

Fighting Corruption, and the Need for Regional & International Cooperation in Bosnia and Herzegovina

Perspective from:

The Special Department for Organized Crime
(SDOC)

Prosecutor's Office of Bosnia and Herzegovina

Outline:

- SDOC Background
- Overall Goals & Results
- Current Caseload
- Difficulties
- Need for Regional & International Cooperation
- Regional Cooperation / Mutual Legal Assistance Requests: Some Success Stories
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SDOC Background

- Court of BiH & Pros. Office / SDOC- established in 2002 & 2003 by the High Representative
- Main objective - investigate and prosecute serious cases involving organized crime and corruption, as well as complex economic crime cases which affect the territory and economy of Bosnia and Herzegovina

Background cont'd

- Initially, SDOC only had international prosecutors** because it was believed that due to the high profile nature and sensitivity of the types of cases and due to the potential for external pressures that these cases should not be assigned to national prosecutors
- The original strategy underlying SDOC's creation was to have international prosecutors take the lead and investigate and prosecute, and have national prosecutors brought in to co-prosecute.
- This strategy was designed to bring in national legal officers and administrative staff to support these prosecutions as part of our sustainability strategy.

Background cont'd

Currently, SDOC has a staff of around 40+ persons =

- 5* International Prosecutors (incl. Head of SDOC)
- 6* National Prosecutors
- 12 Legal Officers
- 16 National Daktilografs, Case Assistants, & Interns
- 1 National Investigator
- 1 National Economist
- 1 Expert Associate

Overall Goals & Results

- Overarching Goals:

- 1) to support and promote the rule of law within the Bosnian and Herzegovinan justice system, in order to have the confidence of all citizens, which is a prerequisite for a lasting peace; EU Accession
- 2) to build capacity among Bosnia and Herzegovina nationals so that they could investigate and prosecute such cases without the continued assistance of internationals, and
- 3) to help build part of a workable and sustainable justice system while observing and complying with recognized international standards and applicable human rights instruments.

Overall Goals and Results cont'd

- General Obligations:
 - a) Compliance with all Domestic Constitutions and legislation
 - b) Compliance with European Convention on Human Rights (ECHR)
 - c) Compliance with all other applicable foreign treaties, UN Conventions, and Human Rights legislation

Overall Goals & Results cont'd

- Obligations include, inter alia, compliance with UNCAC:
 - a) Take legislative and other measures to prevent and fight Money-Laundering (Article 14(b))
 - b) Take legislative and other measures to fighting bribery of public officials (Article 15)
 - c) Take legislative and other measures to prevent Abuse of Functions by Officials (Article 19)
 - d) Take steps to prevent Obstruction of Justice (Article 25)

Overall Goals and Results cont'd

- Overall Results: we touched the "untouchables"
- **Inv. & Pros. of notorious corrupt officials** (e.g., Jelavić et al., Čović et al, Mandić, Govedarica, Čengić, Ivanić, Fazlić, the Third Entity group)(**UNCAC Article 19**)
- **Inv. & Pros. of infamous Organized Crime figures and others** (e.g., Koblić, Tasovac, "SidOil" group, Dušanić, Dizdarević et al, Dačić bros.)(**UNCAC Article 14(b)**)
- **Observance of / Compliance with all applicable Human Rights Instruments and Conventions***

Overall Goals and Results cont'd

- SDOC Prosecutors were able to obtain Convictions and Prison sentences for important and powerful corrupt figures (sentences, while often not as big as we would have hoped, were not insignificant—and were shocking to those who previously operated with impunity)

- Biggest sentences re Corruption:

Jelavić, fmr. Head of the HVO and FBiH Min. of Defense = 10 years* (Abuse of Office)

Mandic, fmr. Responsible Person from PBSS Bank, fmr. Head of Min. of Interior = 5 years (Abuse of Office)

Overall Goals and Results cont'd

- Other Notable sentences:

- Govedarica, RS Reserves Official = 2 yrs and 2.5 mil. KM fines and restitution (**Abuse of Office**)
- Rupčić & Prce, fmr. Asst. Mins. of FBiH Min. of Defense = 5 yrs ea. (**Abuse of Office**)
- Ivanić, previous (and current) member of RS Gov't = 1.5 yrs* (**Abuse of Office**)
- Koblić, Fraud (posing as Interpol Official) = 1 yr*
- Silajdžija, interference with Maktouf prosecution (Obstruction of Justice) = 1 yr

Overall Goals and Results cont'd

As far as **Fines and Restitution** money are concerned,
from **2003-Present**:

- International Prosecutors obtained Legally Binding Verdicts in the amount of **6,579,251.14 KM**
- International Prosecutors obtained First Instance Verdicts in the amount of **8,648,358.54 KM**
- Bail forfeiture in Jelavić case, in the amount of **500,000 KM**
- TOTAL: **15,727,609.68 KM***

Overall Goals and Results cont'd

OVERALL FINES & RESTITUTION figures
for SDOC 2003 – Present =

22+ Million in KM

Current Caseload

- There are ~500 cases overall; ~200 cases currently assigned to International Prosecutors in SDOC.
- These matters include: those cases which are indicted, about to be indicted, various requests for international cooperation, cross-country inv. operations, matters on appeal, ongoing matters in court, matters to be investigated, matters involving special investigative measures, and more.
- The cases include, inter alia: **Terrorism***, **Terrorist Financing**, **Abuse of Office**, Bribery of Officials, Smuggling in Persons, Tax Evasion, Money Laundering, **Organized Crime**, Illegal Interceding, Counterfeiting of Money, and **Weapons and Drugs Trafficking**.

Current Caseload cont'd

~1/3 of the cases assigned to SDOC =
corruption cases

Overall, SDOC Indicts ~20 - 25 cases a year

>1/3 of indicted cases = corruption cases

Current Caseload cont'd

Recently indicted CORRUPTION cases:

CIPS- Bribery of Officials and Fraud / Creation of False IDs, passports; officials soliciting bribes, preparing false IDs, passports to assist PIFWCs, others (UNCAC Article 15)

Fadil Jaganjac- Abuse of Office, Illegal Interceding, Fraud, Misuse of Personal Data; Head of Field Offices for Airports (SBS), abusing his authorities, hindering his own investigation (UNCAC Article 19)

Edhem Bickcacic & Dragan Covic- Abuse of Office by former FBiH PM and former FBiH Min. of Finance in making decisions allocating funds for flats or rehabilitation of flats (UNCAC Article 19)

Difficulties

- **Manpower:** SDOC has 11 Prosecutors (5* International Prosecutors)
- **Caseload:** SDOC has ~500 cases (~200 assigned to International Prosecutors)
- **Resources are insufficient:** personnel*, office space, technical equipment, storage space for evidence and archived matters, slow translation of documents, witnesses words
- **Under-funding:** to travel, obtain evidence, locate and secure expert assistance
- **Evidence is often somewhere outside BiH,** and we cannot seem to get to it, or get a timely response

Difficulties cont'd

- Cases take ~6mos.* - 2 years to investigate
- Cases then take another ~8mos. – 1 year to litigate at the First Instance level
- Cases then take another ~1 year to go through the Second Instance level

Difficulties cont'd

- Overly restrictive interpretations of the substantive of law (in particular, e.g., refusal to infer intent from strong circumstantial evidence)
- Lack of deterrence in sentencing by Judiciary (meting out light sentences, refusing heavy sentence plea bargains)
- Overturing of First Instance Verdicts**
- The **need to have OVERWHELMING EVIDENCE**
- Not honoring plea bargains; ignoring the facts and law**

INDEPENDENT Judiciary? (UNCAC Articles 11, 19, 25?)

Need for Regional & International Cooperation

Experience has shown we have to go abroad:

- 1) **Documentary Evidence** (e.g., financial, court registration records) are frequently abroad
- 2) **Witnesses** are often outside BiH
- 3) **Suspects** are going / live abroad
- 4) **Background information** on suspects, witnesses (e.g., travel records, passport info, criminal and other background checks)

Need for Regional & International Cooperation cont'd

- **Pros. Office / SDOC receives**
 - a) Informational requests about suspects and witnesses
 - b) Warnings about drug and people trafficking and smuggling
 - c) Requests for Special Investigative Measures (wiretaps, surveillance)
 - d) Requests for tracking persons and shipments

Need for Regional & International Cooperation cont'd

- **If we don't work together:**
 - a) We don't get all the bad guys arrested
 - b) bad feelings develop, mistrust grows—benefiting only the bad guys
 - c) We don't get all the evidence we could get, and the Courts may not be pleased
 - d) We may lose out on getting the People's money back!

Regional Cooperation / Mutual Legal Assistance Requests: Some Success Stories

Croatia- provided information on the Jelavic, et al., Abuse of Office and several People and Drug Trafficking Operations, and Money Laundering cases

- a) SDOC learned of the **bad guys' hideouts**, where their **money** was located;
- b) there was also assistance in determining **where their money came from and went to**..because Government funds were involved!
- c) Wire intercepts have indicated **who** is involved, **when, where** and **how illegal shipments of persons, contraband were executed**
- d) **Financial info** re Money Laundering case (BiH and entity funds being laundered into home, land purchases)

Success Stories cont'd

Serbia- provided:

- a) background information on a **Terrorist suspect** (citizenship, d.o.b., family and criminal background checks, travel records, etc.)
- b) Surveillance, background, and wire intercepts on a **Smuggling in Persons case*** (intercepts included transactional information, extortion information, listings of banks, voice samples of the bad guys for identification; background information included criminal records and operational information about lifestyles, reputations, nicknames, etc.)
- c) **Bio data info** on persons supporting and PIFWCs! **Abuse of Office case**, involving the preparation of false IDs, passports

Success Stories cont'd

Montenegro- provided:

- a) background information on **Corrupt Officials, Drug and Organized Crime suspects** (citizenship, d.o.b., family and criminal background checks, travel records, etc.)
- b) Surveillance, background, and wire intercepts on a **Smuggling in Persons and Narcotics cases** (intercepts included **transactional information, phone listings**, background information included **criminal records and operational information about lifestyles, reputations, nicknames**, etc.)

Success Stories cont'd

Austria- provided:

- a) Assistance in tracking **Drug and People Trafficking** operations
- b) **Background information** on a **Weapons Trafficker** (residency permit, criminal background check, family and occupational history, religious preferences*, travel records, postal records, and bus schedules)
- c) Witness interview assistance in a **Terrorism/Weapons Trafficker case** (to determine financial, background, hobbies, travel info; arousal of family suspicions about the wrongdoer / "free" suspect statements)
- d) **Advice** on how, where, and when to best to interview, possibly extradite the suspect; legal guidance as to relevant Austrian law!

Success Stories cont'd

Germany- provided:

- a) Travel, criminal, and background records on a Weapons and Drug Trafficker cases;
- b) Criminal backgrounds check on suspected Terrorist;
- c) Surveillance information on known associates and meeting place preferences of a suspected group of Terrorists with BiH links
- d) "Free" Suspect statement, as a "piggyback" to their own investigation of the suspect on another matter

Success Stories cont'd

EUPM – can provide:

- a) technical **advice on gathering evidence**
- b) **evaluating evidence and locating an expert (DNA evidence / Zdrale First Degree Murder case)**
- c) can **set up meetings** with various EU countries for cooperation (**Organized Crime / Dačić brothers case!**)
- d) assisting on **cross-country undercover operations** (locating trustworthy, reliable partners) (**Abuse of Office matter**)

Success Stories cont'd

EUFOR – can provide:

- a) **technical advice** (bio/chem. uniforms / **Terrorism case**)
- b) supply **letters that are admissible in court** (e.g., location of LOT Teams, bio/chem. uniforms)(**Terrorism case**)
- c) **Locating evidence, securing locations**—then police can move in! (**Terrorism, Weapons Trafficking case**)
- d) **Background and intelligence info** (**Abuse of Office cases**)

Success Stories cont'd-

USA- provided:

- a) Assistance in obtaining **hotmail, internet account info**
- b) Locating and securing **Banking and financial records**
- c) Locating **experts on Money Laundering, Terrorism**
- d) Setting up **meetings with EU, other countries to facilitate the gathering, locating evidence**

Lessons Learned

- Know your target country's rules for getting assistance!
- If you don't know the rules—get the rules! (get them emailed!)
- **Detail your needs**; be precise, and lay out your case for why
- **Make your requests *early***
- ***Set deadlines, if possible***

Lessons Learned cont'd-

- **Develop contacts**, persons to call on the phone-to process your requests, and have follow-up with
- **You MUST have contact names**, addresses, faxes, phone numbers
- **Get supervisors' names!**
- **FOLLOW UP!**

Lessons Learned cont'd-

- Be quick, willing, and able to process others' requests
- Send letters of thanks!

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