

WB SALW CONTROL ROADMAP MPTF

UN Multi-Partner Trust Fund for the implementation of the Roadmap for a sustainable solution to the illegal possession, misuse and trafficking of Small Arms and Light Weapons and their ammunition in the Western Balkans

Project Document

IMPLEMENTING ORGANIZATION: UNITED NATIONS OFFICE ON DRUGS AND CRIME

PROJECT TITLE: CRIMINAL JUSTICE RESPONSE AGAINST ARMS TRAFFICKING

Implementing period: 1 March 2020 – 31 December 2021

Requested budget: US\$1,899,999

Geographic area: Western Balkans region

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PROJECT OVERVIEW

Through the present project, the UNODC's Global Firearms Programme (GFP) will help the countries in the Western Balkans (WB) strengthening their criminal justice response to firearms related criminality and reach the goals and targets established under the Roadmap for a sustainable solution to the illegal possession, misuse and trafficking of Small Arms and Light Weapons and their ammunition in the Western Balkans (Roadmap).

The overall project's objective is to prevent and counter illicit manufacturing of and trafficking in firearms, and their links to transnational organized and other serious crimes and foster effective international cooperation and information exchange. The specific objective of the project is to support the criminal justice system to countering illicit firearms trafficking and related offences in the WB countries.

UNODC will provide support in three of its mandate areas: (i) Legislative assistance to apply the United Nations Convention against Transnational Organized Crime and the Protocols Thereto (UNTOC) and its Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (Firearms Protocol), with a focus on the criminal and criminal procedural law provisions; (ii) Support for enhancing the knowledge and skills of law enforcement and prosecutors to detect, investigate

and prosecute firearms trafficking cases; (iii) support for collection and analysis of criminal justice data; and facilitation of international cooperation between criminal justice practitioners.

The GFP's assistance will result in the WB countries achieving measurable results in implementing the Roadmap, including harmonized legal frameworks, and an increase in the number cases of firearms trafficking and their links to other serious crimes investigated and individuals brought to justice, prosecuted and adjudicated for firearms trafficking offences. The proposed project aims at tackling immediate needs, building on past and ongoing efforts and initiatives carried out in the WB region in firearms control, organized crime and terrorism, by UNODC and other partner organizations such as UNDP and OSCE.

PROJECT DETAILS

1. Alignment with the Roadmap Goals

The project activities will support the WB countries to reach the following goals:

- **GOAL 1.** By 2023, ensure that arms control legislation is in place, fully harmonized with the EU regulatory framework and other related international obligations, and standardized across the region.
- **GOAL 2.** By 2024, ensure that arms control policies and practices in the Western Balkans are evidence based and intelligence led.
- **GOAL 3.** By 2024, significantly reduce illicit flows of firearms, ammunition and explosives (FAE) into, within and beyond the Western Balkans
- **GOAL 4.** By 2024, significantly reduce the supply, demand and misuse of firearms through increased awareness, education, outreach and advocacy
- **GOAL 7.** Significantly decrease the risk of proliferation and diversion of firearms, ammunition and explosives

2. Project Background (situation analysis)

- **Overview**

Illicit firearms are used to gain leverage in various forms of criminality, for intimidation, coercion and in gang violence. Current security challenges show that illicit firearms are often a common denominator in many crimes, from urban gang violence, to transnational organized crime, terrorism, and drug trafficking inter alia. The Western Balkan (WB) countries have been identified in many studies as source countries for firearms trafficked to the European Union.¹ Trafficking of firearms from the WB countries occurs usually on a small scale with large seizures being the exception.² Firearms trafficking from the WB should not be reviewed in isolation, but in conjunction with other forms of trafficking, such as drug trafficking. Most criminal groups

¹ See FRONTEX (2018), Western Balkans Annual Risk Analysis 2018, and TRANSCRIME, Fighting Illicit Firearms Trafficking Routes and Actors at European Level (2017).

² See TRANSCRIME (2017). Fighting Illicit Firearms Trafficking Routes and Actors at European Level.

enter the firearms trafficking business through other criminal activity, which may offer contacts, knowledge of existing routes and infrastructure related to their smuggling. The border police forces of the WB countries have detected various types of firearms, including converted and modified firearms, and ammunition. For example, in 2016 the countries the WB countries reported 134 cases in which 154 weapons and 13 741 rounds of ammunition were detected. During the INTERPOL operation Balkan Trigger in 2016, 40 illicit firearms, 6 kg of explosives and 11 hand grenades were seized.³ The main trends and modus operandi identified by the Southeast European Law Enforcement Center (SELEC) in its Organized Crime Threat Assessment include the use of cryptocurrencies as payment methods by illegal firearms traders, the adoption of sophisticated communication technologies, which decrease the detection capabilities of law enforcement agencies, the use of postal services to ship dismantled fire-arms, and the rise of new manufacturing technologies, such as 3D metal printing.⁴

- **Legislative harmonization**

Adequate legal frameworks are essential pre-requisites for effective and sustainable efforts of countries to prevent, detect, and counter illicit firearms trafficking offences and address their possible links to other crimes, such as terrorism, organized crime or drug trafficking inter alia, providing the necessary legal tools and normative frameworks to effectively control firearms, their parts and components and ammunition, and prevent the diversion and trafficking, but also to ensure their effective enforcement and reinforce the rule of law to detect, disrupt and combat related criminal conducts.

The WB countries face specific challenges in the areas of legislative harmonization, investigation and prosecution of firearms trafficking cases, and in collection and analyzes of crime data. All countries in the WB have ratified both UNTOC and its Firearms Protocol and aspire to become members of the European Union. Nevertheless, the criminal justice response to firearms trafficking has not been comprehensive. The main achievements in the region have been reached through the support of the United Nations Development Programme (UNDP), the Organization of Security and Cooperation in Europe (OSCE), the North Atlantic Treaty Organization (NATO) and the work of bi-lateral donors in the areas of updating the legislative framework on possession of firearms, establishing arms export controls, implementation of many collection campaigns and destruction of illicit firearms campaigns, and providing equipment and capacity building for enhancing the processes of firearms' stockpile management and record-keeping.

Based on the UNODC assessments conducted over the past two years, challenges exist in harmonizing the criminal legislation and practices with the UNTOC and its Firearms Protocol, and to make full use of the array of measures established under the UNTOC to enhance the criminal justice responses to firearms trafficking and related forms of organized crime including terrorism. By way of example, many national criminal codes do not encompass fully the criminalization provisions of the UN Firearms Protocol, which prevents an effective criminal justice response to trafficking cases. For example, Article 193 of the Criminal Code of the Federation of Bosnia and Herzegovina does not envisage a reference to ammunition in the context of

³ See FRONTEX, Western Balkans Annual Risk Analysis 2018.

⁴ See SELEC (2018), Organized Crime Threat Assessment for Southeast Europe (OCTA SEE 2018).

firearms trafficking, thus allowing to prosecute traffickers of ammunition only under the illegal possession offence; Article 265 of the Criminal Code of Montenegro contains a qualifying element “big quantities of firearms or ammunition” linked to smuggling of firearms, which creates uncertainties in the application of the norm; Article 278a of the Criminal Code of Albania makes a reference to “military weapons” in the context of firearms trafficking, thus excluding from trafficking cases all firearms categories that do not qualify as military weapons under the national legislation. This could partially explain the fact that in Albania, in 2014, 2015, 2016, 2017, and 2018 recorded respectively only 2,6,1,0 and 3 indictments for firearms trafficking cases, whereas in the same period there were respectively 473, 359, 265, 187, and 183 indictments for illegal firearms possession brought to the courts.

All countries from the WB have identified the need to focus on harmonizing their legislation with the relevant international instruments in their National Action Plans to implement the Roadmap. Albania has spelled out this commitment in its Action Plan as a specific objective: “Approve laws and by-laws related to FAE for civil use (including on legal possession, deactivation, storage, production, retail, trade, transit, import-export, marking, non-convertible weapons, tracing, record keeping and supervision) and *harmonize with UN, OSCE and EU legislative framework*”; Bosnia and Herzegovina (BiH) has envisaged the following specific activity “Form a working group to prepare an analysis of the harmonization of laws on weapons with the European Directives, and UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition” under point 1.1 “Establish legal framework to counter all forms of illicit possession, trafficking and misuse of firearms, ammunition, and explosives (FAE)”. Montenegro has envisaged in its Action Plan as a key measure “Fully harmonize arms control legislation with the EU legal framework and in line with international agreements/standards agreements / standards ”; Kosovo under UNSCR 1244 envisages a similar objective in its Action Plan: “Adopt laws and by-laws for their application regarding SALW for civilian use (including provisions on lawful possession, deactivation, storage, production, retail, trading, transit, import-export, marking, non-convertible weapons, tracing, registration and oversight) and align them with the UN, OSCE and EU legal framework”.)

The review and harmonization of the criminal law and criminal procedure law of the WB countries has also to be viewed in the context of the adoption of a Mechanism for the Review of the Implementation of the UNTOC and the Protocols thereto, which was agreed upon by Albania, BiH, Montenegro, North Macedonia, Serbia, and including the other UN Member States, in October 2018. The Review will be carried out over the next 12 years through a peer-to-peer review involving all State parties to UNTOC and its Protocols and will be facilitated by the UNODC Secretariat. The Review Mechanism has provided an additional important momentum for State parties to critically review and assess their implementation of all articles of these instruments, and thus to give a central role to the criminal justice response to organized crime and firearms trafficking. In this regard, UNODC’s legislative assistance work through the Global Firearms Programme (GFP) represents also a valuable support for state parties in preparation of the self-assessment and the subsequent review process.

- **Investigation and prosecution of firearms trafficking**

Another challenging issue within the context of the criminal justice response to firearms trafficking is the investigation of trafficking cases and their subsequent prosecution and adjudication. Since 2017, the Global Firearms Programme has undertaken several assessments with criminal justice practitioners from the WB countries and carried out several pilot activities, including training for investigators and prosecutors. The reasons for the low number of prosecutions of trafficking cases and the lack of exemplary sentencing are complex and vary from jurisdiction to jurisdiction, although several common traits can be identified. First, all countries from the region have introduced in their Criminal Procedure Codes (CPC) the principle of prosecutorial or adversarial investigation as opposed to judicial or inquisitorial investigation. The role of the prosecutor has been greatly increased as s/he has the primary responsibility to guide and direct the work of law enforcement to collect data, initiate and conduct investigations, to manage the operations of the police and other investigative bodies, to file motions requesting urgent judicial actions to be undertaken, including requests for mutual legal assistance or extradition, and to file requests for the issuance of court orders, such as search warrants, confiscation orders etc. It is the prosecutor's purview to assess the case and decide whether a case has the potential to grow into an international investigation into firearms trafficking or remain a small localized domestic instance of illicit possession. As the powers of prosecutors have been extended to the preliminary proceedings, our assessment has included all stages of the investigative cycle.

There is a general need to strengthen the leading role of prosecutors in conducting proactive investigations including of complex and international nature involving illicit firearms trafficking, and to make full use of the existing tools and opportunities provided by the new criminal procedure at all stages. The main observations linked to initial stages of the investigation are that prosecutors currently do not use all triggers available at their disposal to initiate investigations on firearms trafficking. Direct triggers are not always taken into consideration with abundance of examples where the seizure of firearms and drugs has resulted only in indictment for drugs trafficking and the charges linked to firearms have been qualified as illegal possession. Similarly, seizures of firearms due to illegal possession, have not in most cases resulted in undertaking investigative activities for tracing the origins of the seized object, which might have changed the qualification of the offence to firearms trafficking. Indirect triggers, for example when the firearm is the accessory used to commit a crime e.g. murder, armed assault, armed robbery, have also not been regularly used to open firearms trafficking investigations. The use of firearms in such cases have been treated as an aggravated circumstance, without making always an attempt to establish the origin of the firearm and engage in a parallel investigation.

Another weakness identified by UNODC is that criminal justice practitioners do not use all available methods for gathering evidence, which could lead to strong indictment and successful prosecution. It was established that rarely use is made of open and closed source information (databases and other sources not accessible to public), mainly due to lack of information about all available sources, containing firearms information. On the positive side, in several cases classified information was collected through agents, undercover operations, surveillance (physical and electronic surveillance) and used for indicting the suspects. In some

cases, specifically between BiH and Serbia, the method of controlled delivery has been applied successfully in firearms trafficking cases. However, the use of special investigative techniques such as under-cover agents, controlled delivery or control of communications is not a given in the context of firearms trafficking and must be further promoted and reinforced.

Linked to the collection of information is also the challenge to identify the seized firearms as an object of trafficking. Firearms are routinely tested for fingerprints, fibers, biological evidence – blood, DNA, but are not automatically subject to domestic and international tracing. Prosecutors and law enforcement rarely collect and review financial evidence and records in connection with firearms investigations. For example, checks are not conducted for suspicious transaction reports or suspicious activity reports of the suspects, tracing and mapping of suspect's financial transactions are not undertaken, neither an analysis of financial records or identification of suspicious patterns in financial flows.

In today's world, communications between criminals is mainly through electronic means of communications, which use various forms of encryption. The collection of electronic evidence in the WB countries presents also a challenge in the investigation of trafficking cases. The issues here have both procedural and substantive aspects. From a procedural perspective, the available means for collection of evidence under the CPCs of the WB countries include the use of special investigative measures, such as monitoring and recording electronic communications, interception of electronic communications, which can be applied for collection of electronic evidence. As the special investigative measures include greater intrusion into the realm of protected human rights, and first and foremost the privacy of the suspect, their use is limited in time and scope. Prosecutors and law enforcement have made the observation that these limitations lead to change of their strategy towards the investigation, resulting in raising charges for illegal possession of firearms, instead of pursuing a more complex investigation in illicit trafficking. Another aspect, which was revealed in the assessment, is the inability to use sometimes special investigative measures due to the high threshold for their use. For example, in North Macedonia, special investigative measures can be utilized for crimes, which carry minimum sentencing of four years, or are in process of preparation, or are committed by an organized group, a gang or other criminal enterprise (Article 253 of the CPC). At the same time, Article 396 of the national Criminal Code (CC), envisages in its paragraph 1, that "a person who without authorization manufactures, sells, procures or does an exchange with firearms, ammunition or explosive materials, or a person who without authorization keeps firearms, ammunition or explosive materials, which are forbidden for the citizens, shall be punished with a fine, *or with imprisonment of up to three years.*" Paragraph 2 of Article 396 of the CC provides that if the subject of the crime from item 1 is a larger quantity of firearms, ammunition or explosive materials, the offender shall be punished with imprisonment of one to ten years. In this case, the prosecutors cannot use special investigative measures if the offence falls under paragraph 1 of Article 393 of the CC, which will hinder their investigation. Instead, they will qualify the offence as illegal possession.

The other aspect of concern linked to the electronic evidence is the lack of explicit regulations concerning its forms and the designation of specific methods for their collection and rules for admissibility. The CPCs of the WB countries contain today sets of procedures, which can be adopted to the electronic evidence collection, but do not provide the flexibility for utilizing new technological advances, such as securing

evidence through distant intrusion into suspects computer. Several other challenges have been identified linked to electronic evidence, which this project will address, including use of computer forensics and tools to secure relevant evidence; use of mobile device forensics and tools; use of Internet forensics and tools, and preservation of digital evidence.

- **Prosecution of firearms trafficking cases**

The review of nine cases on firearms trafficking in BiH through the last nine years shows that the main prosecutorial strategy was to reach a plea bargain agreement with the accused. Based on the feedback from prosecutors from the other jurisdictions, plea bargaining is considered as very useful tool, yielding quick results. On the other hand, the sentencing in such cases varies between one and four years and is not seen by other criminals as a preventive deterrent to engage in firearms trafficking. The main assistance needs identified by the prosecutors in order to pursue a different strategy, which will lead to high sentencing and avoid plea bargain agreements include support in the initial stages of the prosecution, support for using the best approaches and techniques for evidence presentation, and support for identifying approaches to the defence of the accused. In the initial stage of the prosecution, the challenges are to identify what factors will be considered in formulating the charging decision; what charging strategies will be applied in complex cases of firearms trafficking; and respectively, what should be the trial preparations such trafficking cases.

At the prosecutorial stage, the assistance for improving the techniques and approaches of introducing the case was identified as an issue, which needs to be address. The main challenges in this stage include developing plausible theme and theory of the case on firearms trafficking and the introduction of complex technical information about firearms to the court. Difficulties were identified in the approaches to evidence presentation: proving the authentication and reliability of the collected evidence on firearms; effective presentation of complex firearms related information, and presentation of the testimony of informants and cooperating offenders.

Another area in the prosecutorial phase, which has not received due attention is developing approaches to the defence. As the subject matter can be very technical, there have been difficulties to identify what defences could be used in firearms trafficking case and respectively, what the required strategy should be to formulate plausible responses.

International cooperation in criminal matters is the backbone of a successful strategy to address cases of transnational nature, as part of the evidence, the suspects or the illicit assets of the offence may be abroad in countries sometimes not sharing common borders but linked in various ways, including through trafficking routes to each other. The absence of effective international cooperation mechanisms to address firearms trafficking cases has also been highlighted as an area, which requires further improvement. In many cases, the perceived difficulty in engaging in such cooperation and the assumed difficulties in obtaining the requested information on time and within the desired scope have resulted in re-formulation of the charges from trafficking in firearms to illegal possession. The formation and use of joint investigation

teams (JITs) or of parallel investigations in more countries was also highlighted as a tool that could enhance international cooperation and produce results on specific cases.

The issues in the investigative and prosecutorial stages described above have been identified in the course of GFP's work with criminal justice practitioners in 2017-2018. They have been also reflected with various formulations and identified as priorities in the national Action Plans of the WB countries. For example, the Albanian Action Plan, under Goal 3, envisages the following activity "Conduct assessment of prosecution practices and procedures on firearms related crimes"; and the Action Plan of Montenegro foresees the activity "Analysis of procedures, practices and case law with regards to criminal offences related to misuse and trafficking of FAE in the last five years."

- **Adjudication of firearms trafficking case**

There has not been extensive research and assessment of the court cases on firearms trafficking in Western Balkans by national or international research institutions. UNODC has conducted a mapping of organized crime cases of the WB countries in 2018-2019 and several cases with reference to firearms have been included in it. The main issues identified by the Global Firearms Programme and the prosecutors from the WB countries are linked to the lack of consistent interpretations by the courts of provisions from the Criminal Codes and the lack of guidance by the Supreme Judicial Councils / Courts of Cassation, which are responsible for harmonizing the court practice. This deficiency has a direct impact on the prosecutorial strategy and the formation of the charging decision in firearms trafficking cases. For example, Article 265 of the Criminal Code in Montenegro currently is the only provision under which a charges for firearms smuggling can be raised. It provides in paragraph 2 that "whoever, by avoiding customs control, transfers across the customs line a large quantity of weapons or ammunition or weapons the possession of which is prohibited to citizens or other goods the production or trade of which is restricted or prohibited shall be punished by a prison term from one to eight years and by a fine." The main issue is that the court practice in Montenegro has not been constant on what presents "a large quantity of weapons or ammunition". Various courts have admitted specific numbers of weapons to qualifying as "a large quantity", others have ruled out differently. As a result, prosecutors are insecure about the outcomes of the case and opt for charging the suspect under Article 403 "Unlawful possessions of firearms and explosives". This shows the need for harmonization of the court practice in firearms trafficking cases through decisions by the relevant national judicial bodies.

- **Criminal justice data**

Since 2015 UNODC/GFP has received mandate from the Conference of Parties to the Organized Crime Convention to collect and analyse data on seized and confiscated firearms, their parts and components, and ammunition. In 2015, UNODC/GFP published the first report on firearms trafficking based on standardised data. In 2018, UNODC followed up with a second data collection initiative. In 2019, UNODC rolled out the third data collection exercise. UNODC has been also designated – together with UNODA – as a custodian agency for the global monitoring of the achievement of SDG 16.4, and has taken the lead in the

global data collection, through the abovementioned initiative promoted and supported by the GFP in cooperation with UNODC's Research and Analysis Branch.

The participation of the WB countries in the first two data collection rounds has shown that they have different data collection methodologies in place, without the possibility of obtaining comparable statistical and other data overview from all institutions across the Criminal Justice Sector. The annual reports produced by the national institutions about processing firearms related criminality are not cross-comparable. The Roadmap's key performance indicator (KPI) No. 12 foresees a requirement to collect and compare data on confiscated firearms. The confiscation is subsequent to the seizure of firearms and is a result of successful prosecution and adjudication process. This data is currently not captured by any national statistics and it is not analysed. The need for additional assistance in this area has been also identified across the national Action Plans of the WB countries.

- **Conclusion**

In addition to the ongoing consultation process, a final review of the proposed activities was undertaken during the coordination meeting, held on 16 September 2019, in Vienna, Austria. The representatives from the Ministries of Justice, Ministries of Interior and the Offices of the Prosecutor General from the WB countries confirmed the relevance of UNODC/GFP's approach towards criminal justice response against firearms trafficking in the region. The priorities of UNODC/GFP's engagement should include the following areas: 1) legislation; 2) capacity building for law enforcement and prosecution; 3) support for criminal justice data harmonization. The international cooperation and exchange of expertise shall be an integral component of all activities and shall feature in the whole cycle of firearms investigations, including support for the use of the Secure Information Exchange Network Application (SIENA), cooperation with investigators and prosecutors from foreign jurisdictions, support for forming and facilitating the work of Joint Investigation Teams, support for establishment of bi-lateral task forces on countering firearms trafficking. Special attention, in this first phase, should be allocated also towards a review of the current court practices on firearms trafficking. In this context, the experts underlined the need to reach out to the judiciary as well as involve in the project activities the formal training institutions, including magistrate schools and police academies.

3. Project Objective

The project's objective is to support the criminal justice response to countering firearms trafficking in the WB countries. The enhancement of the criminal justice response, including increased number of investigations, prosecutions and adjudications has been identified as a component of all national Action Plans for the implementation of the Roadmap.

4. Expected Results

The expected results are a direct contribution to the implementation of the national Action Plans for advancing the efforts of the WB countries to reach the identified goals under the Roadmap. The proposed project aims at achieving the following results:

Output 1: National firearms legislation and relevant criminal and procedural law provisions are fully harmonized with the UN Firearms Protocol and its parent Convention UNTOC and standardized across the Western Balkan countries.

Output 2: Increased capacity of WB countries to detect, investigate and prosecute firearms trafficking and its links to other serious crimes.

Output 3: The WB countries have evidence-based arms control policies and practices through systematic collection and analysis of criminal justice data across the Criminal Justice Sector.

5. Activities

Activity 1.1: Strengthen the legislative frameworks on firearms to prevent and combat firearms trafficking and respond to organized crime and terrorism threats (Goal 1, KPI 1 of the Roadmap);

1.1.1 Support legislative assessments and gap analysis of national criminal law and criminal procedure law with the provisions of UNTOC and the UN Firearms Protocol.

- 1.1.1 (a) Development of gap analysis for Albania, BiH, Serbia, and Kosovo under UN SCR 1244. This activity is a follow up to the ongoing legislative support provided by UNODC/GFP to North Macedonia and Montenegro.

The analysis of the legislation in Kosovo under UNSCR 1244 is a form of technical assistance. As such, it is not dependent on the current political situation, as it will focus mainly on the existing and forthcoming criminal legislation: Criminal Code and draft Criminal Procedure Code.

1.1.2 Support for harmonizing national firearms norms, criminal law and criminal procedure law with the provisions of UNTOC and the UN Firearms Protocol

1.1.2 (a) Organization of a series of national stakeholders' meetings of legal experts and practitioners to review and draft amendments to the national legislation (at least one meeting in the WB jurisdictions; up to 7 meetings).

1.1.2 (b) Organization of meetings with members of Parliaments to support the discussion and adoption of the draft legislation harmonizing the national laws with the UN Firearms Protocol (up to 7 meetings).

1.1.3 Promote regional harmonization of criminal legislation to counter firearms trafficking

1.1.3 (a) Organization of 1 regional meeting on standardizing legislation across the Western Balkan jurisdictions.

Since 2011, the GFP has provided legislative assistance and supported Member States in harmonizing their legislations with the international instruments on firearms, addressing also the links to other serious crimes. Indicator 1 of the Roadmap clearly recognizes the value and importance of the Firearms Protocol and its parent Convention UNTOC, to strengthen the crime prevention and criminal justice perspective, necessary to effectively prevent and combat firearms trafficking and related crimes, and clearly marks one of the areas where UNODC has the mandate from the Member States to engage in providing legislative support for harmonization of the national legal frameworks with this international, legally binding instrument. The Review Mechanism adopted by the Conference of the Parties to UNTOC in October 2018 provides an additional important framework that further supports these efforts and reinforces UNODC's role in assisting Member States.

The GFP will assess the existing national acts on firearms control for their compliance with the provisions of UNTOC and the Firearms Protocol and will recommend specific steps to assist national authorities with the amendment of the existing or adopting new legislation where required. A priority will be given to the harmonization of the national criminal law with the criminalization provisions of the Firearms Protocol, and the application of specific UNTOC provisions with regards to investigative tools and techniques, and law enforcement and judicial cooperation in the field of firearms related crimes, as this legal area has been neglected in the past decade and has rendered the criminal justice response to firearms trafficking in many cases not sufficiently effective. The implementation of the activities will assist the national authorities to come closer to achieving Goal 1 of the Roadmap and their obligations under the Review Mechanism under the UNTOC and its Protocols.

Activity 1.2: Strengthen the capacity of national authorities in the WB to detect, investigate, and prosecute firearms trafficking and its links to other serious crimes.

Supporting detection, investigation and prosecution of transnational organized crime, firearms trafficking, and other serious crimes is part of UNODC's core business. The work of the UNODC/GFP in the last two years in the WB countries with investigators and prosecutors has clearly identified one huge discrepancy – the number of the prosecuted firearms trafficking cases is negligible compared to the number of seized firearms. The capacity building support to prosecutors and investigators will serve to develop knowledge and skills for conducting successful investigations and prosecutions of firearms trafficking cases, and their links to other serious crimes in particular organized crime, and to foster more effective international cooperation in criminal matters. The capacity building will address also the continuously evolving methods of firearms trafficking, which adapt very fast to law enforcement response, taking advantage among others of the new technologies, including internet and other electronic means of communication. The trainings will address also the main challenges identified in the Part 2. Background (Situation Analysis) above, including using all triggers for initiating an investigation, using all methods for identification of firearms, and preparing

successful prosecutorial strategy. In addition, the development of guidelines on investigation and prosecution, the review of and harmonization of the court practice on sentencing in firearms trafficking cases, and subsequent development of national case digests, the increased inter-institutional information exchange and support for JITs will provide tools and enhance the knowledge of criminal justice practitioners to address firearms trafficking offences. The international cooperation among the judicial authorities on firearms cases, and the exchange of cases through UNODC's Sherlock Firearms Portal will further support the transnational aspects of firearms trafficking cases and will result in increased efficiency of formal judicial international cooperation procedures.

1.2.1 Development of investigative guidelines and standard operating procedures on investigation, and prosecution of firearms trafficking cases (Guidelines), covering all stages of the investigation cycle.

1.2.1 (a) Organization of 2 expert group meetings to exchange experience on current investigative and judicial practices and develop, review and validate the Guidelines.

This activity will cover all Western Balkan jurisdictions⁵. The development of the Guidelines will be an inclusive approach, which will take into consideration the existing legal systems and practices and include both members from the law enforcement and the prosecutorial services. The scope of the guidelines will include the investigation and the prosecution phases of illicit firearms trafficking cases.

1.2.2 Incorporation of the guidelines as part of the national teaching curricula.

1.2.2 (a) Customization and translations of the Guidelines in Albanian, Macedonian and BSCM languages.

1.2.2 (b) Organization of 3 meetings for incorporation of the Guidelines as part of the on-job training in magistrate schools, and in the workflow of the Prosecutor's Office.

In the framework of its current activities in the Western Balkans, UNODC has conducted an assessment about the feasibility of including specialized courses in the curricula of the Academies/Schools for training of judges and prosecutors. Interviews have been conducted with representatives of the Ministry of Justices, Magistrates' Schools and Prosecutor's Offices. The focus of the activity will be first to translate and customize the guidelines to the local legal contexts of substantive and procedural criminal law; share them with the national educational institutions and develop a teaching methodology for the presentation of the materials to law enforcement and prosecutors. The project will aim at incorporating the materials in 3 jurisdictions and with other jurisdictions to benefit in the second phase.

⁵ The use of term "jurisdictions" in this proposal refers to the territories in the Western Balkans, which have self-governing institutions. This term is preferred as the term "countries" will not encompass all jurisdictions in the WB as there are on-going negotiations concerning this issue between some representatives from the region and other interested parties. This is important, as for the purpose of this project, there are activities in BiH, which will target both the Federation of BiH, Republika Srpska and District of Brcko, as these entities have their separate Criminal Codes and Criminal Procedure Codes. As a result, the activities will take place in Albania, BiH (State level, Federation of BiH, Republika Srpska, District of Brcko), Kosovo under UNSCR 1244, Montenegro, North Macedonia and Serbia and this should be understood under "WB jurisdictions".

1.2.3 Strengthening the capacity of law enforcement and prosecutors to investigate firearms trafficking cases and address possible links to terrorism and organized crime

The target audience is members of the law enforcement community, prosecutors, customs officer with investigative powers, financial police officers with investigative powers, officials with responsibility for assets recovery. The trainings will be conducted at national level with participation of limited number of representatives from neighbouring jurisdictions where feasible. The trainings will address both national and international elements of the investigative process, collection of evidence and judicial cooperation.

Under international investigation is meant the transnational investigations against firearms trafficking that involve two or more jurisdictions. In general, all firearms trafficking investigations have international nature as the nature of the offence presupposes the existence of cross-national element.

- 1.2.3 (a) Delivery of 12 specialized trainings on international investigation and prosecution of firearms trafficking, focusing on proactive investigative approaches; use of special investigative techniques; application of advanced forms of confiscation and asset recovery schemes; effective law enforcement and judicial cooperation including the establishment of parallel or joint investigative teams with other countries; internet enabled trafficking and use of electronic in firearms trafficking cases, trafficking in parts and components and through parcel services, etc.

Where possible, participation in training activities in relevant police and prosecution services in countries from the EU and third other countries with which WB countries have a significant amount of shared or common cases.

The methodology, which will be used for the training courses, is described in the attached **Annex: Methodology**.

1.2.4 Support for national information sharing and analysis of firearms trafficking cases.

- 1.2.4 (a) Organization of regular meetings in the WB jurisdiction for an inter-institutional exchange of experiences on firearms trafficking cases.

The needs assessment with representatives from the law enforcement services and Prosecutor's Offices in the WB jurisdictions have identified that there is lack of information sharing about the case development, lessons learned from successful/unsuccessful cases, and other relevant aspects of the criminal justice process between law enforcement and prosecutorial services at national level. Thus, the activity will fill in this gap in the criminal justice response in countering arms trafficking and is complementary to the regional meetings of the WB jurisdictions.

1.2.5 Fostering international and regional cooperation in criminal matters on firearms trafficking and related crimes, including through Joint Investigation Teams (JIT), parallel investigations or bi-national task forces.

- 1.2.5 (a) Facilitation of 1 Joint Investigative Team for investigation of two firearms trafficking cases.

1.2.5 (b) Support the establishment of a bilateral task force between two countries facing frequent issues of common concern.

1.2.5 (c) One regional Community of Practitioners (CoP) meeting to collect and exchange case-based experiences and progress in dealing with transnational cases; and highlight new developments in judicial cooperation practices etc.

1.2.6 Harmonization of court practice on sentencing in firearms trafficking cases

1.2.6 (a) Review and analysis of the court practice on firearms trafficking cases and producing national case-digests.

1.2.6 (b) Organization of meetings to present the analysis and recommendation to the Supreme Judicial Councils.

1.2.6 (c) Collection and dissemination of relevant cases, court practices, and laws / regulations via the UNODC Sherlock Firearms Portal

1.2.7 Project coordination activities

1.2.7 (a) Support for national, regional and institutional coordination with countries and with partner organizations.

The implementation of the activities under the Roadmap require continuous coordination with both national and international counterparts. At the national level, there are regular meetings of the National Commissions on SALW, where UNODC's representatives participate and coordinate the implementation of the activities with the relevant counterparts. At the regional level, there are also regular meetings on monitoring the progress of the implementation of the Roadmap and coordination with the donors and partner organization, which UNODC's representatives attend.

Activity 1.3: Strengthen the capacity to systematically collect, analyse and monitor criminal justice data on firearms across the Criminal Justice Sector for control policies and practices (Goal 2, KPI 12 of the Roadmap)

The activities under this section will provide targeted support for improving the capacities of national authorities to collect, analyze and exchange criminal justice data linked to firearms. The implementation of the activities will strengthen the evidence-base at national levels for decision-making against firearms trafficking at policy and operational levels. It will also support development of comparable data sets on firearms that foster data sharing among countries for the purpose of more effective investigations and operational use. The development of comparable data sets on firearms will allow also the analysis of firearms trafficking trends and patterns at global level by within the context of the UNODC Global Illicit Arms Flows Monitoring Initiative.

1.3.1 Support the participation of national authorities in the UNODC Global Illicit Arms Flows Monitoring Initiative through regular collection and sharing of their consolidated criminal justice data on firearms

1.3.1 (a) Development and publication of a baseline assessment on criminal justice data and firearms data.

1.3.1 (b) Organization of up to 7 meetings to support national authorities to assess the needs for harmonizing the collection at national level of crime and firearms data from all relevant institutions and facilitate the filling and submitting the annual UNODC firearms trafficking questionnaire.

The activities are linked to Goal 2 of the Roadmap “By 2024, ensure that arms control policies and practices in the Western Balkans are evidence based and intelligence led”, and specifically to the Target: “Institutionalize systematic collection of criminal justice data across the Criminal Justice Sector (at the level of Police and Customs, Prosecutors service, Court Service, Correctional and Penitentiary Services)”.

The activities will provide a baseline assessment of the current collection national practices in collecting criminal justice data and identify gaps and recommendations how to improve them in order to allow WB jurisdictions to participate in the UNODC Global Illicit Arms Flows Monitoring Initiative.

Currently, only 3 jurisdictions have submitted partial data to UNODC. This activity supports also the Target “Ensure full implementation and monitoring of legal, policy and procedural framework on trafficking of FAE” under Goal 3 “By 2024, significantly reduce illicit flows of firearms, ammunition and explosives (FAE) into, within and beyond the Western Balkans”.

6. Sustainability of Results

The project will ensure that the outputs and products it develops remain beyond its duration. The changes in the criminal law and criminal procedure law will have a lasting impact and will support carrying out successful investigations and prosecutions to counter firearms trafficking. The Guidelines on investigation and prosecution of firearms trafficking cases will be incorporated in the curricula of Magistrate’s schools and police academies and in the workflow of the Prosecutor’s Offices, thus ensuring sustainable capacity building of new criminal justice practitioners. The changes in the data collection methodology of criminal justice data will support national participation and contribution with data for the UNODC’s annual surveys on firearms trafficking. The harmonization of the court practice linked to firearms trafficking cases will also have a long-lasting impact and ensure predictability in criminal proceedings. The promotion of new investigative approaches and the reinforcement of international cooperation practices, including through the establishment of JITs, parallel investigations and / or bi-national commissions will improve significantly the ability of WB countries to cooperate with other countries and deal with cases of transnational nature more effectively.

The legislative assessments and the collection and analysis of cases will lead to a collection of laws, regulations, and other relevant materials as well as judicial cases, which will be made available and disseminated through the UNODC on-line Knowledge Management Platform “Sherloc”, and will also facilitate

the self-assessment exercise and the review of implementation of UNTOC and the Protocol of and by WB countries under the forthcoming Review Mechanism; the analysis of judicial cases will feed in the development of regular updates of the UNODC Case Digest on Firearms Trafficking Cases and their links to Organized Crime and Terrorism.

7. Suggested Partners

The project contains activities, which are linked to the mandates of national institutions responsible for exercising criminal justice response to counter firearms trafficking, for starting legislative initiatives and adopting national laws. The implementation of the project activities will also include coordination with sub-regional and regional institutions and civil society organizations.

The partners of UNODC at national level during the implementation of the project are: Ministry of Justice, Prosecutor's Office, Magistrate's School, Ministry of Interior, the Committee on Legal Issues and the Committee on Foreign Policy (Parliament) in Albania, BiH, Kosovo under UNSCR 1244, Montenegro, North Macedonia and Serbia.

At sub-regional and regional levels the project will continue to partner with UNDP/SEESAC and key thematic actors such as INTERPOL, the European Multidisciplinary Platform Against Criminal Threats (EMPACT) and its Firearms Driver, the EU Commission and the EU Delegations in the WB countries as well as projects supported by the EU, such as the Project "EU Support for the Rule of Law – EUroL II", EUROPOL, the EU's Judicial Cooperation Unit (EUROJUST), the European Union Agency for Law Enforcement Training (CEPOL), and IPA/2017 Countering Serious Crime in the Western Balkans.

UNODC will cooperate with the Prosecutor's Offices of the EU Member States and with their national police institutions, responsible for organized crime and trafficking cases.

Cooperation and mutual support will also be envisaged with academic and research institutions, both at international and national levels (e.g. Law Faculties in national universities, Small Arms Survey, among others) with a view to reinforce and support broader analytical work and exchange of knowledge and expertise on legislative and data collection issues.

The project activities are aligned with both the National Strategies on Small Arms and Light Weapons, respectively with their Action Plans, and with the international obligations of the WB countries stemming from their ratification of UNTOC and its Firearms Protocol, and their decision to participate in the Review Mechanism of UNTOC and its Protocol, adopted in October 2018, in Vienna, Austria.

8. Cross-cutting Issues

The project activities will lead to changes in legislation, enhanced capacity to investigate and prosecute firearms trafficking cases, legal certainty in sentencing firearms trafficking cases, and improved capacity to collect and analyze criminal justice data. The changes in the legislation will have an impact on all members of the society, both men and women, and will regulate the state's criminal justice response against offences

linked to trafficking in firearms. These changes will take into consideration human rights, which are applicable regardless of sex, and the rights of all actors in the criminal process irrespective of their gender. Similarly, the creation of legal certainty through the adoption of harmonized approach to sentencing in firearms trafficking will take into considerations the rights of all members of the public without prejudice to their gender. The activities linked to capacity building will ensure, where possible, equal participation of criminal justice practitioners, both men and women, thus providing an opportunity for their professional development and career advancement. The activities focused on support for data collection will engender the data presentation results, including information about the male and female perpetrators. UNODC will also adhere in the implementation of the project activities to the UNODC Strategy for Gender Equality and the Empowerment of Women (2018-2021), which applies to UNODC's programmatic work and activities ([https://www.unodc.org/documents/Gender/UNOV-UNODC Strategy for Gender Equality and the Empowerment of Women 2018-2021 FINAL.pdf](https://www.unodc.org/documents/Gender/UNOV-UNODC%20Strategy%20for%20Gender%20Equality%20and%20the%20Empowerment%20of%20Women%202018-2021%20FINAL.pdf)).

The project will promote the distribution of background materials, course materials in electronic format and support development of on-line training courses and thus reduce the ecological footprint of the activities, leading to reduced consumption of paper products. Further, the project activities will be compliance with the "Environmental policy for the United Nations Secretariat", adopted with Secretary-General's bulletin, ST/SGB/2019/7, which establishes the framework and overarching principles to guide the mainstreaming of environmental sustainability considerations into among others also project activities through five guiding principles: (a) stewardship of the environment with respect to all operations; (b) efficiency in resource use and operations; (c) continuous improvement of environmental performance; (d) stakeholder engagement at all levels; and (e) adaptation and resilience.

9. Communication and Visibility

The overall communication objective is to enhance the effectiveness of the project as a tool to prevent and counter trafficking in firearms. The GFP intends to communicate the impact and positive results of the project as well as to give ample visibility to donors. The activities in the Visibility Plan for the project aim at conveying a positive message to stakeholders in the framework of the implementation of the project and encouraging beneficiary states to take ownership of the project activities and promoting similar initiatives in other countries.

The project will seek to communicate positive results achieved by the project and the impact in achieving the project's objective; communicate and increase the visibility of the project vis-à-vis the beneficiary countries and other target audiences; raise awareness regarding how UNODC, the donors and other partners work together to take effective action against illicit firearms trafficking; communicate and provide visibility on the ground to the donor with regard to their role in the project; secure policy and political commitment at the national level through advocacy efforts to increase partnerships and local ownership and to build consensus among stakeholders on the project.

Official meetings, workshops and trainings represent good opportunities to increase the visibility of criminal justice response against trafficking in firearms and strengthen the regional and international cooperation in support of this fight. At country level, the beneficiary authorities are those having direct competencies in firearms control, law enforcement, criminal justice, as well as law and policy makers. The activities contained in the plan will seek to change the perceptions and in response to illicit firearms trafficking; and to positively influence the development of appropriate criminal justice response to stop illicit firearms trafficking, and its effects on armed violence, organized crime and terrorism.

The following audiences will be targeted: donors, national authorities and practitioners in beneficiary countries, regional and sub-regional organizations, other UN agencies and programmes, civil society and the wider population.

The Visibility Plan will employ the following tools: 1) Advocacy: within the context of the implementation of the project, UNODC will ensure to liaise with relevant national authorities and other target groups –including at the regional and international level- in order to promote the benefits of implementing the project; 2) Media and public relations: linked to project activities, press releases and statements will be issued to raise awareness of the benefits of the fight against trafficking of firearms, and the role of UNODC, the donors and other partners in achieving the objectives of the project; 3) Trainings, workshops and meetings: project activities will provide important visibility opportunities. To ensure sufficient visibility, paper folders, flyers, banners, posters and other materials will be distributed to participants at these gatherings. The presentations, speeches, banners, agendas, and attendance lists used at these events shall boldly display the relevant logos and give credit to the project donors. The donor representatives will be invited to deliver introductory/welcome addresses at the opening sessions of different activities; 4) Reports and publications: throughout the implementation of the project, reports for strategic partners will be regularly published. Each report outlines the features of the project, its achievements, and the desired course of action and are widely distributed. Report and publications will make reference to the support of the donors; 5) Website and social media: project activities, progress and achievements will be regularly included in UNODC’s website and social media accounts, as well as those of the GFP. This will ensure that interested partners, Member States and the wider public are made aware of the achieved results; 6) Promotional materials: project stationery and project publications displaying the logo (s) of the donor will be distributed during the project activities. Advocacy materials such as posters, flyers, notepads, pens, USB sticks, among others, have proved useful in supporting awareness-raising activities, and will be produced to support activities; 7) Provision of feedback: as part of the project monitoring tools, at the end of project activities (such as trainings, workshops and meetings), evaluation questionnaires will be handed out to participants who will have an opportunity to provide feedback on the impact of the meeting in their functions.

10. Knowledge Management

The project will develop several knowledge products, which will be of direct assistance to the criminal justice practitioners in the WB countries. The Guidelines on investigation and prosecution of firearms trafficking cases will address all stages of the investigative cycle. They will be translated into Albanian, Macedonian and

BCSM languages and shared with the Magistrate schools and the Prosecutor's Offices in the WB countries. The review of the national criminal legislations will result in the development of country reports that provide gap analysis and recommendations to national authorities for harmonization of criminal law and criminal procedure law with the requirements of the UNTOC and its Firearms Protocol. The review of the data collection capacities will result in a publication identifying the existing shortfalls and bottle necks in information collection and information gathering of criminal justice data on firearms. The support for collection of data for participation in the annual UNODC's data collection survey will result in accumulation of data, which will be used for developing and publishing a sub-regional report on firearms trafficking. The review and analysis of the court practice on firearms trafficking cases will lead to up to 6 publications on harmonization of terminology and sentencing linked to firearms trafficking (national case digests).

11. Project Management Structure

The project will be executed through the Global Firearms Programme of UNODC (internal reference number GLOX34), which is part of the Implementation Support Section of the Organized Crime and Illicit Trafficking Branch (ISS/OCB), of the Division for treaty Affairs (DTA). A separate ledger account will be created for the receipt and administration of funds released from the Western Balkans SALW Control Trust Fund account by the Administrative Agent.

The overall implementation of the project will be coordinated and overseen at the UNODC HQ level by the Head of the Global Firearms Programme who will ensure proper management and implementation. UNODC will make the best use of existing human resources and in-house expertise; specialized staff will have to be recruited under the present project to ensure the timely and qualitative implementation of the described project activities and the adequate overall coordination of the project both at HQ and on the ground.

The project will require a diverse skillset and expertise in law enforcement and capacity building and legal affairs, that will be provided by specialized staff. Short-term consultants will support the project with specific outputs. For its implantation in the field, the project will also require the support of UNODC's field offices network and provide for its related costs.

The project will also benefit from the substantive input and support from other UNODC's branches and sections, such as the Criminal Justice Section, the Research and Trend Analysis Branch, the Terrorism Prevention Branch, and relevant UNODC Field Offices in the respective target regions, with which the project will seek to establish synergies and close cooperation as appropriate.

Project Steering Committee (SC): The Project SC is responsible for making consensus management decisions for the project when guidance is required by the Head of the GFP. The Project SC will be consulted by the Head of the GFP for decisions when the project exceeds tolerances, normally in terms of time and budget; reviews will also be conducted at designated decision points during rollout. Similarly, UNODC will be accountable to the Project SC for the use of project resources. The role of the Project SC as part of the Quality Assurance process, will be to monitor the project's progress, lessons learned, and decide on the way forward. The Project SC will hold meetings on an annual basis, or more frequently if deemed necessary. The Project

SC will monitor project progress, decide on strategic decisions to ensure continued coherence between implementation, goals and objectives, decide on annual work plans and budgets, and revise annual plans, yearly budgets, and requests for funds presented by UNODC.

Project Assurance: The Project Assurance role is responsible to ensure objective and independent project oversight and monitoring functions, guaranteeing that the project management stages are managed and completed. Project Assurance is the responsibility of the Head of the Implementation Support Section of the Organized Crime and Illicit Trafficking Branch, UNODC.

Project Team: The implementation of the project activities will be carried out by a project team, under the leadership of a Senior Crime Prevention and Criminal Justice Officer/Head of the Global Firearms Programme, assisted by a Crime Prevention and Criminal Justice Officer (Firearms Control), a Crime Prevention and Criminal Justice Officer (Law enforcement & Capacity Building); two National Professional Officers and two Assistants.

Staff involved:

P5 – Senior Crime Prevention and Criminal Justice Officer / Head of the Global Firearms Programme: Lead and direct the overall strategy and ensure the planning, management and substantive implementation of the project, in coordination, and exploiting synergies with other activities under the GFP. The Head of Programme will lead, direct and oversee the work of the team, and provide the necessary substantive guidance and quality control over the outputs and products developed under the project.

P4 – Crime Prevention and Criminal Justice Officer (Firearms Control): Supports the Head of the Global Firearms Programme in the implementation of day-to-day activities, supports oversight and monitoring of project implementation and ensures substantive implementation of activities under the project's outputs. The staff member will have a strong field experience, experience in firearms control matters and will provide substantive knowledge in the different activities.

National Professional Officers (2): The staff member will have experience in the UNODC mandate areas, including fighting organized crime. The staff member will support the implementation of the activities in the WB jurisdictions, liaise and coordinate the activities with national stakeholders.

Programme Assistants (2): The staff will support the overall administrative and financial matters related to the project implementation, assist in providing regular and accurate reporting, and provide general support to the project management for achieving the project's results.

12. Risk identification and management

Identified risks:

- Unforeseen change in government, focal points in ministries or relevant counterparts;
- Political instability or regional insecurity, which can limit the participation of some countries in the project or interfere with the organization of meetings or assistance visits;

- Programme implementation is negatively impacted by delays in the recruitment of qualified, experienced staff.

Mitigating measures:

- Work with “champion countries” who can promote the benefits of supporting the project; and also promoting past activities linked to similar project outputs;
- Continuous communication with participating countries - not only with national focal points on firearms but also with other authorities (including Ministries of Foreign Affairs, Justice, Interior and with Permanent Missions in Vienna);
- Monitoring of the political situation in target countries where meetings, workshops and assistance visits will take place;
- Ensure to allow for enough time between the formal beginning of the project and the effective start date of project staff and activities.

The proposed project is based on the assumption that the beneficiary countries are fully committed to the project. Further, it is assumed that the national authorities will allow relevant staff to actively participate and contribute as required in project activities and facilitate all project-related activities in their respective countries. It is also assumed that governments are receptive and committed to adopting the recommendations provided by experts.

Annexes:

- Annex 1: Project budget
- Annex 2: Project budget per UNDG category
- Annex 3: Project results framework
- Annex 4: Risk matrix
- Annex 5: Multi-year work plan
- Annex 6: Methodology for delivery of capacity building to law enforcement and prosecutors on countering firearms trafficking cases

Agreed by:

IMPLEMENTING ORGANIZATION	
Name:	Signature:
Title:	
Date:	

