

REGIONAL WORKSHOP

“ENGAGING SEE PARLIAMENTARIANS
IN THE FIGHT AGAINST ORGANISED CRIME”

Tirana, 11-12 April 2006

FIRST DRAFT TOOLKIT
“10 POINTS FOR PARLIAMENTS TO FIGHT ORGANISED CRIME IN SOUTH EASTERN EUROPE”

The development of organised criminal activities in South Eastern Europe (SEE) is an affront to the efforts of the national and international institutions in strengthening the Rule of Law in South Eastern European countries. Furthermore, organised crime hampers the national economic development and the good international financial investment climate for SEE countries. The countries of SEE are recognised as countries of transit, but also countries of origin for organised criminal activities such as, trafficking in human beings, trafficking of drugs, money laundering, bank cards and IDs falsification, weapons and cigarettes smuggling. Even if the countries of SEE are at different stages in their Rule of Law enhancement efforts, the fight against organised crime is a problem for which global solutions need to be found. Besides organised crime trends and actual pending issues, a specific focus further needs to be set on the regional and international approach in fighting organised crime in the perspective of EU integration of each SEE country.

There is a widespread belief that security policy is a “natural” task for the executive as they have the necessary knowledge and can act quickly. Parliaments tend to be regarded as a less suitable institution for dealing with security issues, especially given its often time consuming procedures and lack of full access to the necessary expertise and information. However, as with any other policy area, parliament is entrusted with reviewing and monitoring the executive.

Austrian Cooperation
 **Eastern Europe**

**Supported by funds of the Austrian
East and Development Cooperation**

Developing a specialised knowledge on organised crime fighting issues as a Member of specialised Parliamentary Committee can be seen as a prerequisite in view of further improvement of specialised legislative work. A specialised understanding of the organised crime fighting national and international institutions/organisations can provide a precious basic knowledge of the chain of actors involved in the fight against organised crime. This enables to better understand the consequences of the laws presented for discussion and ratification to the SEE specialised parliamentary committee in each national parliament.

In order to facilitate the practical difficulties faced by the responsible ministries in implementing laws, the Parliaments, in their national legislative power, can support the smooth implementation of the ratified organised crime fighting law by enhancing its oversight capacity. Through its State budget voting power, the national Parliaments in South Eastern Europe have the possibility to, on the one hand: enhance their knowledge on organised crime fighting national and regional issues and on the other hand, provide the necessary budgetary support in terms of technical equipment and staff/personal to the organised crime fighting law. Each Parliamentary State budget allocation can be followed up by a regular reporting mechanism from the responsible Minister to the Parliamentary Assembly for a better control and support of the law implementation.

Parliamentary Chairmen coordinating the fight against organised crime legislative activities in South Eastern European countries are addressing the current status and future plans in control at the legislative level the implementation of their national anti-organised crime strategies. Furthermore heads of permanent parliamentary staff are addressing the issue of implementing the principle of regional ownership in the fight against organised crime by enhancing national parliament capacities to cooperate and coordinate with regional and international partners. In addition Chairmen have provided first inputs for the first draft of the MPs Toolkit with "10 points to fight organised crime in South Eastern Europe".

Point 1 - Parliament's role in the phases of organised crime-fighting policy-making. As far as parliament is concerned, the debate on the organised crime fighting policy should not be a single event but a process developing through all its four phases of development, decision-making, implementation and evaluation. While there should be no interference in the responsibilities of the executive in drawing up and implementing this policy, the process should be transparent and participatory as possible, allowing a proper balance to be reached between all those exerting any kind of influence on it, including the judicial and law enforcement complex and the civil society.

Point 2 – Hearing and reporting mechanisms. In all phases of development, decision-making, implementation and evaluation of an organised crime fighting policy, parliamentarians should thus be able to use the mechanisms available to them for making the executive aware of the organised crime fighting concerns and expectations of the public: oral and written questions, motions, inquiries, select committee hearings, “white papers”, representations to ministers and departments.

Point 3 – Parliament’s role in the phase of legislation development. Development of new national organised crime fighting policy. In all parliamentary systems, parliaments play a limited role in the phase of development of a new organised crime fighting legislation. This task belongs primarily to the competent government department and law enforcement agencies. Yet specialised members of parliamentary committees can play a crucial role in ascertaining that the existing policy meets the people’s needs and aspirations and in requiring its revision if necessary. Its competent committee(s) should be consulted early in the process so as to provide inputs to the policy documents and legislation being prepared. Parliaments should be able to propose changes to the documents presented to it.

Point 4 – Depoliticisation of the debate. Parliaments are reflecting the variety of political visions in the countries by scrutinising policy documents and legislation. Parliaments should relay people’s concerns early in the process, but also secure a more positive atmosphere and debate in parliament when organised crime fighting policy documents and legislation are presented. The highest interest of the nation should transcend the power relations between the majority and the opposition in parliament and should not hinder a democratic reading of the organised crime-fighting document. Organised crime fighting debate should be depoliticised protecting the common and public interest.

Point 5 – Specialised parliamentary work. The Parliament can and should play an important role in the decision-making phase especially as once the organised crime fighting document reaches parliament it becomes “parliament’s property” and direct responsibility. It should thus be given sufficient time to study it in depth and refuse to be rushed through it. The parliament can decide to give its consent to a new policy and legislation proposed by the government or to reject it and suggest changes instead thanks to parliamentary debates.

Point 6 – Budgetary Appropriation. In the decision making phase, parliaments most important influence is usually exerted through budgetary appropriation. This influence is dramatically enhanced when parliament can arrange for its competent committee to hold a separate debate and vote on each organised crime fighting related appropriation as well as on the full security policy budget. Organised crime fighting plans must be defined in time for examination and should have a clear link with budgetary demand.

Point 7 – Raise Public awareness. Parliament can play a crucial role in raising or increasing public support and ensuring the legitimacy of the policy finally adopted by involving the civil society and NGOs in the debate. Transparency in the conduct of parliamentary debates in connection with organised crime fighting issues is thus crucial, and it is extremely important that the public and the media have access to parliament's debates and hearings.

Point 8 – Implementation. Parliament's responsibility with regard to national security does not end with the adoption of a policy document or even the budget; its oversight and audit functions should be rigorously enforced. During the implementation phase, parliament should scrutinise the activities of the government with all the tools at its disposal and with the aid of other monitoring institutions like the national audit office. Parliament can exert influence especially through its decisions on the corresponding budgetary appropriations.

Point 9 – Assessment and lessons learned. In a democratic environment, the government has responsibility for assessing the relevance of its policy and presenting the results of its evaluation to parliament. As far as parliament is concerned, such an assessment includes the auditing of the implementation of the corresponding budgetary appropriations. Even if this represents a delayed assessment, it can always be taken into account in confirming the existing policy and legislation or developing a fresh one.

Point 10 – Regional cooperation. The fight against organised crime is a common problem for which global solutions are needed. Parliaments, its members and administrative expert staff specialised on the organised crime fighting policy and legislation should be able to cooperate freely at the regional southeastern European level and with the European Parliament. Enhancing the regional cooperation capacity of parliaments, members and administrative expert staff through the exchange of best practices and lessons learned should be enabled with the establishment of a network among specialised parliamentary committees.

This seminar is the first one in the framework of two seminars. It takes place in the region in the spring 2006. The second one will take place in the autumn/winter in Brussels.