

4th Meeting of the SEE Prosecutors Advisory Group

December 14-15, 2004
Belgrade – Serbia and Montenegro

MINUTES

The meeting was attended by representatives from Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Former Yugoslav Republic of Macedonia, Moldova, Romania, Serbia and Montenegro, Slovenia, Turkey, the European Judicial Network (EJN), Eurojust, the European Commission, the Stability Pact SPOC Secretariat, the OSCE Mission to Serbia & Montenegro, the SECI Center, and the United States Departments of Justice and State (see Annex 1 – List of participants).

Mr. Jovan Krstic – Deputy General Prosecutor of Serbia – chaired the meeting. According to the agenda, the following matters were discussed:

(I). Opening addresses, made by:

- (a) Deputy Minister of Justice – Mr. Dimitrije Bjelica
- (b) Head of the OSCE Mission to Serbia and Montenegro – Mr. Maurizio Massari
- (c) Welcoming message was addressed on behalf of the Acting Prosecutor General of Serbia, Mr. Slobodan Jankovic
- (d) State Prosecutor of Montenegro – Mrs. Vesna Medenica
- (e) Resident Legal Advisor to the US Embassy in Belgrade Mr. Sam Nazzaro read a statement on behalf of United States Ambassador Michael Polt

The speakers stressed the importance of the SEEPAG as being one of the most significant instruments to facilitate judicial cooperation in the view of maximizing the efficiency of the fight against trans-border crime.

(II). Perspectives for cooperation with other regional Initiatives and EU Observations:

(a) Mrs. Rajka Vlahovic (Eurojust)

The SEEPAG went through significant developments last year. Both SECI Center and the SEEPAG are important regional instruments in combating organized crime. The ways to develop the SEEPAG were recommended in the Assessment Report of the SECI Center's activity made by the EC. Eurojust can contribute by providing expertise to the SEEPAG on how to strategically operate in its relations with the SECI Center by presenting as a model the relations of Eurojust with the other bodies in the EU as well as with other international organizations (Europol and OLAF, as example). Concerning the relations of Eurojust and EJN with SEEPAG, they can be represented at the SEEPAG meetings, but they cannot enter into formal agreements on cooperation with the SEEPAG. The role of the SEEPAG is dual, namely:

- It should develop an institutional relationship with the SECI Center (with an aim to achieve participation of the SEEPAG representatives in the task force operations in a coordinated way and with the involvement of all countries involved in specific case, as well as with an aim of establishing a case monitoring system which would facilitate activities of the SECI Center);
- It should set up judicial cooperation between its members.

The SEEPAG could also contribute to regional harmonization, achieving the model compatible to EU's best practices and standards. The SEEPAG should present its offer for the countries as how it can contribute in to judicial cooperation.

(b) Mr. Angel Galgo – EJN

EJN was created in 1998, having as a basis Recommendation 29 of the Action Plan to Combat Organized Crime of the EU.

EJN's main strength is its flexibility and scope facilitating mutual legal assistance among its members. EJN identifies and puts into direct contact the relevant judicial authorities in its member states. The contact points are nominated by the member countries, which decide on their number and also on the manner of cooperation.

EJN has two requirements for its contact points: 1) they must cover the entire territory of each member country; and 2) they must cover all forms of serious crime. Contact points act as facilitators, intermediaries and coordinators. The meetings of the contact points are very important for the good functioning of EJN; in addition to periodic meetings, other meetings are being organized on different topics, working groups on specific topics, and operational meetings.

The stability of the group is ensured by a secretariat. The secretariat did not exist in the beginning; it was created later within Eurojust, but as an independent unit. The secretariat is essential to the success of EJN, as it facilitates the proper operation of the contact points, organizes meetings, administers the information tools, drafts and plans programs, handles public relations, etc.

Information tools are the second pillar of EJN. Special attention is accorded to updating this information; in this regard, the webpage plays a fundamental role.

In order to be permanently aware of the needs and requirements of the network, an evaluation report is drafted every three years; this is the only way to show that EJN is effective and provides added value to the existing methods.

In this moment, setting up a new legal basis for the EJN can be envisaged. It should reflect current needs of fight against organized crime through direct operational linking of the EJN with other similar networks all over the world.

EJN is ready to offer expertise and assistance to the SEEPAG in developing its working methods.

(c) Mr. Jean Francois Bohnert – Eurojust

The two-fold vision for the SEEPAG should be as described by Ms. Vlahovic. The process of setting up judicial cooperation through a network takes time. This was experienced in the EU countries, which faced the same problems. It took 15 years for Eurojust to set up its law enforcement tools. The process started bilaterally in the early 90's through the exchange of liaison magistrates. The first task for the liaison magistrates was to increase the level of cooperation in cases of minor offenses dealing with letters of request and mutual assistance in order to develop more confidence among countries, and to share expertise. The second step was the setting up of the EJN. At that point the bilateral level was no longer good enough, so that multilateral cooperation was established to deal with letters of request, mutual assistance involving more countries at the same time in more serious and complex cases. During the time the activity of the public prosecutors started to be coordinated, the integrated cooperation was established and the level of crimes addressed was increased.

In the cases when there are no liaison magistrates, EJN is addressed directly and provides information on direct channels (via telephone, fax a/o).

(d) Mr. Hans Rundegren – European Commission

The need to increase and develop the regional and operational cooperation between the prosecutors in the region is one of the EU priorities. There are also under development several regional projects to improve the capacity of police in fighting organized crime.

The EC aims at improving the existing cooperation with the SECI Center and the SEEPAG Initiative. In this respect, the member states are discussing the adoption of a recommendation on this matter having in mind also the SECI Center Evaluation Report. There is a view to include all the SECI Center member states in an assistance program having as priorities the development of specialized prosecution units to fight against corruption.

EC supports the recommendation to build up a regional cooperation network (which was already mentioned in the assessment report) to be further developed.

(e) Mrs. Micol Eminente – European Commission

The SEEPAG is encouraged to become involved in EC projects. There are several ongoing projects, such as:

- the PACO Project (Program against Corruption and Organized Crime in SEE), which is a Council of Europe Project. It started to build up a network of contact points of competent authorities (prosecutors' services working on organized crime matters a/o).
- the CARDS Regional Project on Police, having two components:
 - witness protection, containing common activities at the regional level (study visits a/o)
 - implementation of the Council of Europe Convention on mutual assistance in legal matters (how the national legislations should be modified in this respect to overcome the legal obstacles).

The TAIEX Office within the EC is now available to the Western Balkan countries (and soon will be to Moldova, too) and ready to provide assistance in legal matters.

Regional cooperation represents a priority for the EC; the EC is aiming to make the SEEPAG Initiative and projects sustainable and supports its commitment to fight organized crime and is willing to provide technical assistance in this purpose.

Mrs. Snezana Nenova – Head of the Legal/Internal Department of the SECI Center informed about the Resolution of the Joint Cooperation Committee of the SECI Center taken at the meeting held in October 2004 regarding the Assessment Report of the European Commission in view of implementing the recommendations made in this document.

The representative of Slovenia advised that the PACO Cooperation Manual, which was distributed to the SEEPAG delegates at the meeting, was very useful, especially now that Slovenia joined the EU and cooperates in providing assistance under the CARDS Program. In this respect, Mr. Galgo informed that the creation of a link between the website of EJM and EC – PACO Project will be proposed. Mr. Gavin Corn intervened stressing that the SEEPAG could develop a website with content similar to the EJM's site, that could be linked to EJM site. Mrs. Eminente reported that the PACO Manual is also available on the Internet.

(f) Mr. Mario Thurner –Project Director, CARDS Program

The main goal of the project is to establish independent, reliable and functional judiciary cooperation between the members.

The CARDS partners are Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, and Serbia and Montenegro. The consortium partners are Austria, Bulgaria, Germany, Italy, Romania, Slovenia and the Council of Europe.

The unit coordination is located in Skopje.

The Project's overall objectives are two-folded:

- Contribution to approximation of the legislation, and its enforcement, on the national level
- Defining common benchmarks of functioning of the judiciary on the regional level

The target groups are represented by:

- General public and private sector
- Legal professions (lawyers, notaries a/o)
- Judiciary area
- Judicial administration
- Academic community

The modules of the program are:

- Independency of judiciary: Bulgaria
- Reliability and functioning: Germany
- International and European judicial cooperation: Slovenia
- Introduction to the European law and EU judicial system: Italy.

(III). Combating Financial Crime: Potential for Cooperation/Coordination of the SEEPAG and SECI Center Financial Crime Task Force:

(a) Mrs. Snejana Nenova –Head of the Legal/Internal Department of the SECI Center
Presentation of the SECI Center Financial Crime Task Force:

In September 2001 the JCC adopted at its 10th session the Former Yugoslav Republic of Macedonia proposal for establishment of the Task Force on Financial and Computer Crimes;
First Task Force meeting was held in Skopje during 31.01 – 01.02.2002;

Areas of cooperation:

- Counterfeit currencies;
- Counterfeit payment cards;
- Money laundering;
- Cyber crimes in relation with financial crimes;

Operation “Electronic Fox – E@Fox”:

- Gathering of intelligence and post seizure information about: counterfeit currency and counterfeit payment cards
- Gathering of information about the movement of raw materials used for production of currencies and payment cards

In October 2004 at the 19th meeting JCC took a decision for reorganization of the TFFCC and for specialization in its activities. Five subgroups were established:

- Counterfeit currency, coordinated by FYR of Macedonia;
- Plastic card frauds, coordinated by Romania;
- Cyber-crime, coordinated by Romania;
- Intellectual property theft, coordinated by Bulgaria and
- Money laundering, coordinated Moldova

(b) Mr. Gavin Corn – Resident Legal Advisor to the SECI Center

Mr. Corn provided more details on the SECI Center’s plans to develop the TFFCC. The goal is to create a network of well-trained, well-coordinated financial investigation units, to work closely with Financial Intelligence Units in the region, to pursue investigations in the subcategories above. The SECI Center intends to work closely with partners such as the United States, Italy, and other countries and organizations with experience investigating financial crimes. The support of prosecutors in this initiative is critical as most information relevant to financial investigations can only be obtained from other countries through formal requests for judicial assistance. Mr. Corn suggested the creation of model legal assistance requests or other measures to streamline the process of requesting and providing judicial assistance in this area.

(IV). Panel discussion on particular national models of cooperation between the SEEPAG and the SECI Center:

The chairman proposed as topic for discussion within this item the ways of how to make more active the role of prosecutors in the in the police proceedings, having in mind that this role is still very insignificant.

Mrs. Nenova informed that at the Meeting of Evaluation of “Operation Mirage” (which is an operation belonging to the SECI Task Force on Human Beings Trafficking) each country was invited to nominate a prosecutor as part of the delegation; the SECI Center will continue to advise countries to send prosecutors at the meetings of the task forces.

Mrs. Vesna Medenica, State Prosecutor of Montenegro stressed that the regulations regarding the prosecutors’ activities are different in the countries. The prosecutors should receive information about the on going operations, in cases where the legislation permits that. The SECI Center should transmit such information to both the police and prosecutors’ offices in order to have better coordination of the cases.

The Chairman stressed necessity of prosecutors' participation in the Task Forces.

The Greek representative, Mr. Dimitrios Gizis presented a scheme of cooperation/coordination between the SEEPAG and SECI Center (see Annex 2).

The representative of Bosnia and Herzegovina opined that this kind of scheme cannot be applied because it is not permitted by the actual legislation. More attention should be accorded to the collection and circulation of information and prosecutors should be more active in this field. Fast processing of information is essential for the success of prosecutions.

Mr. Gizis stressed that the essence of the SEEPAG should be in coordinated action of the prosecutors, facilitated by the SECI Center. This would prevent situations where several prosecutions are started in one trans-border case, which impedes the overall success of trans-border operations.

Mr. Corn stressed the importance of identifying what kind of information could be exchanged, and through which mechanisms.

Mr. Gizis opined that informal exchange of information at the initial investigation level, without using the formal mutual legal assistance, could be done in particular cases, but cannot be set up as a general policy of the SEEPAG.

Mr. Mihajlovic highlighted the importance of reacting quickly to particular information requests, which sometimes must be processed in only an hour or two. This is the only way to handle trans-border crime cases.

(V). Adoption and signing ceremony of the General Guidelines of the SEEPAG:

Due to the absence of the Hungarian representative in the SEEPAG, several modifications had to be made on the General Guidelines. To address this issue, an *ad hoc* working group was formed. Participants in this working group were Mr. Mirko Vrtacnik, Ms Elena Dinu, Mr. Dragan Novosel, Mr. Dimitrios Gizis and Mr. Gavin Corn. Adopted modifications are:

- ✓ Wording of Article 1 was modified in order to avoid expression "Member States".
- ✓ Article 15.2 was added to the document in order to clarify that decisions on certain issues will be obligatory for the states participating in the SEEPAG only if they sign such decisions.
- ✓ In Article 18 the last sentence was added stating that the states are bound by the General Guidelines after they sign them.

All the representatives of the countries signed both the General Guidelines and the Recommendation on Establishing the Prosecutorial Focal Points..

(VI). Reports on the organizational structures and financial crime legislation of SEEPAG countries:

National representatives to the SEEPAG reported on the state of affairs in their respective countries in the following fields: organizational structure of the Prosecutor Offices, Prosecutors' competence, international legal assistance and cooperation. They also informed participants on laws that address issues of organized and financial crimes in their countries. National representatives presented their reports in the following order: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, FYR of Macedonia, Slovenia, Moldova, Romania, Montenegro, Serbia and Greece. Turkey was not represented by the SEEPAG representative, but a legal advisor within the Turkish Embassy in Belgrade, so the full report was not provided.

(VII). Open floor discussions on concrete problems and solutions in investigations and cases:

Albania made a proposal to determine the level in each country up to which information and expertise can be exchanged so that all members of the group to work at the same level.

Greece expressed the need for training in those areas where there is lack of expertise.

Mr. Gavin Corn informed that the SECI Task Force on Financial Crime will start with a series of training courses on needed matters and each country should feel free to express its need for training.

Mrs. Snejana Nenova presented the Operation code-named "The Bus" as an example of a case that failed due to lack of communication between the participating countries. The operation was initiated by FYR of Macedonia; 5 countries participated. The goal of the operation was to identify the responsible persons for the transport of illegal immigrants and to see what other shipments would be organized in the future. The operation was organized under the form of controlled delivery of persons, but at the Greek border the immigrants were arrested by the Greek authorities; in this moment the case ended and the responsible persons could not be identified.

This poor result was caused by the lack of full participation of the SEEPAG members. Without coordination among prosecutors at the operational planning stage of cases, strategic plans cannot be developed that will properly protect the interests of all of the law enforcement agencies involved. Measures must be taken to improve coordination and avoid this type of problem in the future.

(VIII). Final considerations and the next meeting:

Mr Corn pointed out that the SEEPAG should endeavor, in accordance with the conclusions coming from EU Assessment Report, to find mechanism to provide data on results of the SECI Center related cases. –The SEEPAG should be able to show its results by maintaining statistical data on its activities.

Chairmen stressed that the Secretariat for the SEEPAG should be organized as soon as possible.

Ms Nenova proposed that the next SEEPAG Meeting could be held in Bucharest at the SECI Center premises, before May 1st, 2005.

Ms Medenica proposed that the next meeting should be held in Montenegro, and pointed out that Montenegro has all infrastructure necessary for organizing of such happening.

Mr. Corn pointed out that the decision on the place of the next meeting should be based on practical aspects of organization of the meeting. Without Secretariat, it would be hard to organize the next meeting anywhere else than in SECI center, due to purely organizational matters. Final decision should wait until details on establishing of the Secretariat become known.

Annexes:

- Annex 1 – List of participants
- Annex 2 – Greek Proposal on the Scheme of Cooperation/Coordination between the SEEPAG and the SECI Task Force on Financial Crime.