations Survey of Crime Trends and Operations of Criminal Justice systems (UN-CTS), i.e. including homicide, total assault, rape, robbery, total theft, motor vehicle theft, burglary, economic fraud, embezzlement, drug-trafficking and drug-related crime.

suspect, such as sex, age, education, and data about the victim, such as sex and age. Data are also maintained about the case, such as whether charges have been filed in court or dropped or the case was suspended and on the number of cases where a sentence of acquittal was issued as well as on the number of defendants acquitted. Data are also maintained on the sentences pronounced such as imprisonment, fines or community services.

Cases in which there is more than one criminal offence charged are recorded according to the offence that provides the severest punishment. The secondary offences are usually recorded in a separate template. (Minister of Justice Instruction no. 342 of 2004.)

The State Police publishes annual reports on their public website as well as reports concerning drug seizures, special operations, police training etc.<sup>22</sup> Most of the information is only available in Albanian although there are some older activity reports in English.<sup>23</sup>

**Table 1: Criminal Offences recorded by the Police in Albania**

Criminal Offences recorded by the Police in Albania			
Year 2002			
Criminal Offences	Recorded Cases	Solved Cases	% Solved Cases
Crimes against the person	1,586	1,499	95%
Crimes against life	428	378	88%
Murder	179	147	82%
Crimes against health	..	..	..

Source: <http://asp.gov.al/2003/statistika/statistika%202002.htm>

The police last changed their statistical template in February 2008 by an order issued by the Minister of Interior. Some basic information is available on the website of the State Police. For example, the Albanian State Police recorded 13,426 criminal offences in 2008, after 10,036 criminal offences in 2007 and 9,009 criminal offences in 2006.

<sup>22</sup> see: <http://asp.gov.al/2008/STATISTIKA2008.htm>

<sup>23</sup> <http://asp.gov.al/anglisht/Reports/REPORTS.htm>

**Table 2: Criminal Offences recorded by the Police in Albania**

Criminal Offences recorded by the Police in Albania		
	Offences	Solved offences <sup>24</sup>
2008	13,426	10,858
2007	10,036	7,920
2006	9,009	7,052
2005	..	..

Source: State Police.

During 2008, police carried out 35 operations involving special investigative means compared to 34 in 2007. During 2008, 40 criminal groups with 198 suspected members were dismantled and 158 members were arrested, while in 2007, 37 criminal groups with 153 suspected members were dismantled. (State Police 2009.)<sup>25</sup>

In total, police carried out 152 operations and arrested 568 persons (21 operations and 65 persons more than in 2007). 23 operations were carried out in regard to serious crimes with 101 persons arrested, and 40 operations were carried out in regard to anti-corruption and economic crimes with 198 suspected persons arrested; 40 anti-drugs operations with 172 persons arrested and 29 anti-trafficking operations with 97 persons arrested were carried out as well (ibid.).

During 2008 police recorded 702 criminal offences against persons (against life and health), 3,491 criminal offences against property and 9 criminal offences in the area of terrorist acts (ibid.).

As far as data on homicide are concerned, during 2008 police recorded 30 pre-meditated murders compared to 43 in 2007, 17 murders within the family compared to 24 in 2007 and 4 blood feud murders compared to none in 2007. Pertaining to robbery (using violence and weapons) the police recorded 141 cases in 2008, 118 in 2007, 164 in 2006 and 199 in 2005 (ibid.).

The Albanian National Institute of Statistics (INSTAT) has published data on crimes registered by the police and the percentage of cases solved where the suspected person has been identified and prosecuted in court in the years 1993–2001. The data were provided by the Ministry of Interior and by the Unit of Statistics within the

<sup>24</sup> "Solved offences" means those where the perpetrators have been identified and prosecuted.

<sup>25</sup> Annual Analysis of State Police Activity for 2008, at: <http://asp.gov.al/2008/dhjetor/analiza-vjetore-prezantimi.pdf>, 2008

Department of Data Processing and Protection in the General Directorate of the State Police. They provide INSTAT with annual statistics of cases registered by the police with data on offences committed, victims, suspected perpetrators, and other variables. The Ministry of Justice also sends a copy of their Annual Statistics to INSTAT. (UNODC Focal Point 2009.)

**Table 3: Criminal Offences recorded by the Police in Albania**

Criminal Offences recorded by the Police in Albania				
Criminal Offences	Year 2000		Year 2001	
	Recorded Cases	% Solved Cases	Recorded Cases	% Solved Cases
<b>Total Crimes</b>	<b>5,199</b>	<b>88%</b>	<b>4,270</b>	<b>87%</b>
Murder	275	76%	208	82%
Attempted Murder	334	94%	313	90%
Serious Injury	153	93%	135	86%
...	..			

Source: <http://www.instat.gov.al/graphics/doc/tabelat/Treguesit%20Sociale/Shkeljet%20e%20ligjit%20dhe%20drejtesia/SHKL2001exI/shkl1.xls>

INSTAT has also published some criminal justice data on their website with an explanatory analysis of crime trends, data collection methods as well as definitions of the crimes included. However, INSTAT has recently removed the data as they were outdated. According to information from INSTAT, justice statistics only form a minor part of their work. Problems are compounded by a lack of expertise to work with justice statistics and challenges in cooperation with those institutions that produce justice statistics.

### 3.1.2 Prosecution and court data

Statistical data on the website of the prosecuting authority show that there were a total of 17,352 criminal cases recorded in 2008 and 15,961 cases in 2007 (including military cases). In 2008, 7,033 cases were filed in court for trial or 40.5 % of the total number of cases recorded.<sup>26</sup>

<sup>26</sup> <http://www.pp.gov.al/sq/home/Publikime/Statistika.html>

**Table 4: Criminal Cases in Public Prosecution in Albania 2007**

Criminal Cases in Public Prosecution in Albania 2007		
	Recorded cases	Cases filed in court
2008	17,352	7,033
2007	15,961	6,531
2006	...	

Source: Department of Study, Legal Research and Integration at the OPG.

Detailed data are available, inter alia, on corruption and offences related to abuse of office, trafficking in human beings, smuggling on migrants, narcotics offences and money-laundering (see the following sections for further details).

The Ministry of Justice publishes *Annual Statistical Reports* in Albanian, with some information in English. Data are available online for the years 2004–2007.<sup>27</sup> The reports include the number of cases handled by the courts broken down by every criminal act as defined in Albanian law, the decisions handed down by the three levels of courts in Albania and the length of sentences. Conviction data are also available by age (juveniles) and sex.

**Table 5: Criminal Cases in Public Prosecution in Albania 2007**

Criminal Cases in Court in Albania in 2007				
Article	Criminal Act	Cases	Criminal Offences	Convicts
76	Intentional Murder	87	120	92
78/1	Premeditated Homicide	47	63	47
...	...			

Source: Annual Statistical Report 2007.

The *Annual Statistical Report* of 2007 also provides an explanation of the use of terms: “case” includes data from the court files submitted by the prosecution office with the severest charge (highest punishment); “criminal offences” refers to the number of offences committed, including main and secondary offences (as there may be more than one offence in a case); and “convicts” refers to the number of persons convicted

<sup>27</sup> <http://www.justice.gov.al/?fq=brenda&gj=gj1&kid=78>

with a final decision. For example, for the offence of intentional homicide (art 76 of the Criminal Code) there were 87 cases, 120 criminal offences and 92 convicts, meaning that there were 87 murder cases tried in court; 87 murder offences plus 33 other secondary offences jointly tried in court, and 92 convicted persons. The secondary offence in such cases would usually be possession of an illegal weapon. (Vjetari Statistikor 2007, 45).

Some data on the total number of cases dealt with in the three courts is also available on the INSTAT website. However, data are only available up to 2001.<sup>28</sup>

### 3.1.3 United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS)

Albania provided data for the 8<sup>th</sup> and 9<sup>th</sup> United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS), covering the years 2001–2002 and 2003–2004. Data for the 9<sup>th</sup> UN-CTS related to prosecution statistics only. Data for the 8<sup>th</sup> UN-CTS were provided for conventional crimes with the exception of police data on burglary, prosecution data on motor vehicle theft and police and prosecution data on embezzlement. In addition, crimes recorded in the criminal police statistics include information on attempted homicides as well as homicides committed with a firearm. The number of major assaults is separated from the total number of assaults. These figures are also provided for the number of persons brought into initial formal contact with the police and/or the criminal justice system. Information on the number of females, males, adults and juveniles brought into formal contact with the criminal justice system is recorded. An adult is defined as any person over 18 years of age and a juvenile as any person who is 14–18 years old.

When comparing the data for 2001 and 2002 as reported on the police and INSTAT websites with the UN-CTS responses for 2001 and 2002, the figures completely correspond only with regard to intentional homicide, total theft and drug-related crimes. As for rape, the UN-CTS response outlines that “there is a difference between sexual assault and real [sic] sexual intercourse: in 2001, 51 rapes of which 31 were of real sexual intercourse, in 2002, 45 rapes of which 23 were of real sexual intercourse” (Albanian reply to 8<sup>th</sup> UN-CTS, 8). There thus seems to be a discrepancy between what is included in the definition of rape in the UN-CTS versus sexual crimes in the police and INSTAT data.

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<sup>28</sup> <http://www.instat.gov.al/> See: English-> Social indicators-> Law violations and justice-> Tables



### 3.1.4 The European Sourcebook

Albania has participated in all four editions of the European Sourcebook (ESB) of Crime and Criminal Justice Statistics. The most recent available data are for the third 2004–2005 and fourth 2006–2007 sweeps. The tables include information on offences, offenders, prosecution and convictions for a number of offence categories per year.<sup>29</sup>

In addition to crime-related data, the European Sourcebook contains information on crime definitions and data recording methods (ESB4, 246–274). The Albanian reply to ESB4 outlines some explanations regarding the data provided, which highlights that there were amendments to the Criminal Code in 2003–2007, especially regarding several new articles on various forms of corruption. Furthermore, the reply states that there are improvements in the figures provided by the police and courts. Police, prosecution and courts have started to collect more detailed data and hence it is now possible to include or exclude some type of crime from the total included in the tables. (Albania's response to ESB4, 94.)

The most distinct feature of the data provided by Albania is that the number of crimes recorded per 100,000 population is strikingly low. The total number of recorded crimes per 100,000 population in 2006 and 2007 is about 9 times lower in Albania than in Croatia, for which there are comparable data available. When looking at bodily injury/assault, Albania is at 6/100,000 in 2006 and 5/100,000 in 2007, while the corresponding figures in Croatia are 84/100,000 in 2006 and 90/100,000 in 2007. For intentional homicide, however, the figures are relatively high in Albania, at 11.3/100,000 in 2006 and 10.1/100,000 in 2007 (the European mean being at 5/100,000).

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<sup>29</sup> These include total criminal offences, traffic offences, intentional homicide, assault, rape, robbery, theft, theft of a motor vehicle, burglary, money laundering, corruption, drug offences, drug trafficking. In addition to the numbers presented in the ESB4, Albania provides figures for the following crimes: completed intentional homicide, assaults with aggravated bodily injuries, sexual abuse of minors, domestic burglary, fraud, aggravated drug trafficking. Albania also provides data on the number of female, minor and foreign offenders and convicts.

### 3.1.5 EUROSTAT Crime and Criminal Justice Statistics

Albania is not covered by Eurostat's data collection efforts in the field of crime and criminal justice.<sup>30</sup>

## 3.2 Specific forms of crime

### 3.2.1 Corruption

Many sources note that corruption remains a serious problem in Albania (e.g. Seligson & Baviskar 2006). However, this does not necessarily show in the official local corruption statistics. Corruption figures are included in the *Annual Statistical Report* published by the Ministry of Justice. In 2006, according to this report, there were 3 cases, 3 criminal offences and 3 convicts on passive corruption in the private sector, 2 cases, 2 criminal offences and 1 convict on active corruption by a public official, 13 cases, 16 offences and 18 convicts on passive corruption by a public official and 4 cases, 4 criminal offences and 6 convicts on passive corruption of high state officials or locally elected officials. There were also 74 cases of abuse of office with 86 criminal offences and 69 convicts. (Vjetari Statistikor 2006, 34–35.)<sup>31</sup>

Corruption-related statistics are also gathered by the Office of the Prosecutor General, the State Supreme Audit, the Directorate General of Internal Auditing within the Ministry of Finance, the Ministry of Interior, the State Police, the Department for Internal Administrative Control (DIAC) and the Anti-Corruption Task Force, which is the central body responsible for analysing the local corruption situation. (GRECO 2007, 3–4.) According to the CARPO Situation Report, the General Prosecutor's Office reported 443 suspects prosecuted for corruption in 2004. *"In 2005, 442 cases involving 237 defendants were prosecuted. By far most of these proceedings (namely 377) were related to the abuse of office and arbitrary decisions. Only six proceedings were carried out for active bribery and 24 for passive bribery. 159 defendants were civil servants of the central and local public administration."* (CARPO Situation Report 2006, 80.) In 2008 the prosecution office recorded 683 cases in relation to corruption and abuse of office offences with 295 suspected persons. This represents an increase by 32 percent of recorded cases and 20 percent of suspected persons compared to 2007. Charges were filed in court for 154 cases and 155 defendants were convicted (UNODC Focal Point 2009).<sup>32</sup>

<sup>30</sup> <http://epp.eurostat.ec.europa.eu/portal/page/portal/crime/introduction>

<sup>31</sup> The term "convicts" refers to the number of persons convicted while the term "criminal offences" refers to the number of offences committed, including main and secondary offences.

<sup>32</sup> Information from the Department of Study, Legal Research and Integration at the OPG.

Several anti-corruption surveys have been carried out in Albania since the 1990s, the first in 1998 by the World Bank (SIDA 2008, 9). In addition to studies by Transparency International, corruption surveys have been carried out in Albania in 2004, 2005, 2006, 2008 and 2009 by USAID in co-operation with local institutes. The 2004 survey sample was designed and implemented by an Albanian survey firm, the Institute for Public Opinion. The 2005–2009 surveys were carried out by IDRA, an Albanian survey firm, in collaboration with USAID and their consultants. (SIDA 2008, 9; Corruption in Albania 2009; Seligson & Baviskar 2006, 7–8.)

While the 2009 survey shows that the perception of corruption in Albania remains at a high level, the actual experience with corruption transactions has declined from 2005 to 2009. The percentage of persons who declared at least one experience with corruption (as outlined in 10 sample scenarios) has decreased from 66.5 percent in 2005 to 57.1 percent in 2009. (Corruption in Albania 2009, 3–4.) At the same time, trust in the judicial system has been strengthened with an increase of about 10 percent in trust towards the Office of the Prosecutor General (from 37 percent in 2005 to 47 percent in 2009). Trust towards the police has, however, decreased since 2006, when 52 percent trusted the police to about 48 percent in 2009. (Ibid., 15.)

According to the *Balkan Monitor*, a recent survey by Gallup, in Albania “[b]ribery towards government officials and civil servants was reported as being by far the highest in the region with one-third of respondents having to pay a bribe in the year prior to the survey.” Trust in the government and its institutions remains low in Albania with 29 percent believing that the government was doing all it can to fight organized crime. (Gallup 2008, 9.) Trust in the police is slightly higher than trust in the courts, with 53 percent trusting the police a lot or some, compared to 41 percent who trust the courts a lot or some (ibid., 26).

### 3.2.2 Organized crime

The Directorate for Organized Crime of the police and the Ministries of Interior and Justice are responsible for data collection. According to data provided by the Office of the Prosecutor General, during 2008, there were 10 cases recorded and 11 defendants convicted for offences related to organized crime (offences provided for under articles 333, 333/a and 334 of the Criminal Code). In 2007 there were 13 cases recorded and 25 defendants convicted. The Annual Statistical Report of the Ministry of Justice shows that there was one case and 4 defendants convicted for the offence of criminal organization provided for under art 333 of the *Criminal Code* but there are no data provided for the two other offences. A report by the European Committee on Crime Problems of the Council of Europe estimated in 1999 that between 25 and 100 organized criminal groups were active in Albania, with a total number of participants ranging between 500 and 2,500. According to prosecution data, however, only 24 cases concerning the offence of criminal association were started in recent years (information from the end of 2004). (Savona & Curtol 2004, 41.) The official Albanian Organized Crime Situation Report documented 2,316 organized crimes committed by

more than 2,600 criminals, out of which around 50 per cent were arrested. Most of the reported crimes were related to economic crime and money laundering (49 per cent), drugs (28 per cent) and illegal trafficking (20.5 per cent). (CARPO Situation Report 2006, 72.)

### 3.2.3 Trafficking in persons and smuggling of migrants

Data on human traffickers are available on the number of persons investigated and arrested from the Office of the General Prosecutor. Data on the number of persons convicted for trafficking in persons (TIP) (by sex) and on the sanctions imposed on persons convicted for TIP are available from the Ministry of Justice. Data on victims of TIP are collected by the National Reception Centre for Victims of Trafficking. This information includes the number of victims of trafficking identified by State authorities, the form of exploitation the victims were subjected to, the number of victims officially returned to Albania from other countries and a list of countries where the victims were returned from. (UNODC 2009, 232–234.)

The Annual Statistics published by the Ministry of Justice include figures on trafficking of women for prostitution, but the numbers are considerably lower than the figures mentioned in the UNODC publication. The reason for this is likely to be that statistics provided by different institutions do not match. Different data on trafficking in persons are also mentioned in the CARPO situation report: In 2005, the Office of the Prosecutor General reported a total number of 409 cases of human trafficking with 439 perpetrators, while the police authorities reported 30 cases of trafficking in women for sexual exploitation with 49 perpetrators. (CARPO Situation Report 2006, 75.) The explanation is that the police do not reflect back on any changes made by the prosecutor on the charge or offence. The police may report the offence as trafficking and the prosecutor amends it, e.g. to prostitution. In addition, the offence of human trafficking under the Albanian *Criminal Code* includes three separate offences of trafficking of women for prostitution, trafficking of children and trafficking of persons. Furthermore, very often data on smuggling are also included in numbers on trafficking of human beings although smuggling in persons is a separate offence under the *Criminal Code*. (UNODC Focal Point 2009.)

Police data show 527 recorded criminal offences of trafficking with 637 suspected authors and 98 victims. 29 criminal groups were dismantled with 97 suspected members. The time period of these data remains unclear, though a decreasing number of trafficked women has been recorded. Thus in 2008 there were 23 trafficked women recorded, 22 in 2007, 41 in 2006 and 81 in 2005 (State Police 2009).

For 2008, prosecution office statistics show that there were 3 cases recorded and 1 defendant convicted for the offence of trafficking in persons under art 110/a of the *Criminal Code*, whereas for 2007 there were 3 cases recorded with two suspected persons but none tried and convicted. Five cases have been recorded for the offence of trafficking in children under art 128/b of the *Criminal Code* and 7 defendants charged

and 3 convicted during 2008 (2007: 3 cases recorded and 3 defendants convicted). During 2008, 20 cases were recorded for the offence of trafficking of women provided for under art 114/b of the *Criminal Code* with 8 persons charged, tried and convicted (2007: 12 cases recorded, charges were filed in court for 4 cases and 10 persons were tried and convicted). (UNODC Focal Point 2009.<sup>33</sup>)

Since 2006 Albania has participated in an international project on Data Collection and Information Management (DCIM) alongside nine other countries of South-Eastern Europe. The project developed two sets of standardized indicators, one dealing with victims and the other concerning traffickers, and designed and deployed two databases for these indicators in each country. In Albania, the General Prosecutor's Office acts as the repository for the database. In the current phase of the project, the operators of the database are trained to enter and analyse data from the database through a newly commissioned software upgrade to improve national capacities to design effective programmatic anti-trafficking responses.

Another source, the OSCE victim-centered database includes information from police, social service providers and consular missions and is fully integrated into the Total Information Management System (TIMS). A responsible authority for entering data into the DB has been established, which is composed of representatives of the MoI, the MoL, and the MFA. All names contained in the database are encoded, and there are three distinct user layers, each with different access and editorial rights (ICMPD 2009).

Regarding the offence of smuggling of persons under art 298 of the Criminal Code, in 2008 there were 221 cases recorded by the OPG, charges have been filed in court for 112 cases and against 170 defendants, and 153 defendants were convicted (UNODC Focal Point 2009<sup>34</sup>). In 2007, 207 cases were recorded, charges were filed in court for 98 cases and 132 defendants and 130 defendants were convicted.

The Annual Statistics published by the Ministry of Justice also include an offence of assisting the illegal crossing of borders. However, these data differ from those provided by the OPG. In 2006 there were 88 cases, 144 criminal offences and 105 convicted persons. (Vjetari Statistikor 2006, 37.) There were also 108 cases of illegally crossing the state border, with 111 criminal offences and 149 convicts (*ibid.*, 41.) In 2007 there were 88 cases of assisting the illegal crossing of borders, 116 criminal offences and 96 convicted persons. (Vjetari Statistikor 2007, 4). In the same year, there were 59 cases of illegal crossing of borders, 65 criminal offences and 49 convicted persons (*ibid.*, 48).

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<sup>33</sup> Information collected from the Department of Study, Legal Research and Integration at the OPG.

<sup>34</sup> Information from the Department of Study, Legal Research and Integration at the OPG.

### 3.2.4 Economic crime and money- laundering

According to the *CARPO Situation Report* (2006), in Albania the lack of data and its varying nature are one of the main obstacles to a sound research on economic crime: “*Statistical data provided are poor and fragmentary.*” In 2003, in total 91 cases of customs fraud committed by 98 perpetrators were prosecuted, while in 2004, these numbers increased to 163 cases involving 224 perpetrators. In addition, 66 offences with 71 perpetrators were registered in the wide field of tax laws and 852 offences with 929 perpetrators in the broad field of falsification (including product piracy). In 2005, according to the Albanian Ministry of Interior, 22 percent less offences were reported as compared to the year 2004. In total, during 2005, 1,030 cases with 1,236 perpetrators were investigated and reported to the General Prosecution’s Office. Data provided by the Ministry of Interior and the Office of the Prosecutor General show a clear discrepancy, where the numbers from the Ministry of Interior are systematically lower than those provided by the Office of the Prosecutor General. When it comes to money laundering, the *CARPO Report* lists 2 reported offences in 2003, 6 cases in 2004 and 4 cases in 2005. The *CARPO Report* concludes that the figures by the Office of the Prosecutor General are generally more complete and reliable but that it is hard to explain or interpret the widely different figures. (CARPO Situation Report 2006, 78–79.)

The *Annual Statistics* published by the Ministry of Justice include a number of crimes that are economic in nature. In 2007 there were 3 cases of money laundering recorded with 5 defendants convicted under art 287 of the *Criminal Code*. There was one case of opening an anonymous account but none convicted. (Vjetari Statistikor 2007, 43-44). The 2006 data show that there was one case of money laundering under art 287 of the *Criminal Code* but none convicted and one case of opening an anonymous account under art 287/a of the *Criminal Code* and one defendant convicted (Vjetari Statistikor 2006, 36).

According to data of the Office of the Prosecutor General in 2008 there were 13 cases of money laundering under art 287 of the *Criminal Code* and one defendant convicted. There was one case of opening an anonymous account but none convicted; there were 10 cases of dealing in stolen goods under art 287/b of the *Criminal Code* and 3 defendants convicted. Thus, for all offences of money laundering, 24 cases were recorded in 2008, with 14 defendants charged in court and 4 of them convicted. In 2007 there were 5 cases for the offences provided under articles (287,287/a and 287/b) of the *Criminal Code* and 4 defendants convicted (UNODC Focal Point 2009<sup>35</sup>).

The *Progress Report Submitted to MONEYVAL by Albania* (Council of Europe 2007, 29–33) includes statistics on money laundering investigations provided by the Financial Investigation Unit (FIU). 12 cases of money laundering were investigated in 2004, 10 cases in 2005 and 2 cases in 2006. No information on prosecutions, convictions or any

<sup>35</sup> Information from the Department of Study, Legal Research and Integration at the OPG.

figures on proceeds frozen, seized or confiscated were provided. In 2004, 59 suspicious transactions regarding money laundering were reported to the FIU, while the figure was 107 in 2005, 14 in 2006 and 23 in 2007. (Ibid.)

### 3.2.5 Drug- related crimes

According to the EU progress report, drug-related prosecutions have increased and some 2,000 drug-related prosecutions were initiated in 2007. In addition, large amounts of cocaine and cannabis have been confiscated but seizures of heroin at border crossing points have fallen by roughly 50 percent. (EU progress report 2008, 47.)

Albania reported a total of 641 drug offences in 2005, 444 in 2006 and 504 in 2007. There were 20 offences of drug trafficking in 2005, 38 in 2006 and 25 in 2007. (ESB4 raw data).

During the first 11 months of 2008, the police recorded 646 drug offences with 579 persons prosecuted and 352 persons arrested/detained (2007: 524 drug offences, 501 persons prosecuted and 406 persons arrested/detained) (State Police 2009).

In 1-11/2008 police recorded 305 cases of cultivating narcotic plants and arrested 41 suspected persons (2007: 271 cases and 44 persons arrested). In 1-11/2008 police destroyed 143,986 cannabis plants (2007: 177,074 plants). In 2008, 13 international police operations were carried out with 19 persons arrested.

In the first 11 months of 2008 police seized 70.5 kg of heroin, 3.9 kg of cocaine, and 3517.7 kg of cannabis (2007: 126.7 kg of heroin and 12.9 kg of cocaine).

Further, in 1-11/2008 there were 309 cases of *producing and selling* narcotic substances (art 283) recorded, and charges were filed in court against 244 defendants of which 188 were convicted (2007: 236 cases recorded, and 171 defendants convicted). 65 cases of *trafficking* in narcotic substances (art 283/a) were recorded, 69 defendants were charged in court and 15 convicted (2007: 44 cases recorded and 73 convicted defendants). In 2008, 369 cases of *cultivating* narcotic plants (art 284) were recorded, 54 defendants were charged in court and 29 convicted. Compared to 2007, there is an increase of cases recorded by 26 percent but a decrease of defendants convicted by 34 percent.

Pertaining to organized crime offences, for the first 11 months of 2008 there were 10 cases recorded relating to the offence of participation in a structured criminal group with 28 defendants charged in court and 9 defendants convicted. Compared to 2007, the data show that there is a decrease of cases recorded (12 cases) for the same offence, and an increase (over 2 fold) in the number of defendants convicted.



### 3.3 Survey- based statistics

The capacity of the National Statistical Institute (INSTAT) has progressed in the past years. In terms of survey capacity, the structural business surveys have been strengthened and labour force surveys have been carried out. INSTAT has also cooperated, inter alia, with the World Bank, the Italian National Institute of Statistics and DFID on implementing household budget surveys and with UNICEF in carrying out a Multiple Indicator Cluster Survey (Evolution of the National Statistical System, 3). INSTAT does, however, not carry out surveys on justice statistics. They receive the data from the Ministry of Justice and the Police and publish them in their Statistical Yearbook. INSTAT may have the capacity to carry out surveys and may do so if requested. Criminal justice agencies (Ministry of Justice, Police and Prosecution Office) do not possess the capacity to carry out surveys on justice statistics.

The surveys on corruption referred to in the above section have been carried out by two local social research institutes. The Institute for Development Research and Alternatives (IDRA) was established in 2000 and is a non-profit, non-governmental think-tank, focusing on democracy, governance, economic growth and trade. IDRA carried out the recent *Corruption in Albania Survey* in 2009 as well as previous corruption and human trafficking studies funded by USAID in Albania.<sup>36</sup> The Institute of Public Opinion Studies (ISOP), established in 1998 is similarly an independent non-profit organization, specializing in research especially in public health, sociology and economics (Social Science Information Centre 2005, 4).

Gallup has also been involved in relevant surveys in Albania. The fourth round of the International Crime Victimization Survey (ICVS) was conducted in 2000 in Tirana. High interview costs were the main reason for restricting the survey to urban areas only. UNICRI was in charge of the overall organization of the work, and in order to promote standardization, UNICRI contracted Gallup to conduct the ICVS in Tirana using face-to-face interviews. The sample size was 1,498 in Tirana with a very high response rate (93.9 percent).<sup>37</sup> The report *Criminal victimization in urban Europe* (Alvazzi del Frate & van Kesteren 2004) shows that overall victimization by eleven types of conventional crime was fairly high in Tirana (prevalence rate 32 percent). Overall satisfaction with the police was at 44 percent. Experiences of corruption were the most prevalent in Tirana of all countries/cities participating in the ICVS with 59 percent of respondents in Tirana having experienced corruption.

Gallup recently launched a multi-year survey project the *Balkan Monitor*. The first round of the survey was carried out in October 2008, covering the complete Western

<sup>36</sup> <http://www.idra-al.org/index.php>

<sup>37</sup> The ICVS includes questions on 11 types of conventional crime: theft of car, theft from car, car vandalism, theft of motorcycle, burglary, attempted burglary, robbery, theft of personal property, sexual offences and assault/threat. The survey also contains questions on consumer fraud, corruption, satisfaction with the police, fear of crime and attitudes to punishment.



Balkan region. 1,000 respondents were interviewed face-to-face in each of the seven countries.<sup>38</sup>

### 3.4 Data on asylum

During 2005 18 persons applied for asylum in Albania. They were mainly from Kosovo, Serbia and Montenegro, the former Yugoslav Republic of Macedonia, Turkey, Iraq, Iran, China, Morocco, Bangladesh, Nepal, Moldova and India. The Directorate for Refugees has issued 13 decisions regarding the Status of Refugees, including 2 decisions granting the status of refugees (National Guidelines on Asylum, Migration and Visa, 2008).<sup>39</sup>

During 2006, 11 persons applied for asylum in Albania. They were from Kosovo, Turkey, the former Yugoslav Republic of Macedonia and China. During 2007, 27 persons applied for asylum in Albania. They were from Kosovo, Nigeria, the former Yugoslav Republic of Macedonia, Serbia, Egypt, Algeria, Uzbekistan and China (ibid).

The *UNHCR Statistical Yearbook* publishes data on the number of refugees and asylum seekers, returned refugees, stateless persons, IDPs assisted by UNHCR and returned IDPs (UNHCR Statistical Yearbook 2007).

The *ICMPD Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe* (ICMPD 2008, 47–48) reflects data provided by the Border and Migration Police on the number of persons who claimed asylum at the border and inland and the number of persons whose asylum claims were accepted.

### 3.5 Data on visas

During 2007, there were 4,717 applications for visas received by Albanian consular and/or diplomatic missions in different countries of which 4,329 were approved. In 2008 there were 5,664 applications of which 5,447 were approved (National Guidelines 2008). In addition, visas are issued at the border (2006: 1,566, 2007: 6,889) but the number is declining due to measures taken to limit this practice (ibid).

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<sup>38</sup> <http://www.balkan-monitor.eu/>

<sup>39</sup> The other decisions were the following: 6 for closing the procedures; 4 for refusing the Status of Refugees; 1 for temporary protection on humanitarian grounds.

**Table 6: Number of visas issued**

Number of visas issued			
	Year 2006	Year 2007	First 6 months 2008
China	532	681	459
Russia	312	412	309
Serbia	..		

Source: National Guidelines on Asylum, Migration and Visa, 2008.

### 3.6 Data on migration

No statistical information on either immigration to Albania or emigration from Albania exists. Some data on migration can be derived from residence permits issued to foreign citizens.

**Table 7: Residence permits issued by citizenship (first 6 months 2008)**

Number of visas issued				
	1 year permit	5 year permit	unlimited	Total
USA	208	37	1	246
Italy	167	-	-	167
...	...			

Source: National Guidelines on Asylum, Migration and Visa, 2008, 13.

Data are also available on the number of entries and exits to and from Albanian territory. Thus, in 2008 the number of entries/exits of Albanian was 5,680,474 and the number of entries/exits by foreigners was 2,537,278. In 2007 there were 4,654,434 entries/exits by Albanians and 1,684,311 entries/exits by foreigners and in 2006 there were 5,320,810 entries/exits by Albanians and 2,001,109 entries/exits by foreigners. The number of people arrested by border police attempting to illegally cross the border was 16,032 in 2008, 12,704 in 2007, 8,893 in 2006 and 6,720 in 2005 (National Guidelines on Asylum, Migration and Visa 2008).

Albania participates in the annual Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe, published by the International Centre for Migration Policy Development (ICMPD). The Border and Migration Police within the

Border and Migration Directorate of the State Police, shares data on the number of persons legally crossing the border, the number of migration related border apprehensions, the number of minors apprehended at the border due to border violation, the number of migration related apprehensions by place and by border section, the number of smugglers in humans apprehended (by nationality) and the number of traffickers in humans apprehended. All these data include foreigners as well as citizens of Albania. In addition data are provided on the number of persons rejected at the border by top nationalities/citizenship and persons to whom residence was refused. In case the Border and Migration Police uses data they have received from other relevant agencies, the original source is indicated in the yearbook. Albania uses the definitions for Smuggling and Trafficking as provided in Article 3 of the UN protocol against the Smuggling of Migrants and against Trafficking in Persons.

**Table 8: Number of smugglers in humans apprehended by nationality**

Number of smugglers in humans apprehended by nationality			
Citizens of the following countries in 2006	Number of smugglers apprehended in 2006	Citizens of the following countries in 2007	Number of smugglers apprehended in 2007
Albania	120	Albania	138
Total number	120	Total number	

Source: ICMPD Statistical Yearbook 2008, 48.

## 4. Outline of data collection systems

Most information on crime in Albania is dealt with by the police, the Ministry of Justice and the Office of the Prosecutor General. Whereas previously, the compilation of police crime records has proceeded from the manual entry at the local police structures through the district post and police commissariats up to the regional and national levels, the situation seems to have markedly improved over the past few years. A central database to interconnect all police directorates and all border-crossing points was created with the support of the EU and United States in 2004–2007 (Council of Europe 2007, 31). It seems that this new electronic database is now in place (Immigration and Refugee Board of Canada 2008). However, no comprehensive annual crime statistics have been published by the police as yet.

As for prosecution and court statistics, statistics on the performance of the judicial system are maintained by the Ministry of Justice, which directs the collection, processing, and keeping of the unified statistical data in the field of judicial statistics (Council of Europe 2006, 16). The Ministry of Justice also publishes an annual statistical report with comprehensive data on charges, prosecutions and convictions in court. There is also a computerized case management system that registers cases

electronically (EU Progress Report 2008, 9). However, the overall functioning of this CMS is not clear as not all courts seem to have implemented the system yet or are not yet connected to one another.

In addition, the Office of the Prosecutor General has a sector dealing with statistics under the Directorate of Studies, Legal Research and Integration. According to one source, the OPG has access to the Total Information Management System ('TIMS'), which is used by prosecutors to access certain information.

Similar efforts to computerize data collection mechanisms for asylum, migration and visa data are under way and will allow the compilation of comprehensive statistics. The current population registration system is not centralized and does not allow the production of statistics on immigration or emigration, nor on citizenship or country of birth. The National Register of Foreigners (residence permit database) provides some limited information on foreigners who enter and leave Albania and applications for visa and residence permits issued. The Department of Border Control of the Ministry of Interior collects data on illegal entries, trafficking in persons and smuggling of migrants as well as on applications for asylum. The situation is expected to be much improved with the introduction of the Total Information Management System (TIMS) of the Border Guards Directorate, which charts entry and exit from Albanian territory via a database system. The EC-funded TIMS was implemented by the International Criminal Investigative Training Assistance Program (ICITAP) and is currently operational at 16 border crossings (ICMPD 2009). Persons entering with a visa who later switch to a residence permit will be directly entered in the TIMS. The system will also gather data on asylum, for the registering of which the National Commission for Refugees will be responsible. (Poulain and Perrin 2008, 4.)

## Conclusions

It seems that the number of recorded crimes is at a surprisingly low level in Albania. The reasons for this can be manifold. It could be that the overall level of crime is particularly low in Albania. The number of crimes reported to the police does seem low even if one considers that a majority of crimes tend to remain unreported. However, the overall level of crime in the neighbouring countries and Albania's history and current situation especially regarding organized crime give an indication that the actual number of crime is higher than what comes to the attention of the police. In this case victim survey data should show higher figures, as they indeed do (although one must bear in mind that the available ICVS data from 2000 is already somewhat outdated). There could also be differences in how crimes are defined and counted in Albania as compared to other countries and to the requirements of international data collection mechanisms such as the UN-CTS and the ESB. Another explanation is that there are discrepancies in the recording and management of reported crimes. The start-up problems with the case management system suggest that the recording of reported crimes could indeed be a problem. According to anecdotal evidence, petty crimes are either not reported or not recorded by the police. Crimes such as theft of a cell phone

or bicycle or pick pocketing are rarely if ever reported. When reported they may not be recorded by police. Thus, the motivation and incentives of both the victims of crime to report crimes and of the police officers *in situ* for recording the crime must be further scrutinized. As the European Commission recently noted “[m]ore efforts are needed to develop reliable crime statistics. Many crimes go unreported and the low level of recorded offences remains unexplained.” (EU Progress report 2008, 48).

There also seem to be differences in data provided by different authorities. For example, data on economic crime provided by the Ministry of Interior and the Office of the Prosecutor General show clear discrepancies and figures on human trafficking published by the Ministry of Justice and the Office of the Prosecutor General also differ substantially. There are thus clear signs that in the current state of data collection not all authorities involved in the production of criminal justice statistics use the same counting rules, methodology and templates in recording and reporting the data and that there is much room for improvement.

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# Bosnia and Herzegovina

## Outline of the criminal justice system, asylum/visa/migration system and its actors

Institution	Relevant departments/ subdivisions	Existing data availability
<b>State level</b>		
<b>Ministry of Security of Bosnia and Herzegovina</b>	<ul style="list-style-type: none"> <li>• State Investigation and Protection Agency (SIPA)                             <ul style="list-style-type: none"> <li>- Criminal Investigation Department:                                     <ol style="list-style-type: none"> <li>1. Section for Prevention and Detection of Financial Crime and Corruption</li> <li>2. Section for Prevention and Detection of Organized Crime</li> <li>3. Section for Prevention and Detection of Crime Related to Trafficking in Human Beings and Sexual Offences</li> <li>4. Section for Prevention and Detection of Crime Related to Narcotics</li> <li>5. Section for Prevention and Detection of Other Criminal Offences</li> </ol> </li> <li>-Financial Intelligence Unit</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Annual Information on the state of security report with crime data                             <ul style="list-style-type: none"> <li>- SIPA data on economic crime</li> <li>- SIPA data on traffickers in persons</li> <li>- SIPA data on organized crime</li> <li>- SIPA data on money laundering</li> <li>- SIPA data on reports to the Prosecutors' office BiH reporting on corruption-related criminal offences (Abuse of office, Tax evasion, Money laundering, Forging documents)</li> </ul> </li> <li>• FIU data on suspicious transactions</li> </ul>
<b>Ministry of Security of Bosnia and Herzegovina</b>	<ul style="list-style-type: none"> <li>• Border Police (Central Investigation Office: Data Processing and Analysis)</li> <li>• Service for Foreigners' Affairs</li> <li>• Sector for Immigration (Central Database on Aliens)</li> <li>• Sector for Asylum</li> <li>• Sector for Fight Against Terrorism, Organized Crime and Drugs Abuse                             <ol style="list-style-type: none"> <li>1. Department for the fight against organized crime and corruption</li> <li>2. Department for the reduction of abuse of narcotic drugs</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• Data on Migration, Asylum and Visa</li> <li>• Database on human trafficking victims and traffickers</li> <li>• The Central Database on Aliens</li> <li>• The database on valid travel documents</li> <li>• The database on forged travel documents</li> <li>• The Migration Information System</li> <li>• Organized crime related data reported by law enforcement agencies in BiH</li> <li>• Drug-related offences reported by police in all of BiH</li> </ul>

<b>Prosecutor's Office of Bosnia and Herzegovina</b>	<ul style="list-style-type: none"> <li>• Department I (Special Department for War Crimes)</li> <li>• Department II (Special Department for Organized Crime, Economic Crime and Corruption)</li> <li>• Department III: Other crimes</li> </ul>	<ul style="list-style-type: none"> <li>• Register and statistical data on the prosecution of crimes, perpetrators, of cases under prosecution, investigations, judgments, prosecutor's appeals</li> <li>• Some information on corruption-related indictments</li> </ul>
<b>Court of Bosnia and Herzegovina</b>	<ul style="list-style-type: none"> <li>• Section I for War Crimes</li> <li>• Section II for Organized Crime, Economic Crime and Corruption</li> <li>• Section III for all other criminal offences under the jurisdiction of the Court</li> </ul>	<ul style="list-style-type: none"> <li>• Some information on corruption-related verdicts</li> </ul>
<b>High Judicial and Prosecutorial Council of Bosnia and Herzegovina (HJPC)</b>	<ul style="list-style-type: none"> <li>• Department for the informatization of the justice system</li> </ul>	<ul style="list-style-type: none"> <li>• Data on the functioning of the judiciary (Case Management System)</li> </ul>
<b>Ministry of Foreign Affairs</b>	<ul style="list-style-type: none"> <li>• Visa and Passport Department</li> </ul>	<ul style="list-style-type: none"> <li>• Data on visa</li> </ul>
<b>Ministry of Justice</b>	<ul style="list-style-type: none"> <li>• Sector for strategic planning and European integration</li> </ul>	<ul style="list-style-type: none"> <li>• All courts send all final and legally binding verdicts for criminal offences concerning counterfeit money, illicit producing, processing and selling of narcotic drugs, human trafficking, and producing and distribution of pornography</li> </ul>
<b>Bosnia and Herzegovina Council of Ministers</b>	<ul style="list-style-type: none"> <li>• State Coordinator for Combating Trafficking in Human Beings and Illegal Migration</li> </ul>	<ul style="list-style-type: none"> <li>• Data on investigations, persons involved in human trafficking and smuggling of migrants cases, indictments and verdicts</li> </ul>
<b>State Agency for Statistics of Bosnia and Herzegovina (BHAS)</b>	<ul style="list-style-type: none"> <li>• Office of the Director</li> </ul>	<ul style="list-style-type: none"> <li>• Data on cooperation with entity agencies for statistics</li> </ul>
<b>Federation of Bosnia and Herzegovina (FBiH) level</b>		
<b>Ministry of Interior of FBiH</b>	<ul style="list-style-type: none"> <li>• Criminal Investigation Section/ Department for fighting organized and inter-cantonal crime</li> <li>• At cantonal level: departments for anti-corruption</li> </ul>	<ul style="list-style-type: none"> <li>• Data on general crime</li> <li>• Data on organized crime</li> <li>• Data on corruption</li> </ul>
<b>Federal Prosecutor's Office of FBiH</b>	<ul style="list-style-type: none"> <li>• Prosecutor's Office of FBiH and 10 Cantonal Prosecutor's Offices</li> <li>• Department for Organized Crime, Economic Crime and Corruption</li> </ul>	<ul style="list-style-type: none"> <li>• Data on general crime</li> <li>• Data on organized crime</li> <li>• Data on corruption</li> </ul>
<b>Supreme court of FBiH</b>	<ul style="list-style-type: none"> <li>• Office of the President of the Supreme Court of FBiH</li> </ul>	<ul style="list-style-type: none"> <li>• Data on the functioning of courts</li> </ul>
<b>Federal Office of Statistics</b>	<ul style="list-style-type: none"> <li>• Sector for judicial statistics</li> </ul>	<ul style="list-style-type: none"> <li>• Statistical yearbook (in English) with some crime data</li> </ul>

Republika Srpska (RS)		
<b>Ministry of Interior of RS</b>	<ul style="list-style-type: none"> <li>Criminal Investigation Department/ Section for Investigation of Serious and Organized Crime</li> <li>Administration for analytics, information and communications</li> </ul>	<ul style="list-style-type: none"> <li>Data on general crime</li> <li>Data on organized crime</li> <li>Data on corruption</li> </ul>
<b>Prosecutor's Office of RS</b>	<ul style="list-style-type: none"> <li>Republic Prosecutor's Office of RS and 5 District Prosecutor's Offices</li> <li>A special Department for Organized Crime, Economic Crime and Corruption</li> </ul>	<ul style="list-style-type: none"> <li>Data on general crime</li> <li>Data on organized crime</li> <li>Data on corruption</li> </ul>
<b>Supreme court of the RS</b>	<ul style="list-style-type: none"> <li>Administrative Office</li> </ul>	<ul style="list-style-type: none"> <li>Data on the functioning of courts</li> </ul>
<b>District Court in Banja Luka</b>	<ul style="list-style-type: none"> <li>Special Department for curbing organized and the most serious forms of economic crimes</li> </ul>	<ul style="list-style-type: none"> <li>Covers organized crime and corruption in all of RS</li> </ul>
<b>Republika Srpska Institute of Statistics</b>	<ul style="list-style-type: none"> <li>Sector for judicial statistics</li> </ul>	<ul style="list-style-type: none"> <li>Data on violence and discrimination based on gender as well as family violence</li> </ul>
Brčko District of BiH (BDiH)		
<b>Brčko District Police</b>	<ul style="list-style-type: none"> <li>BDBiH Police</li> <li>Crime Unit: department for fighting organized crime and corruption</li> </ul>	<ul style="list-style-type: none"> <li>Data on general crime</li> <li>Data on organized crime</li> <li>Data on corruption</li> </ul>
<b>Prosecutor's Office of BDBiH</b>	<ul style="list-style-type: none"> <li>Public Prosecutor's Office of Brčko District</li> </ul>	<ul style="list-style-type: none"> <li>Data on prosecutions</li> </ul>
<b>Brčko Basic and Appellate Court</b>	<ul style="list-style-type: none"> <li>Administrative Office</li> </ul>	<ul style="list-style-type: none"> <li>Data on convictions</li> </ul>
<b>EU Police Monitoring Mission</b>	<ul style="list-style-type: none"> <li>Sector for analytics?</li> </ul>	
<b>Office of the High Representative</b>	<ul style="list-style-type: none"> <li>Public Security Sector Reform Unit</li> </ul>	

## 1. Short background

Bosnia and Herzegovina (BiH) declared independence from Yugoslavia in April 1992 following a referendum. A three-year long conflict commenced shortly afterwards, ending with the Dayton Peace Agreement in December 1995. The agreement created two entities within the state of Bosnia and Herzegovina: the Federation of Bosnia and Herzegovina and the Republika Srpska, each with its own president, government, parliament, police and other bodies. The agreement also established a UN-mandated High Representative, with executive powers, and the 60,000-strong NATO peacekeeping Implementation Force (IFOR). IFOR was later succeeded by a smaller NATO-led force, which was in turn replaced by the European Union Forces (EUFOR) in

December 2004. EUFOR remains present in the country to date. The High Representative, who also acts as EU Special Representative, is also still present in the country, and holds executive power. The Stabilisation and Association agreement (SAA) between BiH and the European Union was signed on 16 June 2008.<sup>40</sup> It will enter into force upon completion of the ratification process.

BiH consists of the Entities of the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS), as well as the Brčko District of BiH (BDBiH), a self-governing administrative unit, established as a neutral area under the authority of the state. BiH is a parliamentary democracy with a two-chamber State-level parliament comprising the House of Representatives and the House of Peoples. The Presidency at the State-level rotates every eighth months between its three-members, of which one is Bosniak, one Croat and one Serb. In addition, there are separate parliaments and governments at the level of the entities and the BDBiH (EU Progress Report 2008, 8).

The current constitution<sup>41</sup> stems from the Dayton Peace Agreement. Constitutional reform remains a key issue, especially in view of EU integration and pending cases before the European Court of Human Rights concerning eligibility to stand for election to the Presidency and to the House of Peoples of the Parliamentary Assembly.<sup>42</sup> In addition, most of the authorities and government structures remain largely decentralized.

BiH has thirteen Ministries of Justice: ten cantonal Ministries in the Federation, two entity-level Ministries and one at the BiH level. In the Brčko District of BiH, some of the functions of a Ministry of Justice are performed by the Brčko Judicial Commission and some by the Brčko District Government. (Functional review of the BiH justice sector 2005, 14.) At State-level, the justice system consists of a Ministry of Justice with limited powers and staff, the Court of BiH, the Prosecutor's Office of BiH, and the High Judicial and Prosecutorial Council (HJPC) (EU Progress report 2008, 13–14).

Until 2003 the criminal legislation of BiH was fragmented and to a large extent not harmonized between the Entities. Uniform legislation did not exist on the state level and the codes of FBiH, RS and BDBiH were significantly different from each other. However, in 2003, the Office of the High Representative imposed the Criminal Code of BiH (CCBiH) and the Criminal Procedure Code of BiH (CPCBiH) and required lower administrative units of the country to harmonize their respective codes with these. As a result, as of 2003, four new criminal and criminal procedure codes exist in BiH. Specifically, in addition to the CCBiH and the CPCBiH, corresponding codes were introduced on the level of the FBiH, the RS and the BDBiH. Today, although some differences do exist between the laws, the criminal legislation in BiH can be said to show a considerable degree of internal harmonization. (UNODC Focal Point 2009.)

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<sup>40</sup> [http://ec.europa.eu/enlargement/potential-candidate-countries/bosnia\\_and\\_herzegovina/eu\\_bosnia\\_and\\_herzegovina\\_relations\\_en.htm](http://ec.europa.eu/enlargement/potential-candidate-countries/bosnia_and_herzegovina/eu_bosnia_and_herzegovina_relations_en.htm)

<sup>41</sup> [http://www.ccbh.ba/public/down/USTAV\\_BOSNE\\_I\\_HERCEGOVINE\\_engl.pdf](http://www.ccbh.ba/public/down/USTAV_BOSNE_I_HERCEGOVINE_engl.pdf)

<sup>42</sup> European Court of Human Rights. Applications nos 27996/06 and 34836/06, Dervo Sejdić and Jakob Finci v. Bosnia and Herzegovina.

The Bosnia and Herzegovina Justice Sector Reform Strategy 2008–2012 was adopted in late 2007. The objective of the strategy is to create a joint framework of reform for justice sector institutions in BiH. (Bosnia and Herzegovina Justice sector reform strategy 2008–2012, 3.) According to the EU Progress report, the lack of a Supreme Court capable of harmonizing the application of legislation across the four internal jurisdictions remains a problem, as does the absence of a single budget for the judiciary. Some 14 separate budgets for the various Ministries of Justice (including the budget of the institutions tasked with justice issues in the BDBiH) hamper judicial independence and overall implementation of reform. However, due to the lack of consensus, the Justice Sector Reform Strategy 2008–2012 does not suggest the establishment of a Supreme Court of Bosnia and Herzegovina, nor a single judicial budget or single criminal law. (EU Progress report 2008, 13–14.)

## 2. Justice and home affairs actors

### 2.1 Law Enforcement

The structure of the police in BiH remains complex. There are several autonomous law enforcement agencies in BiH, divided into the state level and the levels of the Entities and the District of Brčko. At the state level, the police is managed by the Ministry of Security of Bosnia and Herzegovina, which includes the Border Police, the State Investigation and Protection Agency (SIPA) and Interpol National Central Bureau, Sarajevo. There is also a Court police at the State level. (Wisler 2005, 140.)

The State level in BiH is responsible only for international and inter-Entity criminal law enforcement, as well as relations with Interpol, as outlined in the *BiH Constitution*. The State Investigation and Protection Agency (SIPA) was created in 2002 in order to exchange law enforcement information and provide protection for national institutions and representatives. It deals with prevention, detection and investigation of organized crime, terrorism and illegal trade, war crimes, trafficking in persons as well as all other crimes within the jurisdiction of the Court of Bosnia and Herzegovina.<sup>43</sup>

The new *Law on the BiH Border Police* (earlier State Border Service<sup>44</sup>) adopted in October 2004, defines the BiH Border Police as an administrative organization with operational independence within the BiH Ministry of Security. The Border Police was established for the purpose of performing police tasks linked to BiH border surveillance and border crossing control as well as other tasks defined by the Law.<sup>45</sup>

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<sup>43</sup> <http://www.sipa.gov.ba/en/razvoj.html>

<sup>44</sup> By the Law amending the Law on the BiH State Border Service which entered into force on 18 April 2007 the name BiH State Border Service was changed into BiH Border Police.

<sup>45</sup> See <http://www.granpol.gov.ba>.

The FBiH and RS maintain their own police forces under the control of their respective Interior Ministers. In the FBiH, police are decentralized, with each of the ten cantons having their own Ministry of Interior. The FBiH Ministry of Interior has rather limited powers and mostly coordinates inter-entity and inter-cantonal co-operation. The ten cantonal Interior Ministries are responsible for all other aspects of law enforcement. The police in RS are organized in a more centralized manner with regional Public Security Centres and local police stations. The RS Ministry of Interior is responsible for all crime prevention and enforcement within RS. The BDBiH has its own autonomous police force, the Brčko District Police. (ICMPD 2004, 14–15.) The European Union Police Mission (EUPM) commenced operation in January 2003, taking over after the UN's International Police Task Force. The current mandate of EUPM is until the end of 2009.<sup>46</sup>

The multiple law enforcement structures complicate co-ordination and effectiveness. According to the EU Progress report 2008, whilst there has been some progress in police reform, the fragmentation of police forces has not been addressed, and cooperation and information exchange between law enforcement agencies remain weak (EU Progress report 2008, 56). The *Law on independent and supervisory bodies of the police structure of Bosnia and Herzegovina* and the *Law on the Directorate for Coordination of Police Bodies and Agencies in Bosnia and Herzegovina* were adopted in April 2008, providing for the establishment of seven new agencies at the State level. The new agencies will not have a coordination role vis-à-vis the Entities, cantonal and BDBiH police forces. It is, however, hoped that together with constitutional reform, these new institutions may help streamline the police structure in the future in light of the fact that police reform remains a prerequisite for BiH's accession to the European Union. (EU Progress Report 2008, 56–57.)

According to the response by BiH to the 10<sup>th</sup> United Nations Survey of Crime Trends and Operations of Criminal Justice Systems, there were 8,447 police personnel in 2005 and 10,589 in 2006. The commentary to the figures states that data on the total number of staff is not complete and is higher in practice as numbers from SIPA, for example, are lacking. (BiH response to 10<sup>th</sup> UNCTS, 6.) According to the Financial, Organizational and Administrative Assessment of the BiH Police Forces and the State Border Service, based on data as of December 31, 2003, the total police staff (including Ministries of Interior, SIPA, Border Police and Interpol) in BiH was 23,500 (administrative and authorised staff included) (ICMPD 2004, 58).

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<sup>46</sup> See: [http://ec.europa.eu/enlargement/potential-candidate-countries/bosnia\\_and\\_herzegovina/political\\_profile\\_en.htm](http://ec.europa.eu/enlargement/potential-candidate-countries/bosnia_and_herzegovina/political_profile_en.htm)

## 2.2 Prosecution

BiH has one State-level prosecutor's office as well as separate offices in both Entities and the District. The Prosecutor's Office of BiH was established in 2002. The Office consists of three departments: the Special Department for War Crimes (Department I); the Special Department for Organized Crime, Economic Crime and Corruption (Department II); and Department III, which deals with issues that fall outside the jurisdiction of the two other departments (such as criminal offences of terrorism, protection of copyright, counterfeiting of money, and international cooperation in criminal matters). The Prosecutor's Office of BiH is not superior to the Entity Prosecutor's Offices but its jurisdiction is limited to prosecution of the aforementioned specific crimes.<sup>47</sup>

The three areas of BiH each have their own prosecuting authorities:<sup>48</sup>

- The Federal Prosecutor's Office of the Federation of BiH and the ten Cantonal Prosecutor's Offices in the Federation of Bosnia and Herzegovina;
- The Republic Prosecutor's Office of Republika Srpska and the five District Prosecutor's Offices;
- The Public Prosecutor's Office of Brčko District.

In total there are 19 prosecutor's offices in the country, including the 11 offices in the Federation of BiH, 6 in Republika Srpska, one in Brčko District and one at the State level. (Functional review of the BiH justice sector 2005, 58.)

Reform of the criminal procedure regime at the State level eliminated the role of the investigating judge and handed the responsibility of leading criminal investigations to the prosecutor, with the BiH court police providing assistance to the BiH Prosecutor's Office and the BiH Court. (Functional review of the BiH justice sector 2005, 24.) Equivalent changes were made in the course of harmonization of the criminal legislation of FBiH, RS and the BDBiH with the respective legislation of BiH. As noted above, however, there remain separate criminal codes and criminal procedure codes at the level of BiH, the Federation and Republika Srpska. According to an EU assessment, many prosecutors and police officers have difficulties understanding and applying the different substantive criminal codes in force (EU Progress report 2008, 13–14).

According to the report *Functional review of the BiH justice sector 2005*, there were 10 prosecutors in the Prosecutor's Office of Bosnia and Herzegovina in 2005, 181 prosecutors in the Federation of Bosnia and Herzegovina, 73 in Republika Srpska and 7 in the District of Brčko, giving rise to a total of 271 prosecutors in 2005. (Functional

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<sup>47</sup> <http://www.tuzilastvobih.gov.ba/index.php?opcija=sadrzaj&kat=1&id=3&jezik=e>

<sup>48</sup> <http://www.tuzilastvobih.gov.ba/index.php?opcija=sadrzaj&kat=1&id=3&jezik=e>



review of the BiH justice sector 2005, 86–87.) BiH had a total of 245 prosecution personnel in 2005 and 281 in 2006 (BiH response to the 10<sup>th</sup> UNCTS, 20).<sup>49</sup>

## 2.3 Courts

BiH has three Constitutional Courts, one at the level of BiH, one in the FBiH and one in RS, each established under relevant Constitutions. As mentioned above, there is no overall Supreme Court in BiH, with this function being carried out by supreme courts of the FBiH and RS.

Four court systems deal with civil, criminal and administrative cases: one at BiH level, those of the two entities and that of Brčko District. In 2005, there were a total of 189 courts in BiH (excluding Constitutional Courts):

- At the BiH level, the Court of BiH, has the same jurisdiction as the Prosecutor's Office of BiH and deals with first instance criminal and administrative cases, as well as war crimes, organized crime, economic crimes, corruption cases and also third instance appeals from Brčko.
- In FBiH, in addition to the Supreme Court of FBiH, there are 10 cantonal courts with jurisdiction over decisions of the 28 municipal courts. Municipal Courts are the courts of first instance, except for serious criminal cases. In addition, there are 80 municipal and 6 cantonal minor offence courts.
- In RS, the court system is composed of the Supreme Court of RS, 5 district courts, 19 basic courts and 45 minor offence courts.
- BDBiH has its own court system, with a Basic Court of first instance and an Appellate Court.

(Functional review of the BiH justice sector 2005, 50–51; 54–55.)

According to the report *Functional review of the BiH justice sector 2005*, there were 15 judges in the Court of Bosnia and Herzegovina in 2005, 448 judges in the various courts of the Federation of Bosnia and Herzegovina, 220 in Republika Srpska and 17 in the District of Brčko, giving rise to a total of 700 judges in 2005. (Functional review of the BiH justice sector 2005, 86–87.) BiH had a total of 622 professional judges or magistrates in 2005 and 846 in 2006 (BiH response to the 10<sup>th</sup> UNCTS, 24).<sup>50</sup>

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<sup>49</sup> The differences in figures are likely caused by differences in counting units.

<sup>50</sup> The differences in figures are likely caused by differences in counting units.

## 2.4 Specialized units: Anti- Corruption

In the absence of a single government anti-corruption agency, anti-corruption tasks are divided among the existing police agencies, ministries and prosecution, including among the following units (Transparency international 2007, 204):

- SIPA has a Department for the Prevention and Detection of Financial Crime and for Anti-Corruption.
- There is a Special Department for Organized Crime and Corruption in the Prosecutor's Office of BiH. Similar departments exist in the Entity and District Prosecutor's Office.
- The Ministry of Interior of RS and the Ministry of Interior of FBiH have departments for fighting organized crime and at the cantonal level departments exist that are responsible for investigating corruption.
- The Crime Unit of the Police of BDBiH has a department responsible for fighting organized crime and curbing corruption.

In 2000 and 2001 the Council of Ministers of BiH presented an anti-corruption Action Plan. Whilst this has not, to date, been adopted in full, parts from the Plan were included in the national Poverty Reduction Strategy Paper of 2004 – also known as the Medium-Term Development Strategy for BiH (2004–2007) – which incorporates a section on corruption and its prevention. (Transparency International 2007, 29.) A National Strategy for the fight against corruption and organized crime covers the period 2006–2010, accompanied by an Action Plan. According to the EU Progress Report, strengthened implementation of the strategy continues to be required (EU Progress Report 2008, 15).

BiH ratified the UN Convention against Corruption in 2006.<sup>51</sup> It has not signed the Additional Protocol to the Council of Europe Criminal Law Convention on Corruption nor harmonized its legislation with the Council of Europe Civil Law Convention on corruption (EU progress report 2008, 15).

Corruption is criminalized in the *Criminal Code of BiH* in Chapter 19 (criminal offences of corruption and criminal offences against official duties/other responsible duties), Art. 217 Para. 1 (demanding/accepting a gift/any other benefit), Art. 218 (giving/promising gifts), Art. 219 (illegal interceding), Art. 220 (abuse of office/official authority), Art. 221 (embezzlement in office) and Art. 222 (fraud in office). (Stability Pact Survey 2005.)

BiH participates in the Group of States against Corruption (GRECO) of the Council of Europe and has undergone both of the two evaluation rounds (carried out in 2002 and 2005–2006).<sup>52</sup> Some of the recommendations by GRECO in its second evaluation

<sup>51</sup> <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>

<sup>52</sup> [http://www.coe.int/t/dghl/monitoring/greco/evaluations/index\\_en.asp](http://www.coe.int/t/dghl/monitoring/greco/evaluations/index_en.asp)

report have been addressed, including changes to the legal framework, improved coordination and training of anti-corruption agencies involved in fighting corruption and seizure of instruments and proceeds of crime. However, there are still several recommendations that have not been fully implemented. (EU progress report 2008, 14.) BiH is also part of the Regional Anticorruption Initiative (RAI) of the Regional Cooperation Council (RCC), successor to the Stability Pact for South Eastern Europe.<sup>53</sup>

## 2.5 Specialized units: Organized crime

In addition to the Special Department for Organized Crime and Corruption in the Prosecutor's Office of BiH referred to above, the Intelligence and Security Agency of BiH (ISA), established in 2004 collects security intelligence and is responsible for fighting organized crime and terrorism. (Transparency International 2007, 148.)

On the state level, one of the organizational units of the State Investigation and Protection Agency (SIPA) is the Section for the Prevention and Detection of Organized Crime within the Criminal Investigation Department. The Specialized Unit for Combating Organized Crime in FBiH is the Department for Fighting Organized and Inter-Cantonal crime within the Criminal Investigation Sector of the Ministry of Interior of FBiH. Within the Criminal Investigation Department of the Ministry of Interior of RS, responsibility for combating organized and other serious forms of crime lies with the Section for Investigation of Serious and Organized Crime.

BiH ratified the UN Convention against Transnational Organized Crime in 2002.<sup>54</sup> Organized crime is covered in the *Criminal Code of BiH* through Art. 247 (conspiracy to perpetrate a criminal offence), Art. 249 (associating for the purpose of perpetrating criminal offences) and Art. 250 (perpetrating/organizing/directing a criminal offence as a member of an organized criminal group, becoming a member of an organized criminal group). (Stability Pact Survey 2005.)

Republika Srpska has a specific *Law on Prevention of Organized Crime and the Most Serious Forms of Economic Crimes*, which is *lex specialis* in relation to the existing legislation in RS. This Law applies in cases that do not fall under the Court of BiH and Prosecution of BiH. In accordance with the Law, a special Prosecutors' office for prevention of organized crime and the most serious forms of economic crimes within the Prosecutors' office Banja Luka has been established. This office has jurisdiction over the whole territory of RS for such crimes. In addition, the Law established a special department for curbing organized and the most serious forms of economic crimes within the District Court in Banja Luka with the same jurisdiction.

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<sup>53</sup> <http://www.rai-see.org/home.html>

<sup>54</sup> [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12&chapter=18&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&lang=en)

## 2.6 Specialized units: Trafficking in persons and smuggling of migrants

The position of State Coordinator for Combating Trafficking in Human Beings and Illegal Migration was established in 2003. The State Coordinator operates under the BiH Council of Ministers and is supported by an Office, as well as by a State Group/Task Force, which consists of representatives from several ministries, including representatives of prosecutor's offices, authorities of internal affairs, taxation bodies, Financial Police, and State Border Services.<sup>55</sup> The first National Action Plan was drafted in 2001, and was followed by a State Action Plan 2005–2007, and more recently by a State Action Plan 2008–2012.<sup>56</sup>

The Criminal Investigations Department within SIPA includes a specialized team dedicated to investigating trafficking in persons (TIP) and sexual offences. Some 31 police officers were assigned full time to the policing of human trafficking in 2007. These Anti-Trafficking Liaison officers are appointed in each of the police agencies with 13 of them working at SIPA. (BiH's response to UN.GIFT.)

The criminal offence of trafficking in persons is included in the BiH Criminal Code under Article 186. The offence is exclusively under the competency of the Court and Prosecutor's Office of BiH. (State Coordinator 2005, 5.) The Criminal Codes of FBiH, RS and BDBiH, on the other hand, criminalize other offences that may be related to TIP. This includes, for example, enticement to involvement in prostitution (Criminal Code of FBiH (CCFBiH), Article 210, and Criminal Code of BDBiH (CCBDBiH), Article 207) and trafficking in persons for the purpose of prostitution (Criminal Code of RS (CCRS), Article 198). The "*offence of human trafficking as defined by [the] state criminal code does not have the same legal qualification in the Entity criminal codes*" (Council of Ministers 2008, 8) even though these codes do contain criminal offences that partially criminalize trafficking in persons. The harmonization of these overlapping pieces of legislation is a key objective of the State Action Plan 2008–2012.

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<sup>55</sup> <http://www.anti-trafficking.gov.ba/?otvori=struktura&lang=eng>

<http://www.tuzilastvobih.gov.ba/?opcija=sadrzaj&kat=3&id=8&jezik=e>

<sup>56</sup> <http://www.anti-trafficking.gov.ba/?otvori=dokumenti&kat=1&lang=eng>

## 2.7 Specialized units: Money- laundering and economic crimes

The Council of Europe Convention on laundering, search, seizure and confiscation of proceeds of crime and financing of terrorism entered into force in 2008 in BiH, but legislation still remains to be harmonized with the Convention. (EU Progress Report 2008, 55–56.) In terms of institutions, a Financial Intelligence Unit (FIU) was established in 2004 and functions under SIPA (GRECO 2005, 6) and a multi-agency Working Group for Prevention of Money Laundering and Financing of Terrorist Activities is responsible for the coordination of investigative and regulatory bodies dealing with money laundering and terrorism in BiH.

Money-laundering is criminalized in each of the *Criminal Codes of BiH* (CCBiH, Article 209; CCFBiH, Article 272; CCRS, Article 280; CCBDBiH, Article 265). An Action Plan for the Prevention of Money Laundering was also promulgated in 2003. (GRECO 2005, 6.)

## 2.8 Specialized units: Drugs

With the introduction of the *Law on Prevention and Suppression of Abuse of Narcotic Drugs* (2006), the Council of Ministers of BiH established two bodies; the Commission on Narcotic Drugs in 2007 and the Department for the Reduction of Abuse of Narcotic Drugs within the Ministry of Security of BiH. The main task of the former is to coordinate activities of the ministries and other institutions involved in the implementation of the State Strategy on Narcotic Drugs in BiH, as well as to promote and control the implementation of the Strategy. Amongst other tasks, the Commission is in charge of establishing a system of collection of information related to the extent and nature of abuse of narcotic drugs in BiH. The Department for Reduction of Abuse of Narcotic Drugs, on the other hand, is tasked with monitoring of the phenomenon, collection and processing of information required for the prevention and suppression of illegal trafficking in drugs and other criminal offences related to the abuse of narcotic drugs, as well as with the coordination of activities of police, customs and other bodies in the fight against abuse of narcotic drugs in BiH.

The National strategy on Narcotic Drugs in Bosnia and Herzegovina for the period 2009–2013 was approved in February 2008. The strategy focuses on awareness-raising, prevention, demand- and supply-reduction and on strengthening legislation and institutional capacity, including the creation of an independent multi-sectoral office for drug prevention (National strategy 2009, 9). The Ministry of Civil Affairs is the national contact point for the European information network on drugs and drug addiction. (EU Progress Report 2008, 56.)

## 2.9 Planned criminal justice reform projects

The Bosnia and Herzegovina Justice sector reform strategy 2008–2012 contains five basic areas of reform: reform of the judicial system; increasing access to justice; supporting economic growth; reform of the system for execution of criminal sanctions and the coordination, management and accountability of the justice sector. Expected outcomes of the strategy include, *inter alia*, increased efficiency of court work with the introduction of a case management system that will enable the sharing of information, the generation of statistics, and the recording of significant trends; a reduction in the backlog of cases; the development of a coherent system for the enforcement of criminal sanctions; a common legal framework and minimum standards guaranteeing equality for all before the law; and improved access to justice and greater trust and confidence in the courts. (The Bosnia and Herzegovina Justice sector reform strategy 2008–2012.)

## 2.10 Asylum

The main actors tasked with asylum issues are the Ministry of Security of BiH, together with its three organizational units; the Service for Foreigners' Affairs and the Sector for Asylum,<sup>57</sup> the Border Police, and the Ministry for Human Rights and Refugees of BiH.

The Ministry of Security of BiH, in general, is in charge of implementation of immigration and asylum policy in BiH. The Sector for Asylum within the Ministry of Security is responsible for administrative and other substantial matters as regards implementation of asylum policy and asylum procedure in BiH, coordination of work within competent organizational units, the drafting of relevant laws and bylaws, securing reception, accommodation and assistance to asylum seekers, and harmonization with European standards, analysis and reporting.

In particular, the Border Police of BiH is in charge of providing police support to organizational units within the Ministry of Security BiH in the implementation of the *Law on Movement and Stay of Aliens and Asylum* and other regulations in force in this field. This includes the prevention, detection and investigation of criminal acts as regulated by the *BiH Criminal Code* when acts are committed in violation of provisions on travel documents, obligations to possess a visa, or provisions on movement and stay of aliens and asylum, if such offences are committed during a border crossing or if they are directly linked with crossing of the State border.

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<sup>57</sup> The Sector for Immigration and Asylum was established within the Ministry for Human Rights and Refugees in 2000. In 2004, however, it was split into the Sector for Immigration and the Sector for Asylum, both units being established within the Ministry of Security (National Guidelines, September 2008, 44).

The Ministry for Human Rights and Refugees is competent to determine the means by which aliens, who have been granted the right to international protection by the Ministry of Security, can acquire access to social welfare and other rights (National Guidelines 2008, 43).

## 2.11 Migration

The Sector for Immigration within the Ministry of Security is headed by an Assistant Minister and divided into the Department for Administration and Technical Support and the Department for Legislation, Surveillance and Training (National Guidelines 2008, 44).

The Sector for Immigration is responsible for the implementation of the immigration policy of BiH, for developing drafts of laws concerning the issue, and for reporting (National Guidelines, September 2008, 44f). It is also responsible for processing appeals against decisions issued by the Service for Foreigners' Affairs at first instance, issuance of residence stickers, issuance of travel permits for aliens, electronic check-ups in the Register of Specific Aliens (ROS), and for approval or rejection of requests for temporary residence (ibid., 45).

The Sector for Immigration meets its obligations in respect of the protection of foreign victims of trafficking in persons by cooperating with NGOs, with which protocols on cooperation and provision of accommodation to victims of trafficking have been signed. A cooperation protocol exists, for example, with the association "Vaša Prava", which provides free legal assistance to victims of trafficking (ibid., 46).

The Service for Foreigners' Affairs within the Ministry of Security is an administrative organization, established in 2006 within the Ministry of Security of Bosnia and Herzegovina to deal with administrative, managerial and inspection affairs prescribed in the *Law on Movement and Stay of Aliens and Asylum*. (National Guidelines, September 2008, 46.) The unit is responsible for the registration and deregistration of residence of foreign citizens, issuance/cancellation of identification and travel documents of foreign citizens, authentication of invitation letters, revocation of visas issued to foreign citizens, issuance of residence certificates to foreign citizens, affairs related to asylum applications, approval and extension of temporary or permanent residence, cancellation of temporary or permanent residence permits, placing a foreigner under surveillance, deportations, case processing and keeping of records (ibid., 46f).

The Border Police BiH is responsible for the provision of support to organizational units within the Ministry of Security in enforcement of the *Law on Movement and Stay of Aliens and Asylum* in addition to related regulations (National Guidelines 2008, 55).



## 2.12 Visas

The Visa and Passport Department under the Division for International Legal and Consular Affairs within the Ministry of Foreign Affairs is responsible for visa issues. Visa applications are forwarded by the Diplomatic and Consular missions abroad to the Ministry of Security through a temporary database for electronic visa issuing, which has been operational since 2004. The Ministry of Security is then responsible for checking the applications appropriately before they are approved. (National Guidelines, September 2008, 56.) The State Border Service within the Ministry of Security checks each visa electronically. (Ibid., 57.)

The Ministry of Civil Affairs and the Ministry of Foreign Affairs are responsible for defining visa policy and procedures of visa issuance and issuance of travel documents for foreigners. The Border Police of BiH provides judicial bodies and other institutions with expertise on the validity of documents used, or intended to be used, for border-crossings. (National Guidelines 2008, 55.)

## 3. Data Availability

### 3.1 Conventional crime<sup>58</sup>

#### 3.1.1 Police data

The most comprehensive overview of police data on conventional crime is contained in the *Information on the State of Security in BiH* report in 2008 (Ministry of Security, 2009; from hereon referred to as the “Information Report”). This is annually produced by the Ministry of Security of BiH and approved by the Parliament of BiH. It is, however, kept unpublished. The Information Report is based on the reports submitted to the Ministry of Security of BiH by SIPA, border police, Ministry of Interior of FBiH, Ministry of Interior of RS, and Police of BDBiH.

The *Information Report* differentiates between organized crime (economic crime, drug trafficking and related crimes, car vehicle theft, other property offences, armed robberies, crimes against dignity and morality, illegal possession of weapons, and terrorism), crimes against life and limb, and juvenile delinquency. According to the Information Report, reported crime rates, with the exception of BDBiH, generally decreased in BiH during the 2007/2008 period. The total number of crimes reported in BiH in 2008 was 36,133 as compared with 38,111 in 2007.

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<sup>58</sup> As defined in the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS), i.e. including homicide, total assault, rape, robbery, total theft, motor vehicle theft, burglary, economic fraud, embezzlement, drug-trafficking and drug-related crime.



The number of crimes reported in FBiH<sup>59</sup> declined from 25,638 in 2007 to 23,719 in 2008. In 2008, police forces in FBiH submitted reports against 17,007 persons. Out of all reported persons, 6,358 were repeat offenders (3 percent increase in comparison to 2007) and 1,925 juveniles (7.8 percent decrease in comparison to 2007). In RS<sup>60</sup> reported crime declined from 11,726 in 2007 to 11,588 in 2008. In 2008, police forces of RS submitted 10,294 reports against a total of 7,709 persons. 2,071 of these were repeat offenders and 781 were juveniles. Only in BDBiH<sup>61</sup> did the number of reported crimes increase from 747 in 2007 to 826 in 2008.

The Agency for Statistics of BiH does not publish any information on crime or criminal justice. The Federation of BiH publishes a statistical yearbook, which includes some judicial data. The yearbooks for 2006, 2007 and 2008 are available in English on the website of the Federal Office of Statistics.<sup>62</sup> The yearbook 2008 includes trend data for 2001–2007 on adult perpetrators by type of crime committed and separate tables for accused and convicted persons. Data are also available for juveniles. However, as the presentation of the data in the statistical yearbook of FBiH is based on the chapters of the Criminal Code of FBiH (Federal Office of Statistics 2008, 335 et seq.), figures related to the criminal offences against “life and body” include data on homicides in addition to data on bodily injuries. Similarly, offences against “dignity and morality” include rape as well as sexual offences against children and offences related to child pornography.

**Table 1: Extract from the FBiH Statistical Yearbook**

Reported adults who committed criminal offences					
	2003	2004	2005	2006	2007
<b>Life and body</b>	450	538	1,235	1,582	1,547
<b>Civil rights and liberties</b>	149	172	248	364	572
<b>Working relations</b>	25	7	17	7	26
<b>Honor and reputation</b>	12	1	1	0	0
<b>Dignity and morality</b>	..	..	..	..	..

Source: <http://www.fzs.ba/god2008/GODISNJAK%202008.pdf>

<sup>59</sup> The Federal Ministry of Interior publishes annual reports on the state of security on its website: [http://www.fup.gov.ba/joomla/index.php?option=com\\_content&task=category&id=37&Itemid=69](http://www.fup.gov.ba/joomla/index.php?option=com_content&task=category&id=37&Itemid=69). Some data are included in the Annex.

<sup>60</sup> The Ministry of Interior RS started publishing some statistics as of 2009 on its website: [http://www.mup.vladars.net/index\\_lt.htm](http://www.mup.vladars.net/index_lt.htm). Some data are included in the Annex.

<sup>61</sup> Police of the BDBiH website with some statistics: <http://www.policijabdbih.gov.ba/statistika.php>. Some data are presented in the Annex.

<sup>62</sup> The judicial data is compiled by Fatima Strik but no source of the data is indicated. Website of the Federal Statistics Office: <http://www.fzs.ba/god.htm>

The Republika Srpska Institute of Statistics publishes some crime data in English in their yearly gender statistics bulletins.<sup>63</sup> The most recent bulletin includes data for 2006 on acts that refer to violence and discrimination based on gender as well as family violence. There were a total of 609 acts of this type of violence, out of which 22 were rapes, and 537 were acts of family violence. (Republika Srpska Institute of Statistics 2007, 62.) According to the *Law on Statistics* in RS, the institution in charge of producing crime related statistics is the Ministry of Interior of RS (*Law on Statistics* in RS, Article 4). This institution, as noted above, commenced public release of statistics in 2009.

Overall, the availability of official crime data is limited both at the national level and at the level of the entities (FBiH and RS) and BDBiH. Such data that are available are fragmented and of a general nature.

### 3.1.2 Prosecution and court data

With respect to officially published statistics relating to prosecution and court activities, the primary official publication available is the *Statistical Yearbook* of the FBiH, which, as noted above, presents data of a rather general nature.

In addition, relatively comprehensive data related to the prosecution and courts are to be found in the *Annual Reports of the High Judicial and Prosecutorial Council of BiH* (HJPC). Only the first report (2004) was published bilingually. More recently, reports have been published in one of the official languages of BiH (Bosnian, Croatian and Serbian). HJPC is obliged by the *Law on HJPC* to produce an annual report which, in addition to information related to the activities of the HJPC, presents information on the situation in prosecutors' offices and courts in BiH. However, being mostly concerned with the efficacy of the judiciary, the HJPC only requires prosecutors' offices and courts to provide it with information such as the number of investigations initiated, the number of indictments confirmed, and the number of court decisions. As a result, prosecutors' offices and the courts in BiH largely focus their reports to the HJPC on this limited set of information.

The *HJPC Annual Report 2008* contains data on cases in relation to solved criminal reports, investigations conducted, old investigations, indictments, prosecutors' discretionary decisions (such as decisions not to prosecute, to enter into plea agreements, etc) and some data on the structure of crime. When presenting the data on the structure of crime presented in the section on prosecutors' offices in BiH<sup>64</sup>, the HJPC differentiates between general crime, economic crime and war crimes. In 2008, the total number of ongoing investigations was 29,666 in cases classified as "general crime" (19,582 of those were initiated in 2008), 1,937 in cases of "economic crime"

<sup>63</sup> See <http://www.rzs.rs.ba/PublikGenderStatENG.htm>

<sup>64</sup> Prosecutors' office FBiH and Prosecutors' office RS are excluded since they represent cases of cantonal and district prosecutors' offices respectively in the second instance procedures.

(1,024 initiated in 2008) and 1,253 in “war crime” cases (442 initiated in 2008). (HJPC Annual report 2008, 215–216.)

According to the *HJPC Annual Report 2008* (p. 230), cantonal prosecutors (10 offices in FBiH) were mostly involved in the investigation of criminal offences against property (9,040 investigations), criminal offences against public order and legal transactions (3,315 investigations), criminal offences against life and body (2,418 investigations), criminal offences against environment, agriculture and natural goods (2,197 investigations), criminal offences against the safety of public transport (1,519 investigations) and criminal offences against health of people (1,398 investigations). In the same period, the district prosecutors’ offices in RS were mostly involved in the investigation of criminal offences against property (4,171 investigations), criminal offences against life and body (1,729 investigations), criminal offences against public order and peace (1,145 investigations), criminal offences against the safety of public transport (1,023 investigations), criminal offences against legal transactions (1,002 investigations) and criminal offences against environment (941 investigations) (HJPC, Annual report 2008, 230). The Prosecutor’s office of BDBiH was mostly involved in the investigation of criminal offences against property (428 investigations), criminal offences against life and body (137 investigations), criminal offences against civil rights and liberties (125 investigations), criminal offences against public order and legal transactions (118 investigations), and criminal offences against environment, agriculture and natural goods (61 investigations). (HJPC Annual report 2008, 230.)

The *HJPC Annual report 2008* does not provide any data from courts relating to the structure of crime (see HJPC, Annual report 2008, 123–52).

The Prosecutor’s Office of BiH and the Court of BiH publish indictments and verdicts under their jurisdiction on their websites and information is available since 2003.<sup>65</sup> *The Federation of BiH Statistical Yearbook 2008* includes trend data for 2001–2007 for both adults and juveniles on the processing of recorded crimes. This includes numbers on whether there was an indictment, whether the indictment was rejected, or if the investigation was terminated or halted, etc. There are also tables on the number of accused and convicted adults and juveniles by type of offence and by the way in which the case was terminated. This includes information on convictions and charges dropped, as well as detailed lists of the type of sentences passed (prison terms, fines, or other sanctions given). (Federal Office of Statistics 2008, 335–240.)

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<sup>65</sup> <http://www.tuzilastvobih.gov.ba/index.php?jezik=e>  
<http://www.sudbih.gov.ba/?jezik=e>

### 3.1.3 United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS)

Bosnia and Herzegovina participated in the 10<sup>th</sup> United Nations Survey of Crime Trends and Operations of Criminal Justice Systems, providing some information on all crimes covered in the survey. Almost all of the more detailed data requested were included in Bosnia and Herzegovina's response, including crime figures at the national level, in the largest city and the total number of persons suspected, arrested and cautioned.

Information on the following crimes was not included: intentional homicides attempted with a firearm, and burglaries, bribery and participation in organized criminal groups in the biggest city (Canton Sarajevo). Information on the number of females, males, adults, juveniles and citizens of other countries brought into formal contact with the criminal justice system was, however, reported. In Bosnia and Herzegovina, an adult is defined as a person who has reached 18 years of age and a juvenile as someone who is not yet 18. Citizens of other countries are defined as persons with citizenship other than that of Bosnia and Herzegovina and persons without citizenship.

The prosecution data provided by Bosnia and Herzegovina included the total number of persons prosecuted regardless of the type of crime and the total number of prosecuted adults and juveniles. These figures were not however provided according to the sex of the prosecuted person.

### 3.1.4 The European Sourcebook

Bosnia and Herzegovina is not covered in the European Sourcebook data collection.

### 3.1.5 EUROSTAT Crime and Criminal Justice Statistics

Bosnia and Herzegovina is not covered in the Eurostat data collection.

## 3.2 Specific forms of crime

### 3.2.1 Corruption

Few official data on the number of corruption-related crimes or cases could be found. It has been noted that there is a scarcity of quantitative data on corruption (Devine & Mathisen 2005, 6). Some information on corruption-related individual indictments and cases can be found on the websites of the Prosecutor's Office of BiH and the Court of BiH, but there is no summary information available (in English).<sup>66</sup> The GRECO

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<sup>66</sup> <http://www.tuzilastvobih.gov.ba/index.php?jezik=e>

*Evaluation Report* of 2002 contains some aggregate-level statistics for economic crimes for the year 2001 (for details see GRECO 2003, 44). In 2005, the Federation of BiH reported 167 cases of corruption, and in 2006 there were 110 criminal cases against 159 persons at the state level. (CARPO 2007, 41.)

Whilst corruption-specific data were presented in the 10<sup>th</sup> UNCTS, limited specific data collection has been carried out by criminal justice system actors. Maljević et al. (2006, 104–106) found a total of 534 corruption related offences reported between 2000–2004.<sup>67</sup> Out of those, 111 were reported in 2000, 118 in 2001, 157 in 2002, 78 in 2003 and 70 in 2004. A total of 27.2 percent of perpetrators of these offences were members of police forces in BiH. Amongst those members of police forces who were reported to have committed corruption related offences, 77.3 percent were police officers, 19.9 percent executives, and 2.8 percent administrative staff. In the same period, however, authorized cantonal prosecutors in FBiH represented cases amounting to a total of 1,530 corruption related offences, brought 745 indictments and achieved 328 guilty verdicts. The Prosecutors' office of BDBiH investigated one case, brought charges for that case and secured a guilty verdict. The Prosecutors' office of RS, in the 2000–2002 period, led investigations into 1,697 corruption related offences, brought 787 indictments and secured a total of 362 guilty verdicts. (Maljević et al. 2006, 115–116.)

The breakdown of governmental structures during the conflict in BiH provided a growing ground for corruption (see e.g. Devine & Mathisen 2005). Corruption continued also after the war and despite governmental and other efforts remains a problem to date. BiH ranked 92<sup>nd</sup> (out of 180 countries) in the 2008 Transparency International Corruption Perception Index, and scored lower than the other surveyed Balkan countries.<sup>68</sup>

Various corruption studies and surveys have been carried out in BiH. The World Bank carried out the first Diagnostic Surveys of Corruption in 2000. According to the surveys, almost all respondents were of the opinion that corruption exists in BiH and more than half of the respondents considered corruption to be very widespread. (World Bank 2000, 2.)

Transparency International carried out national corruption perception studies in BiH in 2002 and 2004. According to the 2004 study, 65 percent of respondents countrywide think corruption is a harmful phenomenon that needs to be curbed at all costs (Transparency International 2004, 17). Corruption is seen to be especially common among police and the judiciary. These institutions ranked as the third and fourth most corrupt institution in BiH (out of a total of 24 types of institutions). Political parties and customs were perceived to be the two most corrupt institutions. However, respondents in Republika Srpska were almost twice as likely as citizens in the Federation of BiH to

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<sup>67</sup> It should be noted that the Ministry of interior of Canton Tuzla and the Ministry of Interior RS have not provided required data (Maljević et al. 2006, 102).

<sup>68</sup> [http://www.transparency.org/news\\_room/in\\_focus/2008/cpi2008/cpi\\_2008\\_table](http://www.transparency.org/news_room/in_focus/2008/cpi2008/cpi_2008_table)

see the police as the most corrupt institution, suggesting that FBiH citizens place greater trust in the police, at least in terms of perceived levels of corruption. (Ibid., 74–75.) Over 50 percent of all respondents thought that almost all or most judges are involved in corruption, with slightly higher figures among RS respondents as compared to FBiH respondents (ibid., 77). On a national level, corruption is perceived to be most common at the level of municipal administration, with over 50 percent of all respondents believing that corruption is present at this level of governance (ibid., 43).

In addition to work by Transparency International, *Early Warning Reports* produced by UNDP include a question on how widespread citizens believe corruption to be among police and in courts. The data in the reports are very detailed and compared over time. In general, courts are perceived to be more corrupt than police. (UNDP 2008.)

The Association of Graduated Criminalists has also conducted a national research project on the issue of police corruption (Maljević et al. 2006). This project looked into the level of harmonization of domestic legislation with international standards related to policing corruption and analysed the official statistics on corruption in BiH. A survey of both police officers and citizens concerning police involvement in corrupt practices was conducted. The survey was conducted with a sample of 894 citizens and 742 police officers from all police agencies in BiH.

### 3.2.2 Organized crime

As with the South East Europe region as a whole, organized crime is reported to have a significant presence in BiH (United Nations Office on Drugs and Crime 2008). Specific characteristics in BiH include a link between organized crime and indicted war criminals in BiH, particularly with regard to the financing of indicted war criminals on the run (CARPO 2006, 81).

According to the *EU Progress Report*, SIPA has conducted successful investigations into organized crime groups operating in BiH, mainly dealing with underrated taxation, smuggling of persons and money laundering. The EU, however, notes that “*the national statistical instruments for measuring crime rates need to be improved*”. (EU Progress Report 2008, 58.)

### 3.2.3 Trafficking in persons and smuggling of migrants

Between 2000 and 2004, a total of 846 foreign victims of trafficking and 54 victims of local origin were identified and assisted in BiH (Surtees 2005, 114). 35 people were brought into initial formal contact with the police and criminal justice system for trafficking in persons offences in 2005 and 27 in 2006. These numbers include suspected and investigated persons. 16 people were convicted at first instance for trafficking in persons in 2005 and 23 people were convicted in 2006. All convicted persons were from BiH and were found guilty of trafficking in persons for the purposes

of sexual exploitation. Data are not available on the sex and age of the persons convicted. (UNODC 2009.)

According to the response of BiH to the 10<sup>th</sup> United Nations Survey of Crime Trends and Operations of Criminal Justice Systems, there were 5 cases of trafficking in persons in 2005 and 5 in 2006, as well as 34 cases of smuggling of migrants in 2005 and 65 in 2006. (BiH response to UNCTS) The *CARPO Report* of 2006 contains slightly different numbers of cases and perpetrators but notes that the numbers are highly questionable: 2 cases and 2 perpetrators in 2005 in the Federation of BiH and 12 cases and 18 perpetrators in Republika Srpska in 2005 (CARPO 2006, 83). According to the *EU Progress Report 2008*, the number of investigations, indictments and convictions relating to trafficking in human beings has decreased (EU Progress Report 2008, 58).

According to the *Report on Human Trafficking and Illegal Migrations* in BiH in 2008 (State Coordinator for Combating Trafficking in Human Beings and Illegal Migration in BiH, 2009, 18), there were 23 investigations against 53 persons involved in cases of human trafficking and arranging or mediating prostitution. A total of 21 indictments were handed down (15 in courts in FBiH, 1 in courts in BDBiH, 2 in courts in RS and 3 at the Court of BiH). Out of 14 verdicts brought in 2008, 11 were brought by the courts in FBiH, 1 by courts in RS and 1 by the Court of BiH.

BiH is considered a transit country for smuggled migrants. While reported data have previously been scarce (e.g. the CARPO report of 2006 only refers to two cases of smuggling of migrants in the Federation BiH in 2005; CARPO 2006, 84), the *Report on Human Trafficking and Illegal Migrations* in BiH in 2008 contains a large number of data. According to the Report, in the course of 2008, a total of 543 persons were apprehended while crossing the border illegally (36,2 percent fewer than in 2007 when a total of 851 persons were caught). 368 persons were apprehended trying to enter BiH, whereas the remaining 175 persons were apprehended trying to leave BiH (State Coordinator for Combating Trafficking in Human Beings and Illegal Migration in BiH 2009, 23). A minority of the illegal migrants (185 persons) were identified at legal border crossing points, whereas the majority (358 persons) were apprehended at illegal border crossings (ibid., 24).

With respect to the criminal offence of smuggling of migrants, a total of 47 official reports (55 reports in 2007) were submitted to the authorized prosecutors' offices in BiH in 2008, concerning the commission of 54 criminal offences of smuggling of migrants (83 criminal offences in 2007) involving 86 known and 7 unknown perpetrators (118 known and 4 unknown perpetrators in 2007). Most of the perpetrators were from BiH (69 persons), 15 of them were from ex-Yugoslav countries (Serbia: 9 persons, Croatia: 3 persons, the Former Yugoslav Republic of Macedonia: 2 persons, and Montenegro: 1 person). (State Coordinator for Combating Trafficking in Human Beings and Illegal Migration in BiH, 2009.)



### 3.2.4 Economic crime and money- laundering

The *CARPO Report* of 2006 refers to the *Information on the Security Situation in BiH in 2005* report, according to which 1,324 cases of economic crimes were registered at state level in 2005, mostly related to the abuse of office and competencies, counterfeiting of money, unconscionable business dealing, and deception for obtaining loans and other privileges. CARPO notes that there was a questionable decrease in the number of cases in the Federation of BiH, while there were increases in Republika Srpska and the District of Brcko. (CARPO 2006, 84.)

According to CARPO, there were 16 cases of money-laundering in BiH in 2004. In 2005, SIPA reported 27 transactions, and in 2006 the Prosecutor's Office filed 23 reports of money-laundering. (CARPO 2007, 38.) However, CARPO notes that police statistics at the level of the Federation of BiH only reported two cases of money-laundering in 2005 and one in 2006 (*ibid*). The financial intelligence unit at SIPA received 135,888 reports in 2005, of which 90 were suspicious transactions, of which 29 were reported to prosecution (GRECO 2006, 6).

According to the GRECO evaluation in 2005, there are no comprehensive statistics on seizure, confiscation or the proceeds of corruption and money-laundering. In addition, data is lacking on financial investigations. The GRECO evaluation team recommended that systematic and centralized statistics should be collected and analysed. (GRECO 2006, 10.)

The *Information on the State of Security in BiH in 2008 Report* (the Information Report) shows a decrease in economic crime compared to 2007. According to the Information Report, based on data from the Entity ministries (FBiH and RS) and those of the police of BDBiH, a total of 1,349 criminal offences of economic crime were committed in 2008 (1,562 in 2007) (Ministry of Security BiH, 2009, 9). Additionally, in 2008, SIPA submitted a total of 21 reports (20 in 2007) to the Prosecutors' office of BiH reporting the commission of 36 criminal offences (abuse of office, tax evasion, money laundering, forgery of documents) (59 in 2007) involving 46 perpetrators (71 in 2007) (Ministry of Security BiH, 2009, 11).

### 3.2.5 Drug- related crimes

In 2005, BiH reported 1,595 criminal acts related to illicit production, trafficking and possession of narcotic drugs, a 13 percent increase compared to the previous year. According to the CARPO 2006 report, some statistical data on drugs is indeed available, but due to the lack of centralized analysis and reporting structures, the extent of illicit production and trafficking is unclear. There are also no data on details about drug users and traffickers, the number of involved organized criminal groups or illicit laboratories. (CARPO 2006, 82.)



The website of the police of the Federation of BiH police does, however, contain detailed information on drug-related crimes (in local language), including information on production and distribution, seizures, deaths directly or indirectly associated with drug-abuse etc.<sup>69</sup>

### 3.3 Survey- based statistics

There has been progress in the area of statistical infrastructure. Cooperation between the State Agency for Statistics of BiH (BHAS) and the Institute for Statistics in the Federation has improved, although coordination with the Republika Srpska statistical office still needs to be strengthened. There is an agreement to strengthen the coordinating role of BHAS in harmonizing methodologies and in disseminating State level data, but this agreement has not yet been fully implemented.

The International Crime Victim Survey (ICVS) was carried out in BiH in 2001 (Keller et al. 2002). A total of 1,950 respondents were interviewed in the Federation of BiH and the Republika Srpska. The fieldwork was carried out by telephone by PRISM Research, a Sarajevo-based research company. The overall victimization rate was found to be 13.7 percent for the previous year (2000) and 29.4 percent for the past 5 years (1996–2000) (ibid., 9). In terms of satisfaction with the police, 67 percent of non-victims and 60 percent of victims of crime considered that the police do a good job. It is noteworthy that the level of satisfaction was generally lower in the Republika Srpska than in the Federation of BiH. (Ibid., 29.)

The *Early Warning Reports* by UNDP and PRISM Research are carried out 4 times a year.<sup>70</sup> These reports, initiated in 2000, contain information on a number of indicators, including on public and personal security. Indicators include experiences of burglary, pick-pocketing, car theft, scam, blackmail, received police assistance, satisfaction with the police response, experiences of arrest without warrant, experiences of police abuse, confidence in the police and courts, and perception of corruption among the police and the courts. At the end of 2007 the level of crime was lower than during the final quarters of 2006 and 2005. Only 1.3 percent of the urban sample reported having been burgled at home, compared to 2.9 percent in 2006 and 1.3 percent in 2005. Satisfaction with police assistance requested declined in urban areas but increased in rural areas. (UNDP 2007, 65–66.)

Gallup recently launched a multi-year survey project, *The Balkan Monitor*. Contrary to earlier studies, such as those carried out by Transparency International, respondents in BiH placed police and courts as the second and fourth most trusted institutions in the country (Balkan Monitor 2008, 27). Overall trust in the government is, however, generally low. For example, 74 percent of respondents disagreed with the notion that the government is doing all that it can to fight organized crime (ibid., 34).

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<sup>69</sup> [http://www.fup.gov.ba/joomla/index.php?option=com\\_content&task=view&id=12075&Itemid=69](http://www.fup.gov.ba/joomla/index.php?option=com_content&task=view&id=12075&Itemid=69)

### 3.4 Data on asylum

BiH participates in the annual *Yearbook on Migration, Human Smuggling and Trafficking in Central and Eastern Europe*, published by the International Centre for Migration Policy Development (ICMPD).

**Table 2: Extract from ICMPD Yearbook – asylum statistics**

Data provided by the BiH Border Police on asylum		
	Year 2006	Year 2007
Number of persons claiming asylum at the border	1	4
Number of persons claiming asylum inland	67	568
Total number of persons claiming asylum	68	572

Source: ICMPD Yearbook 2008, 60.

### 3.5 Data on visas

The National Guidelines of Bosnia Herzegovina include some data on visas.

**Table 3: Extract from National Guidelines of BiH – visa statistics**

Visa statistics in National Guidelines		
Year	Number of issued visa at DCM	Visa issued at the Border
2004	1,594	5,641
2006	12, 472	2,049
2006	13, 298	927
2007	13, 290	735

Source: National Guidelines 2008, 22.

<sup>70</sup> <http://www.undp.ba/index.aspx?PID=21&RID=63>

### 3.6 Data on migration

The State Agency for Statistics publishes a monthly statistical report on internal migration in BiH.<sup>71</sup>

In addition, the *ICMPD Yearbook* includes migration data from BiH.

**Table 4: Extract from ICMPD Yearbook – migration statistics**

Data provided by the BiH Border Police on legal migration		
	Year 2006	Year 2007
Number of persons legally entering the country	24,754,788	27,282,841
Number of persons legally exiting the country	23,786,096	26,459,109
Total number of persons legally crossing the border	48,540,884	53,741,950

Source: ICMPD Yearbook 2008, 60.

## 4. Outline of data collection systems

Most information on crime in BiH is dealt with by the police, the Ministries of Interior and the Ministries of Justice. However, the overall crime data collection systems are not standardized and are fragmentary in nature.

According to the South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC) (2006), there are guidelines regarding the keeping of records as well as to the approach used to compile and store information. Written reports are made of every crime that is reported to the police. The reports are filed at the station archive. Each police station has its own records system where all criminal cases are manually recorded and crime data are processed both manually and electronically. In those cases where electronic equipment is lacking, the records are not entered into a database. (Ibid., 20, 22.)

However, there are no clear guidelines, and no standardized system is in place, for reporting and analysis of crime data from the Entity and district level to the national level. Thus no police data are compiled at the national level, and responsibility for gathering data is divided at the Entity and cantonal levels. This means that there are

<sup>71</sup> <http://www.bhas.ba/eng/Publications.asp?Pripadnost=8&mode=dark>

no uniform practices in reporting crime data across the country. Nonetheless, all ministries follow similar practices in recording crime data, and information sharing on a case-by-case basis is possible between the cantonal and Entity ministries. (SEESAC 2006, 20.)

Regarding data collection by courts and prosecutors, the state judicial law stipulates that the responsibility for monitoring prosecutions and convictions is at the Entity and cantonal levels. Data are evaluated by the High Judicial and Prosecutorial Councils of Bosnia and Herzegovina and the Office of the High Representative. (SEESAC 2006, 20–21.) Statistical data regarding the functioning of the courts and judiciary are collected by the High Judicial and Prosecutorial Council of BiH (Budget and Statistics Department), the Federal Office of Statistics of the Federation of BiH and the Republika Srpska Institute of Statistics (CEPEJ 2008, 20).

According to the BiH Justice Sector Reform Strategy 2008–2012: “*Ministries of justice at the state and entity level, the Brčko District Judicial Commission and the HJPC rarely exchange relevant information*”. It is also mentioned that none of the ministries possess a central data base of information that would facilitate their strategic planning, policy-development and law drafting functions. (BiH Justice Sector Reform Strategy 2008–2012, 76.)

However, according to the website of the Ministry of Justice of Bosnia and Herzegovina<sup>72</sup> the *Criminal Procedure Codes* stipulate that all courts in Bosnia and Herzegovina are obliged to deliver to the Ministry of Justice of Bosnia and Herzegovina all final and legally binding verdicts for criminal offences concerning counterfeit money, illicit producing, processing and selling of narcotic drugs, human trafficking, and producing and distributing of pornography. Data are stored in a central database and figures are available from 2006 onwards. The database is continuously updated and an analysis of cases solved can be produced from the database. In 2008, the Ministry for Human Rights and Refugees and the State Investigation and Protection Agency also developed a database for information on human trafficking victims and traffickers. (ICMPD 2008, 60.) In addition, the Prosecutor’s Office of BiH maintains a Register and statistical data on the prosecution of crimes, perpetrators, cases under prosecution, investigations, judgments and appeals.<sup>73</sup>

According to the *EU Progress Report*, there was a total backlog of about 1.9 million cases at the courts in BiH at the end of 2007 (EU Progress Report 2008, 29). Efforts have been made to introduce a Case Management System (CMS).<sup>74</sup> The purpose of the CMS is complete automation of the working process of courts and prosecutors’ offices.

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<sup>72</sup> <http://www.mpr.gov.ba/en/str.asp?id=4>

<sup>73</sup> <http://www.tuzilastvobih.gov.ba/?opcija=sadrzaj&kat=6&id=51&jezik=e>

<sup>74</sup> For a presentation on the Case management system (in local language), see the website of the High Judicial and Prosecutorial Council (<http://www.hjpc.ba/secr/cait/cms/?cid=3687,2,1>).

The aim is to improve efficiency of the system, create transparency and produce easier statistical analysis and reporting on the level of the individual, district/cantonal, Entity and state courts/prosecutors' offices. By 31 December 2008 the implementation rate was at 92,4 percent, with a total of 61 out of 66 courts having implemented the new system.

Regarding asylum, migration and visa data collection, a Central Database on Aliens has been established within the Ministry of Security by provisions of the *Law on Movement and Stay of Aliens and Asylum*. Special categories of data cover all personal data on race, citizenship, national or ethnic background, political opinion or membership of unions, religion or other belief, health condition, sexual preferences or criminal offences. Exceptionally, at a justified request, other authorities in BiH may have access to the Central Database, if necessary for performing tasks within their competence. (National Guidelines, September 2008, 59–60.)

The Agency for Identification Documents, Records Keeping and Data Exchange of Bosnia and Herzegovina is an administrative organization within the Ministry of Civil Affairs of BiH, in charge of identification documents, storage, personalization and transport of documents, and maintenance of central registers and data exchange between authorities in BiH. (Law on the Agency for Identification Documents, Registers and Data Exchange of BiH, Article 3). The Agency publishes a statistical overview of the data related to the issuance of documents for which it is responsible (identity cards, driving licences, travel documents) in the form of a bulletin.<sup>75</sup>

## Conclusions

The fragmentation of the criminal justice system in BiH poses challenges for data collection and criminal justice system reform efforts. The lack of harmonization of legislation further complicates data collection and recording. As such, it is particularly challenging to acquire a comprehensive picture of the situation in different parts of the country. Whilst a number of crime and criminal justice data collection initiatives do exist, available information suggests that there is a pressing need for the development of uniform, standardized systems for data entry, recording and reporting, particularly at the level of law enforcement authorities. Such systems will need to address current discrepancies in police, prosecution and court data, both as provided by the equivalent institutions at the State, Entity and District level, as well as compared between the various institutions comprising the criminal justice system.

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<sup>75</sup> [http://www.iddeea.gov.ba/en\\_o\\_agenciji.php](http://www.iddeea.gov.ba/en_o_agenciji.php)

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## Croatia

## Outline of the criminal justice system, asylum/visa/migration system and its actors

Institution	Relevant departments/ subdivisions	Existing data availability
<b>Ministry of Interior</b>	<ul style="list-style-type: none"> <li>General Police Directorate, Office of the Director, International Cooperation and Reporting Analytics</li> <li>Organized Crime Department</li> <li>Office for Criminal Intelligence Analytics</li> <li>Police National Office for Suppression of Corruption and Organized Crime (PNUSKOK)</li> <li>Department for Aliens and Asylum</li> <li>Border Police Directorate: <ul style="list-style-type: none"> <li>Office for Neighbouring Countries</li> <li>Protection Department</li> <li>Illegal Migration Department</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>General crime statistics</li> <li>Safety indicators</li> <li>Data on organized crime, trafficking in persons and smuggling of migrants</li> <li>Data on money laundering</li> <li>Data on organized crime and corruption</li> <li>Data on asylum, migration and visa</li> <li>Data on illegal migration</li> </ul>
<b>Ministry of Interior</b>	<ul style="list-style-type: none"> <li>Cabinet of the Minister, Department for Analytics and Development</li> </ul>	<ul style="list-style-type: none"> <li>Responsible for establishing a unified program for analytical research into all forms of crime, weekly, monthly and annual outputs for governmental bodies</li> </ul>
<b>State Prosecutor's Office of the Republic of Croatia (DORH)</b>	<ul style="list-style-type: none"> <li>Office of the Public Prosecutor</li> <li>Office for Combating Corruption and Organized Crime (USKOK)</li> </ul>	<ul style="list-style-type: none"> <li>Public prosecutorial statistics</li> <li>Data on organized crime and corruption</li> </ul>
<b>Ministry of Justice</b>	<ul style="list-style-type: none"> <li>Department for Strategic Development: <ul style="list-style-type: none"> <li>Sector for the development of the judiciary</li> <li>Sector for the suppression of corruption (Office for Strategy and Analysis of anti-corruption measures)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Data on cases and decisions made by three levels of courts, including data on backlog of cases</li> </ul>
<b>Supreme Court of the Republic of Croatia</b>	<ul style="list-style-type: none"> <li>Judicial Department, Criminal Division, Service for data keeping and judicial practice</li> </ul>	<ul style="list-style-type: none"> <li>Tracking of cases received at the Supreme court</li> <li>Tracking of judicial practice</li> </ul>
<b>Ministry of Finance</b>	<ul style="list-style-type: none"> <li>Office for Money Laundering Prevention, Unit for Information System and Strategic Analysis</li> </ul>	<ul style="list-style-type: none"> <li>Data on suspicious transactions</li> </ul>

<b>Government of the Republic of Croatia</b>	<ul style="list-style-type: none"> <li>Office for Combating Narcotic Drug Abuse, Croatian National Drugs Information Unit</li> </ul>	<ul style="list-style-type: none"> <li>Data on drug related issues</li> </ul>
<b>Government of the Republic of Croatia</b>	<ul style="list-style-type: none"> <li>Office for Human Rights</li> </ul>	<ul style="list-style-type: none"> <li>Detailed data on victims of trafficking in persons, some data on perpetrators of TIP and TIP cases</li> </ul>
<b>Ministry of Foreign Affairs and European Integration (MFA)</b>	<ul style="list-style-type: none"> <li>Departments for Visas, Foreigners, Citizenship and Travel Documents</li> <li>Directorate for Croatian Minorities, Emigration and Immigration</li> </ul>	<ul style="list-style-type: none"> <li>Data on asylum, migration and visa</li> </ul>
<b>Central Bureau of Statistics</b>	<ul style="list-style-type: none"> <li>Department for Crime Statistics</li> </ul>	<ul style="list-style-type: none"> <li>Centralized collection of data on crime statistics - collects relevant input from prosecution and courts</li> </ul>

## 1. Short background

The Republic of Croatia is a constitutional parliamentary democracy with a population of 4.5 million.<sup>76</sup> Until 1991, Croatia was part of the Socialist Federal Republic of Yugoslavia (SFRY). The first free elections in Croatia were held in 1990, resulting in the formation of a government by the Croatian Democratic Union (HDZ) and a declaration of Croatian independence in 1991. In response to the conflict that followed, the United Nations established the United Nations Protection Force (UNPROFOR) with the mandate to ensure security from armed attack of three United Nations Protected Areas (UNPAs). UNPROFOR's mandate was expanded successively in 1992 to include monitoring of certain other areas of Croatia and to Bosnia and Herzegovina as the conflict intensified and extended, until the Dayton agreement of November 2005 brought an end to the military conflict.

Croatia has been a candidate country for EU membership since June 2004. It signed a Stabilisation and Association Agreement in 2001, which entered into force in 2005. As of July 2009, four chapters of accession negotiations (out of 35 chapters in total) have been provisionally closed: Enterprise and Industrial Policy, Science and Research, Education and Culture, and External Relations. Negotiations have been opened in 21 further chapters.<sup>77</sup>

The OSCE Mission to Croatia was established in April 1996 with a mandate to support the government in dealing with the material consequences of the conflict, the reintegration of former Serb-controlled areas, and the work of reconciliation. The OSCE Mission to Croatia closed at the end of 2007 after successfully completing most of its

<sup>76</sup> General references:

European Union: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2004:0257:FIN:EN:PDF>

ICTY: <http://www.icty.org/sid/322>

UNPROFOR: [http://www.un.org/Depts/dpko/dpko/co\\_mission/unprofor.htm](http://www.un.org/Depts/dpko/dpko/co_mission/unprofor.htm)

<sup>77</sup> [http://ec.europa.eu/enlargement/candidate-countries/croatia/eu\\_croatia\\_relations\\_en.htm](http://ec.europa.eu/enlargement/candidate-countries/croatia/eu_croatia_relations_en.htm)

mandate, including tasks related to police reform, civil society development, freedom of the media, and political affairs. The OSCE Office in Zagreb is the second OSCE field operation in Croatia and officially began work on 1 January 2008. Its primary task is to monitor proceedings in court cases referred to Croatia by the International Criminal Tribunal for the former Yugoslavia (ICTY).<sup>78</sup>

Croatia is administratively divided into 21 counties (including the City of Zagreb), 426 municipalities and 121 cities.

## 2. Criminal justice actors

### 2.1 Law Enforcement

The Croatian police operates within the Ministry of Interior. The General Police Directorate acts as the administrative body for conducting police affairs and is headed by the General Police Director.<sup>79</sup> The General Police Directorate is divided into the Police Directorate, the Criminal Police Directorate, the Border Police Directorate, Special Police Command, the Operational Communication Centre, the Forensic Centre, and the Police Academy. The Croatian police is organized in 20 police districts which cover the territory of the Republic of Croatia.<sup>80</sup> There were some 20,424 police officers in Croatia in 2007 (Eurostat 2009, 10).<sup>81</sup>

The *Law on Police* and the *Criminal Procedure Code* regulate police powers of investigation in Croatia.<sup>82</sup> The Ministry of Interior deals with administrative and other tasks related to, *inter alia*, policing and criminal police activities, state border protection and issuing of travel documents and identity cards. The Ministry of Interior is also responsible for keeping records and statistics concerning internal affairs, for maintaining the internal affairs information system and for the education and training of the Ministry's officers.<sup>83</sup>

The Croatian police force has undergone several reform activities, most notably in cooperation with the OSCE. Following signature of a Cooperation Agreement between Europol and Croatia in 2006,<sup>84</sup> a Croatian liaison officer has been stationed at Europol since February 2008. Croatia is also actively involved in regional co-operation

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<sup>78</sup> <http://www.osce.org/zagreb/>, telephone interview with OSCE Office in Zagreb on 14 July 2009.

<sup>79</sup> <http://www.mup.hr/1259.aspx>

<sup>80</sup> <http://www.interpol.int/Public/Region/Europe/pjsystems/Croatia.asp>, additional source: <http://www.mup.hr/1265.aspx>

<sup>81</sup> According to Croatia's answer to the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS), there were 18,787 police officers in 2005 and 18,824 police officers in 2006.

<sup>82</sup> <http://www.legislationline.org/topics/topic/12#>

<sup>83</sup> <http://www.mup.hr/default.aspx?id=1257>

<sup>84</sup> <http://www.europol.europa.eu/index.asp?page=news&news=pr060113.htm>

initiatives, including the Southeast European Co-operative Initiative (SECI)<sup>85</sup>. (EU Progress Report 2008, 59.) In addition, the Ministry of Interior has adopted some 29 bilateral/international agreements on police co-operation.<sup>86</sup>

## 2.2 Prosecution

The State Attorney's Office of the Republic of Croatia<sup>87</sup> (DORH) is independent from the courts. It has the legal authority to initiate criminal proceedings. When dealing with affairs within their jurisdiction, public prosecutors have the authority to make direct contact and request assistance from the police.<sup>88</sup> However, the new Criminal Procedure Act adopted in December 2008<sup>89</sup> contains significant changes regarding the pre-investigation and investigation phase. The police and the DORH will take the lead in conducting criminal investigations, whilst the position of magistrate judge (formerly in charge of conducting the investigation) is limited to the control of fundamental rights (mostly regarding pre-trial detention).<sup>90</sup> The Office for the Suppression of Organized Crime and Corruption (USKOK) has been established within the State Prosecutor's Office. There are 20 county state Prosecutor's offices and 53 municipal state Prosecutor's offices.<sup>91</sup>

The Croatian Parliament appoints the state prosecutor, who in turn appoints prosecutors at the county and municipal level. The State Prosecutorial Council, a disciplinary body appointed by the parliament, appoints and disciplines deputy prosecutors.<sup>92</sup>

According to the 4th European Sourcebook, there were 547 prosecutors in Croatia in 2003, 558 in 2004, 568 in 2005, 576 in 2006 and 569 in 2007 (ESB4, 336). The figure provided by CEPEJ is 575 prosecutors in 2007 (CEPEJ 2007, 23).<sup>93</sup> The current official DORH web page also provides the following numbers on employees: 569 public legal officials, 100 advisers, 64 trainees and 683 other employees (a total of 1,416

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<sup>85</sup> <http://www.secicenter.org/m105/Home>

<sup>86</sup> Detailed list: [http://policija.hr/mup.hr/UserDocslimages/minstarstvo/medjunarodni\\_ugovori.PDF](http://policija.hr/mup.hr/UserDocslimages/minstarstvo/medjunarodni_ugovori.PDF)

<sup>87</sup> Both the terms attorney and prosecutors are used together in different sources i.e. State Prosecutor's Office/ State Attorney's Office and so on.

<sup>88</sup> <http://www.interpol.int/Public/Region/Europe/pjsystems/Croatia.asp>

<sup>89</sup> The new Criminal Procedure Act in the version as adopted December 18th 2008 is available on-line at: [http://narodne-novine.nn.hr/clanci/sluzbeni/2008\\_12\\_152\\_4149.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2008_12_152_4149.html). Parts of it related to USKOK cases became effective January 1st 2009, others should become effective for all cases September 1st 2011.

<sup>90</sup> For the main features of the New Criminal Procedure Act see Pavišić, B.(2008), Novi hrvatski Zakon o kaznenom postupku. HLJKPP Vol. 15 No. 2 2008, 489-602

<sup>91</sup> Complete list of County and Municipal state attorney's offices:  
<http://www.dorh.hr/default.asp?ru=163&sid=&akcija=&jezik=1>;  
<http://www.dorh.hr/default.asp?ru=154&sid=&akcija=&jezik=1>

<sup>92</sup> <http://www.state.gov/g/drl/rls/hrrpt/2008/eur/119073.htm>

<sup>93</sup> According to Croatia's answer to the UN-CTS 10, there were 568 prosecutors in 2005 and 576 prosecutors in 2006.

employed persons).<sup>94</sup> A new code of ethics for prosecutors was adopted in February 2008.<sup>95</sup>

## 2.3 Courts

Croatia has a three-tiered judicial system, which consist of the Supreme Court, county courts, and municipal courts. The Supreme Court of the Republic of Croatia is the highest court of justice and is responsible for ensuring uniform implementation of laws and equality of citizens.<sup>96</sup> The Croatian Constitutional Court is also responsible for ensuring the equality of citizens and the protection of human rights, including through decisions on pre-trial and trial detention cases.<sup>97</sup>

The Croatian court system consists of 21 county courts, 115 municipal courts, 13 commercial courts and 27 misdemeanour courts,<sup>98</sup> in addition to the High Misdemeanour Court, the High Commercial Court, the Administrative Court and the Supreme Court.<sup>99</sup> The municipal courts conduct first instance proceedings, the county courts first and second instance proceedings<sup>100</sup>, and the Supreme Court second and third instance proceedings.<sup>101</sup> The system is currently going through a judicial reform process aimed at decreasing the number of courts.

The courts are regulated by the *Law on Territorial Jurisdiction and Seats of Courts* (NN no. 3/94, 100/96, 115/97, 131/97, 129/00 and 67/01) and the *Law on Territorial Jurisdiction and Seats of Misdemeanour Courts* (NN no. 36/98).<sup>102</sup> According to CEPEJ, the number of professional judges in 2007 was 1,924 (CEPEJ 2007, 21).<sup>103</sup>

## 2.4 Specialized units: Anti- Corruption

Croatia participates in the Group of States against Corruption (GRECO) of the Council of Europe and has undergone two evaluation rounds (carried out in 2002 and 2004). The compliance report on Croatia was adopted in December 2007 (GRECO 2007). In

<sup>94</sup> <http://www.dorh.hr/default.asp?ru=154&sid=&akcija=&jezik=1>

<sup>95</sup> Available at: <http://narodne-novine.nn.hr/clanci/sluzbeni/338340.html>

<sup>96</sup> <http://www.legislationline.org/countries/country/37#>

<sup>97</sup> Although somewhat inconsistent, in 1998 the Constitutional Court declared itself competent in detention cases, as long as the detention decision is in place (max. 2 months), which allows for no retroactive decision and largely depends on the expedience of the Court. Available statistics: <http://www.usud.hr/uploads/RECEIVED-DECIDED%20CASES-300609.pdf>

<sup>98</sup> <http://sudovi.pravosudje.hr/> official page on judicial bodies in Croatia with links to each court's home page.

<sup>99</sup> <http://www.pravosudje.hr/default.asp?ru=263&sid=&akcija=&jezik=1>

<sup>100</sup> County courts conduct first instance proceedings only for specific and especially serious offences.

<sup>101</sup> <http://www.interpol.int/Public/Region/Europe/pjsystems/Croatia.asp>

<sup>102</sup> <http://www.vsrh.hr/EasyWeb.asp?pcpid=282>

<sup>103</sup> According to Croatia's answer to the UN-CTS 10, there were 1,912 professional judges in 2005 and 1,938 professional judges in 2006.

addition, Croatia is part of the Regional Anticorruption Initiative (RAI) of the Regional Cooperation Council (RCC), which succeeded the Stability Pact for South Eastern Europe in 2008.<sup>104</sup>

The first National Program for Prevention of Corruption was adopted in 2001, followed by a second in 2006 (CARPO 2006, 91). The latest revised Anti-Corruption Strategy<sup>105</sup> accompanied by an Action Plan<sup>106</sup> was adopted in June 2008 and contains specific measures in a number of fields identified as prone to corruption. (EU Progress Report 2008, 10.)

The National Anti-Corruption Council<sup>107</sup> is a parliamentary working body responsible for monitoring the implementation of the Anti-corruption Strategy, for public education, and for the prevention of corruption (ibid.).

In addition to the National Anti-Corruption Council, the national institutional framework for combating corruption consists of.<sup>108,109</sup>

- A Government executive body established in 2008 and chaired by the Minister of Justice; the 'Committee for Monitoring the Implementation of Measures to Prevent Corruption'
- The 'Committee for the Prevention of Conflict of Interest'
- An internal unit of the Ministry of Justice in charge of collecting and analysing data on the implementation of the Anti-Corruption Strategy and Action plan: the Ministry of Justice's Sector for the Suppression of Corruption
- A newly established office within the Criminal Police Directorate of the Ministry of Interior responsible for acting as the central police investigation unit responsible for organized crime and corruption: the 'Police National Office for Suppression of Corruption and Organized Crime' (PNUSKOK)
- An office of the State Prosecutor's Office responsible for prosecuting acts of corruption and organized crime in Croatia: the 'Office for Combating Corruption and Organized Crime' (USKOK)<sup>110</sup>
- Special divisions of major county and municipal courts (Zagreb, Split, Rijeka, Osijek) dedicated to the hearing of corruption and organized crime cases (the 'USKOK Courts')

Despite comprehensive legislation and the existence of a legal framework on corruption, there are still significant difficulties faced in the implementation of legal provisions.

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<sup>104</sup> <http://www.rai-see.org/home.html>

<sup>105</sup> Strategy available in Croatian on-line at: <http://www.antikorupcija.hr/Default.aspx?sec=20>

<sup>106</sup> Action Plan available in Croatian at: <http://www.antikorupcija.hr/Default.aspx?sec=20>

<sup>107</sup> <http://www.sabor.hr/Default.aspx?sec=2726>

<sup>108</sup> <http://narodne-novine.nn.hr/clanci/sluzbeni/338964.html>; <http://narodne-novine.nn.hr/clanci/sluzbeni/342002.html>; <http://www.sabor.hr/Default.aspx?art=20389>;  
<http://www.sabor.hr/Default.aspx?art=27380>

<sup>109</sup> <http://www.antikorupcija.hr/Default.aspx?art=25>

<sup>110</sup> <http://www.dorh.hr/default.asp?ru=255&sid=&akcija=&jezik=1>

## 2.5 Specialized units: Organized crime

Croatia ratified the UN Convention against Transnational Organized Crime on 24 January 2003.<sup>111</sup> In the same year, a Program of Special Measures for Suppression of Organized Crime was adopted, which led to the subsequent adoption of a National Plan for the Fight against Organized Crime (CARPO 2006, 86). There is no specific definition of 'organized crime' in the law of Croatia. Rather, reference is made in the *Criminal Code* to a definition of "organized group" (Art. 89, para. 22 CC) and "criminal organization" (Art. 89, para. 23 CC).<sup>112</sup>

The Criminal Police Department of the General Police Directorate includes the newly established Police National Office for Suppression of Corruption and Organized Crime (PNUSKOK).<sup>113</sup> PNUSKOK is located in Zagreb, Rijeka, Split and Osijek, and consists of 6 different units (organized crime, narcotics, economic crime and corruption, criminal intelligence analytics, criminal intelligence activities, and special criminal activities). In addition, each county police department has specialized units for different forms of crime, including an organized crime unit.

The Office for Combating Corruption and Organized Crime (USKOK) within the State Prosecutor's Office specializes in the prosecution of corruption and organized crime in Croatia.<sup>114</sup> Article 21 of the *Law on the Office for Suppression of Corruption and Organized Crime* sets out the corruption and organized crime-related offences which fall under the prosecutorial competence of USKOK.

A high level inter-sectoral group within the police has adopted a National Intelligence Model and developed a National Threat Assessment (NTA). The NTA was adopted by the Ministry of Interior in late 2007 and has been shared with Europol. (EU Progress Report 2008, 60.) A Protocol on Co-operation was signed with the Ministry of Finance to enhance inter-agency cooperation, exchange of information, crime prevention and training. A further co-operation protocol with USKOK, which entered into force in early 2007 is being implemented. (Ibid.)

## 2.6 Specialized units: Trafficking in persons and smuggling of migrants

Trafficking in persons was criminalized in Croatia in 2004. The definition of the offence of trafficking in persons is consistent with Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons. Croatia also signed the CoE Convention on Action against Trafficking in Human Beings in 2005. After ratification in 2007, it

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<sup>111</sup> <http://www.legislationline.org/countries/country/37>

<sup>112</sup> See the National Plan in Croatian: <http://www.vlada.hr/hr/content/download/6321/49011/file/41-01.pdf> and proposed Plan: <http://www.vlada.hr/hr/content/download/25558/346998/file/252-15b.pdf>

<sup>113</sup> <http://www.mup.hr/main.aspx?id=159#1>

<sup>114</sup> <http://www.dorh.hr/default.asp?ru=255&sid=&akcija=&jezik=1>



entered into force on 1<sup>st</sup> February 2008. The first National Plan for suppression of trafficking in human beings was adopted in 2002. It was followed by the National Programme for suppression of trafficking in Human Beings 2005–2008 and for the period 2009–2011 and the National Plan for suppression of trafficking in children 2005–2007.<sup>115</sup> For each year an operational plan is adopted, that further develops measures set out in the National Programme. A Report on the implementation of the operational plan for the prevention of trafficking in persons sets out details of cases and data for 2007.<sup>116</sup> An official system for referring victims of trafficking to institutions providing support services exists. A new standard operating procedure has been jointly elaborated by the Ministry of Interior, the State Prosecutor, and the Ministry of Social Services. (EU Progress Report 2008, 60.) Co-operation between the Ministry of Interior, the Ministry of Social Services and their NGO partners has also been enhanced based on the protocol (Ibid.). Croatia ratified the Council of Europe Convention on Action against Trafficking in Human Beings on 1 February 2008.<sup>117</sup>

A large number of national and international actors are engaged in the prevention of and in the response to trafficking in persons in Croatia, including the Office for Human Rights, as the office of the national coordinator for suppression of trafficking in Human Beings, the Ministry of the Interior, the Ministry of Health and Social Welfare, the National Committee for the Prevention of Trafficking in Human Beings, the national police, INTERPOL, EUROPOL, the Council of Europe, the International Organization for Migration and UNDP. Non-governmental organizations active in the area of support to victims of human trafficking include the Croatian Red Cross, the NGO 'Rosa' based in Zagreb, the Organization for Integrity and Prosperity Split, the Vukovar Women Association and the NGO 'Korak' located in Karlovac.<sup>118</sup> All of these NGOs are members of the network "PETRA". The coordinators of this network are members of the National Committee for the Prevention of Trafficking in Human Beings.

## 2.7 Specialized units: Money- laundering and economic crimes

The Office for the Prevention of Money Laundering (AMLO)<sup>119</sup> is responsible for investigating money-laundering and economic crime. The Office was established according to the *Act on the Suppression of Money Laundering and Financing of Terrorism* (NN 87/08) as an autonomous internal unit of the Ministry of Finance.<sup>120</sup> AMLO consists of four Departments: the Information Systems and Strategic Analysis

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<sup>115</sup> <http://www.ljudskaprava-vladarh.hr/lgs.axd?t=16&id=1326>

<sup>116</sup> <http://www.ljudskaprava-vladarh.hr/lgs.axd?t=16&id=1306>

<sup>117</sup> <http://www.legislationline.org/countries/country/37>

<sup>118</sup> For a detailed outline of the institutional and legal framework see the National Action Plan:

<http://www.ljudskaprava-vladarh.hr/lgs.axd?t=16&id=1326>

<sup>119</sup> <http://www.mfin.hr/hr/sprjecavanje-pranja-novca>

<sup>120</sup> *Act on the Suppression of Money Laundering and Financing of Terrorism* (NN 87/08) available at: <http://www.mfin.hr/adminmax/docs/zakon%20o%20sprjecavanju%20pranja%20novca.pdf>

Department, the Analytical and Suspicious Financial Transactions Department, the Prevention and Supervision Department, and the International Cooperation Department. (Council of Europe 2009, 4; Ministry of Finance 2007, 274.)<sup>121</sup>

The Office is the central authority on money laundering and is responsible for the collection, analysis and retention of information on transactions meeting certain thresholds, tracking of suspicious transactions and the overall development of strategies to prevent money laundering.<sup>122</sup> It cooperates with other state authorities, including the State Prosecutor's Office, the Ministry of Interior, the Ministry of Finance (MF), the Security and Intelligence Agency (SOA), the Ministry of Foreign Affairs and European Integration (MVPEI) and the Ministry of Justice.<sup>123</sup> The Office also belongs to the EGMONT group, a coordinating body of financial intelligence units formed in 1996 to promote and enhance international cooperation in anti-money laundering and counter-terrorist financing.<sup>124</sup>

Several other authorities are also responsible for combating money-laundering (Council of Europe 2009, 4). These include authorities such as the Financial Inspectorate of the Republic of Croatia established within the Ministry of Finance, the Tax Administration, the Croatian National Bank (HNB) and the Croatian Financial Services Supervisory Agency (HANFA).

Croatia criminalized money laundering by Article 279 of its *Criminal Code*, which prescribes prison sentences between 6 months and 5 years. Where the offence has been committed by a member of a group or a criminal organization, the sentence ranges from between 1 year to 10 years. Terrorist financing is criminalized as a separate offence defined by Art. 187 a ff. of the *Criminal Code*. (CARPO 2006, 92.) The *Law on Prevention of Money Laundering* obligates to report any unusual or suspicious transaction to AMLO (GRECO 2005, 7).

The most recent *Act on Prevention of Money Laundering and Financing of Terrorism* was introduced in 2008 with the aim of further harmonization of Croatian law with the provisions of the Third EU Money Laundering Directive (Directive 2005/60/EC). The Act entered into force on 1 January 2009. Other main pieces of legislation regarding anti-money laundering include a by-law on *Implementation of the Act on Prevention of Money Laundering* (2003), the *Banking Act* (2002, 2006), and the *Financial Inspectorate Act* (2008).<sup>125</sup>

The Croatian system has been evaluated a number of times by the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) (Ministry of Finance 2007, 271, 280). A project

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<sup>121</sup> Confirmed by source: <http://www.mfin.hr/hr/sprjecavanje-pranja-novca>

<sup>122</sup> <http://www.anti-moneylaundering.org/europe/Croatia.aspx>

<sup>123</sup> <http://www.anti-moneylaundering.org/europe/Croatia.aspx>

<sup>124</sup> <http://www.egmontgroup.org/>

<sup>125</sup> <http://www.anti-moneylaundering.org/europe/Croatia.aspx>

within the CARDS 2003 framework entitled *Preventing and Combating against Money Laundering* was implemented during the period 2006–2007 (ibid., 281).

## 2.8 Specialized units: Drugs

The Office for Combating Narcotic Drug Abuse is responsible for coordination, monitoring and implementation of the *Drug Abuse Prevention Act*, in addition to the National Drug Control Strategy and the Action Plan on Drug Abuse. The National Commission on Combating Narcotic Drug Abuse was established in 2002 and is responsible for coordination of anti-drug activities between government Ministries and other institutions. In addition, an Expert Council provides advice and assistance in drug-related matters.<sup>126</sup>

The Croatian National Drugs Information Unit within the Office for Combating Narcotic Drug Abuse acts as the UNODC Focal point to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). The Unit delivered its first Annual Report to EMCDDA in January 2008.<sup>127</sup> A detailed Protocol *on the National Information System for Drugs in the Republic of Croatia* was published in October 2007,<sup>128</sup> as well as a Protocol for an *Early Warning System in Case of the Appearance of New Psychoactive Substances in the Republic of Croatia*, dated October 2007.<sup>129</sup> The *Drug-Abuse Prevention Act* of 2001 was amended in 2003, 2004 and 2007.<sup>130</sup>

## 2.9 Planned criminal justice reform projects

The *Law on the Seat and Jurisdiction of Courts* was adopted by Parliament in July 2008. It envisages the full rationalization of municipal courts by 2019, with a reduction from 108 to 67 municipal courts. (EU Progress Report 2008, 54.) The Strategic Planning Unit in the Ministry of Justice has been developed into a Directorate in order to oversee monitoring of the reform of the justice system. A revised Action Plan addressing all major reform issues was adopted in June 2008. (Ibid.)

## 2.10 Asylum

The Ministry of Interior is the main actor concerning asylum, migration and visa issues. The Department for Aliens and Asylum operates under the Inspection and

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<sup>126</sup> <http://www.uredzadroge.hr/en/about-us/>

<sup>127</sup> [http://www.uredzadroge.hr/upload/File/English/Croatian\\_report\\_2008.pdf](http://www.uredzadroge.hr/upload/File/English/Croatian_report_2008.pdf)

<sup>128</sup> [http://www.nijd.uredzadroge.hr/upload/File/Dokumenti%20za%20download/Protokol%20NISD\\_ilektorirano.doc](http://www.nijd.uredzadroge.hr/upload/File/Dokumenti%20za%20download/Protokol%20NISD_ilektorirano.doc)

<sup>129</sup> [http://www.nijd.uredzadroge.hr/upload/File/Dokumenti%20za%20download/Protokol\\_EWS\\_ilektorirano.doc](http://www.nijd.uredzadroge.hr/upload/File/Dokumenti%20za%20download/Protokol_EWS_ilektorirano.doc)

<sup>130</sup> <http://www.uredzadroge.hr/en/legislation/>

Administrative Affairs Directorate and decides upon asylum applications in the first instance. Applications for asylum may be presented to the Border Police, in addition to any police directorate or police station, as well as the Asylum Seekers Reception Centre.

The Commission for Asylum decides on appeals against the decision of the Ministry of the Interior in the second instance. It consists of a full-time president of the Commission and four part-time members. (EU Progress Report 2008, 56.) The Administrative Court of the Republic of Croatia has jurisdiction over administrative disputes concerning decisions of the Commission for Asylum.

## 2.11 Migration

In addition to deciding upon asylum applications in the first instance, the Department for Aliens and Asylum of the Ministry of Interior also deals with residence and employment permits of foreigners and with visa issues. It decides upon applications for permanent residence where the applicant can show an approved temporary stay for an uninterrupted period of 5 years (Art. 82, Aliens Act), is responsible for the expulsion of foreigners with no right to remain (Art. 89, Aliens Act), and ensures the safe return of victims of trafficking in persons (Art. 75, Aliens Act).

Applications for temporary residence permits may be submitted to diplomatic missions or consular posts of the Republic of Croatia (Art. 48(1), Aliens Act). Any police directorate or police station may also receive an application for a first temporary residence permit if there is a genuine humanitarian reason, if the request concerns family reunification with a person granted asylum, if the foreigner holds a scholarship within a programme approved by the Ministry for Education and Science, or if the applicant is a founder of his or her own company, or if the applicant is a craftsman with registered business activity in the Republic of Croatia (Art.48, 132(1), Aliens Act).

The Directorate for Croatian Minorities, Emigration and Immigration within the Ministry of Foreign Affairs deals with issues concerning Croatian citizens living in other countries, immigration to Croatia and Croatian national minorities (IOM 2007, 25).

The Croatian Immigration Department provides help for returnees and information for immigrants, while the Croatian Emigration Department facilitates return of Croatian emigrants and systematically monitors and updates data on Croatian emigration. (Ibid.)

The Ministry of Economy, Labour and Entrepreneurship in co-operation with the Croatian Employment Institute, the Croatian Chamber of Economy, the Croatian Chamber of Trades and Crafts and representatives of social partners, determines the annual quota of work permits available by sector and profession. The Directorate of Labour deals with the legal status of Croatian citizens employed in foreign countries and their subsequent return and employment in Croatia, as well as the legal status of

foreigners employed in Croatia. The State Inspectorate is responsible for the supervision of foreigners' employment. (Ibid., 26.)

The Illegal Migration Department of the Border Police Directorate handles issues concerning irregular migration, and oversees the Reception Centre for Aliens and a Mobile Unit for implementation of state border surveillance. The Organized Crime Department of the Criminal Police Directorate deals with trafficking in human beings and smuggling of migrants. The State Border Protection Department of the Border Police Directorate is concerned with illegal migration and state border protection (Ibid., 25.)

## 2.12 Visas

The Ministry of Foreign Affairs and European Integration is the central state body for visa issues (Art. 15(4), *Aliens Act*). It decides upon visa policy and is responsible for approving visas (Art. 21(3), *Aliens Act*). The Ministry keeps records on visa applications, as well as issued and revoked visas, details of which are stored in the Croatian Visa Data Base. The Ministry also keeps records on applications for travel documents as well as stay permits granted to foreigners (Art. 195, *Aliens Act*).

Diplomatic missions and consular posts of the Republic of Croatia are competent to receive visa applications from foreigners outside of Croatia (Art. 21(2), *Aliens Act*) and also have the power to nullify a visa (Art. 28(2), *Aliens Act*). The Ministry of Interior may decide on the extension of a visa (Art. 24(3), *Aliens Act*) and the Border Police may issue travel visas for single entry and stay up to 15 days, and transit visas for single transit of up to 5 days if humanitarian, serious professional or personal reasons apply (Art. 21(5), *Aliens Act*). The Border Police are further entitled to shorten the validity of a visa during the border check if it is established that the foreigner does not have enough funds to support himself (Art.27, *Aliens Act*). Police Directorates and police stations may receive applications for the extension of a visa, but only when *force majeure* or humanitarian, serious professional or personal reasons apply (Art.24(2), *Aliens Act*). They also have the right to nullify a visa (Art. 28, *Aliens Act*).

## 3. Data Availability

### 3.1 Conventional crime<sup>131</sup>

#### 3.1.1 Police data

The Ministry of Interior provides quite thorough and up-to-date crime statistics in English in pdf format on their homepage,<sup>132</sup> in addition to very detailed statistics on criminal and misdemeanour offences in Croatian in pdf format.<sup>133</sup> The website includes a 17-page-long statistical report on reported and resolved criminal offences as defined by the Croatian *Criminal Code* for the period 1998–2008.

**Table 1: Extract from police-recorded crime data published on the Croatian Ministry of Interior website**

Reported and Resolved Criminal Offences 2006-2007 by the Police in Croatia						
	Year 2006		Year 2007		Year 2008	
	Recorded cases	Resolved cases	Recorded cases	Resolved cases	Recorded cases	Resolved cases
Murder	47	47	38	38	51	47
Murder - Attempt	163	162	126	121	119	114
Aggravated Murder	21	21	23	22	16	16
Aggravated Murder - Attempt	..	..	..	..	..	..

In addition, separate tables on overall crime statistics by police district for the period of 1999–2008 and on offences against Public Order for the period of 2002–2008 are provided. There are also statistics on reported and resolved robberies according to location (including bank, petrol station, residential building) in which the crime took place for the period 2001–2008, in addition to statistics on reported and resolved burglaries for the period 2001–2008, by type of facility burgled (including house, motor vehicle, shop). A separate table is also available on reported and resolved car thefts according to police district for the period 2001–2008. The Ministry of Interior web page further provides detailed annual crime statistical reports for 2008 (138 pages with comparisons to 2007 and earlier years back to 1999),<sup>134</sup> 2007 (17

<sup>131</sup> As defined in the UN-CTS, i.e. including homicide, total assault, rape, robbery, total theft, motor vehicle theft, burglary, economic fraud, embezzlement, drug-trafficking and drug-related crime.

<sup>132</sup> <http://www.mup.hr/1261.aspx>

<sup>133</sup> [http://www.mup.hr/UserDocImages/statistika/2009/statistika\\_hr\\_0609.pdf](http://www.mup.hr/UserDocImages/statistika/2009/statistika_hr_0609.pdf)

<sup>134</sup> [http://www.mup.hr/UserDocImages/statistika/2009/pregled\\_08.pdf](http://www.mup.hr/UserDocImages/statistika/2009/pregled_08.pdf)

pages),<sup>135</sup> 2006 (12 pages),<sup>136</sup> details on suicides 1997–2008,<sup>137</sup> and fires and explosions for the period 2007–2008.<sup>138</sup>

The Ministry of Interior also provides separate tables on basic safety indicators for the years 2006, 2007, 2008, and for the period January to June 2009.<sup>139</sup> The tables for the first half of 2009 include reported crimes and resolved crime rates, as well as comparisons to the previous year, highlighting criminal offences involving corruption, as well as organized crime offences, and data on traffic accidents and other traffic related criminal and misdemeanour offences. The indicators also contain detailed data on misdemeanour offences against public order (such as antisocial behaviour, fights, disputes and shouting, and keeping animals without supervision).<sup>140</sup>

### 3.1.2 Prosecution and court data

Detailed prosecution data and court data were provided by Croatia to the Tenth United Nations Survey on Crime Trends and the Operations of Criminal Justice and to the European Sourcebook publication. Detailed prosecution data were also publicly available on the website of the State Prosecutor.<sup>141</sup>

Very detailed statistics on the functioning of the court system for the period 2004–2008 are available in Croatian on the website of the Ministry of Justice, although this information does not include prosecution data.<sup>142</sup> For 2008, the data include the inflow of cases, together with comparisons to prior years regarding new cases and backlogs, data on judicial bodies and employees, detailed information on human resources (including training, position and age of employees in the judiciary), input, solved and unsolved cases for all types of courts, and cases divided by subject matter (including criminal, civil, enforcement, court proceedings in contentious matters, and real estate cases). The statistical information provided is very detailed and up-to-date, as well as clearly classified with regard to subject matter and case procedural phase.

Statistics are also available on the administration of justice in the Statistical Information Yearbook published by the Croatian Central Bureau of Statistics (DZS). These statistics contain data on adult and juvenile perpetrators of criminal offences for the period 2005–2008, including the number of crime reports, accusations, convictions and sanctions.

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<sup>135</sup> <http://policija.hr/mup.hr/UserDocImages/statistika/2007/pregled07.pdf>

<sup>136</sup> [http://policija.hr/mup.hr/UserDocImages/pregled\\_sigurnosnih\\_pokazatelja\\_2006.pdf](http://policija.hr/mup.hr/UserDocImages/pregled_sigurnosnih_pokazatelja_2006.pdf)

<sup>137</sup> [http://www.mup.hr/UserDocImages/statistika/2009/Samoubojstva\\_12.pdf](http://www.mup.hr/UserDocImages/statistika/2009/Samoubojstva_12.pdf)

<sup>138</sup> [http://www.mup.hr/UserDocImages/statistika/2009/pozar\\_2008.pdf](http://www.mup.hr/UserDocImages/statistika/2009/pozar_2008.pdf)

<sup>139</sup> [http://www.mup.hr/UserDocImages/statistika/2009/statistika\\_hr\\_0609.pdf](http://www.mup.hr/UserDocImages/statistika/2009/statistika_hr_0609.pdf)

<sup>140</sup> [http://www.mup.hr/UserDocImages/statistika/2009/statistika\\_hr\\_0609.pdf](http://www.mup.hr/UserDocImages/statistika/2009/statistika_hr_0609.pdf), page 12.

<sup>141</sup> <http://www.dorh.hr/default.asp?ru=181&sid=&akcija=&jezik=1>

<sup>142</sup> <http://www.pravosudje.hr/default.asp?ru=101&sid=&akcija=&jezik=1>



**Table 2: Extract from the Croatian Statistical Information Yearbook**

Reported Adult Perpetrators of Criminal Offences			
	Year 2006	Year 2007	Year 2008
Crime reports	75,867	73,082	71,221
Accusations – total	34,053	33,497	32,609
Imprisonment unsuspended	3,742	4,190	4,384
Fine unsuspended	..	..	..

Source: Statistical Information Yearbook 2008, 41.

The number of female perpetrators is reported separately for both adults and juveniles. (Statistical Information 2008, 46–48.)

The Central Bureau of Statistics (DZS) publishes detailed annual reports on crime related statistics in hard copy only that are made available to relevant governmental and other bodies including, for example, faculties of law. The latest report contains detailed data for 2008. The statistics include information on adult criminal, juvenile criminal, and adult and juvenile misdemeanour offenders. The reports consist of three different publications each year containing up to 225 pages for adult criminal offenders, up to 100 pages for juvenile criminal offenders, and up to 120 pages for adult and juvenile misdemeanour offenders.

Statistics on the administration of justice are also included in the *Women and Men in Croatia Yearbook* compiled by the Central Bureau of Statistics. These statistics include information on the number of judges by type of court and the number of prosecutors. Statistical information is available on convicted adult perpetrators by type of criminal offence for the year 2006, the number of adults accused for domestic violence for the period 2000–2006, the number of violent death by type in 2006 and the number of victims of crime by type of criminal offence in 2007. Separate tables are also available on victims of sexual and moral offences in 2007 and on victims of serious criminal offences by offence type for the year 2007. Serious crimes include murder and attempted murder, serious physical assault, threat, violent behaviour, robbery, mugging and criminal offences against marriage, family and youth. (Women and Men in Croatia 2008, 44–53.)

Statistical reports on the performance of the Supreme Court of Croatia are available in English on the Supreme Court website for the years 2002–2008 and for the first quarter of 2009. They include the total number of criminal and civil cases dealt with in each year.<sup>143</sup>

<sup>143</sup> <http://www.vsrh.hr/EasyWeb.asp?pcpid=248>



### 3.1.3 United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS)

Croatia's reply to the Tenth United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS) was extensive and demonstrates that detailed data collection takes place. The number of total recorded offences at the national level and in the largest city, as well as the number of total persons suspected, arrested and cautioned was provided by Croatia for all crimes covered by the UN-CTS. Croatia was able to provide the number of police-recorded intentional homicide cases, the number of intentional homicides completed with a firearm, the number of attempted intentional homicides and the number of intentional homicides attempted with a firearm. In addition to case-related data, Croatia provided information on the number of persons brought into formal contact with the criminal justice system by sex, age and citizenship.

The prosecution section of the Tenth UN-CTS response for Croatia demonstrates that Croatia records data on persons prosecuted by sex and age. In Croatia, for the purposes of criminal prosecution, an 'adult' is defined as a person who has reached the age of 18 at the time of committing the crime, and a 'juvenile' as a person who has reached the age of 14 but not yet 18 at the time of committing the crime. Information on the citizenship of prosecuted persons is, however, not available.

In addition to the total number of persons brought before the criminal courts, Croatia also provided information on overall conviction rates (for all crimes) to the Tenth UN-CTS, as well as the number of convicted females, males, adults, juveniles and citizens of other countries.<sup>144</sup> The definition of 'adult' and 'juvenile' applied by the court system is the same as for prosecution statistics. A citizen of another country is defined as a person who does not have Croatian citizenship or whose citizenship is unknown.

### 3.1.4 The European Sourcebook

Croatia has participated in all four editions of the European Sourcebook (ESB) of Crime and Criminal Justice Statistics. The most recent available data is for the third (2004–2005) and fourth (2006–2007) sweeps. In addition to crime-related data, the European Sourcebook contains information on crime definitions and data recording methods.

The number of criminal offences recorded by the police per 100,000 population is reported to be very stable in Croatia. The number was 2,455 per 100,000 population in 2005, and 2,505 per 100,000 population in 2007. The highest reported value was

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<sup>144</sup> The Croatian reply to the UN-CTS does not provide information on whether input statistics refer to cases or persons. In any case, the conviction rate has been calculated as the ratio between the total number of persons convicted and the total number of persons/cases brought before the criminal courts.

2,648 per 100,000 population in 2006. Overall, the number of criminal offences recorded by the police per 100,000 population is relatively low, when compared to the European average of approximately 4,500 per 100,000 population.

### 3.1.5 EUROSTAT Crime and Criminal Justice Statistics

Croatia participates in Eurostat's data collection efforts in the field of crime and criminal justice. Figures requested by Eurostat include the total number of crimes recorded, homicide, violent crime, robbery, domestic burglary, motor vehicle theft and drug trafficking, and Croatia is able to provide data for all of these crime types. The figures for Croatia on robbery and motor vehicle theft match the figures provided by Croatia to the Tenth UN-CTS and to the European Sourcebook. Whilst slight differences in the figures for other crimes exist, overall they are in line with each other. This is, to some extent, to be expected, as crime definitions used in the different reports are non-identical and data are collected at a different point in time for each cross-national data collection. The Eurostat figure on total recorded crimes for Croatia is considerably lower, for example, than the equivalent figure reported to the Tenth UN-CTS, which could be due to the fact that less serious crimes (misdemeanours) are excluded from the Eurostat figure. (Eurostat 2009.)

## 3.2 Specific forms of crime

### 3.2.1 Corruption

There is a plethora of data on corruption in Croatia available from various sources. The Central Statistical Bureau published a detailed report in 2009 on corruption-related criminal offences covering the period 2002–2007. According to data contained in this report, the number of reported, charged and convicted cases has increased somewhat between 2002, when there were 872 reported cases, 295 charges laid and 111 convictions, and 2007 when there were 1,326 reported cases, 429 charges and 168 convictions.<sup>145</sup> The report also includes information on the territorial distribution of persons convicted for accepting or offering a bribe and for abuse of office/official authority, as well as trend data on the number of persons reported, charged and convicted for accepting or offering a bribe.

The *EU Progress Report* notes that the number of reported cases of suspected corruption has increased significantly, especially cases regarding abuse of office (EU Progress Report 2008, 10). The crime statistics of the Ministry of Interior include statistics on corruption-related offences for the period 1998–2008. There were 657 reported cases of abuse of office and official authority in 2005, 521 cases in 2006, 427 in 2007 and 654 reported cases in 2008. Statistics are also available on cases

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<sup>145</sup> Translation of: DZS, Koruptivna kaznena djela 2002–2007, 27. Available online: <http://www.dzs.hr/>

involving accepting or offering a bribe and other related crimes.<sup>146</sup> Analysis of the data shows that the number of reported suspects is significantly higher than the number of cases. In 2005, for example, 889 persons were reported for abuse of office or official authority, as compared with 657 reported cases (Central Bureau of Statistics, Statistical Report 1309/2006, 56).

Several sources refer to the increase in the number of offences reported and/or investigations related to corruption in recent years (CARPO 2006<sup>147</sup>; EU Progress Report 2008, 10). The increase can be seen as a consequence of enhanced legal and administrative structures implemented in recent years (CARPO 2006, 91–92) or, with respect to the specific offence of abuse of office, also as a result of the change of USKOK prosecutorial competence to incorporate the offence within their jurisdiction (UNODC Focal Point 2009) rather than an actual increase in the number of corruption crimes.

Several corruption studies have been carried out in Croatia. The *Corruption in Croatia Report 2006* (in Croatian) by Jelena Budak found that corruption remains a deep-rooted and endemic problem in Croatia. Budak analysed the prevalence of corruption from three different viewpoints: the placement of Croatia in international corruption indices; the analysis of recent survey results investigating the perception of citizens concerning corruption; and the perceptions of entrepreneurs about corruption.<sup>148</sup>

According to Croatia's *National Integrity System Study 2007*, 86 percent of Croatians believe corruption to be widespread in Croatian society (Vasiljević et al 2007). In Transparency International's *Global Corruption Barometer 2007*, 8 percent of Croatian households surveyed reported having paid a bribe the previous year, while 62 percent believed that the government's fight against corruption was ineffective. Some 72 percent believed that the level of corruption in the country would either remain the same or increase in the future.<sup>149</sup> Both the police and the judicial system were considered to be 'corrupt' or 'very corrupt' by citizens participating in these perception studies. This is also confirmed by a recent survey by Gallup (Balkan Monitor 2008, 28). Citizens reported very negative views regarding corruption in the courts, with a score of 4.3 on a 5-point scale (from 1 being 'not at all corrupt' to 5 'extremely corrupt') (Transparency International 2007). Unjustified verdicts were the most commonly reported problem to the Advocacy and Legal Advice Center (ALAC), set up by Transparency International Croatia.

The Croatian *National Anti-Corruption Programme 2006–2008* mentions that corruption is widespread in Croatia. The four areas that corruption surveys commonly

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<sup>146</sup> [http://www.mup.hr/UserDocImages/engleska%20verzija/2009/eng\\_co\\_10.pdf](http://www.mup.hr/UserDocImages/engleska%20verzija/2009/eng_co_10.pdf)

<sup>147</sup> However, the data in the CARPO report seem not fully accurate when compared to the data provided in the Statistical Report of 2009. Some of the differences in data could be explained by the use of offence vs. offender data.

<sup>148</sup> <http://www.eizg.hr/AdminLite/FCKeditor/UserFiles/File/PKIEP106-Budak.pdf>

<sup>149</sup> <http://www.business-anti-corruption.com/country-profiles/europe-central-asia/croatia/background-information/>

single out as the most tainted by corruption in Croatia are the judiciary, health care services, local self-government units and political parties. (National Anti-Corruption Programme 2006–2008, 4.)

### 3.2.2 Organized crime

Croatia operates a national centralized database that contains information about persons wanted for participating in organized criminal groups<sup>150</sup> (Savona & Curtol 2004, 146–147). Experts estimate that up to ten organized crime groups operate within Croatia. These groups are thought to have different structures but to be, most usually, horizontally organized and to operate both on a national and transnational scale. (Ibid., 132–133.)

In 2004, 1,098 criminal acts of organized crime committed by 540 individuals were reported. This corresponded to 1.3 per cent of all reported crimes. In 2005, Croatia reported an increased number (by 22 per cent) of registered organized crime cases (1,340) and individuals (771) detected by the Organized Crime Department (corresponding to 1.7 per cent of all reported crimes). (CARPO 2006, 86.)

### 3.2.3 Trafficking in persons and smuggling of migrants

According to Croatia's response to research carried out under the auspices of the UN.GIFT project, a total of 69 victims of trafficking in persons have been identified in Croatia since 2002: 8 victims in 2002, 8 victims in 2003, 19 victims in 2004, 6 victims in 2005, 13 victims in 2006 and 15 victims in 2007. In 2008 there were 7 identified victims, excluding 2 victims exploited in multiple criminal offences.<sup>151</sup> Crime statistics of the Ministry of Interior include statistics on trafficking in persons and slavery for the period 1998–2008. There were 5 reported cases in both 2005 and 2006, 17 cases in 2007 and 8 reported cases in 2008. According to the Office for Human Rights, which acts as the National Coordinator for THB in Croatia, a total of 84 victims of THB have been identified in Croatia from 2002 until early December 2009. From January–November 2009, a total of 8 victims (4 female and 2 male victims) have been identified. Regarding smuggling of migrants, crime statistics include the offence of illegal transfer of persons across the state border. There were 260 reported cases in 2005, 320 cases in 2006 (ICMPD Yearbook 2008 states 358 apprehended persons being smuggled in 2006), 464 cases in 2007 (ICMPD Yearbook 2008 states 330 apprehended persons being smuggled in 2007) and 214 reported cases in 2008.<sup>152</sup>

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<sup>150</sup> No definition is provided for “persons wanted for participating in organized criminal groups”.

<sup>151</sup> <http://www.mup.hr/main.aspx?id=31#postoji%20li%20trgovanje%20ljudima%20u%20Hrvatskoj>

<sup>152</sup> [http://www.mup.hr/UserDocImages/engleska%20verzija/2009/eng\\_co\\_10.pdf](http://www.mup.hr/UserDocImages/engleska%20verzija/2009/eng_co_10.pdf)

### 3.2.4 Economic crime and money- laundering

The Office for Money Laundering Prevention within the Ministry of Finance is responsible for data collection on issues concerning economic crime and money laundering. It is obliged to inform the reporting entities on the results of its work. The Law additionally prescribes collection of data for joint statistics on money laundering and economic crime. (Council of Europe 2009, 4–5.)

AMLO analysed 1,227 of 14,000 reported suspicious transactions in 2004. Of these, it reported 247 to the relevant investigative bodies and ordered the temporary suspension of suspicious transactions in 15 cases, with a total value of 5,663,000 Euros. (GRECO 2005, 7.) AMLO reported receiving notifications concerning 2,741 suspicious transactions from different authorities and other entities in 2006. The figure was 2,687 in 2007. Following investigation, AMLO reported 281 open cases with a suspicion of money laundering in 2006, and 322 open cases in 2007. The number of solved cases of suspicious transactions was 2,669 in 2006 and 3,385 in 2007. (Ministry of Finance 2007, 276–278.)

The crime statistics of the Ministry of Interior include statistics on money laundering for the period 1998–2008. There were 15 reported cases of money laundering in 2005, 27 cases in 2006, 19 cases in 2007 and 14 reported cases in 2008. Other economic crimes are also included in the statistics and include crimes such as counterfeiting, malpractice in bankruptcy proceedings, and evasion of taxes.<sup>153</sup>

The latest MONEYVAL evaluation of Croatia mentions that a major improvement of the efficiency of the system is apparent from judicial statistics. In the last 3 years, there have been 45 judicial investigations, 44 indictments and 21 court rulings (14 convictions) for money laundering. (Council of Europe 2009, 5.)

Regarding economic crime<sup>154</sup>, in total, some 6,600 offences were reported in 2005, representing 2.4 percent less than in 2004. The most frequent criminal offences reported in 2005 were abuse of office and official authority, fraud, illicit use of an author's work, evasion of customs control, abuse of authority in economic business, and forgery of an official document. A reported increase in the number of offences related to cyber crime and offences against intellectual property rights (2004: 928 offences, 2005: 1,009 offences) can be seen as a consequence of enhanced legal and administrative structures and recently introduced control measures. (CARPO 2006, 90–91.)

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<sup>153</sup> [http://www.mup.hr/UserDocImages/engleska%20verzija/2009/eng\\_co\\_10.pdf](http://www.mup.hr/UserDocImages/engleska%20verzija/2009/eng_co_10.pdf)

<sup>154</sup> For a discussion on the problems of current Croatian law relating to economic crimes, see: [http://www.pravo.hr/\\_download/repository/01Novoselec.pdf](http://www.pravo.hr/_download/repository/01Novoselec.pdf)

### 3.2.5 Drug- related crimes

The Police recorded 7,900 criminal cases involving drugs in 2007, being commensurate with the level of each of the past 5 years (EU Progress Report 2008, 60).

A detailed 128 page annual report for 2007 prepared by the National Drugs Information Unit for the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) is available online in English.<sup>155</sup> The report contains detailed information on drug use, seizures, persons receiving treatment, as well as data on drug-related crime. Information on reported, charged and convicted persons, age, sex and nationality of persons, seizures of narcotic drugs as well as drug-use in prison is also available. (Croatian National Drugs Information Unit 2008.) According to the report, drug related offences make up 9.9 percent of total reported crime. In 2004 there were 5,522 persons reported for an offence pursuant to Art 173 of the *Criminal Code* (illicit use (possession), production, trade, trade through sale or purchase as well as any other type of trading in narcotic drugs). Some 4,041 were charged and 4,177 sentenced. In 2005 the respective figures were 4,632 persons reported, 3,851 persons charged, and 3,535 persons sentenced. In 2006, 4,900 persons were reported, 3,536 persons charged, and 3,339 persons sentenced (General Prosecutor's Office of the Republic of Croatia). (Ibid., 62.)

### 3.3 Survey- based statistics

The Central Bureau of Statistics (CBS) is under the direct responsibility of the Prime Minister. The Annual Implementation Plan for Statistical Activities in 2008 and a programme of statistical activities covering 2008–2012 (mid-term plan) were adopted in May 2008. (EU Progress Report 2008, 47.)

The International Crime Victim Survey (ICVS) was carried out in Croatia for the first time in 1997 and then again in 2000. A total of 1,532 respondents were interviewed face-to-face in the capital city Zagreb in the 2000 survey. The overall victimization rate (prevalence rate) was found to be 14 percent for eleven types of crime, which was significantly below the level observed in most other capital cities covered in the ICVS 2000. (Alvazzi del Frate and van Kesteren 2004, 4–5).

Agency 'PULS' has conducted three separate surveys in Croatia for the United Nations Development Program (UNDP) as part of the project *Assistance in the Development of a Witness and Victim Support System*.<sup>156</sup> The project is implemented by UNDP in co-operation with the Ministry of Justice. The surveys covered three different target populations; victims and witnesses, police officials and the general population. In

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<sup>155</sup> [http://www.nijd.uredzadroge.hr/upload/File/Publikacije/Croatian\\_report\\_2008.pdf](http://www.nijd.uredzadroge.hr/upload/File/Publikacije/Croatian_report_2008.pdf)

<sup>156</sup> <http://www.undp.hr/show.jsp?page=86296>

addition a specific survey of judges is mentioned on UNDP Croatia's website.<sup>157</sup> The questionnaires were designed by UNDP, with amendments and suggestions from the Agency PULS.

The South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC) conducted a small arms and light weapons survey in Croatia in 2006. The survey was also carried out in co-operation with Agency PULS and included questions on the perception of Croatian citizens about small arms and security among other issues. Survey results indicate that the perceived level of overall security in Croatia is generally high by EU standards, but is deteriorating in urban areas such as Zagreb and Split where there has been a perceived rise in the level of crime (SEESAC 2006a.)

### 3.4 Data on asylum

The *UNHCR Statistical Yearbook* includes data for Croatia on the number of refugees and asylum seekers, returned refugees, stateless persons, IDPs assisted by UNHCR and returned IDPs. As the UNHCR definition of refugees excludes some categories, the Internal Displacement Monitoring Centre, based in Switzerland, serves as an additional source. The UNData homepage also publishes data on the number of refugees and people in refugee-like situations. The countries of origin of refugees and people in refugee-like situations admitted to Croatia were mainly Bosnia and Herzegovina and Serbia. Some data are also available in the *ICMPD Statistical Yearbook*.

**Table 3: Extract from ICMPD Yearbook for Croatia**

Number of persons claiming asylum and the number of accepted asylum claims 2006-2007		
	Year 2006	Year 2007
Claimed	88	197
Claims accepted	1	0

Source: ICMPD Statistical Yearbook 2008, 81.

<sup>157</sup> *ibid.*

### 3.5 Data on visas

Information on visa procedures can be found on the homepage of the Ministry of Foreign Affairs and EU Integration. No relevant data in English language could be found.

### 3.6 Data on migration

The Central Bureau of Statistics provides some data on migration in the annual Statistical Information and the Statistical Yearbook

**Table 4: Extract from Croatian Statistical Information Yearbooks**

Migration of Population of the Republic of Croatia								
	1999	2000	2001	2002	2003	2004	2005	2006
Immigration	32,910	29,385	24,415	20,365	18,455	18,383	14,230	14,978
Emigration	14,285	5,953	7,488	11,767	6,534	6,812	6,012	7,692
Net migration	18,625	23,432	16,927	8,598	11,921	11,571	8,218	7,286
Rate of net migration				1,9	2,7	2,6	1,9	1,6

Source: Statistical Information: Central Bureau of Statistics 2005, 22; 2006, 23; 2007, 23; 2008, 23.

The Ministry of Interior of the Republic of Croatia publishes a survey on basic safety indicators including the illegal transfer of persons across the state border and foreigners illegally entering into the Republic of Croatia. Data are also available in the *ICMPD Statistical Yearbook*.

**Table 5: Extract from ICMPD Statistical Yearbook**

Number of migration related border apprehensions including foreigners and citizens of Croatia	
Year 2006	Year 2007
5,964	4,352

Source: ICMPD Statistical Yearbook 2008, 81.



## 4. Outline of data collection systems

Most information on crime in Croatia is dealt with by the police, the Ministry of Interior, the Ministry of Justice, and the Central Bureau of Statistics. The *Annual Reports* of the Central Bureau of Statistics provide detailed and reliable information regarding criminal justice statistics. DZS is the central collection point for statistics in Croatia and receives data from all relevant crime and criminal justice bodies, including the police, state prosecutor, courts, and the Ministry of Finance.<sup>158</sup>

Regarding police data collection, the Ministry of Interior issues guidelines concerning the generation and retention of police records based on laws governing registers of information, and continuously evaluates the system of data gathering and analysis. (SEESAC 2006b, 36.) Records of crimes are entered into a database by police officers in all police stations. According to SEESAC, police stations in Croatia have the necessary IT equipment and data are entered directly into the database. The procedures for reporting data up to the national level function through the Ministry of Interior information system. Important data reflecting trends are selected and entered in the registers. From the registers, data are aggregated for statistical analysis and, following analysis, are forwarded to all authorized bodies and made public. (Ibid., 36.) At the operational level, the National Threat Assessment adopted at the end of 2007 has been instrumental in a significant increase in intelligence reports, police data collection and information exchange. This includes the development of an IT system for inter-Ministry exchange of information, which has now been completed (iCIS). (EU Progress Report 2008, 60.)

The State Prosecutor's Office and the courts collect data on crimes, classified according to the type of crime, which is then passed to the Central Bureau of Statistics. Manually completed records are processed by the courts into an electronic database. The Central Bureau of Statistics then compiles annual reports for the government and the Ministry of Justice on the level of reported crimes and offenders, charged crimes and offenders and the number of convicted persons and convictions. (SEESAC 2006b, 37.)

The *EU Progress Report* mentions that the pilot testing of an integrated case management system (ICMS) was finalized in four courts and testing has begun in several other courts in 2008. However, the foreseen integration of ICMS into 60 courts by 2009 was behind schedule. (EU Progress Report 2008, 54.) Apparently, a similar system will also be developed for prosecution. The main features of the ICMS include case tracking, automatic assignment of cases to judges, and standardized templates for decisions and statistical reporting.<sup>159</sup>

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<sup>158</sup> <http://unstats.un.org/unsd/dnss/docViewer.aspx?docID=566&catID=7#start>

<sup>159</sup> [http://www.mp.gov.si/fileadmin/mp.gov.si/pageuploads/2005/PDF/e-justice2008/E-justice\\_NOVO/2008-1-15.pdf](http://www.mp.gov.si/fileadmin/mp.gov.si/pageuploads/2005/PDF/e-justice2008/E-justice_NOVO/2008-1-15.pdf)

In addition, the Supreme Court of the Republic of Croatia has established records for monitoring the efficiency of courts, with particular emphasis on indicators of backlogs, old cases and the implementation of the principle of prioritizing the most lengthy proceedings while respecting the priority of particular case types prescribed by law. The backlog of pending cases before all courts was reduced by around 7 per cent to 937,000 cases in 2008. (EU Progress Report 2008, 53–54.)

Regarding collection of data on asylum, migration and visa, the Ministry of Interior maintains databases on asylum issues. Migration data are collected by the Border Police. They use the Central Information System of the Ministry of Interior for the prevention of illegal migration and for collection, analysis and data exchange. The system serves as a basis for reports, analyses and periodical plans. Police officers are authorized to enter data into the Daily Operational Bulletin, with the procedure monitored by the Operational Communication Police Centre. The Information System of the Ministry of Interior contains two sub-systems: The sub-system for border-related matters and the sub-system for matters related to foreigners, which was modernized and expanded in 2007.

The sub-system on matters related to foreigners collects a range of migration-related data based on statistical templates prepared and sent to the Department for Statistics of the Ministry of Interior, which then publishes a monthly bulletin on police activities. The sub-system is used for situation analysis and the identification of trends, with the nature of data collected reported to resemble data collected in many EU Member States. The sub-system for border-related matters is currently being updated. The Ministry of Interior is in the course of developing a national system for the management of national borders with the assistance of an EU project. The National Border Management Information System (NBMIS) is being installed at border-crossing points, albeit at a limited pace owing to technical challenges. At present, nine border crossing points are covered (EU Progress Report 2008, 58). Two additional databases also exist; a database on foreigners with residential status and a database on permanent and temporary place of residence. Both databases are maintained by the Ministry of Interior.

Regarding data collection on visas, an information system intended to form the basis of the future Croatian Visa Database (IKOS), has now been implemented in 68 of 72 diplomatic missions and consular posts (EU Progress Report 2008, 57).

## Conclusions

Croatia systematically collects data on crime and criminal justice issues. Detailed information, in particular, is available in police-recorded crime statistics compiled by the Ministry of Interior and the Central Bureau of Statistics. Prosecution and court data collection systems also appear to be of a relatively high standard, although limited data are available in the English language.

The introduction of the integrated case management system (ICMS) in all courts will help enhance the transparency of court operations and should produce more detailed statistical information. The rationalization of court networks as part of the judicial reform should also improve the efficiency and effectiveness of the criminal justice system, including with respect to the production of statistics and calculation of criminal justice system performance measures, such as conviction rates.

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# Kosovo under international administration

## UNSCR 1244 (Kosovo)

### Outline of the criminal justice system, asylum/visa/migration system and its actors

Institution	Relevant departments/ subdivisions	Existing data availability
<b>Ministry of Internal Affairs</b>	<ul style="list-style-type: none"> <li>Kosovo Police including:                             <ul style="list-style-type: none"> <li>Analysis Section</li> </ul> </li> <li>Department for Public Safety</li> <li>Kosovo Police/Crime Department/ Directory of Organized Crime including:                             <ul style="list-style-type: none"> <li>Trafficking in Human Beings Investigation Section (THBS)</li> <li>Narcotics Investigation Section (NIS)</li> <li>Financial Intelligence Unit (FIU)</li> </ul> </li> <li>Department for Borders, Asylum and Migration (DBAM) including                             <ul style="list-style-type: none"> <li>Border and Boundary Police</li> <li>Directorate for Migration and Foreigners</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>General crime data (crimes reported, crimes investigated, suspects and arrested)</li> <li>Data on organized crime</li> <li>Data on cases of corruption and economic crimes, number of persons arrested and of criminal charges</li> <li>Data on trafficking in persons</li> <li>Data on drug crimes</li> <li>FIU: data on suspicious financial transactions</li> <li>Data from border police on smuggling of migrants cases, persons suspected</li> <li>Data on asylum, migration, visa</li> </ul>
<b>Deputy Minister of Internal Affairs</b>	<ul style="list-style-type: none"> <li>National Coordinator for Anti-Human Trafficking</li> </ul>	<ul style="list-style-type: none"> <li>Data on trafficking in persons and smuggling of migrants</li> </ul>
<b>Office of the Public Prosecutor for Kosovo</b>	<ul style="list-style-type: none"> <li>Administrative Office</li> </ul>	<ul style="list-style-type: none"> <li>Prosecution data</li> </ul>
<b>Kosovo Judicial Council</b>	<ul style="list-style-type: none"> <li>Statistical Section</li> </ul>	<ul style="list-style-type: none"> <li>Data on persons accused and convicted</li> </ul>
<b>Ministry of Justice</b>	<ul style="list-style-type: none"> <li>Criminal Division/Special Prosecutor's Office for inter-ethnic crime, TIP, OC, terrorism and corruption charges (monitoring by EULEX )</li> </ul>	<ul style="list-style-type: none"> <li>Data on cases of abuse of official duty, embezzlement, bribe-taking, trading in influence, promulgation of court injunctions, unlawful payments and document falsification</li> <li>Data on economic crime cases and sentences</li> </ul>
<b>Kosovo Anti-Corruption Agency</b>	<ul style="list-style-type: none"> <li>Sector for statistics</li> </ul>	<ul style="list-style-type: none"> <li>Data on reports of suspected acts of corruption</li> </ul>
<b>Kosovo Government and EULEX</b>	<ul style="list-style-type: none"> <li>Financial Intelligence Centre (FIC), supervising entity for non-financial institutions</li> </ul>	

<b>UNMIK</b>	<ul style="list-style-type: none"> <li>UNMIK Police Criminal Investigation Unit</li> </ul>	<ul style="list-style-type: none"> <li>Cases of drug dealing/possession offences (2005)</li> </ul>
<b>EULEX</b>	<ul style="list-style-type: none"> <li>3 Rule of Law components: judiciary, police, and customs</li> </ul>	
<b>Northern Mitrovica</b>	<ul style="list-style-type: none"> <li>Parallel courts continue to function in regions with a majority of Kosovo Serb inhabitants</li> </ul>	
<b>Ministry of Public Services/ Statistical Office of Kosovo (SOK)</b>	<ul style="list-style-type: none"> <li>Section for Jurisprudence Statistics</li> </ul>	<ul style="list-style-type: none"> <li>Persons accused with criminal offences; Persons punished for criminal offences; Persons punished for minor offences</li> </ul>

## 1. Short background

Kosovo has a population of between 1.8 and 2.4 million, of which about 90 percent are ethnic Albanians. The 1974 Constitution of the Socialist Federal Republic of Yugoslavia (SFRY) endowed Kosovo with substantial autonomy. The level of autonomy was considerably reduced by Belgrade during the 1990s and the participation of ethnic Albanians in public office discouraged. In response, Kosovo Albanian leaders withdrew from public institutions, created parallel administrative structures and in 1991 declared Kosovo a sovereign and independent state. During the course of 1997 and 1998, the level of violence intensified leading to large-scale deployment of Yugoslav and Serbian military and security forces in Kosovo. Following the commencement of a NATO-led aerial campaign on 24 March 1999, Yugoslav and Serbian forces withdrew from Kosovo on 9 June 1999. The following day, UN Security Council Resolution 1244 (UNSCR 1244) decided upon the establishment of an international civil administration and security presence. The international civil presence in Kosovo was authorized to provide an interim administration for Kosovo under which the people of Kosovo could enjoy substantial autonomy and which would provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions. UNMIK is headed by a Special Representative of the Secretary General (SRSG) of the United Nations.<sup>160</sup>

In March 2007, the Secretary General of the United Nations forwarded the Comprehensive Proposal for the Kosovo Status Settlement (CSP) prepared by his special envoy, Martti Ahtisaari, to the United Nations Security Council (UNSC).<sup>161</sup> Neither the Security Council nor direct talks between Kosovo and Serbia mediated by an EU-US-Russia troika reached agreement on the CSP. The assembly of Kosovo declared Kosovo to be an independent and sovereign state on 17 February 2008. The *Constitution of the Republic of Kosovo* entered into force on 15 June 2008 and Kosovo

<sup>160</sup> See: <http://www.icty.org/sid/322>;  
<http://www.securitycouncilreport.org/site/c.gIKWLeMTIsG/b.2400785/>;  
[http://www.crisisgroup.org/home/index.cfm?action=conflict\\_search&l=1&t=1&c\\_country=58](http://www.crisisgroup.org/home/index.cfm?action=conflict_search&l=1&t=1&c_country=58);  
 EU Progress Report 2008

<sup>161</sup> UN Doc. S/2007/168/Add.1

authorities have continued to take steps towards asserting Kosovo's statehood (United Nations, 2008). As of June 2009, Kosovo's independence has been recognized by a total of 60 countries including all EU member states with the exception of Cyprus, Greece, Slovakia, Spain and Romania.<sup>162</sup> On 8 October 2008, by General Assembly resolution 63/3, the International Court of Justice was requested to issue an advisory opinion on the question of the compatibility of the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo with international law.

Whilst Kosovo formally remains under interim administration according to UNSCR 1244, UNMIK is currently undergoing a reconfiguration and downsizing of the mission in light of difficulties faced by the SRSG in exercising his mandate owing to the conflict between UNSCR 1244 and the Kosovo Constitution. Remaining UNMIK resources will be allocated to mediation between communities, supporting minority communities and the return process of displaced persons, in addition to residual functions related to human rights monitoring (United Nations 2008). The Organization for Security and Co-operation in Europe (OSCE) continues to lead in the area of democratization and institution building.

The European Union Rule of Law Mission in Kosovo (EULEX Kosovo) was established on 4 February 2008.<sup>163</sup> The EULEX Kosovo mission is mandated to support the Kosovo authorities including the police, judiciary, customs and correctional services by monitoring, mentoring and advising, with the aim of supporting a self-sustained and accountable judicial and administrative system.<sup>164</sup> EULEX judges and prosecutors have some executive powers, particularly with regard to investigating, prosecuting, adjudicating and enforcing – in cooperation with local counterparts – cases of war crimes, terrorism, organized crime, corruption, inter-ethnic crimes, financial/economic crimes and other serious crimes.<sup>165</sup> EULEX Kosovo operates under the overall authority of the United Nations and within the status neutral framework of UNSCR 1244. As of June 2009, EULEX Kosovo had assumed almost all rule of law functions previously exercised by UNMIK, with all remaining active court case files managed by UNMIK transferred to EULEX Kosovo. (United Nations, 2009) EULEX is the largest civilian mission ever launched under the European Security and Defense Policy. Its final staff target is around 1,900 international and 1,100 local staff, including approximately 1,400 international police officers.<sup>166</sup>

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<sup>162</sup> Information as of 25 June 2009 from <http://www.state.gov/r/pa/ei/bgn/100931.htm>

<sup>163</sup> Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX Kosovo.

<sup>164</sup> <http://www.eulex-kosovo.eu/?id=2>

<sup>165</sup> <http://www.eulex-kosovo.eu/?id=10>

<sup>166</sup> <http://www.eulex-kosovo.eu/?id=2>



Some 14,000 troops from the NATO-led Kosovo Force (KFOR) are still deployed in Kosovo. Their current role is to support the development of professional, democratic and multi-ethnic security structures.<sup>167</sup>

Kosovo has adopted a system modeled on that of a parliamentary republic with a 120-member Assembly, a Prime Minister, two deputy-prime ministers and a 17-person Cabinet, as well as a President. The constitution is based on the Comprehensive Proposal for the Kosovo Status Settlement (CSP) prepared by UN Secretary General special envoy, Martti Ahtisaari (EU Progress Report 2008, 8).

Kosovo has a civil law system. Following the commencement of international civil administration, all legislative and executive authority with respect to Kosovo, including the administration of the judiciary, was vested in UNMIK and exercised by the SRSG.<sup>168</sup> The subsequent Kosovo Constitution of 15 June 2008 declared that "*Laws, decisions and other acts are adopted by the Assembly*", although it did provide for legislation applicable on the date of entry into force to continue to apply until repealed.<sup>169</sup> Following promulgation of the Kosovo Constitution by the Kosovo authorities, very few executive decisions have been issued by the SRSG and, in practice, three parallel sources of legislation continue to exist in Kosovo, namely; ex-Yugoslav law, UNMIK regulations and Kosovo law adopted following the declaration of independence (EU Progress Report 2008, 13). According to EULEX, during the process of legislative review and amendment, Kosovo authorities apply laws approved by the Kosovo Assembly, as well as, in some cases, UNMIK Regulations and Administrative Directives as a means to reduce legal gaps (EULEX 2009).

In the Serb municipalities of Mitrovica North, Leposavic, Zubin Potok, Zvecan, Strpce, and Gračanica, 'parallel' courts continue to operate directly under Serbian legislation.

## 2. Justice and home affairs actors

### 2.1 Law Enforcement

Under UNSCR 1244, one of the main responsibilities of the international civil presence was to establish a local police force. The Kosovo Police Service (KPS) was created in 1999. Until May 2006, KPS was under the authority of the United Nations International Police (CIVPOL) and was part of UNMIK Pillar I (Police and Justice). On the disbandment of Pillar I, KPS came under the direct control of the SRSG. As part of the reconfiguration of UNMIK, EULEX has assumed responsibility for international policing in Kosovo through a police component of the EULEX mission that aims to meet the institutional development, monitoring and capacity building needs of the police and

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<sup>167</sup> [http://www.nato.int/cps/en/natolive/topics\\_48818.htm#objectives](http://www.nato.int/cps/en/natolive/topics_48818.htm#objectives)

<sup>168</sup> UNMIK Regulation 1999/1 on the Authority of the Interim Administration in Kosovo, 25 July 1999.

<sup>169</sup> See <http://www.kushtetutakosoves.info/repository/docs/Constitution.of.the.Republic.of.Kosovo.pdf>

justice sector (ISSR 2006, 91). Whilst EULEX officers are co-located with Kosovo Police counterparts, the mission is designed to act mainly in a supportive role, with Kosovo Police taking the lead. Within Kosovo Police (which changed its name from KPS to Kosovo Police (KP) as of 15 June 2008), the Border and Boundary Police is a specialized service whose competence is limited to border and boundary crossing points (Technical Background Paper 2008, 5).

The current number of serving police officers in KP is 7,200 (Kosovo Police 2008, 40–41). The Kosovo Police is under the Ministry of Internal Affairs as an executive agency. KP is divided into a three-tier command structure including headquarters, Regional Directorates (a total of 6, with recent appointments of regional directors) and Municipal Stations (35 stations) and sub-stations (UNODC Focal Point 2009). Recent *Laws on the Police and on the Police Inspectorate* were adopted in 2008.

The Kosovo Centre for Public Safety, Education and Development (KCPSED) is the successor of the Kosovo Police Service School (created in 1999) and was converted into an executive agency of the Ministry of Internal Affairs in 2008 (EU Progress Report 2008, 53). KCPSED is responsible for training and technical support for all Public Safety Agencies (Kosovo Police, Customs, Corrections and Department of Emergency Management).

Following the declaration of independence, many police officers from the Kosovo Serb community left the service, presenting a significant challenge to the functioning of KP as a multi-ethnic police force in certain non-majority areas of the territory (EU Progress Report 2008, 53). After a deadline (30 June 2009) set by the Ministry of Internal Affairs for suspended Kosovo Police officers from the Kosovo Serb community to return to service, it was confirmed that in the Prishtina Region 113 of the 114 officers returned to service; in the Gjilan Region, 125 of the 129, and in Peja all 7 officers returned. In the Border Police 48 out of 50 officers returned back to their jobs, whilst in the General Directorate 13 out of 24 officers returned. In Mitrovica, one police officer returned back.

## 2.2 Prosecution

The Office of the Public Prosecutor is divided into the Office of the Public Prosecutor for Kosovo, District Prosecutors in five districts and Municipal Prosecutors in seven municipalities (ISSR 2006, 64). There is also a Special Prosecutor's Office functioning within the Criminal Division of the Ministry of Justice, focusing on inter-ethnic crime, trafficking in human beings, organized crime, terrorism and corruption charges (UNMIK 2007). The Special Prosecutor is under the Ministry of Justice, and includes EULEX international prosecutors.

Under the 2004 Kosovo Consolidated Budget, there are a total of 2,358 approved posts for judges, prosecutors and judicial support staff. In 2004, there was a total of 1,799 staff including 397 judges and prosecutors (UNDP 2005, 68). Out of these, there were

a total of 84 prosecutors in Kosovo in 2004 (UNMIK 2004). The current number of prosecutors in Kosovo is around 90. Due to the vetting process which is currently being conducted by an EU funded project the exact number is still to be determined (UNODC Focal Point 2009).

According to the EU, only six out of the ten prosecutors due to be engaged in the Kosovo Special Prosecutor's Office have been recruited. Prosecution offices in general are understaffed and lack the necessary interview facilities (EU Progress Report 2008, 14–15).

The judicial reform of 2004 removed investigative responsibilities from judges and handed this function to prosecutors (ISSR 2006, 64). According to the current *Criminal Procedure Code*, the public prosecutor is responsible for the investigation of criminal offences and the prosecution of their perpetrators (Provisional Criminal Procedure Code, Art 47:1). However, cooperation between police and prosecutors remains challenging (EU Progress Report 2008, 53) even though prosecutors now take a more active role in investigating and managing cases and in cooperating with the police. Training delivered by the Kosovo Judicial Institute (KJI), has emphasized the importance of prosecution lead in case investigation and in developing effective cooperation with the police. (Human Rights Watch 2008, 15).

The Kosovo Judicial Council (KJC), was established by UNMIK regulation in December 2005 as a professional body under the authority of the UN SRSG. It is responsible for court administration as well as the appointment of judges, prosecutors and lay-judges and disciplinary measures against judges, prosecutors and lay-judges in cases of misconduct (UNMIK 2006). Since 2009, EULEX has monitored closely and provided advice to the Kosovo authorities on the role of the KJC, in addition to advising on judicial reform and senior appointments (EULEX 2009).

## 2.3 Courts

The court system is composed of 26 municipal courts, 5 district courts, the Commercial Court of Kosovo and the Supreme Court. The minor offences court system includes 26 municipal courts of minor offences and the High Court for Minor Offences. According to July 2007 statistics from the Kosovo Judicial Council (KJC), the judiciary had 322 judicial positions with 301 serving judges, including 13 judges serving on the Supreme Court, 4 judges on the Commercial Court, 5 judges on the High Court for Minor Offences, 49 judges on the district courts, 141 judges on the municipal courts and 89 judges on the minor offences courts (Technical Background Paper 2008, 6.). The most recent programme report from EULEX (July 2009) notes that, according to information provided by the Statistical Office, there are currently 269 Kosovo judges serving approximately 2.2 million people (EULEX 2009).

Municipal courts operate in each of Kosovo's municipalities and serve as courts of first instance for criminal offences punishable by sentences of up to 5-years imprisonment,

for property and labour disputes, inheritance matters and other civil matters. District courts are located in each of Kosovo's 5 regional capitals and receive appeals from the decisions of the municipal courts. They also serve as courts of first instance for criminal offences punishable by prison sentences of more than 5 years, major property disputes, divorce cases, intellectual property rights disputes and other matters. The Supreme Court of Kosovo is the highest body in the regular court system. It operates as a third instance appellate court in a limited number of criminal cases through appeals from district court decisions on appeal from municipal courts. Parallel courts continue to function in regions with a majority of Kosovo Serb inhabitants. (Technical Background Paper 2008, 6.)

According to the EU, the number of judges is insufficient and salaries in the judiciary have not increased since 2002. Almost no new judges or prosecutors have been recruited since 2001 and vacancies have only been filled through relocation (EU progress Report 2008, 14). The July 2009 EULEX programme report observes that the budget would nonetheless be sufficient for the appointment of 392 Kosovo judges – some 123 more than currently serving (EULEX 2009).

Based on the Constitution, Kosovo has created a Constitutional Court comprised of seven judges; 4 local and 3 international. The four local judges were selected through competitive process by the parliament and endorsed by the President of Kosovo. International judges have been selected by the International Civilian Office - European Union Special Representative and endorsed by the President of Kosovo. (UNODC Focal Point 2009.)

## 2.4 Specialized units: Anti- Corruption

There are several institutions and units in Kosovo dealing with corruption. The Anti-Corruption Inter-Ministerial Working Group was established in 2003. The working group includes representatives from all governmental ministries, including the Ministry of Justice and the UNMIK Legal Office. The working group prepared the first Kosovo Anti-Corruption Strategy in 2004 which was complemented in 2006 by the Anti-Corruption Action Plan to implement the Anti-Corruption Strategy. (Anti-Corruption Action Plan 2006.)

The independent Kosovo Anti-Corruption Agency has been operational since 2007. The agency focuses on law enforcement efforts, prevention of corruption and education and awareness raising (Kosovo Anti-Corruption Agency 2008). The aim of the agency is primarily to collect declarations of assets from high-level politicians and state officials. The Kosovo Anti-Corruption Agency is overseen by a Council and also reports to the Kosovo Assembly. (Borovci 2009.) The Agency is expected to produce a new comprehensive Anti-corruption Strategy. A new Action Plan will cover sectoral plans to fight corruption within the public administration as well as in civil society. (European Parliament 2008, 10.)

Corruption is also addressed by the Office of the Auditor General, the Ombudsperson and the Advisory Office on Good Governance within the Office of the Prime Minister. However, according to the EU, there are challenges in the delineation of responsibilities between the Kosovo Anti-Corruption Agency and the Office of Good Governance and cooperation with the office of the Ombudsperson remains weak. (EU Progress Report 2008, 15–16.)

There is a new draft *Anti-Corruption Law* that will replace the previous *Law against Corruption* of 2005 (2004/34). The new law provides for substantive changes in the Kosovo Anti-Corruption Agency's structure, status and competencies, as well as in the investigation procedures of corruption-related offences and in the reporting system. The draft law is in compliance with the new Constitution and international anti-corruption legal standards. (Borovci 2009.) The first hearing of the law took place in July 2009 and a date for a second hearing by the Assembly is awaited.

The *Law on Preventing Conflict of Interest in Exercising Public Functions* (Law 02/L-133) was adopted in 2007 and the *Law on Declaration of the Property of Senior Officials of the Public Sector* (Law 03/L-012) in 2008. *The Law on Declaration of Assets* has been approved by the Kosovo Assembly, but has yet to be implemented (European Parliament 2008, 10).

## 2.5 Specialized units: Organized crime

In 2002, UNMIK established the Kosovo Organized Crime Bureau (KOCB), with the aim of reforming applicable law, building capacity of the police, strengthening investigative techniques, arrests and convictions, cooperating with other law enforcement agencies, and integration of the Kosovo Police into the fight against organized crime. UNMIK's KOCB was integrated into the UNMIK Police Department of Organized Crime in 2004. The Department also included the Trafficking in Human Beings Investigation Section (THBS) and the Narcotics Investigation Section (NIS). (Stražišar Teran 2007, 15.)

In 2007, KOCB was transferred to the Kosovo Police Service, which now has a Directory of Organized Crime under the Crime Department (Kosovo Police Service 2008, 39), with the Special Prosecutor's Office expected to deal with cases of organized crime. However, the EU notes that the absence of specialisation among prosecutors hinders the fight against organized crime (EU Progress Report 2008, 14-15). Organized crime cases continue, as a result, to be largely handled by international judges and prosecutors (Gërzhaliu 2006, 6).

Kosovo lacks a strategy and an action plan to combat organized crime and according to the EU, the police tends to focus on maintaining order rather than combating organized crime. The motivation of public prosecutors and judges to tackle organized crime is further undermined by the lack of capacity and adequate working conditions, low salaries and weak social protection. (EU Progress Report 2008, 53.)

## 2.6 Specialized units: Trafficking in persons and smuggling of migrants

Trafficking in persons was criminalized in 2001 in Kosovo in line with the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons. The first Action Plan was adopted in 2005. A new Strategy and an Action Plan for Combating Trafficking in Persons were adopted in 2008 and the Deputy Minister of Internal Affairs has been nominated National Coordinator for Anti-Trafficking. (Kosovo response to UN.GIFT; EU Progress Report 2008, 54.)

Investigation on trafficking in persons in Kosovo is currently performed by the Trafficking in Human Beings Investigation Section (THBS) of the Kosovo Police Service. 26 local officers and 26 UNMIK CIVPOL officers were assigned to this unit in 2005. The Trafficking in Human Beings Section has 5 field offices based in different regions of Kosovo. (Kosovo response to UN.GIFT.) According to the EU, prosecutors and judges are poorly prepared for dealing with victims of trafficking and some provisions of the criminal procedural code are not adequate (EU Progress Report 2008, 54).

The UNMIK Witness Protection Programme under the Witness Protection Unit provides for the physical protection of witnesses before, during and after trial. The Programme is aimed at protecting witnesses in the most serious criminal cases such as organized crime, trafficking in persons and war crimes. (OSCE 2006, 10.) Challenges include the social reintegration of victims of trafficking in persons due to limited safe house facilities (EU Progress Report 2008, 54).

## 2.7 Specialized units: Money- laundering and economic crimes

The UNMIK Regulation of 2004 on the *Deterrence of Money Laundering and related Criminal Offences* (amended by four subsequent regulations in 2004, 2005 and 2006) provides a legal framework to control money laundering. Under this regulation, financial institutions are required to verify the identity of their clients and to report any suspicious transaction. The Financial Intelligence Centre (FIC), established in 2004, is an executive agency under the Kosovo Government and EULEX and is the supervising entity for non-financial institutions, responsible for gathering and analyzing data on money laundering. The Central Banking Authority of Kosovo (CBAK) is responsible for supervising the financial institutions. The Financial Investigation Unit (FIU) was established within UNMIK in 2003, as a specialized unit responsible for investigating the activities of entities funded from the Kosovo Consolidated Budget that may be involved in financial crime or crime involving corruption in Kosovo. The FIU is now part of Kosovo Police under the Crime Department. The Unit has the power to conduct investigations in accordance with applicable law where there are grounds to suspect that a financial crime or a crime involving corruption has been committed. Notwithstanding progress made, combating money laundering continues to be



characterized by a division of competences between various local and international bodies. (Stražišar Teran 2007, 12; EU Progress Report 2008, 52; B & S Europe 2007, 49.)

## 2.8 Specialized units: Drugs

UNMIK Police established the Kosovo Drug Enforcement Unit under the Crime Department of the Kosovo Police Service in 2003. The unit handles drug-related investigations. According to the EU, the absence of reliable relevant statistics and a lack of intelligence information have prevented the drafting of an action plan or a strategy to combat drugs. The police lack the necessary skills and equipment and there is insufficient inter-agency and international cooperation in the fight against drug trafficking. (EU Progress Report 2008, 52.)

## 2.9 Planned criminal justice reform projects

There are several reform projects and efforts under way in Kosovo. The judicial reform process based on the Kosovo Ministry of Justice Strategic Plan 2006–2011, and its implementing Action Plan, as well as the KJC Strategic Plan for the Kosovo Judiciary 2007–2012, have been launched. The reform comprises essential strategic goals such as establishing a strong legal and administrative framework for court organization and operations, developing and implementing effective procedures for the appointment, development, promotion and discipline of judges, establishing effective procedures and practices for budgeting and financial management in and for the courts, eliminating case backlogs before the courts, implementing modern systems of communication and information management at the courts, and creating an efficient and modern judiciary. (Technical Background Paper 2008, 8.)

The EULEX mission continues the process of criminal justice system reform together with Kosovo authorities through three Rule of Law components: judiciary, police, and customs. The justice sector itself comprises five core areas: judges in the Civil Field; judges and prosecutors in the criminal field; Ministry of Justice; Kosovo Judicial Council, and Kosovo Correctional Service. (EULEX Programme Strategy.)

## 2.10 Asylum

The Department for Borders, Asylum and Migration (DBAM) within the Ministry of Internal Affairs decides on the admission of refugees and asylum-seekers, in addition to assuming responsibility for repatriation policy in accordance with European conventions, laws and standards.

Responsibilities of the department are managed in co-operation with UNMIK, and cover the development and implementation of the laws on the movement of persons into and out of Kosovo, the laws concerning border, asylum and refugees issues in accordance with standards set by the EU, as well as surveillance and monitoring of the border police and other public authorities. The department further monitors and processes applications for refugee status and administers the integrated border management system.

The National Commission for Refugees decides on appeals submitted by asylum seekers against the decisions of the DBAM. It consists of a chairperson, a deputy chairperson and nine members, appointed from each of the Ministry of Internal Affairs, the Office of the Prime Minister, the Ministry of Labour and Social Welfare, the Ministry of Local Government Administration, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Economy and Finance, the Ministry of Education, Science and Technology and UNHCR, in addition to two other representatives appointed from NGOs. The Commission works independently from any governmental institution (Law on Asylum, Art. 31).

The Border Police and police stations are competent to receive asylum applications and submit all applications received to DBAM.

## 2.11 Migration

The Border Police are responsible for preventing, detecting and halting illegal migration. The Department for Borders, Asylum and Migration (DBAM) receives and decides upon the issuance and revocation of temporary and permanent stay requests.

## 2.12 Visas

The Ministry of Internal Affairs, in cooperation with the Ministry of Foreign Affairs, is responsible for subsidiary legal acts regulating the form and procedures of visas, the registration and maintenance of records with respect to personal data of foreigners and for procedures and requirements regarding the storage of personal data (Article 92 and 93 of the Law for Foreigners).

The Border Police issues temporary travel documents, temporary permission to cross the border in response to a Ministerial decision and determine the entitlement of any person wishing to enter or leave Kosovo as regards visa and entry requirements. Police Headquarters reviews applications for extension of stay.

Kosovo does not yet apply a visa system for foreign citizens, nor does it provide consular services. A *Draft Law on Consular Services of Diplomatic and Consular Missions of the Republic of Kosovo* was approved by the Kosovo Assembly on December 16, 2008 and came into effect on December 30, 2008. Diplomatic Missions



and Consular Posts are envisaged to be responsible for the issuance of travel documents and/or visas to foreigners and receipt of requests for temporary stay.

The *Law on Foreigners* was also promulgated on 30 December 2008, and entered into force 15 days after its publication in the Official Gazette on 15 January 2009. The Law foresees the development of an administrative instruction to define visa policy *vis-à-vis* third countries. According to the Law, a foreigner may only enter the Republic of Kosovo with a visa or pursuant to international agreements (Law on Foreigners, Art. 4). The *Law on Foreigners* also regulates the issuance, validity and types (entry, transit, air transit and group) of possible visas (Articles 14–23). Whilst documents issued on the basis of the provisions of UNMIK Regulation 2005/15 on the *Movement of Persons Into and Out of Kosovo* are valid for up to one year from the date of entry into force of the *Law on Foreigners*, it is anticipated that the Regulation will be effectively replaced by the Law.

## 3. Data Availability

### 3.1 Conventional crime<sup>170</sup>

#### 3.1.1 Police data

The *Annual Report of the Police 2008*<sup>171</sup> contains data on crimes reported to the police. In 2007, there were a total of 61,383 cases reported to the police and in 2008 there were 65,328 cases. (Raporti Vjetor 2008, 16–17.) In 2007, the police investigated a total of 56,997 cases, while in 2008 the number of investigations was 53,745 (*ibid.*, 12). These numbers refer to cases which have been reported to the KP and registered with the KP Information System. The data do not include the actual number of initiated investigations from the Department of Organized Crime or other specialized units.

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<sup>170</sup> As defined in the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS), i.e. including homicide, total assault, rape, robbery, total theft, motor vehicle theft, burglary, economic fraud, embezzlement, drug-trafficking and drug-related crime.

<sup>171</sup> [http://www.kosovopolice.com/Dokumentete\\_strategjike/Raporti\\_vjetor\\_2008.pdf](http://www.kosovopolice.com/Dokumentete_strategjike/Raporti_vjetor_2008.pdf)

**Table 1: Extract from the Annual Report of Kosovo Police 2008**

Crimes reported to the Kosovo Police Service 2007-2008		
Crimes against...	Year 2007	Year 2008
Life and body	3594	3142
Freedom and human rights	2424	2604
Sexual integrity	218	170
The economy	..	..

Source: [http://www.kosvopolice.com/dokumentet\\_strategjike/Raporti\\_vjetor\\_2008.pdf](http://www.kosvopolice.com/dokumentet_strategjike/Raporti_vjetor_2008.pdf)

In addition to data reported in the KP Annual Report, further crime data are available on the Kosovo Police website, including data from the Border Police and the Organized Crime Department.

### 3.1.2 Prosecution and court data

The Section for Jurisprudence Statistics within the Statistical Office of Kosovo (SOK) publishes annual *Jurisprudence Statistics*.<sup>172</sup> The second, third, fourth and fifth editions are available on the website of the Statistical Office.<sup>173</sup> The latest *Jurisprudence Statistics* publication of 2007 contains data on persons accused of criminal offences by Municipal and District Courts, persons convicted for criminal offences by Municipal and District Courts, and persons convicted for minor offences by Municipal Courts. Data are disaggregated by age (adults and juveniles), sex, ethnicity<sup>174</sup>, motion for prosecution, case proceeding, conclusion of the indictment and the type of punishment. All data are given by respective chapters and articles of offences under the *Criminal Code*. According to SOK, the statistical section within the Kosovo Judicial Council (KJC) and Municipal and Districts Courts provide data for the report. (Statistical Office of Kosovo 2009.) Data are supplied regularly every three months by the statistical section within the Kosovo Judicial Council (KJC) and Municipal and Districts Courts and are reported electronically to the SOK (UNODC Focal Point 2009).

<sup>172</sup> However, SOK possesses more detailed data than is published. More detailed data can be obtained through an official request to SOK.

<sup>173</sup> [http://www.ks-gov.net/ESK/eng/index.php?option=com\\_docman&task=cat\\_view&gid=20&Itemid=8](http://www.ks-gov.net/ESK/eng/index.php?option=com_docman&task=cat_view&gid=20&Itemid=8)

<sup>174</sup> Ethnicity initially is determined by census (the last official census was conducted in 1981, SOK is planning for a new census during 2010), but during any trial ethnicity is confirmed by the judge through the birth certificate, ID-card, driving licence etc. Data are also available by citizenship and residence status.

**Table 2: Extract from SOK Statistics on Jurisprudence**

Number of adults and juveniles accused in municipal courts in 2007					
	Accused	Convictions	Released	Rejected	Other means
Total accused adults in municipal courts	15053	11097	423	803	2730
Total accused adults in district courts	2500	2194	115	44	147
Total accused juveniles in municipal courts	780	58	0	0	722
Total accused juveniles in district courts	90	11	0	0	79

Source: Statistical Office of Kosovo (2009). Series 5: Social Statistics. Statistics on Jurisprudence 2007, 6.

### 3.1.3 United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS)

Kosovo has not participated in the UN-CTS.

### 3.1.4 The European Sourcebook

Kosovo is not covered in the European Sourcebook data collection.

### 3.1.5 EUROSTAT Crime and Criminal Justice Statistics

Kosovo has not participated in the Eurostat data collection.

## 3.2 Specific forms of crime

### 3.2.1 Corruption

Data on corruption are difficult to collate, as various sources report different figures and it is not entirely clear what definitions have been used to produce the different datasets that are available. According to Mustafa & Beqiri, the total number of criminal investigations concerning corruption, fraud or financial criminality is between 10 and 15 cases per year. Analysts suggest however that these data should be perceived more as an indication of the lack of institutional investigation, than as an indication of the true dimension of corruption. (Mustafa & Beqiri, 2006, 13.) Nonetheless, statistics produced by the Kosovo Police show that the number of cases of bribery and abuse of

official duties<sup>175</sup> has increased significantly since 2001, when 12 cases were investigated as compared with 96 cases in 2006 (B & S Europe 2007, 36).

In 2007, the Kosovo Anti-Corruption Agency received reports of 124 cases of suspected acts of corruption within public institutions in Kosovo (Kosovo Anti-Corruption Agency 2008, 8). In the same year, the Prosecutor's Office of Kosovo received 12 cases of misuse of official duty and authorization, 9 cases of embezzlement during the exercise of official duty, 10 cases of bribe-taking, 4 cases in trading in influence, 7 cases of promulgation of court injunctions, 2 cases of unlawful payments and 3 cases of falsification of documents. (Borovci 2009.)

**Table 3: Extract from Kosovo Anti-Corruption Agency Statistics (2008)**

Kosovo Anti-Corruption Agency statistics for 2008				
Institution	Received Information	Closed cases due to lack of evidence	Cases proceeded to the prosecution	Cases under investigation by KACA
Government	37	15	16	06
Parliament	2	01	---	01
Courts	33	21	11	01
Prosecution	05	01	02	02
Other Institutions	43	23	13	07
Local government	26	10	11	05
<b>TOTAL</b>	146 <sup>176</sup>	71	53	22

Source: Kosovo Anti-Corruption Agency.

In addition, the Annual report of the Kosovo Police reports 28 cases of corruption and economic crimes in 2007, with 15 arrested persons and 37 criminal charges. In 2008 the corresponding figures were 39, 19 and 55, respectively.

Several opinion polls on corruption have been conducted in Kosovo. These include *Corruption in Kosovo - Observations and Implications* for USAID in 2003, *Corruption and its impact on Kosova economy* by Riinvest in 2003, *Fight against corruption in*

<sup>175</sup> However, misuse of official duties refers to a very broad spectrum of criminal offences, starting from Corruption to Abusing Official Position or Authority, Misappropriation in Office, Fraud in Office, Unauthorized Use of Property, Accepting Bribes, Giving Bribes, Trading in Influence, Issuing Unlawful Judicial Decisions, Disclosing Official Secrets, Falsifying Official Documents, Unlawful Collection and Disbursement, Unlawful Release of Persons Deprived of Liberty, Unlawful Appropriation of Property During a Search or Execution of a Court Decision. (UNODC Focal Point 2009.)

<sup>176</sup> Sixteen are pending cases from 2007.

Kosovo by UNDP in 2004, *Mosaic of Kosovo – Perception of municipal government and public services in Kosovo* by UNDP in 2003, and the *Early Warning Reports* carried out by UNDP between 2002 and 2008. (USAID, 2006; UNDP 2008).

The *Early Warning Reports* carried out by UNDP include questions on how widespread citizens believe corruption to be among police and in the courts. Kosovo courts continue to be the institution with which people are least satisfied, with a 20 percent approval rating (UNDP 2008, 2). Corruption was ranked third after unemployment and poverty in the top eight list of problems facing residents of Kosovo in November 2008. Thirteen percent of Kosovo Albanians and 32 percent of Kosovo Serbs encountered a situation in the past 12 months in which public officials had asked for bribes, gifts or other favours in order to perform their service. The Energy Corporation of Kosovo and the Kosovo Trust Agency are perceived to have “large scale” corruption. Healthcare, Courts, and Customs are ranked third, fourth, and fifth, respectively, in the list of Kosovo institutions where “large scale” corruption is perceived to exist. (UNDP 2008, 4.)

According to UNDP, there is too little empirical data to draw hard conclusions about the state of corruption in Kosovo today. Nonetheless, available survey evidence suggests that significant numbers of people encounter a requirement for an “off the books” transaction in order to access basic public services (UNDP 2008b, 49).

### 3.2.2 Organized crime

The *Kosovo Internal Security Sector Review* (2006, 35) refers to the fact that the growth of organized crime activities in Kosovo has followed the Balkan Route and expanded into human trafficking, human smuggling, counterfeit currency production, cigarette smuggling, and trade in other illicit materials. According to Stražišar Teran (2007), it appears that smuggling, tax and custom evasion and other kinds of organized crime are dominated by limited groups of actors who are generally organized geographically, with families or clans controlling the majority of illegal activities in a certain area. Kosovar organized criminal groups are reported to work together with ethnic Albanians in Albania, Macedonia and other countries. (Stražišar Teran 2007, 13–14.)

The *Annual Report of the Kosovo Police* includes some data on organized crime. In 2008, a total of 305 cases of organized crime were reported to the police and a total of 485 persons were arrested. In 2007, a total of 326 cases were reported and a total of 413 persons were arrested (Raporti Vjetor 2008, 12).

### 3.2.3 Trafficking in persons and smuggling of migrants

Kosovo remains an area of origin, transit and destination of victims of trafficking in human beings. Victims of trafficking (almost exclusively for sexual exploitation) are

mainly from Moldova, Russia and Ukraine. A growing number of Kosovo Albanian minors are being recruited from among the most vulnerable and disadvantaged families. (EU Progress Report 2008, 53.)

According to the *Annual Report of the Kosovo Police*, there were a total of 25 identified victims in 2008 (16 Kosovoar, 4 Moldovan, 3 Albanian, 1 Bulgarian and 1 Serbian). A total of 22 victims were offered assistance. (Raporti Vjetor 2008, 13). Between 2004 and 2006 there were between 55 and 64 victims identified annually.

**Table 4: Extract from Kosovo Police Service Human Trafficking Data**

Human Trafficking in Kosovo by the Kosovo Police Service in 2001–2006						
Human trafficking	2001	2002	2003	2004	2005	2006
Victims identified				58	55	64
Victims assisted			70	49	30	51
Victims repatriated	172	86	34	47	30	25
Cases		234	69	85	70	78
Trafficking charges	52	92	60	55	32	82

Source: Kosovo Police Service as reported in B & S Europe 2007, 34.

The information reported by Kosovo Police corresponds with the data reported in the *CARPO 2007 Report* (see *CARPO 2007*, 23).

According to the EU, the Victim, Advocacy and Assistance Division within the Ministry of Justice provided assistance in 464 cases involving domestic violence and in 25 cases of trafficking in human beings in 2008. In May 2008, the Kosovo Special Prosecutor's Office charged five defendants with trafficking in persons, money laundering, tax evasion and involvement in an organized group involved in recruiting and harbouring women from Moldova by means of coercion, including fraud, deception and threat, in order to exploit them as sex workers. Four defendants were convicted and sentenced. In the fall of 2008 there were nine further trafficking cases at the pre-trial and preliminary investigation stages involving 31 defendants/suspects. (EU Progress Report 2008, 17.)

With regard to smuggling of migrants, in 2005 there were 105 cases recorded by the Border Police and 7 cases with 27 perpetrators recorded by international prosecutors and UNMIK. In 2006, there was one case of smuggling involving 12 perpetrators and 26 migrants. (*CARPO 2007*, 28.)

### 3.2.4 Economic crime and money- laundering

According to an assessment on money-laundering in Kosovo by B & S Europe, the use of different categorizations of financial crimes by administrative, law enforcement and judicial authorities in Kosovo make comparisons particularly challenging. From 1 January 2006 to 30 April 2007, the Municipal Public Prosecutors' Offices received 44 economic crime cases as well as an additional 14 economic crime cases from previous years. Court statistics further show that there were 67 new economic crime cases and 23 judgments in 2004, 100 new cases and 42 judgments in 2005, and 97 new cases and 64 judgments in 2006. Furthermore, data from the Kosovo Police Service show that the number of fraud cases has decreased significantly. In 2001 some 2,011 fraud cases were reported to the KPS, in contrast to fewer than 500 cases per year over the past few years. The main reason for the decline is thought to be that falsified Serbian documents are no longer used in Kosovo to commit fraud in the real estate business. (B & S Europe 2007, 31.)

According to the *CARPO 2007 Report*, the Financial Intelligence Unit reported 65 suspicious financial transactions between March-December 2006 (CARPO 2007, 38). The Serious Crime Directorate of Kosovo Police reported 62 arrests in 2007 during the investigation of cases of economic crime and corruption (Raporti Vjetor 2008, 13).

### 3.2.5 Drug- related crimes

According to the EU, heroin shipments from Turkey enter Kosovo via the border between FYROM and Kosovo. Shipments continue towards Serbia and Hungary or Albania. The Kosovo Police has carried out some investigations and confiscations, but the absence of reliable relevant statistics and a lack of intelligence have prevented the drafting of an action plan or a strategy to combat drugs, with a resultant effect on police counter-operations. (EU Progress Report 2008, 52.)

Heroin is the most present drug in Kosovo and in 2007, some 74.53 kg were seized. Kosovo also has a user market for cocaine and amphetamines. In addition to cannabis cultivation, there are some indications of opium cultivation. (CARPO 2007, 13, 16, 18.) According to an assessment on money-laundering in Kosovo by B & S Europe, there were 490 identified cases of drug dealing or possession in 2005, and 312 cases in 2006 (B & S Europe 2007, 33). According to data by the UNMIK Police Criminal Investigation Unit, there were a total of 118 cases of drug dealing/possession offences recorded from 1 July to 31 December 2005 (ISSR 2006, 36). The police website provides drug confiscation data for 2007 and 2008.

**Table 5: Extract from Kosovo Police Statistics**

Drug related cases reported to Kosovo Police		
	Year 2008	Year 2009 <sup>177</sup>
Cases	95	109
Suspects	109	199
Trafficking	38	49
Possession	..	..

Source: Kosovo Police - Department for International Relations (Captain Veton Elshani).

### 3.3 Survey- based statistics

The Statistical Office of Kosovo (SOK), originally established in 1948, was re-established in 1999 under the Ministry of Public Services. SOK acts pursuant to UNMIK Regulation 2001/14 with a medium-term Master Plan under development for bringing the statistical system of Kosovo in-line with European statistical systems. (Statistical Office of Kosovo 2009, 76.)

A number of private survey companies have carried out social research in Kosovo. PRISM Research was established in 1996 and currently has 20 full time researchers in five offices in Zagreb, Sarajevo, Belgrade, Prishtina and Skopje.<sup>178</sup> The Institute for Development Research "RIINVEST" is a private non-profit research organization, established in 1995. RIINVEST focuses on social and economic research, and has carried out surveys with a total of more than 26,000 respondents. (Anti-Corruption Action Plan 2006, 24.)

The *Early Warning Reports* by UNDP and PRISM Research, carried out 4 times a year, provide information on perceptions of public and personal security. The major threats to family security identified by Kosovars include theft, drugs, robberies and organized crime (UNDP 2008a, 38).

A multi-year survey project, the *Balkan Monitor* implemented by Gallup also includes Kosovo.<sup>179</sup> According to a recent Balkan Monitor study, 59 percent of respondents in Kosovo were positive about their lives and hopeful for the territory's general and economic future. The current economic situation was seen in a darker light, however,

<sup>177</sup> Refers to the first 6 months of 2009.

<sup>178</sup> <http://www.prismresearch.ba/eng/about.php>

<sup>179</sup> <http://www.balkan-monitor.eu/>



with over 70 percent of the respondents considering that better opportunities were available outside of the territory. (Gallup 2008, 10.)

### 3.4 Data on asylum

The Department for Borders and Refugees of the Ministry of Internal Affairs and the Directorate for Migration and Foreigners of the Border Police collect data on persons seeking asylum in Kosovo. The overall numbers of asylum seekers in Kosovo is relatively low (30 in 2005, 2 in 2006 and 6 in 2007).

**Table 6: Extract from ICMPD Statistical Yearbook**

Number of persons claiming asylum		
	Claimed in 2006	Claimed in 2007
At the border	1	5
Inland	1	1
<b>Total</b>	<b>2</b>	<b>6</b>

Source: ICMPD Statistical Yearbook 2008, 137.

### 3.5 Data on visas

Kosovo has not, to date, developed a visa system for foreign citizens. The recently promulgated *Law on Foreigners* envisages an administrative instruction to define visa policy *vis-à-vis* other countries. The Border Police does not yet have appropriate communication systems to collect and exchange data on exit and entry, nor access to criminal records of persons wanting to enter or exit Kosovo. The IT system used at the three main border crossings is not compatible with equipment used in the EU and there is no exchange of intelligence with other parts of the Kosovo Police. (EU Progress Report 2008, 51; IBM Strategy 2009, 36). In addition, the database does not include the entries/exits at the northern boundary to Serbia (UNODC Focal Point 2009).

### 3.6 Data on migration

There is currently no legal framework for data collection on migration in Kosovo and no migration statistics are produced (Poulain & Perrin 2008, 40). The Statistical Office of Kosovo does not use the border crossing database for production of flow statistics, but estimates are expected for the future (*ibid.*, 43). The same applies for data on

residence permits issued, which could in the future be produced by the Department for Foreigners and Migration within the Ministry of Internal Affairs (ibid.).

## 4. Outline of data collection systems

The majority of information on crime and criminal justice in Kosovo is produced by the police, Ministry of Internal Affairs and courts. The *Law on Police* (Law Nr. 03/L-035) outlines standards and methods on collection, retention, procession and removal of personal data kept by the Police (Article 30) but offers little general information on data collection processes. According to SEESAC, data on crime have been gathered by both UNMIK Police and the Kosovo Police Service. However, there have frequently been contradictions between data from the two sources. (SEESAC 2006, 83.) UNMIK CIVPOL are no longer responsible for data collection, and the Ministry of Internal Affairs has created a specific section within the Department for Public Safety responsible for data collection. All police stations in Kosovo are equipped with computers for recording data on crime. According to SEESAC, data gathered on crimes related to small arms and light weapons make it possible to distinguish ages, sex and ethnicity of victims, suspected perpetrators, and the region where crimes most frequently occur. Most police stations are connected to the Kosovo Police (KP) computer network. Data are stored and processed/analysed by the Analysis Section of Kosovo Police. No common database exists on money-laundering, economic crimes or human trafficking. On the issue of data reform, the *Technical Background Paper on Rule of Law Needs in Kosovo* outlines the need to further develop central and local police databases with key crime data. (Technical Background Paper 2008, 20.)

Regarding data collection by courts, an electronic court case management system (CMIS) has been in the process of being implemented since 2006. Whilst the *Strategic Plan of the Kosovo Judicial Council* called for the full implementation of CMIS by the end of 2007, the case management information system, as of 2007, had been implemented for criminal proceedings only in Gjilan District Court. (American Bar Association 2007, 55–56.) Training for judges and prosecutors was conducted in the period 2007 to 2008, but CMIS implementation has still not been completed due to technical problems. Current court computers are not compatible with CMIS software and full implementation is dependant upon the donation of new computers (Kosovo Judicial Institute 2009). The EU notes that data collection by courts is unreliable and that the effectiveness of the CMIS needs to be improved. The backlog of cases continues to be a serious problem, particularly in civil proceedings. (EU Progress Report 2008, 14.) The statistical section within the Kosovo Judicial Council (KJC) and Municipal and Districts Courts are the only source of information for reports of the Statistical Office of Kosovo.

According to the assessment by the American Bar Association (ABA), court support personnel charged with receiving and registering new cases reportedly do not use computers consistently, partly due to a lack of sufficient office space, and partly due to a reluctance to give up older manual ledger systems. In some instances, the CMIS is

not being used. ABA concludes that without adequate training to build confidence, personnel place more trust in previous paper systems. (American Bar Association 2007, 56.)

Regarding data collection on asylum, the *Law on Asylum* regulates the type of information to be collected (Law on Asylum, Art. 63). As the Department for Borders, Asylum and Migration conducts interviews with the asylum seekers, it is the main actor for the collection of data concerning asylum. In addition, UNHCR may receive information on the situation of asylum seekers, persons granted asylum, or individuals granted complementary or temporary protection from competent state bodies upon request. The *Law on Foreigners* regulates the collection of personal data on foreigners by state bodies. According to the *Regulation on Consular Service*, each consular mission shall keep an archive of consular documentation including a register of visas (Regulation, Article 17). There is still no general legislation in place, however, transposing the EU Data Protection Directive and no independent data protection supervisory authority has been set up (UNODC Focal Point 2009).

## Conclusions

Kosovo has undergone rapid transformation in the recent past as executive powers have been transferred from international actors to national institutions. There remain, however, challenges in the administration of justice due to limited technical and human resources and a low level of trust in the judiciary among the general population. Whilst significant changes have also taken place in terms of policing, high-level crime and lack of strategic planning are a cause for concern. The continued existence of three parallel sources of legislation continues to hinder clarity in the applicable law and it is important that police capacity to record, process, store and analyse crime data is strengthened. Court data collection and implementation of the new CMIS should also be prioritized. (See EU Progress Report 2008, 13–14; 53.)

Kosovo has not yet participated in international crime and criminal justice data collection efforts but is expected to do so in the near future. In terms of criminal justice data, the current obligations and responsibilities of government authorities in data collection, analysis, publication and dissemination are not entirely clear. Whilst both the Statistical Office of Kosovo and the Kosovo Police publish crime data in the annual *Jurisprudence Statistics* and the *Police Annual Report*, crime and criminal justice data reporting and data dissemination systems will need to be reviewed and improved in order to present a clearer picture of the nature and extent of crime in Kosovo.

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# Montenegro

## Outline of the criminal justice system, asylum/visa/migration system and its actors

Institution	Relevant departments/ subdivisions	Existing data availability
<b>Ministry of the Interior</b>	<ul style="list-style-type: none"> <li>Police Directorate/ Department of Criminal Investigation with 1) Analytics Unit, 2) Unit for Ordinary Crime, 3) Unit for Economic Crime, 4) Unit for Organized Crime and Corruption, 4) Unit for Drug Smuggling</li> <li>Drug Smuggling Suppression Department</li> <li>The Department for Internal Administrative Affairs with 1) Group for Migration, Visa and Readmission and 2) the Office for Asylum</li> <li>The Border Police Department/Section for Foreigners and the Prevention of Illegal Migration</li> </ul>	<ul style="list-style-type: none"> <li>Data on general crime</li> <li>Data on organized crime</li> <li>Data on corruption</li> <li>Data on drug trafficking, traffickers and narcotics seizures</li> <li>Data on migration, asylum, visa</li> </ul>
<b>State Prosecutor's Office</b>	<ul style="list-style-type: none"> <li>Office of the State Prosecutor</li> <li>Special Unit for Organized Crime headed by a Special Prosecutor</li> <li>Deputy prosecutor focusing on corruption</li> </ul>	<ul style="list-style-type: none"> <li>Data on prosecutions</li> <li>Data on organized crime</li> <li>Data on corruption</li> </ul>
<b>Supreme Court</b>	<ul style="list-style-type: none"> <li>Administrative office of the Supreme Court</li> </ul>	<ul style="list-style-type: none"> <li>Statistical data regarding the functioning of the courts and judiciary</li> </ul>
<b>Ministry of Justice</b>	<ul style="list-style-type: none"> <li>Sector on Execution of Criminal Sanctions</li> <li>Judicial Information System (PRIS)</li> </ul>	<ul style="list-style-type: none"> <li>Data on the work of the judges and for case monitoring</li> </ul>
<b>Ministry of Finance</b>	<ul style="list-style-type: none"> <li>Administration for the Prevention of Money Laundering and Terrorist Financing, APML</li> <li>Directorate for Anti-Corruption Initiative</li> <li>National Commission for implementation of the Action plan for the program of fighting corruption and organized crime ("Tripartite Commission")</li> </ul>	<ul style="list-style-type: none"> <li>No systematic statistics on anti money-laundering collected</li> <li>Data on corruption</li> <li>Data on organized crime</li> </ul>
<b>The Ministry of Foreign Affairs</b>		<ul style="list-style-type: none"> <li>Data on issued visas, rejected visa applications and annulled visas, special identity cards for foreigners issued and travelling lists for</li> </ul>



<b>Office of the National Coordinator for Combating TIP</b>	<ul style="list-style-type: none"> <li>National Coordinator for Combating Trafficking in Human Beings</li> </ul>	foreigners issued <ul style="list-style-type: none"> <li>Data on victims of trafficking, traffickers, criminal proceedings, charges, appeals, and sentences on TIP cases</li> </ul>
<b>Montenegro Statistical Office</b>	<ul style="list-style-type: none"> <li>Section for Judiciary Statistics</li> </ul>	<ul style="list-style-type: none"> <li>Data on perpetrators and convicted persons</li> </ul>

## 1. Short background

Montenegro is a parliamentary democracy with a population of approximately 670,000.<sup>180</sup> The dissolution of the former Socialist Federal Republic of Yugoslavia (SFRY) in the early 1990s initiated the collapse of the communist regime, followed by conflict and the disintegration of the federal country into separate countries. Although there was no conflict within Montenegrin borders, the effect of the wider regional conflict on the development of the country's political and economic system cannot be neglected. After the dissolution of the SFRY, some 95.6 percent of voters in Serbia and Montenegro decided in a Referendum on the formation of the Federal Republic of Yugoslavia (FRY), consisting of Serbia and Montenegro.<sup>181</sup> On 27 April 1992 in Belgrade, Serbia and Montenegro joined in passing the FRY Constitution.

While the Montenegrin government was initially loyal to the regime of Slobodan Milošević in Serbia, the country increasingly faced internal political struggles between supporters of independence and those who opposed it. After a split in the ruling Democratic Party of Socialists (DPS), the government initiated negotiations between Serbian and Montenegrin representatives on the terms and procedures for independence. The talks were mediated by the EU and its High Representative and resulted in the Belgrade agreement, which set out grounds for the creation of The State Union of Serbia and Montenegro. The Agreement also set a three year moratorium on the organization of a referendum on independence in any of the State members. Following the expiry of this period, an independence referendum was held in May 2006 and the required 55 percent majority was narrowly achieved. Montenegro declared independence in June 2006 and became the 192<sup>nd</sup> Member State of the United Nations

The EU recognised Montenegro in June 2006. The country is a potential candidate for EU membership, having signed the Stabilisation and Association Agreement (SAA) in

<sup>180</sup> July 2009 population estimate according to the World Factbook; <https://cia.gov/library/publications/the-world-factbook/geos/mj.html>

<sup>181</sup> <http://www.cemi.cg.yu/izbori/svi/>

2007 and submitted its application for EU membership in December 2008.<sup>182</sup> The establishment of the legal and institutional set-up required for an independent country, which is a key European Partnership priority, is almost complete. *The Law on the Implementation of the Constitution* adopted in October 2007 set a timetable for adoption of new laws and amendment of existing laws in line with the new constitution. Laws have been adopted on Montenegrin citizenship, travel documents of Montenegrin citizens, residence and place of abode of citizens, identification cards, the Social Council, the Judicial Council, election of the President of Montenegro, electoral rolls, courts, the State administration and expropriation. In a number of areas, there is still a need to supplement the constitution with implementing provisions in line with European standards. This applies in particular to the judiciary and the prosecution service, where the risk of political interference is reported to remain. (EU Progress Report 2008, 6.)

## 2. Justice and home affairs actors

### 2.1 Law Enforcement

The political responsibility for policing lies within the Ministry of Interior. The Police Directorate is the main law enforcement agency in Montenegro. The police service is organized into 7 districts, including the capital Podgorica (GRECO 2005, 7). The Department of Criminal Investigation consists of the following units: the Unit for Economic Crime, the Unit for Organized Crime and Corruption, the Unit for Ordinary Crime, the Unit for Drug Smuggling, the Unit for Cooperation with Interpol and Europol, the Forensics Unit, the Department for Special Investigations and the Unit for Protection of Witnesses. The police are competent to carry out investigations but have the obligation to inform the prosecution authorities beforehand. (Ibid., 7; UNODC Focal Point 2009.)

According to information reported by OSCE from 2007, the total number of employees of the Police Directorate is 5,209, of which 2,473 are uniformed police personnel, with 94 female uniformed police officers.<sup>183</sup> According to Montenegro's response to the 10<sup>th</sup> United Nations Survey of Crime Trends and Operations of Criminal Justice Systems, the total number of police personnel was 5,536 in 2007, of which 391 were females and 5,145 males.

The *Law on Police* provides for both internal and external control of the Police Directorate's performance. Internal control is exercised by the Special Organizational Unit within the Police Directorate, which covers the supervision of the regularity of current police tasks, financial control, and counter-intelligence. As regards external

<sup>182</sup> [http://ec.europa.eu/enlargement/potential-candidate-countries/montenegro/eu\\_montenegro\\_relations\\_en.htm](http://ec.europa.eu/enlargement/potential-candidate-countries/montenegro/eu_montenegro_relations_en.htm)

<sup>183</sup> [http://polis.osce.org/countries/details?item\\_id=48](http://polis.osce.org/countries/details?item_id=48)

control, the Assembly of the Republic of Montenegro and the Council for Citizens' Control of the Police's Performance, are entitled by the *Law on Police* to exercise control over the Police.<sup>184</sup>

The internal reorganization process of the police has continued. Montenegro signed a strategic cooperation agreement with Europol in September 2008. (EU Progress Report 2008, 47.) Montenegro has been a member of Interpol since 2006, and is also involved in regional co-operation initiatives, including the Southeast European Co-operative Initiative (SECI)<sup>185</sup>.

## 2.2 Prosecution

Articles 2 and 3 of the *Law on State Prosecution* state that prosecutors "*shall be autonomous and independent*" (GRECO 2005, 8). According to the provisions of Article 44 of the *Criminal Procedure Code*, the main function of prosecutors is the prosecution of the perpetrators of criminal offences. Prosecutors are competent to conduct pre-trial proceedings, request that an investigation be carried out and direct pre-trial proceedings, issue and present an indictment before the competent court, file appeals against court decisions that are not final and undertake other actions under the same Code. (GRECO 2005, 9.) All authorities taking part in a pre-trial proceeding are bound to notify the State Prosecutor before taking any action. Police officers and other state authorities in charge of investigating criminal offences are bound to proceed upon any request by the State Prosecutor. (Ibid.)

According to the Centre for Education of Judges<sup>186</sup>, in December 2008 there were 85 prosecutors. In 2007 there were some 81 to 83 public prosecutors (Statistical Yearbook 2008, 204 vs. CEPEJ 2007, 17).

## 2.3 Courts

The courts in Montenegro that exercise jurisdiction in criminal matters are the basic courts (15), high courts (2), appellate courts and the Supreme Court (GRECO 2005, 9). There are also commercial courts and the Administrative Court of Montenegro.<sup>187</sup> In 2007, 144 judges worked in basic courts, 39 in high courts and 13 in the Supreme Court. (Statistical Yearbook 2008, 204.)

The independence of the courts is guaranteed by Article 100 of the Constitution of the Republic of Montenegro (GRECO 2005, 9). The Action Plan for Implementation of the Strategy for Reform of the Judiciary (2007–2012) was adopted in December 2007 and

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<sup>184</sup> [http://polis.osce.org/countries/details?item\\_id=48](http://polis.osce.org/countries/details?item_id=48)

<sup>185</sup> <http://www.secicenter.org/m105/Home>

<sup>186</sup> [http://www.coscg.org/test/sud\\_opis.php?sud\\_id=2](http://www.coscg.org/test/sud_opis.php?sud_id=2)

<sup>187</sup> [http://polis.osce.org/countries/details?item\\_id=48](http://polis.osce.org/countries/details?item_id=48)

identifies relevant measures regarding judicial reform. The Commission for the implementation of this plan was formally established in June 2008. Adoption of implementing legislation has commenced. Amendments to the Law on Courts were adopted in January 2008, and amendments to the *Law on State Prosecution* in June 2008. The *Law on the Judicial Council* was adopted in February 2008, improving the independence of the judiciary. The new Judicial Council has the power to elect, promote and dismiss judges and to decide on disciplinary proceedings. Nonetheless, a number of serious concerns regarding the independence of the judiciary are reported to persist. (EU Progress Report 2008, 10–11.)

The Ministry of Justice has undergone recent reorganization. Two sectors have been established, one on the judiciary, and the other on execution of criminal sanctions. The capacity of the Ministry of Justice in the area of judicial cooperation is still weak in terms of both skilled human resources and IT systems. Special Departments in high courts for Combating Organized Crime, Corruption, War crimes and Terrorism were established in September 2008. At the same time, the powers of the Special Prosecutor for Organized Crime have been extended to cover the same areas. (EU Progress Report 2008, 11–12; the Law on State Prosecution.)

## 2.4 Specialized units: Anti-Corruption

Provisions on corruption are set out in the *Criminal Code of the Republic of Montenegro*. The *Criminal Code* criminalizes active and passive bribery of domestic and foreign public officials and in the private sector (Articles 423 and 424). The Programme for Combating Corruption and Organized Crime was adopted in July 2005.<sup>188</sup> An Action Plan for the period 2006–2008 followed. (GRECO 2008, 11.) An update of the Action Plan to include new measures and clearer indicators was adopted by the government in May 2008 (EU Progress Report 2008, 11). The implementation of the Programme for Combating Corruption and Organized Crime is overseen by a high-level National Commission (The National Commission for Implementation of the Action Plan for the Program of Fighting Against Corruption and Organized Crime or “Tripartite Commission”). The Directorate for Anti-Corruption Initiative, which has existed since 2001, provides support to the Commission’s work. (Trivunovic et al. 2007, 7.) The Directorate is an independent governmental department supervised by the Ministry of Finance and primarily charged with advocacy and coordination between NGOs, the business sector and the police. It is also charged with collected citizen’s allegations of corruption. The resources of this Directorate have recently been strengthened (EU Progress Report 2008, 11).

Montenegro participates in the Group of States against Corruption (GRECO) of the Council of Europe which adopted its *Compliance Report on the Republic of Montenegro* in 2008. Montenegro was given 24 recommendations by GRECO, of which two thirds

<sup>188</sup> Available in English at [www.gom.cg.yu/files/1125055411.doc](http://www.gom.cg.yu/files/1125055411.doc)

have been implemented. (GRECO 2008, 19.) These include, for example, the launching of an anti-corruption strategy, putting in place a legislative framework to fight corruption, extensive training and public information campaigns (GRECO 2008, 19). Montenegro ratified the *United Nations Convention against Corruption* in October 2006<sup>189</sup> and is part of the Regional Anticorruption Initiative (RAI) of the Regional Cooperation Council (RCC, which succeeded the Stability Pact for South Eastern Europe).<sup>190</sup> Montenegro has also ratified the *Council of Europe Civil Law Convention on Corruption* and the additional protocol to the *Criminal Law Convention on Corruption*. In December 2007, the parliament adopted a *Resolution on the Fight Against Corruption and Organized crime*. A new *Law on Financing of Political Parties* was adopted in July 2008. (EU Progress Report 2008, 11–12.) However, corruption continues to be a widespread and particularly serious problem in Montenegro. According to the EU, it is inefficiently prosecuted, particularly in cases of high-level corruption. (Ibid., 12.)

## 2.5 Specialized units: Organized crime

A special unit in the Police for the Fight Against Organized crime was formed in February 2003 (Trivunovic et al. 2007, 62). Within the State Prosecutor's office there is also a Special Unit for Organized Crime. It is headed by a Special Prosecutor, and includes one deputy prosecutor focusing on corruption. There are a total of 3 operational prosecutors in the Special Unit for Organized Crime. (Trivunovic et al. 2007, 62.)

The government of Montenegro has adopted a *Report on the Action Plan for Implementation of the Programme for Fighting Corruption and Organized Crime* and revised the Action Plan for 2008–2009 to include measurable indicators and to aim for tangible results. In 2007, the Organized Crime and Corruption Unit of the Police Directorate participated actively in international cooperation efforts and carried out eight international police operations with partners from the region and in cooperation with the Special Prosecutor. Special Departments for Organized Crime, Corruption, War crimes and Terrorism were established within the high courts in 2008 and the powers of the Special Prosecutor for Organized Crime were simultaneously extended. A rulebook on *Internal Organization and Systematisation of the Police Directorate* was adopted in December 2007. In accordance with the rulebook, 23 posts have been earmarked for the Unit against Organized Crime and Corruption. The National Commission for Implementation of the Action Plan for the Program of Fighting Against Corruption and Organized Crime – a tripartite body bringing together criminal police, courts and prosecution services – has been established in order to improve cooperation between law enforcement bodies. This “Tripartite Commission” is working on improving case monitoring and on harmonising statistics and methods of analysis.

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<sup>189</sup> <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>

<sup>190</sup> <http://www.rai-see.org/home.html>

(EU Progress Report 2008, 47–48.) The latest report of April 2009 is available in Montenegrin.<sup>191</sup>

However, the new *Criminal Procedure Code* has not yet been adopted, and administrative and judicial capacity to deal with organized crime cases remains limited. According to the EU, organized crime remains a matter of serious concern in Montenegro. (EU Progress Report 2008, 47–48.)

## 2.6 Specialized units: Trafficking in persons and smuggling of migrants

Montenegro prohibits sex and labour trafficking through Article 444 of the *Criminal Code*. The government, in coordination with NGOs, adopted an Anti-Trafficking Action Plan in March 2006 that defines goals and includes precise timelines. However, implementation of the Action Plan has not kept pace with those timelines. (US Department of State 2008, 186.) The Strategy contains a set of ongoing activities including developing the work of governmental officials regarding processing cases of human trafficking, enhancing and continuously publicising statistical evidence regarding trafficking, aligning the model and procedures of combating human trafficking with international standards, increasing cooperation with other countries, increasing transparency of work, improving treatment of victims, achieving better and more efficient intra-agency cooperation, and raising public awareness. In December 2008, the Action Plan for the Implementation of the National strategy for Combating Trafficking in Human Beings was passed for the year 2009. It focuses on implementation of international conventions, monitoring of the existing legal framework, fostering prosecution and improving victim care and prevention measures.

The Government of the Republic of Montenegro institutionalised the position of the National Coordinator for Combating Trafficking in Human Beings in February 2001. The Office of the National Coordinator coordinates the work of the governmental agencies, and non-governmental and international organizations involved in combating trafficking in persons.<sup>192</sup> However, according to the United States Trafficking in Persons Report 2008, the Anti-Trafficking Working Group, chaired by the National Coordinator, did not meet in 2007, in contrast to monthly meetings held in previous years (US Department of State 2008, 186).

Montenegro ratified the Council of Europe Convention on Trafficking in Human Beings in July 2008. It came into force in November 2008 (EU Progress Report 2008, 48). A Memorandum on Mutual Cooperation against Trafficking in Human Beings was adopted in October 2007. This Memorandum aims at implementing the UN Convention against

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<sup>191</sup> Tripartitne komisije o analizi predmeta iz oblasti organizovanog kriminala i korupcije, zaključno sa 31.03.2009.

<sup>192</sup> <http://www.vlada.cg.yu/eng/antitraf/kabinet.php?akcija=kabinet&id=202>

Transnational Organized Crime (Palermo Convention) and the additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. (Presentation of the Senior Advisor in the Office for Combating Trafficking in Human Beings.)

## 2.7 Specialized units: Money- laundering and economic crimes

The *Law on the Prevention of Money-Laundering* entered into force in 2003. The law applies primarily to financial institutions such as banks, stock exchanges, insurance companies, gambling houses, pawnbrokers, exchange offices, investment funds, pensions funds, and other parties on the financial markets.<sup>193</sup> The scope of the criminal offence of money-laundering is not fully consistent with the Vienna and Palermo conventions (Council of Europe 2009, 4). Montenegro established the Administration for the Prevention of Money-Laundering (APML, also referred to as Anti-Money-Laundering Directorate) in December 2003 (Trivunovic et al. 2007, 61).

A new *Law on the Prevention of Money-Laundering and Financing of Terrorism* was adopted in November 2007, in line with the *EU acquis*. It entered into force in January 2008 (Council of Europe 2009, 7). The law and its implementing regulations lay a firm foundation for implementing the Stabilisation and Association Agreement (SAA), including by expanding and strengthening the Anti-Money-Laundering Directorate (APML) in areas such as the control of reporting entities, information technology and data import. (EU Progress Report 2008, 30.) Montenegro has also ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (EU Progress Report 2008, 46).

The APML is the central authority for combating money-laundering and terrorist financing. It is an independent body whose administrative work is supervised by the Ministry of Finance. Otherwise, it has full operational autonomy. (Council of Europe 2009, 6.) However, it has no powers to conduct criminal investigations (EU Progress Report 2008, 46). The main law enforcement bodies concerned with the fight against money-laundering are the Police Administration and the Prosecution Authority. In the police, a Special Department for the Investigation of Money-Laundering has been established. (Council of Europe 2009, 7.) However, there are only two persons dealing with the fight against money laundering and only a small number of money laundering cases are forwarded from the police to the prosecution service (EU Progress Report 2008, 46).

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<sup>193</sup> <http://www.anti-moneylaundering.org/europe/Montenegro.aspx>



## 2.8 Specialized units: Drugs

In May 2008, the Montenegrin government issued the country's first National Strategy for the Suppression of Drugs, along with a National Action Plan to implement the strategy. The government also plans to create a National Office, within the Ministry of Health, to coordinate the country's anti-drug efforts.<sup>194</sup> The National Office for the Coordination of Drug Related Issues has now been established, but is not yet fully functional (UNODC Focal Point 2009). The Police Department for the Fight against Drug Smuggling within the Police's Crime Division is responsible for coordinating cooperation and exchange of information between nine counter-drug police units located throughout Montenegro, the Customs Administration, the Ministry of Justice, and Interpol. The Ministry of Interior compiles data on narcotics seizures.<sup>195</sup>

The Police Department for the Fight against Drug Smuggling has ten posts, of which six are vacant. The Government Agency for Illicit Drugs, which should be coordinating the work of both governmental and non-governmental organizations on prevention of drug abuse at national level, has not yet been established. (EU Progress Report 2008, 46–47.)

## 2.9 Planned criminal justice reform projects

Judicial reform is underway in Montenegro. The objectives of the reform include strengthening the independence and autonomy of the judiciary, strengthening the efficiency of the judiciary, increasing the accessibility of the judicial authorities, strengthening public trust in the judiciary, fostering education within the judicial authorities and strengthening international and regional judicial cooperation. Other goals concern the areas of alternative dispute resolution, the fight against crime, especially corruption, terrorism and organized crime, the prison system, case law and the judicial information system.<sup>196</sup>

The current phase of the reform is defined in a new Judicial Reform Strategy spanning the period 2007–2012, adopted by the Montenegrin government in June 2007. It proposes measures to increase the independence of judges and prosecutors through the introduction of clear and unambiguous rules for appointment and promotion, for disciplinary measures and for the strengthening of the role of the Judicial and Prosecutorial Councils in their respective processes, as well as a redefinition of the role of the prosecution. (Trivunovic et al. 2007, 55.)

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<sup>194</sup> <http://www.state.gov/p/inl/rls/nrcrpt/2009/vol1/116523.htm>

<sup>195</sup> <http://www.state.gov/p/inl/rls/nrcrpt/2009/vol1/116523.htm>

<sup>196</sup> Available in English at

<http://www.undp.org.me/ijr/projects/Judiciary%20Reform%20Programme/Action%20Plan%20for%20the%20reform%20of%20Judiciary/Action%20Plan%20Judiciary.pdf>



## 2.10 Asylum

The Office for Asylum operates within the Department for Administrative Internal Affairs of the Ministry of Interior. The Asylum Office is authorised to receive and process applications for asylum, to decide upon asylum applications, to take decisions on the rejection and termination of asylum and on the status of persons having already the status of refugee or displaced person, to issue documents for proof of identity and for persons travelling abroad, to keep records regarding the situation in the country of origin, and to perform other duties in the asylum field.<sup>197</sup> The State Commission decides on appeals in the second instance. Both the Office for Asylum and the State Commission may collect and request information from various sources when making decisions on asylum.

The Bureau for Care of Refugees provides support to refugees. The Border Police Department within the Police Directorate will notify the Asylum Office and the Bureau for Care of Refugees if a person expresses the intention to apply for asylum at a border crossing point. The Ministry of Health, Labour and Social Welfare has enacted the *Decree on Financial Support* to asylum seekers, persons with refugee status and persons granted subsidiary or temporary protection, which establishes the right to social care for these categories of persons (National Guidelines 2008, 19).

## 2.11 Migration

The competences of the Department for Internal Administrative Affairs (Group for Migration, Visas and Readmission) within the MoI, encompass a variety of issues related to administrative affairs in the migration field, including the visa system, asylum, citizenship, travel documents, ID cards, residence and the register of citizens; the registry books of citizens' status, and foreigners' legal entry and stay exceeding 90 days.

A Special Office within the Police Directorate called the Department for the State Border and Border Affairs (Border Police) with its Section for Foreigners and Prevention of Illegal Migrations is in charge of supervision of the state border, the control of border crossings, the prevention of illegal migrations, police investigation of border crimes, and control of the legality of foreigners' stay in Montenegro.

The Strategy for Integrated Migration Management in Montenegro 2008–2013 was adopted by the government in September 2008. It aims at the establishment of a legal, regulatory and institutional framework for an effective control of migration flows according to the rules and standards of the EU *acquis*. The Action Plan envisages the

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<sup>197</sup> Montenegro – National Guidelines – Produced in the framework of the AENEAS Project *Strong institutions and a Unified Approach in the Asylum, Migration and Visa Management in the Western Balkans* September 2008, 19 (hereinafter referred to as the National Guidelines).

formation of a Council for the implementation of the Strategy, whose task will be to prepare collective reports on activities and achieved results in the area of migration in Montenegro.

## 2.12 Visas

The Ministry of Foreign Affairs is responsible for receiving visa applications via its Diplomatic Missions and Consular Posts (DMCP), undertaking consultations with the Agency for National Security in some cases, approving or refusing visa applications, adjusting the visa regime, concluding agreements on visas and the visa regime with other countries, and for proposing certain measures in this area to the responsible authorities. DMCPs, via the MFA, liaise with the Police Directorate for the necessary checks. The Border Police Department, Section for Foreigners and Prevention of Illegal Migrations, carries out controls of foreigners upon entry, and also checks people and organizations inviting them (National Guidelines 2008, 22).

According to the National Program for Integration of Montenegro into the EU (NPI) for the period 2008–2012 (p. 554), the establishment in the visa section of a Central Visa Information System and the equipping of the DMCP network with a system of data flow protection is foreseen as a short-term priority (the system will be tested in the Embassy of Montenegro in Belgrade). The Ministry of Interior is involved in the development of the visa policy and regulations in this area (ibid).

## 3. Data Availability

### 3.1 Conventional crime<sup>198</sup>

#### 3.1.1 Police data

The *Statistical Yearbook 2008* contains quite detailed data on crime and the functions of the courts and prosecution. The publication includes figures on reported adult perpetrators<sup>199</sup> by criminal act, sex, type of court decision and duration of confinement in 2007. The numbers are represented per higher category i.e. crimes against “life and body” or “honour, reputation and sexual integrity” and so on. For example, there were 388 criminal acts against “life and body” with 346 known perpetrators in 2007. In

<sup>198</sup> As defined in the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS), i.e. including homicide, total assault, rape, robbery, total theft, motor vehicle theft, burglary, economic fraud, embezzlement, drug-trafficking and drug-related crime.

<sup>199</sup> Defined as: Adult perpetrators of a crime are those persons who were 18 or over at the time of committing criminal acts, and against whom the preliminary hearings and legal proceedings have been conducted and legally concluded; the accused persons against whom the legal proceedings have been concluded by finally binding court decision; and sentenced persons (Statistical Yearbook 2008, 202).

these cases, 297 indictments were initiated, while the criminal charges were rejected in 35 cases.

**Table 1: Extract from the Statistical Yearbook of Montenegro**

Reported adults by criminal acts 2007		
Crimes against...	All	Known perpetrators
Life and body	388	346
Human and civil rights & freedom	181	159
Honour, reputation and sexual integrity	52	47
Marriage and family	..	..

Source: Statistical Yearbook 2008.

The *Official Report on the Work of the Police Department and Security in Montenegro from 2003 to 2007* contains information on the cases investigated and processed (reported) by the police in the observed period. The information is available on the type of crime and whether it was successfully investigated and reported to the State Prosecutor. Information on the number of people that were charged in total is also presented.

According to the *Official Report* submitted by the Police Directorate in the period between 2003 and 2007, the following numbers of crimes were registered by the police: in 2003 – 8,613, 2004 – 8,227, 2005 – 9,579, 2006 – 9,564, 2007 – 9,258.<sup>200</sup> Police department statistics recognise two main types of crimes – general crimes and commercial crimes.

Some 7,206 cases were processed by the police under the category “general crimes” in 2007. Out of this number, 5,954 cases were reported further to the prosecution and claims were brought against 5,616 people. The breakdown according to subcategories was reported as follows: crime against life and body – 570 (486 cases processed against 648 people), crime against sexual freedom – 30 (25 cases processed against 27 people), property crime – 3,487 (2,797 cases against 1,598 people), crimes of provoking general danger 135 (36 cases processed against 86 people), trafficking of human beings and illegal migrations – 28 (2 cases of trafficking both processed and 26 cases of illegal migration out of which 11 against 30 people were processed), illegal possession of firearms and explosives –252 charges against 209 people, domestic violence – 565 cases (556 cases processed against 580 people), traffic crimes – 748 (733 cases processed against 754 people), illegal use of drugs – 549, (409 cases of illegal production, selling and distribution and 140 cases of using drugs), juvenile delinquency - 580 cases processed against 475 people.

<sup>200</sup> Report on the Work of the Police Department and Security in Montenegro in 2007.

In the field of commercial crime, 2,052 crimes were detected by the police, out of which 1,391 cases were processed against 1,595 people. The information on how many processed cases were taken on by the prosecution and how many were dismissed is not presented in the report.

### 3.1.2 Prosecution and court data

The *Statistical Yearbook* also contains data on the number of persons convicted for criminal acts in 2006 and 2007. For example, 341 adults were convicted for crimes against “life and body” in 2006, while the figure was 325 in 2007. Data are also reported on persons convicted of criminal acts by the sanctions imposed in 2007, and on persons accused of criminal acts.<sup>201</sup> (Statistical Yearbook 2008, 206–213.)

**Table 2: Extract from the Statistical Yearbook of Montenegro**

Adults convicted of criminal acts 2007		
Crimes against...	All	Females
Life and body	325	13
Human and civil rights & freedom	50	3
Honour, reputation and sexual integrity	1	-
Marriage and family	..	..

Source: Statistical Yearbook 2008.

The official report *Overview of the Work of the Judiciary* contains further information on the judicial system, although does not go into detail regarding the type of criminal case. The 2007 report<sup>202</sup> contains information on the number of cases initiated in basic courts, the number of solved cases, and the number of cases in progress. For example, the basic courts had 131,452 unsolved cases at the beginning of 2007, and in 2007 they received 112,875 new cases. 244,348 cases were processed and 96,434 solved during 2007. At the end of 2007, there were 147,914 unsolved cases. On the other hand, the higher courts had 7,281 unsolved cases at the beginning of 2007, and in 2007 they received 11,203 new cases. 18,484 cases were being processed and 10,216 solved during 2007. At the end of 2007, there were 8,268 cases in front of

<sup>201</sup> An accused person is defined as an adult against whom an indictment, legal charges or a private suit has been brought at a court, and against whom legal proceedings have been conducted and a court decision made according to which private suit has been rejected, proceedings suspended or indictment rejected, acquittal brought, security measures brought without execution of a sentence or a perpetrator is pronounced guilty (Statistical Yearbook 2008, 202). The Montenegrin term for charged is “optuzeni”, suspect is “osumljiceni”, and a person sentenced is “osudjeni”.

<sup>202</sup> Judiciary Advisory Board, Overview of the Work of the Judiciary in Montenegro in 2007.

higher courts. Information on the average case processing time is also available in the report.

### 3.1.3 United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS)

Montenegro provided information to the tenth United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (covering the years 2005 and 2006) for which data collection took place in 2008. Information on most of the crimes included in the survey is recorded in Montenegro. However, the more detailed data are often missing. For example, data on non-intentional homicides, burglaries and drug trafficking are missing. Furthermore, detailed information on assaults is not reported. Information on persons brought into formal contact with the criminal justice system is reported according to age only. Adults are defined as persons above the age of 18 and juveniles as persons below the age of 18. Montenegro did not provide figures for prosecution or courts.

### 3.1.4 The European Sourcebook

Montenegro is not covered in the European Sourcebook data collection.

### 3.1.5 EUROSTAT Crime and Criminal Justice Statistics

As a potential EU candidate country, Montenegro participated in the Eurostat data collection on crime and criminal justice statistics for the first time in 2009. Montenegro provided figures for the following crimes: total number of crimes recorded by the police, homicide, violent crime (physical assault, robbery, sexual offences), robbery, theft of a motor vehicle and drug trafficking. (Eurostat 2009.) Most of the figures provided by Montenegro for the Eurostat Crime and Criminal Justice Statistics correspond with the figures provided for the UN-CTS.

## 3.2 Specific forms of crime

### 3.2.1 Corruption

Corruption continues to be a widespread and particularly serious problem in Montenegro (EU Progress Report 2008, 12). The *Statistical Yearbook 2008* reports that there were 196 criminal acts against “official duty” with 173 known perpetrators in 2007. In these cases, 48 indictments were initiated, while the criminal charges were rejected in 112 cases. In 2006, 43 adults were convicted for crimes against “official duty”, while the figure was 24 in 2007. (*Statistical Yearbook 2008*, 206, 208.) The

figures Montenegro reports for bribery and/or corruption in the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems are very low: 7 for 2005 and 11 for 2006.

According to the *Report prepared by the Tripartite Commission*<sup>203</sup>, in the period between January 2006 and December 2008 there were 157 charges against 214 people, which resulted in 105 verdicts against 129 people. The same report states that over the same period there were 630 cases with elements of corruption in front of the basic and higher courts in Montenegro out of which 429 were concluded and 201 cases were still in process.

*The Nations in Transit Report 2007* rates the situation regarding corruption in Montenegro with a score of 5.50 on a scale where 1 represents the highest possible, and 7 the lowest possible rating. The rating for 2007 was worse than in 2005 and 2006 (with ratings of 5.25 respectively).<sup>204</sup> This lower rating has been attributed to the lack of political will of the government, manifested in its failure to render the privatisation process more transparent, delays in adopting the Action Plan for the Implementation of the Programme for Fighting Corruption and Organized Crime, and the failure to adopt changes to the *Law on Conflict of Interest*. (Trivunovic et al. 2007, 13.)

The EBRD-World Bank Business Environment and Enterprise Performance Survey attempts to capture trends in obstacles to doing business, including corruption, faced by companies. A repeat survey carried was out in 2002 and 2005 in transition countries in Central, South Eastern, and Eastern Europe and the Newly Independent States. Although only a very limited number of Montenegrin companies participated in the 2002 and 2005 surveys, some trends might be cautiously extrapolated for Montenegro. In 2005, more firms reported that corruption was a problem in doing business than in 2002. Whereas in 2002, around 30 percent of companies reported corruption as a problem, the percentage had increased to 50 percent in 2005. Companies also perceived corruption in the judiciary to be more of a problem in 2005 (53 percent) than in 2002 (38 percent). (Trivunovic et al. 2007, 13.)

### 3.2.2 Organized crime

In 2003, 81 organized-crime related cases were recorded in Montenegro. Drug trafficking (32 cases in 2003), trafficking in human beings (28 cases), economic crime

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<sup>203</sup> Report on analysis of cases with elements of corruption and organized crime, Tripartite Commission, 31.03.2009.

<sup>204</sup> The country reports in *Nations in Transit 2007* analyse the progress of democratic change based on seven categories: electoral process; civil society; independent media; national democratic governance; local democratic governance; judicial framework and independence; and corruption. Corruption is analysed using existing information on public perceptions, business interests of top policy makers, laws on financial disclosure and conflict of interest, and the efficacy of anti-corruption initiatives. For a complete methodology, see: [http://www.freedomhouse.hu/images/fdh\\_galleries/NIT2007/nit%2007%20methodology.pdf](http://www.freedomhouse.hu/images/fdh_galleries/NIT2007/nit%2007%20methodology.pdf)

(21 cases) and racketeering/extortion (16 cases) were the main problems regarding organized crime. Cigarette smuggling has been reduced but tax and customs fraud, fictitious companies and circuit trade cause major losses in revenues. (Council of Europe 2005, 64.)

### 3.2.3 Trafficking in persons and smuggling of migrants

During 2007, the government of Montenegro initiated two human trafficking investigations and prosecuted three alleged human traffickers. The judiciary convicted three traffickers who were each sentenced to five years in prison. (US Department of State 2008, 186.) According to the Global Report on Trafficking in Persons (2009, 265), 36 persons were prosecuted for trafficking in persons in Montenegro in 2004-2007. Four persons were convicted in 2005 and two in 2006.

The 2006 *ICMPD Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe* presents the following relevant information:

- In the course of 2005, 13 persons were detected while being smuggled into Montenegro. In 2006 39 persons were detected;
- In 2005, no persons were apprehended for human smuggling. In 2006, 14 persons were apprehended;
- In the course of 2005, 8 persons were identified as having been trafficked into Montenegro. In 2006 1 person was identified;
- In 2005 7 persons were apprehended for human trafficking. In 2006, 1 person was apprehended;
- In 2005, 5 criminal charges for the crime of trafficking in persons were filed against 7 persons. 8 victims of trafficking were registered, of whom 4 were nationals of Serbia (3 adults and 1 minor) and 4 nationals were nationals of Bangladesh.
- In 2006, 1 criminal charge for trafficking in human beings, pursuant to Article 444 of the Criminal Code, against 1 person was filed.

Between January and September 2004, 372 illegal border crossings were registered (CARPO Situation Report 2006, 95). According to the *Official Report 2007 of the Police Directorate*, there were 415 cases of falsified documents detected at the border, 342 illegal crossing of the border were prevented and 819 people were deported from Montenegro. In 2006, one case of trafficking of human beings was investigated. In 2007, two cases were investigated. (Commission of the European Communities 2008, 48.)



### 3.2.4 Economic crime and money- laundering

The *Statistical Yearbook 2008* reports that there were 343 criminal acts against “payment operations” with 248 known perpetrators in 2007. In these cases, 211 indictments were initiated. In 2006, 185 adults were convicted for crimes against “payment operations”, while the figure was 139 in 2007. (*Statistical Yearbook 2008*, 207–208.)

There were 2,052 cases of economic crime detected in 2007 by the Police Directorate according to the *Official Report 2007* of the Police Directorate, with 1,391 charges raised against 1,595 people. The breakdown of these charges consisted of: falsifying of documents – 618; fraud – 302; illegal trade – 193; forest theft – 165; misuse of official position – 139; falsifying money – 153; smuggling – 115; tax avoiding – 41; negligent official work – 38; misuse of official authority in economy – 35; embezzlement – 29; accepting and giving bribes – 19; issuing checks without coverage – 12; and money laundering – 16. (*Report on the Work of the Police Department and Security in Montenegro in 2007*.)

### 3.2.5 Drug- related crimes

According to the EU, drug transit and trafficking, in particular by organized crime groups, remain a matter of serious concern. Drug abuse and drug-related crime continue to rise. (*EU Progress Report 2008*, 47.) In 2005, 3 criminal charges were brought against 10 perpetrators, committing 10 organized criminal acts in drug trafficking (*CARPO Situation Report 2006*, 93).

According to the Chief State Prosecutor's Office, out of 453 cases reported by the police during 2007, the prosecutor's office indicted 391 persons plus 420 continued cases from previous years, making a total of 811 indictments. During the same period, 320 persons were convicted for violations of Article 300 of the *Criminal Code* (related to the production, storage, and sale of narcotics) and Article 301 (related to drug consumption).<sup>205</sup> According to the Police Directorate Report, in 2007 there were 549 cases detected related to drugs, out of which 409 were connected to illegal production and sale and 140 to illegal consumption. The police submitted 326 crime reports to prosecutors against 485 perpetrators. (*Report on the Work of the Police Department and Security in Montenegro in 2007*.)

## 3.3 Survey- based statistics

The Center for Democracy and Human Rights (CEDEM) carried out a household survey in Montenegro in 2003, which asked respondents their opinion concerning the police. A

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<sup>205</sup> <http://www.state.gov/p/inl/rls/nrcrpt/2009/vol1/116523.htm>



total of 1,199 people were interviewed. Some 43 percent of respondents stated that they thought corruption was a problem in the police force. (SALW Survey 2004, 33, 41.)

Gallup recently launched a multi-year survey project, *the Balkan Monitor*. The first round of the survey was carried out in October 2008, covering the complete Western Balkan region. According to this survey, 62 percent of the Montenegrin respondents place a reasonable or high degree of trust in the police, and 60 percent trust the courts to a reasonable or high degree. (Gallup 2008, 27.)

The Montenegrin branch of the National Democratic Institute (NDI) started baseline surveys in 2007 on a range of issues of importance to the public, including perceptions of the performance of the government and the administration and the perceived impact of reform initiatives. A second survey was carried out in 2008, and included questions on respondents' trust in institutions. According to this survey, 56 percent of the respondents trust both the police and the courts. (National Democratic Institute for International Affairs 2008, 14.)

### 3.4 Data on asylum

Some data on asylum matters in English and in Montenegrin language can be found on the homepages of the relevant authorities, specifically of the Bureau for the Care of Refugees.<sup>206</sup>

The *National Guidelines*<sup>207</sup> contain data on asylum applications submitted and their status for 2007 and for the first eight months of 2008 respectively, as the application of the *Law on Asylum* started only on January 25, 2007. In 2007, three asylum applications were submitted. One person was granted refugee status, while two applications were rejected as unfounded. From January to August 2008, the Asylum Office received five asylum applications, two of which were rejected as unfounded. In two of the cases the procedure was suspended and one case is still being processed.

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<sup>206</sup> [http://www.zzzi.cg.yu/index\\_eng.htm](http://www.zzzi.cg.yu/index_eng.htm)

<sup>207</sup> The National Guidelines were produced within the EC AENEAS "Strong institutions and a Unified Approach in the Asylum, Migration and Visa Management in the Western Balkans", with the Swedish Migration Board as the Project coordinator and the Danish Immigration Service, the Norwegian Directorate of Immigration and the International Centre for Migration Policy Development as the Project partners. The beneficiary countries were Albania, Bosnia and Herzegovina, FYR Macedonia, Montenegro and Serbia and its activities were carried out during 2007 and 2008. The main outputs of the project are the regional and respective national guidelines for a unified asylum/visa/migration management in the Western Balkans. The inputs for the National guidelines were provided by the experts from the institutions involved in the Project's implementation (Ministry of Interior and Public Administration, Ministry of Foreign Affairs, Bureau for Care of Refugees, Border Police Department, Ministry of Health, Labour and Social Welfare), while the general guidelines throughout the process, as well as the actual format of the document were given by the experts of the Danish Immigration Service and of the Norwegian Directorate of Immigration.

(National Guidelines 2008.) In addition, the UNHCR yearbook contains data on asylum in Montenegro.

### 3.5 Data on visas

The *National Guidelines* contain data on the total number of visas issued and rejected in 2007. The total number of visas issued in 2007 was 15,306 (11,975 transit visas at border crossing points for foreigners possessing valid visa for a neighboring country or for carriers of travel document issued for foreigners in the EU countries and 3,331 in foreign service missions). In 2007, a total number of 3,916 visa applications were received through diplomatic and consular posts. 3,331 applications received a positive response, while 585 applications were rejected.

**Table 3: Extract from National Guidelines of Montenegro – visa statistics**

Visa applications	First 6 months	Jul	Aug	Sept	Oct	Nov	Dec	Total
Positive	1224	733	524	354	194	157	145	3331
Negative	204	89	103	82	12	57	38	585
Total	1428	822	627	436	206	214	183	3916

Source: The National Guidelines 2008.

### 3.6 Data on migration

The *National Guidelines* contain a comprehensive overview on migration related data (legal and illegal) for 2007.

Montenegro contributed to the preparation of the *Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe*, published by ICMPD in 2007. The country shared data on the number of persons legally crossing the border including foreigners and citizens of Montenegro, the number of persons claiming asylum, the number of persons whose asylum claims were accepted, the number of migration related border apprehensions, the number of minors apprehended at the border due to border violation, the number of migration related apprehensions by place, the number of migration related apprehensions by border section, the number of migration related apprehensions by border section, the number of smugglers in migrants and the number of traffickers in persons apprehended (by nationality). All these data include foreigners as well as citizens of Serbia. In addition, data are provided on the number of persons rejected at the border by top nationalities/citizenship and persons to whom residence was refused.

The International Organization for Migration and the Ministry of Interior of the Republic of the Slovenia prepared the *Republic of Montenegro Migration Profile* in October 2007. This document represents a compilation of existing data extracted from various sources. However, the profile noted that a general problem is the actual lack of or availability of data per se. Where data exists, the low level of standardization in terms and methodology results in varying degrees of comparability of data.<sup>208</sup> The publication contains data on immigrants, their status and main countries of origin (UNHCR, EC, Bureau for the Care of Refugees, Employment Agency, Border Police Directorate, IOM), emigrants, their status and main countries of destination (UNHCR, Employment Agency), irregular migration and information on return migration flows. (Ministry of Interior and Public Administration.)

The Migrant Service Centres are a part of the project Capacity Building, Information and Awareness Raising towards Promoting Orderly Migration in the Western Balkans managed by IOM in partnership with ILO, within which *Statistical Reports on the Profile of Clients of Migrant Service Centres* are presented.<sup>209</sup>

## 4. Outline of data collection systems

Most information on crime in Montenegro is generated by the police and courts. The collection of crime statistics remains problematic as data collection methodology varies from one institution to another. The same problem also applies to data on trafficking in persons. The National Coordinator for Combating Human Trafficking reports that they receive information on the victims and cases of human trafficking from shelters, police, courts and the Supreme Court and due to the different methodologies of data collections, the data do not match in many cases. According to SEESAC, crime records are compiled manually. There are only general guidelines offered as to what records should be generated and maintained. (SEESAC 2006, 60.) There is a clear need for a revised national policy on the collection and compilation of crime data (ibid., 62).

According to Montenegro's response to CEPEJ (2007, 19), the Administrative Office of the Supreme Court is responsible for collecting statistical data regarding the functioning of the courts and judiciary. This office was founded in 2005. Statistics are compiled on prosecutions and convictions on the basis of manually completed records. There are clear guidelines as to what kind of records to keep, but these require updating. (Ibid., 61.) It is also stated in the SEESAC report that although national data are supposed to be based on uniform practices for data gathering across the country, in fact there are variations in the quality of data coming from different courts. The variations are partly due to the fact that some courts have updated their data systems with computers whereas others have not. Records are reported to be usually filled out in full, and clerks have sufficient time to complete this task. (Ibid.)

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<sup>208</sup> [www.iom.hu/PDFs/Montenegro\\_Migration%20Profile.pdf](http://www.iom.hu/PDFs/Montenegro_Migration%20Profile.pdf)

<sup>209</sup> <http://www.migrantservicecentres.org/index.php?page=6>

A database for collecting and analysing data on financial transactions has been set up, with additional analytic refinements still under development (Trivunovic et al. 2007, 62). However, no systematic maintenance of statistics which would enable an assessment of the effectiveness of the system of confiscation, freezing and seizing of proceeds of crime exists. Further, statistics are not produced for day-to-day evaluation and assessment purposes. (Council of Europe 2009, 12.)

Enhancing efficiency in the development of the judiciary's administrative capacity is one of the prime goals of the judicial system reform. The Judicial Information System (PRIS) comprises the information systems of the Ministry of Justice, the Judiciary, the State Prosecutor's Offices, the Misdemeanour Council of the Republic of Montenegro and the Institute for Execution of Criminal Sanctions. (Strategy for the Reform of the Judiciary 2007–2012, 57–58.) PRIS includes processes such as record keeping, statistical data of the work of judges and creation and monitoring of cases (ibid., 58–60). The information system of the State Prosecutor's Office encompasses all administrative tasks performed within primary, higher and supreme state prosecutor's offices (ibid.).

Regarding data collection on asylum, the Office for Asylum, which operates within the Ministry of Interior collects data on asylum seekers and persons with recognised refugee status or granted subsidiary or temporary protection. The Bureau for Care of Refugees keeps records of displaced persons (refugees displaced from neighbouring Balkan countries).

Regarding migration and visa data, the Department for Internal Administrative Affairs within the Mol keeps records of issued travelling documents and identity cards for foreigners. The Border Police Department keeps records of foreigners whose stay was cancelled, foreigners whose entry and exit from Montenegro is prohibited, visas issued at BCPs, rejected visa applications, cancelled visas or visas of which the validity was shortened, reported disappeared identity documents for foreigners and temporarily retained travel documents. The Ministry of Foreign Affairs keeps records of issued visas, rejected visa applications and annulled visas.

Under a number of new laws, a general computerized system is planned to be established with interlinked databases for the whole country. One law sets up a Central Population Register taking into account those citizens who live abroad. Another database will hold all information on foreigners, refugees, IDPs and asylum seekers (Poulain & Perrin 2008, 48). According to the *Law on Protection of Personal Data* adopted in 2009, an independent National Agency for the Protection of Personal Data should be formed.

## Conclusions

According to the EU, organized crime, corruption, money-laundering and drug trafficking remain problems in Montenegro (EU Progress Report 2008). It is also evident that there are challenges in data collection and coordination. Despite much progress, the collection of data on crime and criminal justice faces several challenges to be tackled if statistical systems between law enforcement agencies, prosecutors and courts are to be compatible. Due to different methodologies, counting units, definitions and standards of data entry (manual or electronic, individual records or summary sheets), data on crime and criminal justice often do not match between institutions. Detailed guidelines on what records are to be kept and what statistics are to be collected could not be found and therefore are apparently not widely disseminated among different agencies. There are also differences within various institutions providing data on justice and home affairs, with some courts equipped with computerized data entry systems and others not. Introducing the new Judicial Information System is one of the goals of the judicial reform but no information was found on how the implementation of the new information system is progressing.

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## Serbia

## Outline of the criminal justice system, asylum/visa/migration system and its actors

Institution	Relevant departments/ subdivisions	Existing data availability
<b>Ministry of Interior</b>	<ul style="list-style-type: none"> <li>General Police Directorate</li> <li>Analytics Directorate/ Statistics Department)</li> </ul>	<ul style="list-style-type: none"> <li>Data on general crime</li> <li>Overall picture on trends in crime</li> <li>Data on economic crime</li> <li>Data on corruption</li> </ul>
	<ul style="list-style-type: none"> <li>Organized Crime Department (SBPOK) with 1) Criminal Operational Analysis Unit, 2) Unit for Financial Investigation, 3) Drug Unit</li> </ul>	<ul style="list-style-type: none"> <li>Data on organized crime</li> <li>Data on money laundering</li> <li>Data on narcotics smuggling and use of drugs</li> </ul>
	<ul style="list-style-type: none"> <li>The Border Police/ Unit for Suppression of Smuggling and Trafficking of Migrants</li> <li>The Asylum Office</li> </ul>	<ul style="list-style-type: none"> <li>Data on migration</li> <li>Data on trafficking in persons</li> <li>Data on asylum</li> </ul>
<b>Republic Public Prosecutor's Office</b>	<ul style="list-style-type: none"> <li>Office of the Secretary General</li> <li>Administration Office</li> </ul>	<ul style="list-style-type: none"> <li>Detailed data on reported, accused and convicted adult and juvenile perpetrators by criminal offences</li> </ul>
	<ul style="list-style-type: none"> <li>Department for Prevention of Corruption and Money Laundering</li> </ul>	<ul style="list-style-type: none"> <li>Reports on corruption cases from all prosecutors offices</li> </ul>
<b>Ministry of Justice</b>		<ul style="list-style-type: none"> <li>Statistical and other data on the work of judicial administration</li> </ul>
<b>Ministry of Finance</b>	<ul style="list-style-type: none"> <li>Administration for the Prevention of Money Laundering (= Financial Intelligence Unit)</li> <li>Customs Administration</li> </ul>	<ul style="list-style-type: none"> <li>Own statistics on money laundering and economic crimes</li> <li>Economic crime reports</li> </ul>
		<ul style="list-style-type: none"> <li>Data on visa applications</li> </ul>
<b>Agency for Co-ordination of Protection to Trafficking in Human Beings</b>		<ul style="list-style-type: none"> <li>Statistics on victims of TIP</li> </ul>
<b>The Commissariat for Refugees</b>		<ul style="list-style-type: none"> <li>Data on refugees</li> </ul>



## 1. Short background

Serbia became an independent state in 2006, following a referendum for independence conducted by Montenegro. Serbia and Montenegro together formed the Federal Republic of Yugoslavia between 1992 and 2003 and the Union of Serbia and Montenegro between 2003 and 2006.

Kosovo declared independence on 17 February 2008 after the failure of UN-brokered talks on the status of the province. The Serbian government contested the declaration and has also opposed the reconfiguration of the international civilian presence in Kosovo, including EULEX deployment, unless authorised by the UN Security Council. In October 2008, the UN General Assembly voted in favour of a resolution tabled by Serbia, seeking a non-binding advisory opinion from the International Court of Justice (ICJ) on the legality of the Kosovo declaration of independence. (EU Progress Report 2008, 5.)

Serbia has been a potential candidate country for EU accession since 2003. The EU and Serbia signed a Stabilisation and Association Agreement (SAA) and Interim Agreement in 2008. EU ministers agreed to submit the SAA to their parliaments for ratification and the Community agreed to implement the Interim Agreement as soon as the Council decides that Serbia is fully cooperating with the International Criminal Tribunal for the former Yugoslavia, including all possible efforts to arrest and transfer indictees. The Serbian parliament ratified the SAA on 9 September 2008.<sup>210</sup> Visa facilitation and readmission agreements between the EU and Serbia entered into force in January 2008 and dialogue on the issue of visa liberalization is ongoing with an expected date of entry into force in January 2010.

The adoption of the new constitution took place in 2006, and the *Law on the Constitutional Court* was adopted in November 2007. In December 2007 the parliament adopted a necessary package of laws calling for presidential, provincial (Vojvodina) and municipal elections, as required by the *Law for the Implementation of the Constitution (Constitutional Law)*. (EU Progress Report 2008, 6–7.)

Overall, there has been progress in adopting legislation to implement the new constitutional framework. The EU notes that further reforms are needed to ensure that constitutional provisions, notably on the judiciary, are implemented in line with

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<sup>210</sup> [http://ec.europa.eu/enlargement/potential-candidate-countries/serbia/eu\\_serbia\\_relations\\_en.htm](http://ec.europa.eu/enlargement/potential-candidate-countries/serbia/eu_serbia_relations_en.htm)

European standards. This is one of the key priorities of the European Partnership. (Ibid.)

On 22 December 2008 the National Assembly of the Republic of Serbia adopted a package of judicial laws: the *Law on High Judicial Council*, the *Law on Judges*, the *Law on the Organization of Courts*, the *Law on the State Prosecutorial Council*, the *Law on Public Prosecutors*, the *Law on Seats and Territorial Jurisdictions of Courts and Public Prosecutor's Offices* and the *Law on Amendments to the Law on Misdemeanors* (Ministry of Justice 2009a, 1–2).

## 2. Justice and home affairs actors

### 2.1 Law Enforcement

Policing in Serbia falls under the jurisdiction of the General Police Directorate in the Ministry of Interior. The General Police Directorate consists of 15 organizational units at the headquarters of the Ministry and 27 Regional Police Directorates. Furthermore, the General Police Directorate comprises specialized police stations and substations, such as the Security Information Agency. There are 48 police substations at the headquarters of the regional police directorates, and 161 police stations in the municipalities outside of the headquarters.<sup>211</sup> The police have competence to carry out investigations, but are obliged to inform the prosecuting authorities beforehand (GRECO 2005, 8). The total staff of the Ministry of Interior was 42,740 in 2006. The number of uniformed police officers was 26,527.<sup>212</sup> According to the UN-CTS, the total staff of the Ministry of Interior was 43,283 in 2006.

Within the Ministry of Interior, the Inspector General (IG), now replaced by the Sector for Internal Control, commenced operations in June 2003. The main task of the IG is to control the legality of police officers' work. Citizens have a right to address the IG and to submit complaints on the work of the police. (GRECO 2005, 8.)

According to the *EU Progress Report 2008*, regional police cooperation has been improved, following the ratification of the Police Cooperation Convention for South-East Europe. Serbia signed an agreement on strategic cooperation with Europol in September 2008. (EU Progress report 2008, 10.)

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<sup>211</sup> [http://polis.osce.org/countries/details?item\\_id=46](http://polis.osce.org/countries/details?item_id=46)

<sup>212</sup> [http://polis.osce.org/countries/details?item\\_id=46](http://polis.osce.org/countries/details?item_id=46)

## 2.2 Prosecution

The Public Prosecutor's Office, located in Belgrade, covers the whole territory of Serbia. 30 district public prosecutor's offices are established for the territory of district courts and 109 municipal prosecutor's offices for the territory of one or more municipal or district courts. According to the *Law on Seats and Territorial Jurisdictions of Courts and Public Prosecutor's Offices*, which will enter into force on January 1, 2010, Serbia will have 34 basic public prosecutor's offices, 26 higher public prosecutor's offices, 4 appellate public prosecutor's offices and 1 Republic Public Prosecutor Office. According to Article 56 of the *Law on the Public Prosecutor's Office*, prosecutors are appointed by the National Assembly upon a proposal made by the High Judicial Council. (UNODC Focal Point, 2009; see also GRECO 2005, 9–10.) According to Article 74 of the new *Law on Public Prosecutors*, prosecutors are appointed by the National Assembly upon a proposal made by the government. The Government proposes candidates from a list prepared by the State Prosecutorial Council. There were 689 public prosecutors in Serbia in 2007 (Council of Europe 2007, 17). Clear, measurable and objective criteria for re-election of public prosecutors and deputy public prosecutors were adopted by the State Prosecutorial Council in July 2009. (UNODC Focal Point 2009.)

The main functions of public prosecutors are defined in Article 46 of the *Code of Criminal Procedure*. They include conducting pre-trial proceedings, requesting that an investigation is carried out and directing pre-trial proceedings, issuing an indictment before the competent court, appealing a court's decision, and submitting extraordinary judicial remedies against a final court's decision. (GRECO 2005, 10.)

The new *Criminal Procedure Code* adopted by the National Assembly on May 25, 2006 gives more authority and responsibility to public prosecutors during the investigative phase of the procedure. Under the Code prosecutors decide upon the opening and closing of an investigation, assume most of the prerogatives from the investigative judge, retain decision-making power regarding detention and appeals, and undertake procedural actions.<sup>213</sup> A new *Criminal Procedure Code*, the implementation of which has been postponed until 31 December 2010, includes provisions concerning the manner of cooperation between the police and prosecutors. In particular, it consolidates the leading role of the prosecutor and establishes an obligation for police officers to swiftly inform the prosecutor (and to provide the prosecutor with the collected evidence) about any action undertaken in the pre-investigative phase. (UNODC Focal Point 2009.)

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<sup>213</sup> [http://polis.osce.org/countries/details?item\\_id=46](http://polis.osce.org/countries/details?item_id=46)

## 2.3 Courts

The courts exercising jurisdiction in criminal matters<sup>214</sup> in Serbia are municipal courts (138), district courts (30) and the Supreme Court (GRECO 2005, 11). In addition there are 17 commercial courts and one High Commercial Court (Council of Europe 2006, 10). In 2007, there were 2,506 professional judges sitting in courts in Serbia. (Council of Europe 2007, 16.) According to the *Law on Seats and Territorial Jurisdictions of Courts and Public Prosecutor's Offices*, that will enter into force on January 1, 2010, Serbia will have 45 misdemeanor courts, 34 basic courts, 26 higher courts, 16 commercial courts, 4 appellate courts, 1 High Misdemeanor Court with 3 departments, 1 Administrative Court with 3 departments and 1 Supreme Cassation Court. A specific bylaw establishing clear and objective criteria for the re-election of judges was adopted by the High Court Council. The Venice Commission provided comments on the draft. The criteria that were prepared by a working group consisting of representatives of judges, the Ministry of Justice and experts also received EU technical assistance. Remarks of the Venice Commission were taken into account when the final version of the list of criteria was adopted. (UNODC Focal Point, 2009.)

## 2.4 Specialized units: Anti- Corruption

Serbia participates in the Group of States against Corruption (GRECO) of the Council of Europe which adopted its *Compliance Report on the Republic of Serbia* in 2008. Serbia was given 25 recommendations by GRECO, of which 12 have been implemented. (Presentation of the Ministry of Justice, 2008.) The Serbian National Assembly ratified the United Nations Convention against Corruption in 2005, and the legal framework addressing various forms of corruption has been extended (UNDP 2008, 8). A National Anti-Corruption Strategy was adopted in December 2006 (GRECO 2008, 10). The law establishing an Anti-Corruption Agency, which also contains new rules on conflict of interest, was adopted in October 2008 and entered into force on January 1, 2010. The director and deputy director of the new Anti-Corruption Agency were selected by the Agency Board in July 2009 for a five year mandate. There is an Anti-Corruption Council in Serbia but its role is limited to advising the government. (EU Progress Report 2008, 12–13.) The main responsibility of the Council, as decided by the government at the time of its establishment, is to observe the implementation of anti-corruption measures, to suggest new anti-corruption mechanisms in order to increase the efficiency of anti-corruption policy, to oversee the enforcement of the suggested measures, and to propose bills, programmes and other acts and measures in this field (UNDP 2008, 12).

In November 2005, the Serbian National Assembly adopted the *Law on the State Audit Institution*. The State Audit Institution is in charge of the audit of all public funds, and

<sup>214</sup> These are courts of general jurisdiction, ie. they also deal with civil, administrative etc. cases.

its main responsibilities are designed to enable transparency and integrity of reports on public finances. (UNDP 2008, 34.)

Specialized departments within the prosecution offices have been set up at district level to investigate corruption cases. A Department for Prevention of Corruption and Money-Laundering of the Republican Prosecution Office has been established. In 2007, this anti-corruption department informed all prosecutors' offices about their obligation to inform the unit of all cases which contain certain penal law categories (criminal offences against economy, crimes against official duty, other criminal offences related to breach of integrity, abuse of office, fraud at service and taking or offering bribes). In principle this should constitute a full database of (potential) corruption cases from 2007 onwards. However, only around 30 percent of prosecutor's offices sent reports. (UNODC Focal Point 2009.) The police directorate has established specialized units dealing with corruption and financial investigations. In March 2009 a new Unit for Financial Investigation was established under the Department for the Fight Against Organized Crime and on 1 June 2009 the Director of the Unit was appointed. This Unit currently has jurisdiction for the territory of Belgrade, and will in future have jurisdiction over the whole country. Joint investigation teams of prosecutors and police have been set up. (EU Progress Report 2008, 12–13.) Police officers, prosecutors and judges have attended anti-corruption training sessions and seminars (GRECO 2008, 7).

## 2.5 Specialized units: Organized crime

Serbia ratified the United Nations Convention against Transnational Organized Crime in 2001.<sup>215</sup> Article 112 of the new *Penal Code*, which entered into force on 1 January 2006, defines an organized group as a group consisting of at least three persons who are associated to commit criminal acts. The *Law on the Organization and Jurisdiction of State Institutions in the Fight against Organized Crime* defines organized crime in Article 2 as the committing of criminal acts by an organized criminal group or by another organized group or by their members, for which the sentence is at least 4 years of imprisonment. (UNODC Focal Point, 2009.)

The responsibility for the fight against organized crime in Serbia is shared between the Organized Crime Department within the Ministry of Interior and a number of specialized police departments. New laws on seizure of assets acquired through criminal acts and on criminal liability of legal persons were adopted in October 2008. A national strategy for fighting organized crime and an action plan have not been adopted. Owing to the large number of police departments involved in the fight against organized crime, internal coordination is a challenge. (EU Progress Report 2008, 51–52.)

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<sup>215</sup> [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12&chapter=18&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&lang=en)

## 2.6 Specialized units: Trafficking in persons and smuggling of migrants

Trafficking in human beings was criminalized in 2003 in Serbia. The definition of trafficking in human beings is consistent with Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Serbia's response to UN.GIFT).

The OSCE mission to Serbia, together with governmental and non-governmental organizations dealing with various aspects of trafficking in human beings in Serbia have drafted and negotiated a National Anti-Trafficking in Persons Strategy. After lengthy negotiations and multiple redrafts, the strategy was finally adopted by the government in December 2006. However, the government has yet to begin implementation of the strategy (US Department of State 2008, 223). Furthermore, the post of National Coordinator for combating trafficking in human beings has been vacant since January 2008 (EU Progress Report 2008, 52). The work on drafting the National Action Plan (NAP) to Combat Trafficking in Persons commenced in January 2009. The draft NAP was completed by the Ministry of Interior as of 30 January and has been circulated to other ministries for comments. The finalization of the NAP is expected relatively soon. (OSCE 2009, 1.)

The definition of trafficking in persons, included in the 2000 Palermo Protocol, was the basis for introducing respective domestic criminal legislation. In 2003, the *Serbian Criminal Law* was amended, but the implementation proved complicated as in practice it became applied to both cases of trafficking in persons and cases of migrant smuggling. (OSCE 2009, 1.) The new *Serbian Criminal Code*, which entered into force on January 1, 2006, has legal definitions for human trafficking (Article 388) and smuggling of people (Article 350). (CARPO Situation Report 2006, 101.)

The Agency for Co-ordination of Protection to Trafficking in Human Beings was created as a joint project of the OSCE Mission and the Ministry of Employment, Labour and Social Affairs in 2003. It ensures victims' referral to specialized institutions which offer medical, social, psychological, and legal specialist services in a safe environment. (OSCE 2009, 1.) The agency has received additional financial resources and has launched an awareness raising campaign on national television. It also provides shelter and reintegration programmes for victims. (EU Progress Report 2008, 52.)

## 2.7 Specialized units: Money- laundering and economic crimes

*The Criminal Code of the Republic of Serbia* (Official Gazette of RS, Nos. 85/2005, 88/2005-corrigendum and 107/2005-corrigendum) defines the criminal offence of money-laundering in Article 231: (1) Whoever converts or transfers property while aware that such property originates from a criminal offence, with intent to conceal or

misrepresent the unlawful origin of the property, or conceals and misrepresents facts on the property while aware that such property originates from a criminal offence, or obtains, keeps or uses property with foreknowledge, at the moment of receiving, that such property originates from a criminal offence, shall be punished by imprisonment of six months to five years. Section 2 to 4 of Article 231 specify aggravated circumstances that can lead to an increase in sanctions of between one to ten years imprisonment, while Section 5 stipulations that money and property specified in paragraphs 1 through 4 of Article 231 shall be seized.

The Administration for the Prevention of Money Laundering – an agency within the Ministry of Finance – is responsible for the detection and prevention of money laundering as well as for data collection, analysis, and storage. The Financial Intelligence Unit is responsible for second level control. The Department for the Suppression of Organized Crime is a part of the Criminal Police and operates within the Ministry of Interior. Within the Department's Division for the Suppression of Organized Financial Crime there is a Section for the Prevention of Money Laundering. These issues are also dealt with by municipal branches. In accordance with the Law on the State Security Agency<sup>216</sup>, the Security Information Agency (BIA) also carries out tasks related to counteracting international organized crime. (UNODC Focal Point, 2009; OSCE & UNICRI 2007, 58, 60.)

A National Strategy for the Prevention of Money-Laundering and Financing of Terrorism was adopted by the government in September 2008. The purpose of this Strategy is to provide recommendations for problem solving and enhancement of the existing system based on identification and analyses of the current situation and trends in criminal activities, as well as through the analysis of the legislative, institutional and operative framework for combating money laundering and financing of terrorism. A manual for practitioners was developed and the number of cases being handled has increased. (EU Progress Report 2008, 49–50.)

The Criminal Investigation Directorate has a Specialized Economic Crime Department, and each of the 33 police districts have their own economic crime investigation components (Brunhart & Gavijć 2005, 16). Each department or district collects data and sends it to the Analytics Directorate.

## 2.8 Specialized units: Drugs

The Drug Unit in the Ministry of Interior is the central unit that polices narcotics smuggling and usage of heroin, cocaine, marijuana, and synthetic drugs throughout the territory of Serbia. The Drug Unit is responsible for coordinating cooperation and information exchanges with smaller police units located throughout Serbia as well as with customs officials, the Ministry of Justice and Interpol. Articles 246 and 247 of the

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<sup>216</sup> Official Gazette No. 42/02.



*Criminal Code* regulate countermeasures against drug crimes in Serbia, both for the production, trafficking and usage of narcotics.<sup>217</sup>

The capacities of the Border Police have been strengthened and efforts have been made to improve regional and international cooperation. The Ministry of Health has stepped up its efforts to combat drug abuse in Serbia, mainly through awareness raising campaigns and support programmes for drug addicts. However, neither the National Strategy on preventing drug abuse and reducing supply nor the Action Plan for its implementation have yet been adopted. (EU Progress Report 2008, 50.)

## 2.9 Planned criminal justice reform projects

Judicial reform is underway and systemic laws regulating the judiciary are being revised in Serbia. The *National Judicial Reform Strategy* was adopted by the Serbian National Assembly in May 2006. Its basic objective is to restore public trust in the judicial system by establishing the rule of law and legal certainty. The strategy relies on four key principles: judicial independence, transparency, accountability and efficiency. (National Judicial Reform Strategy 2006, 4.) The four core themes of the reform are: anti-corruption and the fight against organized crime, European integration and visa liberalization process, IT modernization of courts, and improvement of the system for enforcement of penal sanctions. (Presentation of the Ministry of Justice 2009b.)

The judicial reform framework can be divided into 12 fundamental reform goals, three of which fall under each core principle (independence, transparency, accountability, efficiency). These reform goals and their associated initiatives address the main challenges facing the judiciary of Serbia today. The judicial reform framework is summarized in the table below. (National Judicial Reform Strategy 2006, 8–9.)

Independence	Transparency	Accountability	Efficiency
Self-Governing Structure	Open Judicial Selection, Promotion, Discipline and Removal from office	Clear Judicial Productivity & Performance Standards	Improved Access to Justice
Independent Budget Authority	Appropriate Access to Court Records & Proceedings	Effective Case Management	Standardized System for Education & Training
Independent Policy & Rulemaking Authority	Enhanced Public Outreach & Participation	Effective Use of Judicial & Prosecutorial Resources	Modern Court Network

<sup>217</sup> <http://belgrade.usembassy.gov/policy/reports/070305.html>



## 2.10 Asylum

The Office of the High Commissioner for Refugees of the then Socialist Federal Republic of Yugoslavia (SFRY), in agreement with the state authorities, undertook refugee status identification procedures until 1976. From 1976 until the Law on Asylum came into force in April 2008, UNHCR carried out procedures for granting refugee status for refugees originating outside of the countries of the former Yugoslavia.

Since the implementation of the *Law on Asylum*<sup>218</sup> on 1st April 2008, the Asylum Office in the Ministry of Interior has been the designated competent organizational unit for general administrative proceedings in asylum procedures, as well as for further regulations on the movement and residence of foreigners. However, until the Asylum Office is fully established, the Section for Asylum of the Department for Foreigners within the Border Police Directorate implements the procedures and decides on all cases in the first instance. (UNODC Focal Point 2009.)

The Asylum Commission is the second instance body for asylum decisions, composed of a president and eight members appointed by the government for a period of four years, in accordance with Article 20 of the *Law on Asylum*. The Commission is an administrative body. Judicial appeals against its decisions may be lodged at the Supreme Court of Serbia.

The Asylum Centre is an organizational part of the Commissariat for Refugees, the governmental body in charge of providing support (including accommodation and basic living conditions) to asylum seekers pending a final decision on their request for asylum. One or more asylum centres should be established by governmental decision in accordance with Article 21 of the *Law on Asylum*. At the moment one center is operational.

The Border Police Department functions within the Police Directorate of the Ministry of Interior. If a person expresses the intention to apply for asylum – orally or in writing – at the border crossing point or within the territory of the Republic of Serbia, the authorized officer will refer the person to the Asylum Office and/or the Asylum Centre, according to Article 24 of the *Law on Asylum*.

The Ministry of Health provides logistical support, specifically in the form of medical examinations of asylum seekers. The Ministry of Labour and Social Policy is authorized to issue regulations on social benefits for asylum seekers and/or persons granted asylum. The Ministry of Education safeguards the right to free primary and secondary education for asylum seekers.

Other relevant actors include the Ministry of Foreign Affairs (collection of information about the human rights status in the countries of origin of the applicants) and the Ministry for Human and Minority Rights (protection and promotion of human and

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<sup>218</sup> Official Gazette of the Republic of Serbia No. 109/07.

minority rights; monitoring of the compliance of the national legislation with international treaties and other international legal acts on human and minority rights) (National Guidelines<sup>219</sup> 2008, 15).

## 2.11 Migration

The Border Police Department operates within the Police Directorate of the Ministry of Interior. According to Article 10 of the *Law on Police*<sup>220</sup>, the main functions of the Border Police Department are: surveillance and protection of the state border, control of crossing the state border as well as additional functions defined by relevant regulations on foreigners. The *Law on Foreigners*<sup>221</sup>, the *Law on the Protection of the State Borders*<sup>222</sup>, and the *Law on Ministries*<sup>223</sup> further regulate the competencies of the ministries and the Ministry of Interior respectively.

The Border Police Department exercises its function through the Section for Borders, the Section for Foreigners, the Section for the Suppression of Trans-border Crime and Criminal Intelligence Activities, the Section for International Cooperation and the On-Duty Operational Centre. On the regional level this function is exercised by regional centres of the border police established for each neighbouring country. On the local level this function is exercised by the border police stations for the control of border crossings and for securing the state borders. Their work is under the umbrella of the regional centres (National Guidelines 2008, 16).

The Commissariat for Refugees is the competent body in charge of refugee status determination concerning refugees from the former SFRY republics, the reception and accommodation of refugees, the coordination of refugee aid provided by other authorities and organizations in the country and internationally, and for ensuring equitable and timely delivery of such aid founded by the *Law on Refugees*<sup>224</sup>.

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<sup>219</sup> The National Guidelines were produced within the EC AENEAS "Strong institutions and a Unified Approach in the Asylum, Migration and Visa Management in the Western Balkans", with the Swedish Migration Board as the Project coordinator and the Danish Immigration Service, the Norwegian Directorate of Immigration and the International Centre for Migration Policy Development as the project partners. The beneficiary countries were Albania, Bosnia and Herzegovina, FYR Macedonia, Montenegro and Serbia and its activities were carried out during 2007 and 2008. The main outputs of the project are the regional and respective national guidelines for a unified asylum/visa/migration management in the Western Balkans. The inputs for the National guidelines were provided by experts from the institutions involved in the Project's implementation (Ministry of Interior, Ministry of Foreign Affairs, Ministry of Justice, Commissariat for Refugees) and by experts from relevant NGOs (Group 484, European Movement in Serbia), while the general guidelines throughout the process, as well as the actual format of the document were given by experts of the Swedish Migration Board.

<sup>220</sup> Official Gazette of the Republic of Serbia No. 101/05.

<sup>221</sup> Official Gazette of the Republic of Serbia No. 97/08.

<sup>222</sup> Official Gazette of the Republic of Serbia No.97/08.

<sup>223</sup> Official Gazette of the Republic of Serbia No. 65/08.

<sup>224</sup> Official Gazette of the Republic of Serbia No. 18/92 and 45/02.

In December 2008, the government tasked the Commissariat for Refugees to prepare a Draft Migration Management Strategy in cooperation with the relevant ministries, as well as a draft decision on establishing a government coordination body for migration management. Once established, this will be a specialized agency that will assume the leading role in migration management.

## 2.12 Visas

Upon the receipt of applications received abroad, Diplomatic Missions or Consular Posts (DMCP) forward visa applications to the Ministry of Foreign Affairs – Directorate for Consular Affairs. The Ministry of Foreign Affairs forwards the applications to the Border Police Directorate in the Ministry of Interior, which in turn forwards them to the Security and Intelligence Agency (BIA) and the relevant police directorate in the place of residence of the inviting host (a national of the Republic of Serbia). After all necessary security checks through the Security and Intelligence Agency (BIA), as well as the field check-up of the host by the relevant Police Directorate have been carried out, the Border Police Directorate submits an opinion to the Directorate for Consular Affairs (MFA), which in turn informs the DMCP to which the application was originally submitted (National Guidelines 2008, 18). The procedure for obtaining approval of the Ministry of Interior will be further elaborated by a specific regulation in accordance with Article 14 Para 5 of the *Law on Foreigners*. The Minister of the Interior and the Minister of Foreign Affairs are obliged to adopt bylaws in compliance with Article 87 of the *Law on Foreigners*. Preparatory work to be undertaken in this respect includes the analysis of potential migratory flows and the adoption of a preliminary list of countries whose citizens will not be subjected to consultation procedures when applying for a visa.

## 3. Data Availability

### 3.1 Conventional crime<sup>225</sup>

#### 3.1.1 Police data

The Ministry of Interior has a Statistics Department within the Analytics Directorate in charge of collecting data and creating crime statistics reports. These reports are, however, exclusively for internal purposes. The monthly crime statistics reports, or so-called Blue Books, include a wide range of statistical data pertaining to general crime and the public safety situation. The reports contain data on general crime (homicide,

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<sup>225</sup> As defined in the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS), i.e. including homicide, total assault, rape, robbery, total theft, motor vehicle theft, burglary, economic fraud, embezzlement, drug-trafficking and drug-related crime.

assault, rape, robbery, theft, motor-vehicle theft, burglary, economic fraud, and drug-trafficking), public order, traffic safety, fire protection measures, border control and foreigners.

Data related to Organized crime are incorporated in these reports and originate mostly from the Criminal Operational Analysis Unit of the Organized Crime Department, and partly also from regular police units in the country.

With regard to the cooperation between the Statistics Department of the Ministry of Interior and the Statistical Office of the Republic of Serbia, the Statistical Office receives and publishes only data on traffic accidents and fire incidents (total number of accidents/incidents, number of injured persons and casualties). Other data are not generally available to the public as the Law foresees that the police authorities may provide crime statistics only for scientific purposes/research (for example to Universities) upon written request and after permission from the Police Director has been obtained.

### 3.1.2 Prosecution and court data

The Statistical Office of the Republic of Serbia publishes statistical data on the number of minor and adult perpetrators of criminal offences and on perpetrators of economic violations. Data are collected with individual statistical questionnaires, filled in by authorized offices of public prosecutors and regular courts.<sup>226</sup> Data are processed annually, for each calendar year. The data comprise all minor and adult perpetrators of criminal offences (including criminal offences by unknown perpetrators) and perpetrators of economic violations against whom a crime report has been submitted in any office of the public prosecutor and against whom proceedings were conducted in any authorized office of the public prosecutor or court (in addition to statistics on persons, data on cases and offences are also included).<sup>227</sup>

According to the Statistical Office of the Republic of Serbia, there were 101,723 reported adult perpetrators in Serbia in 2008. The number of adult perpetrators reported to the prosecutor is available for the following crimes: common assault, aggravated assault, homicide, rape, robbery, theft, neglect and maltreatment of minors, non-payment of alimony, domestic violence and human trafficking.<sup>228</sup> Data are sent by courts and public prosecutor's offices to the Statistical Bureau: prosecutor's offices provide data on investigation and pre-investigation, and courts provide data on the number of convicted persons (UNODC Focal Point 2009).

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<sup>226</sup> The data only contain persons/cases that were brought forward from the police to the prosecutors, and data on dismissals by public prosecutors (not dismissals by the police).

<sup>227</sup> <http://webrzs.statserb.sr.gov.yu/axd/en/drugastrana.php?Sifra=0012&izbor=metodologija>  
The data is based on output statistics from the police (only suspects against whom proceedings are initiated).

<sup>228</sup> <http://webrzs.statserb.sr.gov.yu/axd/en/drugastrana.php?Sifra=0012&izbor=odel&tab=69>

**Table 1: Extract from the website of the Statistical Office of the Republic of Serbia**

Reported adult perpetrators by sorts of criminal offences		
Year 2008		
Criminal Offences	Number of perpetrators	Percent
TOTAL	101,723	100.0
1. Common assault	2,468	2.4
2. Aggravated assault	1,517	1.5
3. Homicide	...	...
4. Rape	..	...

Source: <http://webrzs.statserb.sr.gov.yu/axd/en/drugastrana.php?Sifra=0012&izbor=odel&tab=69>

The total number of sentenced adult perpetrators in 2008 was 42,138. The number of sentenced adult perpetrators is available for the following crimes: common assault, aggravated assault, homicide, rape, robbery, theft, neglect and maltreatment of minors, non-payment of alimony, domestic violence and human trafficking.<sup>229</sup>

**Table 2: Extract from the website of the Statistical Office of the Republic of Serbia**

Sentenced adult perpetrators by sorts of criminal offences		
Year 2008		
Criminal Offences	Number of perpetrators	Percent
TOTAL	42,138	100.0
1. Common assault	2,050	4.9
2. Aggravated assault	1,008	2.4
3. Homicide	...	...
4. Rape	..	...

Source: <http://webrzs.statserb.sr.gov.yu/axd/en/drugastrana.php?Sifra=0012&izbor=odel&tab=73>

<sup>229</sup> <http://webrzs.statserb.sr.gov.yu/axd/en/drugastrana.php?Sifra=0012&izbor=odel&tab=73>

*The Statistical Yearbook of Serbia 2008* contains information on the administration of justice. Data are published for example on the number of adult perpetrators of criminal offences, pronounced sanctions for adult perpetrators, minor perpetrators of criminal offences, and perpetrators of economic violations.

### 3.1.3 United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS)

Serbia provided information to the tenth United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS) for which the data collection took place in 2008. Serbia provided information on all crimes covered in the survey, except for participation in organized criminal groups. Also the more detailed data, such as the number of crimes at the national level, in the largest city and the number of persons suspected, arrested and cautioned for almost all types of crimes covered in the survey were provided. The number of persons brought into formal contact with the criminal justice system was provided according to sex, age and citizenship. In the Serbian legal system, an adult is a person who is at least 18 years old and a juvenile is a person who has not yet reached the age of 18.

Serbia did not provide figures for prosecution or courts for the tenth UN-CTS.

### 3.1.4 The European Sourcebook

Serbia is not covered in the European Sourcebook data collection.

### 3.1.5 EUROSTAT Crime and Criminal Justice Statistics

As a potential EU candidate country, Serbia participated in the Eurostat data collection on crime and criminal justice statistics for the first time in 2009. Serbia provided figures for the following crimes: total number of crimes recorded by the police, homicide, violent crime (physical assault, robbery, sexual offences), robbery, domestic burglary, theft of a motor vehicle and drug trafficking. (Eurostat 2009.)

Due to different definitions, the figures provided to Eurostat cannot be compared with the figures Serbia provided to the UN-CTS. For example, the number of robberies is 2,970 and 3,686 for the years 2005 and 2006 in the UN Crime Trends Survey, and 23,854 and 23,785 respectively in the Eurostat Crime and Criminal Justice Statistics.

## 3.2 Specific forms of crime

### 3.2.1 Corruption

Corruption continues to be widespread and to pose a serious problem in Serbia. (EU Progress Report 2008, 13; UNDP 2008, 7.) According to Serbia's response to the 10th United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS), there were 681 bribery and/or corruption cases reported to the police in 2005 and 1,813 cases in 2006. According to the *CARPO Situation Report 2006*, there were 18 cases of corruption related to organized crime, committed by 4 organized crime groups consisting of 81 perpetrators in 2003. The report draws the conclusion that there is a large number of unreported cases of corruption in Serbia. (CARPO 2006, 104.) No data could be provided for 2004 and 2005, however, in subsequent years the reporting system significantly improved. In 2006, there were 4 recorded cases of corruption linked to organized crime. Each of the cases was linked to sizeable organized crime groups with 31, 31, 51 and 60 perpetrators, respectively. Furthermore, there were 1,813 charges against 2,556 offenders of crimes of giving and accepting bribes. (CARPO 2007, 41.)

Citizens have very high levels of perception of corruption in Serbia. According to Transparency International's *2009 Global Corruption Barometer*, Serbian citizens rated a number of key institutions around 4 out of 5 on a scale where 1 means 'not at all corrupt' and 5 'extremely corrupt'; the worst rated were political parties, followed closely by the business/private sector, public officials/civil servants and the judiciary. (Transparency International 2009, 29.)

Another survey on citizen confidence in public institutions conducted by the national chapter of Transparency International in Serbia in 2006 shows that "very high" perceptions of corruption exist for the judiciary (37.8 percent), followed by local government authorities (32.2 percent), the parliament (28.7 percent), the government (27.2 percent) and the police (26.1 percent). (Trivunovic et al. 2007, 9.)

Regarding surveys of actual experience of corruption, according to the *Global Corruption Barometer*, in 2009, 20 percent of Serbian citizens reported paying some form of bribe in the previous 12 months. (Transparency International 2009, 32.)

In a survey carried out in 2005 by the Serbian Agency for Small and Medium-Sized Enterprises, 27 per cent of respondents named the judiciary as the largest obstacle for conducting business. The 2005 EBRD-World Bank Business and Enterprises Environment Survey found this figure to be significantly higher: 52 per cent of respondents in 2005, compared to 35 per cent in 2002, confirmed that the judiciary represented a problem. (Devine 2007, 1.)



### 3.2.2 Organized crime

In Serbia, the main areas of detected organized crime are economic crime (38 of 92 cases investigated in 2003), followed by smuggling and trafficking in human beings (27 cases) and drug trafficking (15 cases). Criminal groups can be categorized as rather loose networks and not necessarily hierarchical. Ethnicity or nationality is not relevant as a feature. Following the murder of Prime Minister Djindjic (March 2003), 123 groups with 844 members were identified. In 2004/2005 there was an estimated 62 groups with some 421 members. (Council of Europe 2005, 64.)

### 3.2.3 Trafficking in persons and smuggling of migrants

The prohibition of slavery, servitude and forced labour is stated explicitly in Article 26 of the Serbian Constitution. The *Criminal Code*<sup>230</sup> defines three distinct crimes: human trafficking (Article 388), trafficking in children with the purpose of adoption (Article 389), and establishing slavery relations and transporting people in slavery relations (Article 390). The *Criminal Code of the Republic of Serbia* also features a definition of the criminal act of human smuggling and introduces the crime Illegal Crossing of State Border and Human Smuggling (Article 350).

The cases identified in 2008 confirm the trend of Serbia being a country of origin for trafficking victims, and an increase of children among victims. Out of the 55 cases handled, 37 were qualified as victims of trafficking in human beings and 18 as potential victims. Of these, 30 were children and 25 adults. While sexual exploitation dominates (22 cases), other forms are present – labor exploitation (5), forced begging (5), petty crimes (1), forced marriage (3), and attempted adoption (1). Out of the total, 49 were from Serbia, 2 from the former Yugoslav Republic of Macedonia, 2 from Uzbekistan, and 2 from Moldova. Out of 55, seven were male and 48 female. (OSCE 2009, 2.)

According to Serbia's response to the UN.GIFT, 68 people were brought into initial formal contact with the police and criminal justice system for trafficking in persons offences in 2005 and 50 in 2006. The number of persons convicted for trafficking in human beings was 10 in 2005 and 13 in 2006. Data were not provided on the citizenship, sex or age of the convicted persons. Serbia's response to the UN.GIFT data collection also includes information on the number of victims of human trafficking identified by state authorities. These figures are disaggregated according to the sex, age and citizenship of the victims. There were 54 state identified victims of human trafficking in 2005 and 62 in 2006 in Serbia. (Serbia's response to UN.GIFT questionnaire.)

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<sup>230</sup> Official Gazette of the Republic of Serbia No. 85/2005, 88/2005, 107/2005



According to the Statistical Office of Serbia, 51 adult perpetrators of human trafficking were reported both in 2007 and 2008.<sup>231</sup> The number of sentenced adult perpetrators of human trafficking was 14 in 2007 and 12 in 2008.<sup>232</sup> The figures for 2005 and 2006 are compatible with the figures provided for UN.GIFT.

According to the *CARPO Report*, in 2005, 37 charges were brought against 87 perpetrators for committing 37 offences of smuggling of a total of 219 migrants mainly from Albania, China and Turkey (CARPO Situation Report 2006, 103). According to the CARPO Update report of 2007 (CARPO 2007, 24) there were 37 cases of trafficking in 2006, committed by 77 offenders (however, the same report states that there was no data available for 2005).

According to data provided to the European Commission, in 2006, 37 criminal charges were filed against 84 perpetrators for the offence of trafficking in human beings. By mid 2007, 140 persons suspected of being involved in trafficking of human beings were arrested. Charges have been brought against 79 of them. In 2006, 62 victims of trafficking were offered assistance and 33 were placed in shelter. (Commission of the European Communities 2007, 40.)

In the period from September 2007 to June 2008, out of 41 identified victims of trafficking in human beings, 34 were Serbian citizens, five originated from Bosnia and Herzegovina, one from Romania and one from Ukraine. Temporary residence permits were issued for seven victims of THB in 2007. Police services filed 27 criminal charges of trafficking in human beings against 59 suspects. 53 criminal charges were filed against 88 suspects of illegal state border crossing involving the smuggling of 188 migrants. (Commission of the European Communities 2008, 52.)

According to the *National Guidelines* (2008), in 2007, the Service for Coordination of Protection of Victims of Human Trafficking (a government Service within the Ministry of Labour and Social Policy) identified 60 persons (mostly Serbian nationals) as victims or potential victims of human trafficking (49 victims and 11 potential victims, of which 51 females and 9 males, 26 minors, and 34 adults). In the first seven months of 2008, the service identified 30 persons of whom 21 were considered victims and 9 potential victims of human trafficking, of whom 26 were Serbian nationals, 1 Macedonian, 1 Moldovan, 2 Uzbeks. 26 were females, and 4 males, 12 minors, and 18 adults. In 2007, 34 criminal charges were brought against 74 perpetrators, and in the first half of 2008, 18 criminal charges were brought against 41 perpetrators for the criminal act of human trafficking.

The 2007 *ICMPD Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe* presents the following information:

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<sup>231</sup> <http://webrzs.statserb.sr.gov.yu/axd/en/drugastrana.php?Sifra=0012&izbor=odel&tab=69>

<sup>232</sup> <http://webrzs.statserb.sr.gov.yu/axd/en/drugastrana.php?Sifra=0012&izbor=odel&tab=73>

In 2006, 434 persons were detected when being smuggled into Serbia (343 in 2007)

- In 2006, 186 persons were apprehended for migrant smuggling (152 in 2007)
- In 2006, 56 persons were trafficked into Serbia (96 in 2007)
- In 2006, 77 persons were apprehended for human trafficking (74 in 2007).

### 3.2.4 Economic crime and money- laundering

According to the Ministry of Interior, 12,069 economic crimes were reported to the police in 2004 and 13,143 in 2005 (OSCE & UNICRI 2007, 9). On the other hand, according to the Customs Administration, there were 14,700 economic crime reports in 2004 (OSCE & UNICRI 2007, 38). These figures do not correspond due to different data collection methodologies used by the Customs Administration and the Ministry of Interior. The Ministry of Interior follows the *Criminal Code* definitions while the Customs Administration follows the *Law on Misdemeanors*. The Administration for the Prevention of Money-Laundering has their own statistics on money-laundering and economic crimes. (UNODC Focal Point 2009.)

In 2005, the Public Prosecutor's Office received 249 charges of tax evasion. It is not known whether these numbers concern suspected persons or cases, which can contain more suspects. It is also pointed out in the report by OSCE and UNICRI (2007) that there are discrepancies between the databases of the tax police and the Public Prosecutor's Office. The databases of the Public Prosecutor's Office and the courts are also not congruent. (OSCE & UNICRI 2007, 44–45.)<sup>233</sup>

### 3.2.5 Drug- related crimes

From January to June 2008, Serbian authorities seized 350 kg of heroin, 15 kg of cocaine and 1,000 kg of marijuana. Over 4,000 criminal charges have been filed in relation to drug offences<sup>234</sup>, compared to 5,151 in 2007. (EU Progress Report 2008, 50.) According to Serbia's response to the 10th UN Crime Trends Survey, 4,968 drug trafficking crimes were reported to the police in 2005, and 4,839 in 2006.

The Drug Unit in the Ministry of Interior collects statistics on the number of seizures, and on the number of arrested, suspected and convicted persons (UNODC Focal Point 2009).

<sup>233</sup> This difference is again caused by a difference in methodology. The tax police counts an act as a criminal act as soon as they discover it and do not wait for the classification of the public prosecutor. However, the Public Prosecutor can classify the same act as some other crime, or decide that there is not enough evidence and therefore define the act as a misdemeanor. (UNODC Focal Point 2009.)

<sup>234</sup> The police statistics do not include drug possession, only trafficking, smuggling and selling.

### 3.3 Survey- based statistics

According to the *EU Progress Report on Serbia* (2008), Serbia has made some progress in the area of statistics. Cooperation and coordination of the statistical system between public data producers in Serbia has improved. The resource situation has improved slightly and the 2008 budget for the Serbian Statistical Office has increased. However, the available funding is not yet sufficient to cover all planned activities. The new law on statistics was adopted on 16 December 2009 (Official Journal RS 104/2009). A new 5 year Programme of Statistical Research 2011–2015 is currently prepared.

Several pilot surveys have been carried out and some results published. For demographic and social statistics a labour cost pilot survey was conducted. The labour force survey methodology was revised. (EU Progress Report 2008, 47.)

The WHO Multi-country *Study on Women's Health and Domestic Violence against Women* was carried out in the Serbian capital, Belgrade in 2003. The study involved interviews with 1,456 women aged between 15 and 49 years and was conducted by the Autonomous Women's Center in Belgrade. According to this study, 23 percent of ever-partnered Serbian and Montenegrin women reported having experienced physical violence, and 6 percent reported having experienced sexual violence by an intimate partner.<sup>235</sup>

Gallup recently launched a multi-year survey project, *The Balkan Monitor*. The first round of the survey was carried out in October 2008, covering the complete Western Balkan region. 1,000 respondents were interviewed face-to-face in each of the seven countries.<sup>236</sup> In Serbia, the army was the most trusted institution after the religious institutions in the country. (Gallup 2008, 27.) Among officials, police officers were reported to be asking for a bribe most frequently (more than half of all bribes (54 percent) were paid to police officers) followed by personnel from the medical services. (Gallup 2008, 30.)

The UNICEF developed *Multiple Indicator Cluster Survey (MICS)* is a household survey programme which was carried out in Serbia in 2005. The survey monitors human development in general and the situation of children and women in particular, and it includes questions on attitudes towards domestic violence among other things. The study was financed by UNICEF, SIDA and OECD and carried out by the UN, the Statistical Office of the Republic of Serbia and Strategic Marketing, a private market and opinion research agency.<sup>237</sup>

The Institute for Criminological and Sociological Research (IKSI) was set up in 1971 as the result of a merger between the Institute for Criminological and Criminal Research

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<sup>235</sup> [http://www.who.int/gender/violence/who\\_multicountry\\_study/fact\\_sheets/SerbiaandMontenegro.pdf](http://www.who.int/gender/violence/who_multicountry_study/fact_sheets/SerbiaandMontenegro.pdf)

<sup>236</sup> <http://www.balkan-monitor.eu/>

<sup>237</sup> [http://www.unicefshopserbia.org/MICS3\\_Serbia/survey0/overview.html](http://www.unicefshopserbia.org/MICS3_Serbia/survey0/overview.html)

(established in 1960) and the Institute for Sociological Research (1961). It has 39 full-time staff and is state-owned.<sup>238</sup> IKSI carried out the international crime victimization survey (ICVS) in the capital city of Belgrade in 1996, involving 1,094 face-to-face interviews.

The Victimology Society of Serbia is a non-profit, non-governmental organization, founded in 1997. It aims at uniting academics and professionals interested in victimology and protection of victims of crime. The main fields of research, expert work and education of the Victimology Society are: domestic violence, trafficking in human beings, women's crime, women in prison, violence against women in war, war victimization, truth and reconciliation, victim support services and rehabilitation.<sup>239</sup>

There are several private market and opinion research agencies operating in Serbia such as Mark-plan, Argument, Scan, Strategic Marketing, Center for Policy Study and Faktor Plus. Most of them carry out public opinion surveys for clients in Serbia and abroad.

### 3.4 Data on asylum

Some data in English and in Serbian language can be found on the homepages of the relevant authorities, specifically of the Commissariat for Refugees. The *National Guidelines* contain data on asylum applications submitted from April until August 2008, due to the fact that the application of the *Law on Asylum* came into force only on April 1, 2008.

**Table 3: Extract from Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe in 2007**

Number of persons claiming asylum		
	Claimed in 2006	Claimed in 2007
<b>At the border</b>	8	0
<b>Inland</b>	36	66
<b>Total</b>	44	66

Source: Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe in 2007.

The UNHCR statistical yearbook contains some data on asylum and refugees.

<sup>238</sup> <http://www.cee-socialscience.net/archive/serbia-montenegro/index.html>

<sup>239</sup> <http://www.vds.org.yu/indexe.html>

### 3.5 Data on visas

No data in English or in Serbian language could be found on the homepages of the relevant authorities. The *National Guidelines* contain data on the total number of visas issued and rejected in 2007.

### 3.6 Data on migration

No data in English or in Serbian language could be found on the homepages of the relevant authorities. The *National Guidelines* contain an overview on migration data (legal and illegal) in 2007.

**Table 4: Extract from Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe in 2007**

Number of persons legally crossing the border including foreigners and citizens of Serbia		
	2006	2007
Entry	19.437.870	21.698.688
Exit	18.468.372	21.231.083
Total	37.906.242	42.929.771

Source: Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe in 2007.

The Republic of Serbia contributes regularly to the compilation of the *Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe*, published by the International Centre for Migration Policy Development (ICMPD), by sharing data on the number of persons legally crossing the border, the number of persons claiming asylum, the number of persons whose asylum claims were accepted, the number of migration related border apprehensions, the number of minors apprehended at the border due to border violation, the number of migration related apprehensions by place, the number of migration related apprehensions by border section, the number of smugglers in humans apprehended, the number of smugglers in humans apprehended by nationality, and the number of traffickers in humans apprehended (by nationality). All these data include foreigners as well as citizens of Serbia. In addition data are provided on the number of persons rejected at the border by top nationalities/citizenship and persons to whom residence was refused.

The publication *Migration in Serbia: A Country Profile 2008* prepared by the International Organization for Migration<sup>240</sup> points to the lack of adequate statistical resources on measuring migration in Serbia.

## 4. Outline of data collection systems

Most information on crime in Serbia is provided by the Statistical Office of the Republic of Serbia. According to an OSCE report on policing in Serbia (2005), the Serbian police service has a centralized system to collect and process statistics. The different directorates and units report their statistics to the Analytics Directorate in the Ministry of Interior (which functions as a single information system), which are then compiled to give an overall picture of trends in crime. However, these reports are for internal use only. Different authorities have their own criteria for collecting and processing statistics and these are not standardized. (Brunhart & Gajić 2005, 15.) According to the key informants interviewed for the SEESAC study, in 2006 some data were still processed manually, while some data were entered electronically into databases by police officers. Currently, however, all data are entered electronically (UNODC Focal Point 2009).

The Ministry of Justice collects statistical and other data on the work of the judicial administration, including data on the administration and development of the judicial information system. In more than half of the courts, an electronic data base of jurisprudence is used. Electronic files and the case registration system are used in less than half of the courts. (Council of Europe 2007, 18–19.) There is a regular monitoring system for the number of incoming cases, the number of decisions and the number of postponed cases in Serbia. In collaboration with the Supreme Court of Serbia, the Ministry of Justice has developed a matrix for reporting by municipal and district courts. (Ibid., 19–20.)

Though the Anti-Corruption Agency of Serbia has not yet been established, planning for its substantive functions has commenced. These will include among other things managing the register of public officials, managing the register of property and revenues of public officials, keeping special records in accordance with the Law, organizing research, monitoring and analysing statistics and other data on corruption. (Presentation of the Ministry of Justice 2008.) It is noted in the *Strategy to Combat Trafficking in Human Beings in the Republic of Serbia* that no integrated system for collecting data on victims of trafficking exists.

Judicial reform is underway in Serbia. One of the aims of the reform was to improve data collection by establishing an automatic case management system in all first instance commercial courts in the country. In addition, 19 district courts were computerized with up-to-date equipment. By March 2009, both of these goals had

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<sup>240</sup> <http://publications.iom.int/bookstore/free/Serbia.pdf>

been accomplished. A Draft Strategy for introducing an e-justice system has been planned but has yet to be developed (Ministry of Justice 2009b.).

The Ministry of Interior keeps records on registered foreigners, persons seeking asylum in the Republic of Serbia, persons who have been granted refugee status or persons granted subsidiary protection, persons granted temporary protection, persons whose movement has been restricted, temporarily seized foreign identification papers and identification papers issued in accordance with Article 64 Para 1 of the *Law on Asylum*.

The Border Police Department at the Ministry of Interior has established and now maintains sixteen electronic databases on migration statistics, according to Article 78 of the *Law on Foreigners*. Pursuant to Article 79 of the *Law on Foreigners*, these data, along with the data kept by the Ministry of Foreign Affairs, are entered in the central data base of the Ministry of Interior. These data can be used by authorized police officers in the Ministry as well as by authorized civil servants of the Ministry of Foreign Affairs and Diplomatic and Consular Missions.

## Conclusions

In Serbia different authorities have different criteria for collecting and processing statistics and these are not standardized. It is stated in the *EU Progress Report 2006* that data collection is insufficient at least in the following fields: child trafficking, child labour, sexual exploitation of adolescents, drug seizures, organized crime, and terrorism suspects (EU Progress Report 2006, 17, 50, 51, 52). However, the National Judicial Reform aims at improving criminal justice data collection in Serbia. For example, one of the reforms planned for the years 2006–2007 was that Supreme Court decisions would be scanned into a database, with access provided to judges, the media, and the public (National Judicial Reform Strategy 2006, 14). At the same time, a single mechanism for recording all judicial system complaints would be established, and new judicial automatic productivity data systems would be tested in commercial and general jurisdiction courts (*ibid.*, 14, 15). While commercial courts now have an automatic productivity data system, courts of general jurisdiction are still in the process of receiving the system. For 2008–2009 there are plans for initiating a uniform data collection system throughout all courts, with training for court staff (*ibid.*, 15). So far, this has been introduced in 50 percent of the courts by the Ministry of Justice (UNODC Focal Point 2009).



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# The Former Yugoslav Republic of Macedonia (FYROM)

## Outline of the criminal justice system, asylum/visa/migration system and its actors

Institution	Relevant departments/ subdivisions	Existing data availability
<b>Ministry of Interior</b>	<ul style="list-style-type: none"> <li>Bureau for Public Security/Sector for Analytical Research and Documentation</li> <li>Department for fight against organized crime</li> <li>Sector for trafficking in human beings and smuggling of migrants with two units 1) section for trafficking in human beings and prostitution and 2) section for smuggling of migrants and forged documents</li> <li>Section dealing with drugs</li> </ul>	<ul style="list-style-type: none"> <li>General crime data</li> <li>Data on organized crime</li> <li>Data on corruption</li> <li>Data on TIP, SM</li> <li>Limited data on money laundering and financing of terrorism</li> <li>Data on charges for drug trafficking, seizures of illicit drugs</li> </ul>
<b>Ministry of Interior</b>	<ul style="list-style-type: none"> <li>The Section for Foreigners and Readmission</li> <li>The Section for Asylum under the Department for Civil Affairs</li> <li>Anti-Trafficking National Coordinating Office</li> </ul>	<ul style="list-style-type: none"> <li>Data on foreign citizens, migration, asylum</li> <li>Number of victims of TIP, prosecutions, convictions for TIP</li> </ul>
<b>Public Prosecutor's Office</b>	<ul style="list-style-type: none"> <li>Office of the Public Prosecutor</li> <li>Prosecution Office for Organized Crime and Corruption</li> </ul>	<ul style="list-style-type: none"> <li>Data on cases recorded</li> <li>Data on persons prosecuted and convicted, length of pre-trial detention and sentences</li> <li>Data on corruption, economic crime, TIP, SM, organized crime</li> </ul>
<b>Ministry of Justice</b>	<ul style="list-style-type: none"> <li>Administrative Office</li> </ul>	<ul style="list-style-type: none"> <li>Data on completed cases and decisions by different level of courts, length of sentences</li> <li>Data on corruption, economic crime, TIP, SM, OC</li> </ul>
<b>Ministry of Finance</b>	<ul style="list-style-type: none"> <li>Office for prevention of money laundering and financing of terrorism</li> </ul>	<ul style="list-style-type: none"> <li>Reports of suspicious transactions sent to the investigating and prosecuting authorities</li> <li>Reports resulting in enforcement action</li> </ul>
<b>State Commission for Prevention of Corruption</b>	<ul style="list-style-type: none"> <li>7 members appointed by the Parliament</li> </ul>	<ul style="list-style-type: none"> <li>Data on acts of corruption acted upon by the commission</li> </ul>
<b>State Statistical Offices (SSO)</b>	<ul style="list-style-type: none"> <li>Sector for Social Statistics/ Department of public statistics and the Judiciary</li> </ul>	<ul style="list-style-type: none"> <li>Data on reported, prosecuted and convicted perpetrators</li> <li>Migration data</li> </ul>

# 1. Short background

The Former Yugoslav Republic of Macedonia (FYROM<sup>241</sup>) is a constitutional parliamentary democracy with a population of 2 million. The country has a large Albanian minority which constitutes about 25 percent of the population. FYROM declared independence in 1991 after a referendum where the majority of voters called for independence from Yugoslavia. A large part of the country's ethnic Albanian and ethnic Serb communities, however, boycotted the referendum. The constitution was adopted in 1991 and the last units of the Yugoslav National Army withdrew in 1992. For about a decade FYROM was relatively peaceful until the Kosovo conflict in 1999 exacerbated the situation in neighbouring ex-Yugoslavia and caused a wave of refugees from Kosovo to FYROM. The FYROM crisis began in 2001 when a campaign for the liberation of ethnic Albanian territory and equal rights for the Albanian minority was started by the National Liberation Army. The President of FYROM appealed to NATO for assistance in ending the conflict and as a result, a month-long operation was carried out by NATO to disarm rebels. The signing of the Ohrid Framework Agreement between the Government and ethnic Albanian representatives in August 2001 marked the end of the crisis. The Ohrid Agreement outlines the principles of establishing ethnic and minority rights, as well as the decentralisation of the administration. In 2004 legislation was approved that redrew local boundaries and gave ethnic Albanians greater local autonomy in areas where they predominate. In terms of decentralization, the law on regional development entered into force on 1 January 2008, and regional development councils have been set up for all eight regions (EU Progress Report 2008, 10).<sup>242</sup>

FYROM signed the Stabilisation and Accession Agreement with the EU in 2001 and became an EU candidate in December 2005. The updated Accession Partnership, in preparation of further integration with the European Union, was adopted in 2008.<sup>243</sup>

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<sup>241</sup> FYROM is the provisional name of the country under which it was admitted to the United Nations in 1993. The provisional name is also agreed in the Interim Accord signed between Greece and FYROM in 1995. The Government, however, officially refers to the Republic of Macedonia. Due to the ongoing conflict with Greece regarding the historical name and territory of Macedonia, FYROM is the name most commonly used by the international community. The country is referred to as FYROM throughout this profile.

<sup>242</sup> General references: BBC. [http://news.bbc.co.uk/2/hi/europe/country\\_profiles/1067125.stm#facts](http://news.bbc.co.uk/2/hi/europe/country_profiles/1067125.stm#facts). South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC) (2004, 4–7).

<sup>243</sup> <http://www.delmkd.ec.europa.eu/en/bilateral-relations/Accession%20Partnership%20in%20OJEU%20190308.pdf>

## 2. Criminal justice actors

### 2.1 Law Enforcement

#### 2.1.1. Police

Police work is conducted by the Bureau for Public Security, as a body within the Ministry of Interior. The Bureau is responsible for conceptual planning, monitoring and analysing of security and all matters that threaten public security. They also coordinate and supervise the work of the police organizational units and collect, process and analyse data relevant to the work of the police. Within the Bureau there is a Sector for Analytical Research and Documentation of Data, which is responsible for all data collection, analysis, and documentation. The functions of the police are based on the *Law on Police* (Official Gazette of RM 114/2006). The structure of the police is prescribed in the chapter "Organization of the police." The structure is based on the de-concentration principle, abandoning the previous centralized model of police organization (Ministry of Justice 2007a, 18.)

The *Law on Police* entered into force in November 2007. With the adoption of the law, police reform has progressed substantially. The *EU Progress Report* notes that advances have been made especially on the decentralisation of the police with the appointment of eight regional commanders, and the selection, in consultation with municipal councils, of all 38 local police station commanders. The new rule book, which is a key piece of implementing legislation, has been adopted and the relevant training has been delivered country-wide. Furthermore, the strategic agreement with EUROPOL entered into force in March 2008. (EU Progress Report 2008, 11; 63.) The agreement aims to enhance cooperation to fight serious forms of international crime including among others, drug trafficking, money laundering and illegal immigration.<sup>244</sup>

In 2006, there were 9,782 police officers in FYROM. (FYROM's response to the 10<sup>th</sup> United Nations Survey of Crime Trends and Operations of Criminal Justice Systems<sup>245</sup>.)

### 2.2 Prosecution

The Public Prosecutor's Office is a single and autonomous state body responsible for prosecuting the perpetrators of criminal and other legally defined punishable offences. The function of the public prosecution is carried out by the Public Prosecutor and the public prosecutors. Under the existing law 22 basic public prosecutor's offices and 4 higher public prosecutor's offices are set up for the areas of the first instance courts. The *Law on the Council of Public Prosecutors* of 2007 has reinforced the autonomy of

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<sup>244</sup> <http://www.europol.europa.eu/index.asp?page=news&news=pr080918.htm>

<sup>245</sup> Referred as UN-CTS in short.

the public prosecution through redefinition of the system for the election and discharge of public prosecutors (Ministry of Justice 2007b, 12.)

The *Law on the Public Prosecutor's Office* was adopted at the end of 2007. According to the new law, public prosecutors now have increased competences in leading and coordinating the pre-investigative procedure: they can request staff to be assigned from other law enforcement agencies, and can act on behalf of the Ministry of Interior, Financial Police and the Customs Administration if these bodies fail to act on matters within their competence. (EU Progress Report 2008, 56.)

The State Public Prosecutor (6-year term renewable once) is appointed by the Parliament. The public prosecutors are selected and appointed by the Council of Public Prosecutors. The new Council of Public Prosecutors has been fully operational since August 2008 and has 11 members selected for four years. (Ibid.)

## 2.3 Courts

The *Law on Courts*<sup>246</sup> outlines the structure, obligations and composition of the judicial branch of FYROM. The judicial branch consists of the Basic Courts, Courts of Appeals, the Administrative Court, and the Supreme Court. There are 27 basic courts. They are established as courts with basic competence and courts with extended competence. The courts of appeal are second instance courts. They are competent to decide on the appeals against the decisions made by the basic courts. Currently there are 4 courts of appeal: Skopje, Stip, Bitola and Gostivar. The Supreme Court, based in Skopje, executes judicial power on the entire territory of the country. (Law on Courts; Ministry of Justice 2007, 16–17; Ministry of Justice 2007b, 11–12.)

The Judicial Council is an autonomous and independent body of the judiciary that ensures and guarantees the autonomy and independence of the judicial branch. Currently the total judicial branch consists of 629 judges<sup>247</sup>, and in addition, of 1,811 civil servants and 330 public servants. (Ministry of Justice 2007b, 11–12.)

## 2.4 Specialized units: Anti-Corruption

The Former Yugoslav Republic of Macedonia participates in the Group of States against Corruption (GRECO) of the Council of Europe and has undergone both of the two evaluation rounds (carried out in 2002 and 2004). In October 2007, GRECO adopted its second compliance report on FYROM. According to the EU, two thirds of GRECO's second round recommendations have been implemented, and those outstanding are in the process of being implemented (EU Progress Report 2008, 58.) In addition, FYROM

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<sup>246</sup> Official Gazette of RM 58/2006.

<sup>247</sup> According to the UN-CTS, there were 602 professional judges in 2006 and 619 in 2005.

is part of the Regional Anticorruption Initiative (RAI) of the Regional Cooperation Council (RCC), which succeeded the Stability Pact for South Eastern Europe.<sup>248</sup>

The Former Yugoslav Republic of Macedonia has signed several international conventions on anti-corruption measures. The *Law on the Prevention of Corruption* was adopted in 2002. In the same year, a State Commission for Prevention of Corruption was created. It consists of 7 members appointed by the Parliament. (State Commission for the Prevention of Corruption 2009, 8.) Also the adoption of the National Programme against Corruption and the State programme for Prevention and Repression of Corruption have been important milestones in the fight against corruption. (CARPO<sup>249</sup> 2006, 119.) The latest State Program for Prevention and Repression of Corruption and Action Plan cover the years 2007–2011 (State Commission for the Prevention of Corruption 2009, 12).

The corruptive crimes include offences such as violation of official position, taking or giving a bribe, illegal mediation, revealing and illegally obtaining an official secret, bribe during elections and voting, and some other criminal offences that refer to economic crimes. (Ibid.)

The *Law on Criminal Procedure* has been amended to permit the use of special investigation measures for corruption cases. Also the *Law on the Prevention of Corruption* has been amended to allow the State Anti-Corruption Commission (SACC) to publish the asset declarations of all appointed and elected officials, directors of public enterprises, public institutions or other legal entities with state-owned capital, without a letter signed by the person concerned authorizing the SACC to do so. Further, the 2008 supplementary budget introduced specific budget lines for anti-corruption activities in line with the anti-corruption Action Plan, for a total of € 1.5 million. (EU Progress Report 2008, 58–59.)

## 2.5 Specialized units: Organized crime

Within the police, Central police services are established to perform tasks related to fighting organized crime, crime techniques and tasks supporting the execution of other complex tasks. A Special Department for the Fight against Organized Crime is officially responsible for preventing and discovering “*criminal acts committed by a group of at least three persons which have been active for a certain period of time with the objective of gaining direct or indirect financial or other benefits, as well as for other types of criminal acts for which the law prescribes a sentence of at least four years.*” This Department also performs tasks related to trans-national crime and “*groups that use violence and other types of pressure to enter legal economic activities and commit*

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<sup>248</sup> <http://www.rai-see.org/home.html>

<sup>249</sup> The CARPO Project (“Development of reliable and functioning policing systems, and enhancing combating of main criminal activities and police cooperation”) is a technical cooperation project jointly funded by the Council of Europe and the European Union.



*corrupt acts*” in order to achieve profit easier and avoid prosecution. (Ministry of Justice 2007a, 19.) However, there is no definition of organized crime *per se* in the law.

In five basic courts, specialized court divisions competent to try offences from the field of organized crime are set up (Ministry of Justice 2007b, 12). Based on the *Law on the Public Prosecutor's Office* there is a new Prosecution Office for Organized Crime and Corruption, headed by the Public Prosecutor for Organized Crime (UNODC Focal Point 2009). The Unit is ready to act in front of the relevant courts on the entire territory of FYROM. The basic public prosecution is responsible to inform the Public Prosecutor as soon as they find out that a criminal act has been committed which falls within the area of organized crime and corruption, while the Public Prosecutor will decide on the necessary measures. The basic public prosecutors are also under an obligation to cooperate with the Unit and to assist the work of its members, if necessary. (Ministry of Justice 2007a, 18.)

There is an Action Plan for the fight against organized crime and the measures in it are currently being implemented. The *Law on Criminal Procedure* was amended in 2008. The use of special investigative measures is now allowed not only for crimes committed by organized groups, but also for crimes punishable by at least four years of imprisonment (Law on Criminal Procedure, Art. 142-6). According to the EU, this will close the gap in the law with regard to the use of special investigative measures for corruption-related crimes, including monitoring of communications. (EU Progress Report 2008, 64.)

## 2.6 Specialized units: Trafficking in persons and smuggling of migrants

Trafficking in persons (TIP) is criminalized in FYROM. The definition of TIP offences is consistent with Article 3 of the UN Protocol. Legal protection, temporary stay permits, medical and psychosocial support and housing exist to support victims of TIP. The National Commission for Combating Trafficking in Human Beings and Illegal Migration was established in 2001, and the following year the Government enacted the first National Programme for combating these phenomena. Central police services have a department for organized crime, under which a sector for trafficking in human beings and smuggling of migrants operates. This sector has two units: section for trafficking in human beings and prostitution and section for smuggling of migrants and forged documents. (FYROM's UN.GIFT response 2008.)

The National Referral Mechanism for victims of trafficking in human beings (NRM) was established in 2005 within the Ministry of Labor and Social Policy. The main task of the NRM is to coordinate the activities with NGOs and handle the referral of victims of human trafficking, who are citizens of Macedonia. (Ibid.) The Anti-Trafficking National Coordinating Office within the Ministry of Interior was opened in 2007 (US Department of State 2008, 170).

In January 2008 the *Criminal Code* was changed to introduce harsher penalties for traffickers and those using services of trafficking victims. New standard operating procedures on victim identification were also adopted and resulted in an increase in the number of victims identified. There were also improvements in cooperation between the police, the public prosecutors and the courts. (EU Progress Report 2008, 64.) Parliament adopted the *Law on the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings* in April 2009 (European Stability Initiative 2009, 25).

## 2.7 Specialized units: Money- laundering and economic crimes

The Office for prevention of money laundering and financing of terrorism<sup>250</sup> was first established at the end of 2001. The Office is responsible for financial monitoring, i.e. following the money trail and preventing illegal money from entering legal financial flows, as well as detecting and preventing the financing of terrorism. In January 2008, the institution acquired the status of a legal entity in the frame of the Ministry of Finance of the Republic of Macedonia.<sup>251</sup> The Office operates several IT applications for easier analysis of suspicious transactions and has direct access to the databases of some public institutions. The Office carries out international cooperation with other financial intelligence units. (EU Progress Report 2008, 33–34.) The Office also belongs to the EGMONT group, which is an informal international gathering of financial intelligence units.<sup>252</sup>

In 2005, a National Strategy for Prevention of Money Laundering and Financing Terrorism was adopted. On the basis of this strategy, also a Council for Combating Money Laundering and Financing Terrorism was established. (Council of Europe 2008, 7.) The *Law on Prevention of Money Laundering and Financing of Terrorism* was amended in 2008. The law included, for the first time, provisions on the financing of terrorism and on international cooperation. (EU Progress Report 2008, 33–34.)

The FYROM system has been evaluated by the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) in 2000, 2003 and 2008.<sup>253</sup>

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<sup>250</sup> <http://www.usppft.gov.mk/?q=node/91>

<sup>251</sup> <http://www.usppft.gov.mk/?q=node/91>

<sup>252</sup> <http://www.egmontgroup.org/>

<sup>253</sup> [http://www.coe.int/t/dghl/monitoring/moneyval/About/MK\\_en.asp](http://www.coe.int/t/dghl/monitoring/moneyval/About/MK_en.asp)

## 2.8 Specialized units: Drugs

The Former Yugoslav Republic of Macedonia lies at the crossroads of many Balkan drug trafficking routes. The country largely fulfils the EU *acquis* requirements concerning drugs. FYROM's National Anti-drug Strategy was approved in 2006 and has been followed by the government's adoption of a National Action Plan 2008–2012 for implementing the strategy. The national drug strategy is in line with the EU drug strategy for 2005–12, and the related action plans are gradually being implemented. The Inter-ministerial Commission for Narcotic Drugs has been established and within the Ministry of Interior there is a specific section dealing with drugs. FYROM reported growing numbers of seizures of illicit substances in 2008. (EU Progress Report 2008, 65; US Department of State 2009.) The new *Law for the Control of Narcotic Drugs and Psychotropic Substances*<sup>254</sup> was adopted in 2008.

## 2.9 Planned criminal justice reform projects

The Government adopted the Strategy for the reform of the judicial system in November 2004. The Strategy complements efforts to reform executive power, public administration, as well as the reform of local self-government in line with economic reform. The two key areas are to strengthen the independence of the judicial system and increase its efficiency. (Reform of the Judicial System in the Republic of Macedonia 2005, 2.) In line with this strategy, new laws on Courts, the Judicial Council, Misdemeanours and Administrative Disputes were adopted in 2006 (EU Progress Report 2006, 45).

In line with the reform strategy, the Judicial Council is now complete and key legislation – the *Law on the Public Prosecutor's Office* and the *Law on the Council of Public Prosecutors* – have been enacted. Also the new Administrative Court and the new Court of Appeal in Gostivar were set up. However, further strengthening of the judiciary is required especially as regards the budgetary framework, human resources and efficiency. The EU notes that despite of improvements, the judiciary remains weak, and delivery and enforcement of court decisions is deficient. (EU Progress Report 2008, 57–59.)

It is also acknowledged in the strategy paper of the Ministry of Justice on the Reform of the Criminal Legislature that the Macedonian legal and criminal system is in a state of permanent crisis. “*The crisis does not only entail protracted and inefficient judicial procedures, but also articulates a general lack of trust in the quality and predictability of the judiciary, which causes erosion of the entire legal order. The sense of crisis is further enhanced by the inability of the judiciary to cope with typical transitional problems in the last fifteen years, such as: corruption, organized crime, providing legal security and protection of human rights and freedoms.*” (Ministry of Justice 2007a, 7.)

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<sup>254</sup> Official Gazette 103/08

The strategy also highlights the need to change the entire structure of the criminal procedure in order to make the *Criminal Code* compatible with European standards to combat organized crime (ibid., 7).

## 2.10 Asylum

The Section for Asylum within the Ministry of Interior (MOI) is part of the Department for Civil Affairs under the central police services. The Head of Section is responsible for asylum decisions in the first instance, laws and amendments to laws and rulebooks, manuals and instructive acts, as well as the drafting of asylum policy. The Chief Inspector, as well as Independent Inspectors and Senior Inspectors are responsible for conducting the procedure related to asylum applications and the preparation of decisions. An Independent Inspector is responsible for collecting country of origin information (COI) for new asylum applications. Senior Administrators are responsible for keeping archives and records (National Guidelines 2008, 17).

A Reception Centre for asylum seekers was built in 2008. In 2008, the Centre accommodated 23 asylum-seekers (National Guidelines 2008, 19). 30 Centres for Social Work all across FYROM provide social services to recognised refugees as well as victims of trafficking in persons and victims of domestic violence (National Guidelines 2008, 20).

## 2.11 Migration

The Sector for the European Union within the Ministry of Interior was set up in order to develop the FYROM legislation in accordance with EU legislation. The Sector cooperates closely with the Sector for Legal Affairs and Human Resources (National Guidelines 2008, 14).

Regional Centres under the Bureau for Public Security within the Ministry of Interior are also responsible for migration issues. At the regional level the Bureau for Public Security operates in the field of migration through its four Regional Centres. In the field of legal migration sections, units and inspectors for foreigners and readmission act upon applications for temporary and permanent residence and visas, conduct checks, bring criminal and misdemeanour charges, issue residence permits, travel documents for foreigners, control the movement of foreigners, conduct procedures for expulsion, conduct procedures for readmission and keep records of foreigners (National Guidelines 2008, 18). In the field of illegal migration, the sections for illegal migration and prevention in all regional centres are responsible for establishing the nationalities of foreigners who entered without or with forged or stolen documents, for transferring them to Reception Centres, and for collecting information on illegal migration, particularly on smuggling in persons and TIP. (Ibid., 19.)

A Section for Foreigners and Readmission under the Sector for Border Affairs and Migration within the Ministry of Interior also exists. The police advisors within the Section for Foreigners and Readmission conduct procedures for temporary and permanent residence permits, give consent for issuing visas, process complaints and grievances by foreigners, conduct checks, keep records of the undertaken measures and co-operate with the correctional or penal institutions in accordance with the *Law on Foreigners*. (Ibid., 18)

The Section for Asylum, Migration and Humanitarian Aid within the Ministry of Labour and Social Policy was established in 2005 and aims at supporting the improvement of the status and the rights of refugees and foreigners in the former Yugoslav Republic of Macedonia (ibid., 19).

## 2.12 Visas

The Diplomatic Missions and Consular Posts (DMCPs) under the Ministry of Foreign Affairs (MFA) receive applications for visa and temporary residence permits.

The Visa Centre within the Ministry of Foreign Affairs (MFA) is also responsible for visa issues. Employees of the Visa Centre with the authorisation to decide about issuance and denial of visa may request additional applicant checking at the Mol, and approve or disapprove the issuance of visas, based on the results. The Visa Centre is responsible for updating the N-VIS database with the relevant information (National Guidelines 2008, 22). The N-VIS includes personal data like the passport number of the applicant, the registry of previous visa applications, the status of the visa application and, if applicable, results of additional checks on the applicant requested by the Visa Officer upon his/her discretion.

The Department of Foreigners within the Ministry of Interior is authorised to view requests for additional applicant checking, entering the results into the N-VIS database, and updating the Mol part of the N-VIS database of persons for whom additional checking is required (ibid., 23).

## 3. Data Availability

### 3.1 Conventional crime<sup>255</sup>

#### 3.1.1 Police data

The State Statistical Office has published a report<sup>256</sup> on *Perpetrators of Criminal Offences*<sup>257</sup> annually since 1996. The latest comprehensive report was published in 2009. The typology of crime categories used is based on Penal Code categories. The publication includes figures on reported adult perpetrators<sup>258</sup> by type of criminal offences in 1998–2007. The numbers are represented per higher category as below.

**Table 1: Extract from SSO Statistics on Perpetrators of Crime**

Reported Adult Perpetrators by Type of Criminal Offence			
Crimes against...	Year 2005	Year 2006	Year 2007
life and body	899	943	958
freedoms and rights of humans and citizens	234	232	277
sexual freedom and sexual morality	106	87	85
property	..	..	..

Source: Criminal Perpetrators 2008, 2007 and 2006 published by SSO.

More specific tables include the reported perpetrators by type of criminal offence, decision and sex. These tables include figures for specific crimes like murder in 2007. For example, there were 76 murders in 2007, with 69 perpetrators identified including one female. 10 complaints were dismissed, 6 investigations were suspended and 3 were halted, 50 indictments were made and 7 perpetrators were unidentified. This level of detail is available on all crimes, but many of the columns are left open. (State Statistical Office 2008.)

<sup>255</sup> As defined in the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS), i.e. including homicide, total assault, rape, robbery, total theft, motor vehicle theft, burglary, economic fraud, embezzlement, drug-trafficking and drug-related crime.

<sup>256</sup> [http://www.stat.gov.mk/english/ZaNas\\_eng.asp](http://www.stat.gov.mk/english/ZaNas_eng.asp)

<sup>257</sup> The document includes some methodological explanations and some definitions but the metadata do not cover all terms used in the publication. There is no reference to counting rules in the publication.

<sup>258</sup> Adult perpetrators of crime are defined as "persons who have committed crime and who while committing the crime have reached 18 years of age, and have committed the crime as: executor, accomplice, initiator or assistant." (State Statistical Office 2008, 10).

There are some differences regarding data provided by the SSO and Ministry of Interior. The explanation to this difference is that the State Statistical Office gets data from prosecution and courts, and counts the number of judged cases and not the actual number of crimes (e.g. murders) that happened that year. However, the Ministry of Interior data refer to the actual number of murders, not the number of judged cases. (UNODC Focal Point 2009.)

In terms of methodology the reports refer to the type of crime, place of the deed, sex, use of weapons by type and motives. More detailed statistics are available in other publications from the Ministry of Interior.

### 3.1.2 Prosecution and court data

The Sector for Social Statistics within the State Statistical Office has a Department that deals with public statistics and the Judiciary. The SSO publications on perpetrators of criminal offences in 2006–2008 contain prosecution and court data. The tables include for example the total numbers of reported adult perpetrators by type of decision and sex in 1998–2007. The numbers are represented per higher category.

**Table 2: Extract from SSO Statistics on Perpetrators of Crime**

Convicted Adult Perpetrators by Type of Criminal Offence			
Crimes against...	Year 2005	Year 2006	Year 2007
life and body	857	828	835
freedoms and rights of humans and citizens	127	109	173
sexual freedom and sexual morality	91	89	92
property	..	..	..

Source: Criminal Perpetrators 2008, 2007 and 2006 published by SSO.

Quite specialized data are available on the duration of detention of the perpetrators, including on the number of persons in pre-trial detention and the length of pre-trial detention. Similarly, quite detailed information is also available on convicted perpetrators and the length of sentences and the amount of fines they have received. (State Statistical Office 2008). Tables are also available on the ethnic affiliation of the perpetrators with the subcategories of Macedonians, Albanians, Romas, Turks, Serbs, Bosniacs, Other, and Unknown. The number of females is reported separately. (State Statistical Office 2008.)

Also the number of accused perpetrators by type of criminal offence in 1998–2007 is available. These tables contain the following sub-categories: accused persons, females

and convicted persons. Regarding persons not convicted, the following is recorded: investigations terminated, charge dropped, charge rejected and security measures. Tables are also available on joint perpetrations and the number of perpetrators, perpetrators' education level, occupation etc. Separate tables are also available on juvenile perpetrators. (Ibid.)

### 3.1.3 United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS)

FYROM provided data for the 10<sup>th</sup> United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS), covering the years 2005 and 2006. Their reply covers all crimes in the survey. Information on all crimes except for assaults is provided at the national level, in the largest city and on the total number of persons suspected, arrested and cautioned. The number of persons brought into formal contact with the criminal justice system is provided for adults, juveniles and citizens of other countries. These figures are not reported according to the sex of the person. Adults are defined as persons who are more than 18 years of age. Juveniles are divided into children (up to 14 years of age), younger juveniles (14–16 years) and older juveniles (16–18 years). All persons who are not citizens of the Republic of Macedonia are considered as citizens of other countries.

Regarding prosecution data, FYROM reports data according to the sex and age (adult or juvenile) of persons prosecuted. Adult is defined as a person who has reached the age of 18 when committing the crime. Juvenile is a person who has reached the age of 14 but is younger than 18 years old when committing the crime. Information on prosecuted citizens of other countries is not available.

Regarding court data, FYROM notes that the number of persons convicted in criminal courts is recorded according to the sex and age of the person convicted. Adults and juveniles are defined the same way as in prosecution statistics. Information on the citizens of other countries who have been convicted in FYROM is not available.

### 3.1.4 The European Sourcebook

FYROM was not covered in the European Sourcebook.

### 3.1.5 EUROSTAT Crime and Criminal Justice Statistics

FYROM participates in the Eurostat data collection efforts in the field of crime and criminal justice. The figures include the total number of crimes recorded, homicide, violent crime, robbery, domestic burglary, motor vehicle theft and drug trafficking. (Eurostat 2009.)



## 3.2 Specific forms of crime

### 3.2.1 Corruption

In 2004, the police recorded 536 corruption-related crimes with 664 perpetrators. Cases related to the abuse of official position account for the clear majority of the cases followed by passive and active bribery cases. (CARPO 2006, 119.)

The *Perpetrators of Criminal Offences in 2007 Yearbook* includes the overall figures on crimes against official duty in 1998–2007.<sup>259</sup> The trend concerning crimes against official duty is increasing, as the figures were much lower at the end of the 1990s and the beginning of the 2000s. (State Statistical Office 2008, 14.)

According to FYROM's response to the 10<sup>th</sup> United Nations Survey of Crime Trends and Operations of Criminal Justice Systems, there were 19 cases of corruption in 2005 and 10 cases in 2006. The number covers only detected cases of active and passive bribery. (FYROM's response to UN-CTS.) The State Commission for Prevention of Corruption acted on a total of 713 cases in 2008. These included 567 corruption cases with 767 received complainants; 29 cases of conflict of interest, and 44 worked cases; and 117 election-related cases (State Commission for the Prevention of Corruption 2009, 6).

The *Public Opinion on Corruption in the Republic of Macedonia* study by the Institute for Sociological, Political and Legal Research in Skopje shows that respondents ranked the judiciary as the second most corrupted institution after the customs administration. The fight against corruption was thought to be insufficient and citizens were pessimistic about the possibility of eliminating corruption altogether in the country. (Institute for Sociological, Political and Legal Research 2006.)

Citizens have quite high levels of perception of corruption also according to Transparency International's *2009 Global Corruption Barometer*. The Macedonian citizens rated a number of key institutions around 3,5 and 4 out of 5 on a scale where 1 means 'not at all corrupt' and 5 'extremely corrupt'; the worst rated was the judiciary with a score of 4.2. (Transparency International 2009, 29.)

### 3.2.2 Organized crime

In 2005, 20 organized crime groups were reported to operate in FYROM by the Ministry of Interior. The groups were mainly involved in drugs crime, and the smuggling of migrants, cigarettes, weapons and luxury motor vehicles. The groups usually consist of

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<sup>259</sup> Criminal deeds against official duty are defined as: actions violating the duty towards the state, the duty towards the work as a part of the state functions, and has been conducted while carrying out an official function by the official duty person.

5-30 persons and have an internal hierarchical structure and division of labour. (CARPO 2006, 113.)

The EU reports that the capacity of and cooperation between law enforcement agencies and watchdog bodies has continued to strengthen. Increased coordination in investigations has led to some high-profile cases of organized crime/corruption being pursued. (EU Progress Report 2008, 59.) According to FYROM's response to CTS-10, there were 293 offences recorded under participation in organized crime groups in 2005, while the figure was 223 in 2006.

### 3.2.3 Trafficking in persons and smuggling of migrants

In 2007, the government prosecuted 55 cases related to trafficking in persons and convicted 70 traffickers involved in 30 cases, compared with 54 convictions in 18 cases in 2006 (EU Progress Report 2008, 64). According to the FYROM's response to UN.GIFT, 4 persons were charged and convicted for trafficking in persons in 2007, while 27 persons were charged of "Organization of a group and urging for committing the crimes of human trafficking, trafficking in a minor and smuggling of migrants" in 2007. (FYROM's UN.GIFT response 2008.)<sup>260</sup>

The number of victims of trafficking increased considerably in 2007 as 249 victims were identified compared to 17 victims in 2006 (US Department of State 2008, 169). With the exception of 2003, when the Ministry of Interior identified 132 victims, the figures of identified victims provided to the UN.GIFT data collection are much lower. For example, 3 victims were identified by the Ministry of Interior in 2005, 4 in 2006 and 6 in 2007. (UNODC 2009.) The data provided by the Ministry of Interior appear more correct, as the problem of the data stems from problems of definition.

As regards the smuggling of migrants and other related crime, in 2007 the border police detected 1,085 illegal crossings (compared with 3,302 over the previous reporting period) and prevented 1,919 illegal attempts to cross the green border.<sup>261</sup> (EU Progress Report 2008, 62). According to FYROM's response to CTS-10, there were 35 recorded offences of smuggling in migrants in 2005 and 23 offences in 2006. These figures match the data provided to the UN.GIFT data collection. In 2007, 32 criminal charges for smuggling of migrants were made and the number of charged persons was 64. (FYROM's UN.GIFT response 2008.)

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<sup>260</sup> The difference in these figures could be explained by a problem of definition and lack of expertise of the person providing the information. There might for instance be one act of trafficking but with four perpetrators, of which some were charged with trafficking some with smuggling. In addition, some cases are filed under organized crime and not under trafficking, which creates a problem, because it could be both. (UNODC Focal Point 2009.)

<sup>261</sup> "Detected" refers to persons who already crossed the border while "prevented" refers to persons discovered while crossing the border.

### 3.2.4 Economic crime and money- laundering

The Office for Prevention of Money Laundering and Financing of Terrorism is responsible for monitoring money-laundering and other economic crimes. Its role is however, purely analytical. According to the EU Progress Report, there has been a slight increase in the number and quality of reports of suspicious transactions sent to the investigating and prosecuting authorities. However, between October 2007 and October 2008 only two reports, out of 13 reports and 18 notifications on other criminal acts sent by the Office to the investigating and prosecuting authorities resulted in enforcement action. (EU Progress Report 2008, 33–34.)

It is mentioned in the *MONEYVAL Evaluation Report* that statistics on money-laundering are of a very weak quality in Macedonia. Apart from some basic data kept by the Customs and the Financial police which can serve as a basis to produce statistics, and the limited statistics from the Ministry of Interior and the Office for the Prevention of Money Laundering and Financing of Terrorism, no authority keeps comprehensive and detailed statistics on money laundering investigations, prosecutions and convictions. (Council of Europe 2008, 15.)

The *Perpetrators of Criminal Offences in 2007 Yearbook* includes the overall figures on crimes against public finances, payment operations and the economy in 1998-2007. The figure has remained quite steady during that period. In 2006, 599 perpetrators of crimes against public finances, payment operations and the economy were reported, while the figure was 569 in 2007. When looking at statistics on the specific crime of money-laundering, it must be noted that reported numbers are very low: 3 cases in 2007 and 3 cases in 2006. (State Statistical Offices 2008, 19; UNODC Focal Point 2009.) However, there seems to be a problem with the methodology and how to define/qualify the acts of economic crime, especially money-laundering. There is a need to standardize the qualification of economic crimes and to ensure a common understanding and communication between the actors gathering data.

### 3.2.5 Drug- related crimes

According to the 2006 *CARPO Report*, a total of 292 criminal acts of “illegal production and distribution of narcotic drugs, psychotropic substances and precursors” with 355 perpetrators have been uncovered and investigated (CARPO 2006, 114). According to FYROM’s response to CTS-10, there were 98 cases of drug trafficking in 2005 and 54 cases in 2006.

The 2009 *International Narcotics Control Strategy Report* (INCSR) by the US Department of State refers to statistics by the Ministry of Interior of Macedonia according to which “in the first nine months of 2008, criminal charges were brought against 268 persons (326 for Jan-Sept 2007), including eight (13 for Jan-Sept 2007) juveniles and one police officer. Those charges involved 221 actual cases of illicit drug trafficking, including 13 in the largest prison in the country, or a total of 61 cases

*fewer than in the same period of 2007. In 2008, police seizures of illicit drugs were significantly lower than in the previous year.*" (US Department of State 2009.)

The 2009 INCSR also refers to data on drug seizures as provided by the Ministry of Interior on quantities of drugs and psychotropic substances seized in the first nine months of 2008 (2007 figures are also Jan-Sept):

- Cocaine: 176 grams (compared to 486 kg in 2007)
- Heroin: 26.1 kilograms (60 kg in 2007);
- Marijuana: 10.6 kg (208 kg in 2007);
- Cannabis: 268 plants (4,413 plants the previous year);
- Hashish: 30 grams (851 grams in 2007);
- Raw opium: 12.2 grams (one kg opium seized in 2007);
- Ecstasy: 290 pills (1,862 pills seized in 2007)
- Morphine; 12.1 kg

(US Department of State 2009.)

### 3.3 Survey- based statistics

South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC) conducted a SALW (Small Arms and Light Weapons) survey in Macedonia in 2004. All together, twelve participatory focus group interviews were held in nine cities throughout Macedonia, a 1,157-person household survey was carried out, and interviews with officials and citizens were conducted to gauge Macedonian perceptions on gun availability and use, the security environment, security providers, and the upcoming weapons collection initiative. The practicalities of these surveys and interviews were handled by the Institute for Democracy, Solidarity and Civil Society (IDSCS) in Skopje, which also analysed and represented the findings. The main perception of Macedonians seems to be that SALW are a pervasive aspect of the society and those charged with controlling them are inept, thus causing individuals to feel increasingly responsible for their own security. (SEESAC 2004.)

Also the Institute for Sociological, Political and Legal Research in Skopje has done research on public opinion related to corruption. All together, 1,600 people were surveyed. Two sets of questionnaires were used: a questionnaire for citizens who stated that they were victims of corruption, and a questionnaire on general perceptions on corruption. Four focus group interviews were conducted with judges, public administration staff, healthcare staff, and professors from state universities. Also twenty interviews were made with owners of middle, small and medium sized private enterprises.

Gallup recently launched a multi-year survey project *the Balkan Monitor*. The first round of the survey was carried out in October 2008, covering the complete Western Balkan region. 1,000 respondents were interviewed face-to-face in each of the seven

countries.<sup>262</sup> In Macedonia, the army was the most trusted institution after the religious institutions in the country. (Gallup 2008, 27.) Macedonia was the only country where those who agreed that their government was doing enough to fight organized crime outnumbered those who felt the opposite (49 percent vs. 35 percent). The survey results indicated that corruption was seen as a problem across all of the Western Balkan countries. For example, 94 percent of respondents in Macedonia said that corruption should be eliminated in order to stabilise the region and facilitate future development. (Gallup 2008, 7, 30.)

The last round of the International Crime Victimization Survey was carried out in Macedonia in 1996. The survey involved face-to-face interviews with 700 persons in the capital city Skopje and found an overall one-year crime victimization rate of 21%, which was relatively low compared to other countries in transition.

### 3.4 Data on asylum

Asylum decisions in the first instance are taken by the Section for Asylum under the Department for Civil Affairs under the Central Police Services within the Ministry of Interior. No published data on asylum applications and decisions could be found except a publication by UNHCR, which quotes the number of asylum seekers with pending decisions to be 100 in 2007.

### 3.5 Data on visas

The Visa Centre within the Ministry of Foreign Affairs (MFA) is responsible for updating the N-VIS database with the relevant information. The Department of Foreigners within the Ministry of Interior is also authorised to access and to update the Ministry of Interior part of this database. No published information on visa issues could be located.

### 3.6 Data on migration

The State Statistical Office (SSO) produces estimates of international migration flows, which are based on statistical paper forms provided by the Ministry of Interior on a monthly basis and entered in an electronic database. Due to the under-declaration of emigration, the numbers are, however, underestimated (Poulin and Perrin, February 2008, 36).

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<sup>262</sup> <http://www.balkan-monitor.eu/>

The publication *Macedonia in Figures 2008* reports data on immigrated citizens of the FYR of Macedonia, immigrated foreigners, emigrated citizens of the FYR of Macedonia and emigrated foreigners for the years 1997, 2001 and 2007.

**Table 3: Extract from SSO Statistics on Migration**

Migration Data, Macedonia in Figures 2008			
	Year 1997	Year 2001	2007
Immigrated citizens of FYROM	739	458	366
Immigrated foreigners	556	727	861
Emigrated citizens of FYROM	254	312	224
Emigrated foreigners	28	191	16

Source: <http://www.stat.gov.mk/Publikacii/MacedoniaInFigures%202008.pdf>

Another source of information is data on residence permits from the Ministry of Interior. Breakdowns are available according to whether the permits were first-time permits or extensions of existing permits and whether they allowed only temporary residence or permanent residence in the country.

**Table 4: Extract from National Guidelines – residence permits**

Foreigners with residence permits in Macedonia			
Year	Number of foreigners with temp. residence	Number of foreigners with permanent residence	Total
2006	9,200	479	9,679
2007	..	..	..

Source: National Guidelines 2008.

## 4. Outline of data collection systems

Most information on crime in FYROM is dealt with by the police, the Ministries of Interior and Justice, and the State Statistical Office. The government of FYROM adopted a five-year statistical programme for 2008–2012 covering the national statistical system (Statistical Programme 2008–2012). Law enforcement institutes gather data using a statistical questionnaire which is filled in by the front line police officers and clerks in all police stations around the country and sent to the Statistical

Office.<sup>263</sup> These forms are filled in manually (form 1979) with regard to suicides, deaths by accident and similar issues and electronically only with respect to general information, such as the type of crime, number of deeds and number of perpetrators (more detailed information on this form is available upon request) (UNODC Focal Point 2009). The forms are standardized to reflect the definitions and approaches of the Penal Code.

Crime statistics provided by the State Statistical Office are based on data gathered by regular statistical surveys on perpetrators of criminal offences. Data are collected by individual statistical questionnaires filled in by public prosecution offices and courts of the first instance and data processing is done at the SSO. (State Statistical Office 2008, 10.) Data are gathered from all municipalities on the perpetrators of criminal offences as to their sex, age (adult or juvenile), the time and place of the offence, previous convictions, ethnicity and education, and period of detentions and proceedings. (Ibid., 45–46.)

The Ministry of Justice plans to introduce a computerized case management system in all the courts. One of the cornerstones of the reform strategy is to increase the efficacy of justice, but also the improvement of statistics is mentioned as one of the aims of the Strategy. (Ministry of Justice 2007b.) The Development of the software application JIS (Judicial Information System) for a case tracking system is on-going (Council of Europe 2007, 24). The *Law on Information Management* which is important for the implementation of JIS is currently in Parliament for discussion. Also a new on-going project entitled the National Intelligence Database aims at establishing a national system for intelligence data exchange with appropriate legal and technical solutions. (UNODC Focal Point 2009.)

The Government has a coordination centre connected to the Ministry of Interior with representatives from the Border Police, Customs and the Ministry of Finance, focusing on uncovering acts of organized crime. Organized crime is also included in the common Ministry of Interior database created by the Sector of Analytical Research and Documentation. (EU Progress Report 2008, 59, 64–65; UNODC Focal Point 2009.) It is mentioned in the *MONEYVAL Evaluation Report* that statistics on money-laundering are of a weak quality in FYROM and that no common database exists on the matter. (Council of Europe 2008, 15.)

Regarding data collection on asylum, the Ministry of Interior is responsible for the granting or refusal of protection statuses, and the Ministry of Labour is responsible for the care and accommodation of refugees. The currently available database does not allow the production of statistical data. However, it allows the identification of asylum seekers and their family members, including historical information on their asylum application (Poulain and Perrin 2008, 33). There is no cooperation between the Section

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<sup>263</sup> Communication is through the Sector for analytics research and documentation (UNODC Focal Point 2009).



for Asylum and the SSO, and thus the information for this Section goes only to the Sector for Analytical Research and Documentation within the Ministry of Interior.

Both the Ministry of Foreign Affairs and the Ministry of Interior have responsibilities and access rights regarding the Visa Information System. Regarding migration data collection, the Section for Foreigners and Readmission within the Ministry of Interior delivers a weekly activity report to the Sector for Analytical Research and Documentation for analysis and processing (National Guidelines 2008, 15). The report contains information on the number of entries, number of expelled, number of requested permits of temporary stay, number of given visas, number of refused visa, number of permanent stay requests.

The Ministry of Interior maintains a Citizens Registration Database and is also responsible for civil registration and the management of applications and acquisitions of citizenship. The SSO receives statistical paper forms for every vital event, such as births, deaths, marriages and divorces from the relevant municipalities and, in case of internal migration, both from the municipality of origin and destination. The envisaged development of an electronic exchange of data on foreigners is still under evaluation. A recent government decision foresees the transfer of the civil registration to the Ministry of Justice (Poulain and Perrin 2008, 31).

## Conclusions

FYROM systematically collects data on crime and very detailed information is available especially in the crime statistics collected by prosecution and courts. Data has been collected since 1996 and the State Statistical Office and the Ministry of Interior have published annual reports containing information on many forms of crime. There is also the *Annual Report of the Public Prosecution* with detailed statistics on prosecution and judicial matters. However, most of the information is only available in hard copies and in Macedonian language.

Corruption seems to be widespread in the country, and especially citizens' trust in the judicial system is low. Therefore, transparency in all the functions of the courts should be encouraged. The court system has been described as ineffective, but reform is currently underway.

Police data collection is largely still manual and electronic information is only available on the type of crime, number of deeds and the number of perpetrators. Questionnaires are still filled in manually. Most of the information on data collection mechanisms is internal, but information is available upon request. There are also several reform efforts underway with regard to crime data collection, including the development of the National Intelligence Database, which started in 2008, and the computerized case management system for courts. There is also new software being developed for foreigners, visa, legal migration, illegal migration, asylum, residence, border crossing, temporary stay and permanent stay.



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