
The Witness Protection Program in Bosnia and Herzegovina in Cases of Organised Crime

VARSTVOSLOVJE,
Journal of Criminal
Justice and Security
year 15
no. 2
pp. 261–276

Adnan Jusufspahić

Purpose:

This article presents the Witness Protection Program in BiH and the conditions for meeting the requirements for the starting the Witness Protection Program. It summarizes and explains the institution of the Witness Protection Program – the model in BiH, and considers the new proposals for *de lege ferenda* solutions within the Law on Witness Protection Program in BiH.

Design/Methods/Approach:

In this study, the author used scientific methods, such as analysis, comparative methods, and case studies, as well as quantitative and qualitative research. The data used in this study is based on the survey that shows the size of groups of offenders accused for organized crime in BiH in the 2004–2008 period. The study covers criminal organizations that were founded in BiH at the beginning of 2003, and sentenced for organised crime.

Findings:

The aim is to present the active role of the Witness Protection Program as a relevant mechanism for fighting organized crime today.

The study also deals with the importance of international relocation and identity change of witnesses, the situation and role of the protected witness.

Originality/Value:

The Witness Protection Program is a new institution in the field of criminal justice in BiH, but it is not the only one, and it should be the primary tool for the joint fight against organized crime in Bosnia and Herzegovina.

The study also reflects on the model in BiH as an important factor in the international surrounding, its active role, its participation and contribution in the protection of future protected witnesses and their unobstructed testimonies in criminal proceedings.

UDC: 343.1(497.6)

Keywords: organized crime, witness, witness protection program, Bosnia and Herzegovina

Program za zaščito prič v Bosni in Hercegovini v primerih organizirane kriminalitete

Namen prispevka:

Članek predstavlja program za zaščito prič v Bosni in Hercegovini (BiH) in pogoje, katerim je bilo treba zadostiti pri vzpostavitvi programa. Prispevek povzema in obrazloži samo ureditev bosanskega modela programa za zaščito prič in tehta nove predloge *de lege ferenda* za omenjeni program.

Metode:

Avtor je uporabil znanstvene metode analiziranja, primerjalne metode in študij primera kot tudi kvantitativne in kvalitativne raziskovalne metode. Iz pregleda obtožnic, vloženih zoper kriminalne skupine v obdobju 2004–2008, je bila narejena analiza, ki prikazuje število članov tovrstnih skupin. V članku predstavljen primer prikazuje delovanje kriminalne organizacije, ki je bila vzpostavljena v BiH v začetku leta 2003 in kaznovana zaradi aktivnosti organizirane kriminalitete.

Ugotovitve:

Predstaviti aktivno in relevantno vlogo mehanizmov programa za zaščito prič pri boju zoper organizirano kriminaliteto v dandanašnjem svetu.

Študija primera prikazuje uporabnost mednarodne re-lokacije in zamenjave identitete prič kot tudi situacije in vlogo zaščitene priče

Izvirnost/pomembnost prispevka:

Program za zaščito prič predstavlja novo ureditev s področja kazenskega pregona v Bosni in Hercegovini. Program bi moral biti glavno orodje za skupni boj proti organizirani kriminaliteti.

Študija orisuje bosanski model programa v (pomembni) navezavi z mednarodnim okoljem, njegovo aktivno vlogo, participacijo in doprinos pri bodoči zaščiti prič ter zagotovitev za neovirano pričevanje slednjih v kazenskih postopkih.

UDK: 343.1(497.6)

Ključne besede: organizirana kriminaliteta, priče, program za zaščito prič, Bosna in Hercegovina

1 INTRODUCTION

Organized crime is the most dangerous type of criminal activity today, and it threatens the social and economic stability of any country through its financial power. It tends to corrupt all levels of government, and weaken the active role of the country in its attempt to fight crime, using all illegal means available. Law enforcement acts *lege artis* in its actions and is always one step behind organized crime. Firm attitudes and the joining of forces with the entire community can, in a systematic and planned way, aid in the fight against organized crime. Police agencies in Bosnia and Herzegovina (BiH) tend to neglect and ignore organized training and orientation of their employees regarding organized crime. Witness protection for criminal offences concerning organized crime is defined by two lex

specialis laws in BiH: Law act for endangered witnesses and the witnesses under threat (Zakon o zaštiti svjedoka pod prijetnjom i ugroženih svjedoka, 2003) and Witness Protection Program Law (Zakon o programu zaštite svjedoka, 2004). The role and importance of witnesses testifying in criminal procedures in BiH courts is most certainly one of the most important ways for determining the actual truth. In the practice of BiH courts, we often see witnesses, classified either as witnesses of the defence or as witnesses of the prosecution, but also “direct witnesses” and “famous witnesses”, and the importance of their testimonies vary, depending on the time that has passed and on their memory. This is very prominent in cases that took place during the war in BiH. When we reflect upon this segment within strategic planning and the fight against organized crime, witness protection as well as the role and importance of witnesses are very important in this type of criminal offences. The aim of these laws is to provide protection to witnesses, which is not defined by the Criminal Proceeding Code of Bosnia and Herzegovina (Zakon o krivičnom postupku BiH, 2003). Witness Protection Program Law (Zakon o programu zaštite svjedoka, 2004) is the regulation that ensures the protection of witnesses with their consent, if the witnesses or their families are faced (Zakon o krivičnom postupku BiH [Criminal Proceeding Code of Bosnia and Herzegovina], 2003: pursuant to Article 83, Paragraph 1) with a threat that can harm their life, health, or freedom because of their intent to testify. This law is very useful for implementing measures concerning witness protection. Whether the threat originated during or after the criminal proceeding is irrelevant. With regards to the above-mentioned issues, the Witness Protection Unit (WPU) of the State Investigation and Protection Agency (SIPA), which adopts all decisions independently, but pursuant to this Law, was formed.

2 ORGANISED CRIME IN BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina is a young state, formed by the disintegration of former Yugoslavia, which was followed by the war, after which this state transitioned into a modern and democratic society. The Dayton Peace Agreement ended the war in our state, and two entities and one district were established: the Federation of Bosnia and Herzegovina, Republika Srpska, and Brčko District. The government was established in the same way; however, a certain number of ministries were formed on the state level, as well. Following the disintegration of Yugoslavia, the criminal underground adapted itself to the newly formed state. One part of the criminal groups was active even during the war, since they used the situation for earning enormous wealth, while the state was completely isolated during the war. Criminal activities comprised of illegal dealing and trade of drugs, ammunition, military equipment, people, food, gasoline, and other things that were necessary for existence and survival.

Bošković (2003), states that things other than the war, such as the lack of legal regulation, i.e. the crisis of the justice system, a weak and passive position of competent state bodies in the fight against organized crime, the poverty of one class of the population, and the links of organized crime to the government, both

public and political bodies, led to organized crime in Bosnia and Herzegovina. Dobovšek and Petrović (2007), claim that the basis for organized crime in BiH were certain mass or everyday street crimes. These include pick pocketing, burglaries, car thefts, racketeering, gambling fraud, and prostitution. Namely, individual leaders of criminal groups, particularly those who operated abroad, gradually started committing certain new criminal offences, while others changed their field of activity. Those new criminal activities mostly concerned the sale of narcotic drugs, the sale of stolen cars, human trafficking, while the end of the 1980's was marked by illegal weapons trade. Shortly afterwards, the war began, and it represented a school of organized crime for criminals which made them fully trained and equipped with knowledge on two levels, both organizational and material.

In Bosnia and Herzegovina, studies were conducted by a domestic branch of Transparency International on two occasions: in 2002 (1200 examinees), and in 2004 (1640 examinees). Maljević, Datzler, Muratbegović, and Budimilić (2006) states that the research encompassed institutions such as criminal justice institutions, primarily the police and courts. A study from 2004 shows that among 24 institutions and public companies, the police is the 3rd most corrupted institution in BiH, and that 55% of the population believes that all police officers, or most of them, are corrupted, and that 14.5% of the citizens claim that officers asked for bribes. Corruption is an activity that complicates the efforts of our law enforcement agencies in fighting organized crime. The situation in Bosnia and Herzegovina is almost identical to that in the rest of the world. Everywhere there is a great need for cooperation with citizens, and for adequate criminal codes and anti-corruption strategies for a successful fight against this negative social phenomenon.

The research, unfortunately, reveals that citizens of BiH (7.5% of them) think that the police are the most corrupted institution in Bosnia and Herzegovina.

2.1 Presentation of the Average Size of Criminal Groups Accused of Organised Crime in the Time-Period 2004–2008

Table 1 shows the size of groups accused of organized crime in Bosnia and Herzegovina in the time-period 2004–2008. The data shown are based on indictments filed by the Prosecutor's Office of BiH. Therefore, nine of the organized groups consist of five members (64.3%). Four have six to ten members (28.6%), and only one group has twenty-one to thirty members (7.1%). In the observed time-period, there were no other groups that would fit the criteria of the table below, and that could be a part of this analysis. However, we have to emphasize the fact that this table displays only revealed criminal offences and that for a more precise analysis we would require exact indicators, or "the dark numbers of criminal offences". The number of groups involved in organized crime in Bosnia and Herzegovina is determined by the criteria that are dominant in Southeast Europe (Jusufović, 2010).

	to 5 members	6–10 members	11–15 members	16–20 members	21–30 members	Over 30 members	Total
Number of groups	9	4	0	0	1	0	14
%	64.3	28.6	0	0	7.1	0	100

Table 1:
The size of
Criminal
Groups Based
on the Number
of Members

2.2 Criminal Organisation „Ferid Okić”

Figure 1 shows a criminal organization that was established at the beginning of 2003. Its aim was to acquire illegal gains and to engage in the international trade of substances such as heroin and ecstasy. This criminal group was active in the time-period from the beginning of 2003 until May 2004, and it had a network of accomplices, contacts, and collaborators in Holland, Croatia, Bosnia and Herzegovina, and Turkey. The leader of this criminal organization is a citizen of BiH, and his accomplices were from BiH, but also from Serbia and Croatia. The group did not only engage in illicit trafficking in narcotic drugs, but also racketeering and kidnapping, illegal sale of expensive jewellery, and in depriving individuals of money and other valuables. In their crimes, they used guns with silencers, automatic weapons, excessive violence, ties, handcuffs, camouflage gear and other equipment.

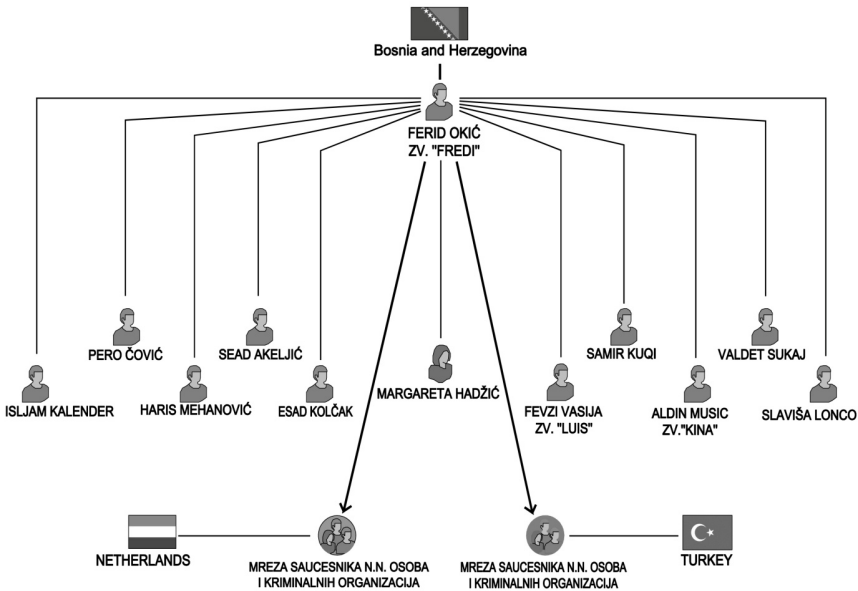


Figure 1:
Criminal
organisation
„Ferid Okić”
(Presuda Suda
BiH br. KPŽ-
18/06 [Verdict of
Court of BiH],
2007)

3 WHAT IS THE PURPOSE OF WITNESS PROTECTION PROGRAM?

The Witness Protection Program is one very important segment in the fight against organized crime. It enables witnesses to testify during the criminal proceeding on all the facts that are extremely important for the adoption of a legal verdict during a trial. At the same time, it provides safety for the witness, his family and/or the people close to him. In addition, the program ensures a better cooperation between law enforcement and ex-criminals who are “Collaborators of Justice”¹, and who could help in the fight against organized crime when, and if, they testify against the bosses of organized crime. The Witness Protection Program is a powerful tool, and it should be used responsibly in every state that is ready to tackle the enormous issue of organized crime. It is necessary to point out that, even though the Program is very effective for the implementation of justice, the financing of the entire Program is very complex and problematic.

3.1 Legal Framework

A consistent legal framework is absolutely necessary for the implementation of the Witness Protection Program, and it would enable its use in its full capacity. Besides the legal elements that determine who, and under what circumstances, can be a part of the Program, it would contain all other elements concerning the identity change of the witnesses and their relocation to other countries. However, besides the legal basis that is regulated by the *lex specialis*, other implementation procedures, as well as international police cooperation agreements (Salzburg Forum², SECI- Center³, bilateral agreements). It is necessary to emphasize that bilateral agreements, as well as all other agreements, are based on reciprocity. It is necessary to reform this field on two levels: firstly, it is important for the country that requests the relocation to have a sufficient number of agreements and memberships in forums on police cooperation at the international level; and secondly, it is necessary to reform this area regarding the position of the host country (country of the witness’s relocation). The fact that the witness is entering the Program and gaining a new identity, or a “new life”, is complicated, but imagine the complexity of the legal regulations necessary for all the activities. Some of the activities concern new biometrical documents (ID card, driver’s license, passport), birth certificates,

1 *In some criminal-justice systems, there is an interesting practice concerning witness protection with regards to “collaborators of justice” or “repenters”. They are also called “key witnesses”. Such collaboration with the suspects (pentiti, repentis, kroongetuige, kronzeuge, and sepergras) is different throughout the world. Their role is extremely significant in Holland and France, while in Germany this practice was established in 1982 and used until 1999.*

2 *Is a cooperation among the regional Interior Ministers of eight European countries. It was founded by the Ministry of Interior of the Republic of Austria in 2000. The countries currently meeting are Austria, Bulgaria, Czech Republic, Hungary, Poland, Slovakia, Slovenia, and Romania.*

3 *South-East Cooperative Initiative.*

citizenship certificates, registrations of residence, entries into registries, university diplomas, courses and seminars, health insurance, financial commitments and debts (loans, leasing, savings), property relations (possession of immovable and movable property), probate proceedings, and participation in other proceedings before the courts within the country and abroad, etc.

3.2 Cooperation with other Units and Agencies

Good relations with other agencies and bodies within the country, as well as cooperation with all of Europe and the rest of the world, are key factors for the sustainability of the Program. Constant cooperation and contacts are necessary for an efficient implementation of the program. Just imagine a situation in which you require an urgent relocation of the witness to another country, and you need travel papers, or even worse, a situation in which the witness has to take his family with him. Persons involved in organized crime in BiH are not law-abiding citizens, and they do not use legal documents, they have no health insurance, and they do not register children at birth at the civil registry office. So, let me ask the previous question again. You urgently need documents for the witness and his family. How can you get them quickly, effectively, and pursuant to the law? There are surely many problems throughout the entire system. The travel documents are issued by the regional/cantonal Ministry of Internal Affairs, the database is located at IDEEA (Agency for Identification Documents, Registers, and Data Exchange), in order to apply for the documents you need to submit your ID card that is issued by the administration, and there is a special procedure for the issuing of the ID card. The citizenship certificate is issued by municipal authorities, and the entry of birth is performed at the civil registry office. With how many different offices should we establish contact in this case? It is also required to contact the Border Police of BiH, to arrange for the unobstructed entry into, or exit from, the state. These conditions must be met in our territory. During the issuing procedure for the documents from this example, the protected witness and his family are placed into safe-houses⁴ under protection of handlers⁵, risking to be discovered at any moment. It is also necessary to keep in contact with witness protection units and the competent ministries of the host country, obeying their laws, procedures and protocols. This is a short presentation of the example, and it cannot truly depict the gravity of the situation and the problems that handlers and other employees of the Unit face during their work under this Program.

⁴ Safe houses are situated in highly secure locations.

⁵ The group responsible for day-to-day management of witness protection.

4 WITNESS PROTECTION PROGRAM - ORIGINS

4.1 United States of America

Witness protection first came into prominence in the United States of America in the 1970s, as a legally sanctioned procedure to be used in conjunction with a programme for dismantling Mafia-style criminal organizations. Until that time, the unwritten “Code of silence” among members of the Mafia – known as *Omertà* – held unchallenged sway, threatening death to anyone who broke ranks and cooperated with the police. Important witnesses could not be persuaded to testify for the state and key witnesses were lost to the concerted efforts of crime bosses targeted for prosecution. That early experience convinced the United States Department of Justice that a programme for the protection of witnesses had to be instituted. Joseph Valachi was the first member of the Italian-American Mafia to break with *omertà*, the code of silence. In 1963, he testified before a United States congressional committee about the inner structure of the Mafia and organized crime. His cooperation was driven by the fear that he would be murdered by Vito Genovese, a powerful Mafia family boss. There were rumours that the Mafia had placed on his head a price tag of US\$ 100,000. He was the first person in the United States to be offered protection for testimony prior to the establishment of a formal witness protection programme. He was kept isolated from other inmates and his contacts were limited to agents of the Federal Bureau of Investigation and staff of the Federal Bureau of Prisons. He died of a heart attack in 1971, having outlived Vito Genovese by two years (Montanino, 1987).

4.2 Italy

As far back as 1930, the Italian Criminal Code provided for partial or total immunity from punishment if the offender made reparations for criminal damage or cooperated with authorities in cases of political conspiracy or gang-related activities. It was not until 1984, when the Sicilian Mafioso Tommaso Buscetta turned against the Mafia and started his career as a justice collaborator, that witness protection became formalized. Buscetta was the star witness in the so-called „Maxi-Trial“, which led to almost 350 Mafia members being sent to prison. In exchange for his help, he was relocated under a new identity. Those events spurred more Mafia members to cooperate, with the result that by the end of the 1990s the Italian authorities had benefited from the services of more than 1,000 justice collaborators (United Nations Office on Drugs and Crime, 2008).

4.3 Status of Witness Protection Programs in The European Union

Laws and Programs in practice	Laws and Programs but lacking regulations on collaborators of justice	Regulations on witness protection, but lacking in either a protection unit or the legal or practical possibility of change of identity	Lacking in legislation on witness protection, but possibility of practical programs of protection	Lacking in both regulations and programs and unit of protection
Cyprus, Estonia, Italy, Latvia, Poland, Slovakia, United Kingdom	Germany, Czech Republic, Hungary, Lithuania, Portugal, Romania, Slovenia	Belgium, Bulgaria, Malta, Spain, Sweden	Austria, Netherlands, Ireland, Denmark, Finland, Luxemburg	France, Greece

Table 2:
Status of
Witness
Protection
Program in
European
Union
(Commission
of the European
Communities,
2007)

5 WITNESS PROTECTION PROGRAMS IN BOSNIA AND HERZEGOVINA

5.1 International Convention: The UN Convention against Transnational Organised crime (2000), Article 24.

Each State Party shall take appropriate measures within its means to provide effective protection from potential retaliation or intimidation for witnesses in criminal proceedings who give testimony concerning offences covered by this Convention and, as appropriate, for their relatives and other persons close to them.

Measures envisaged in Paragraph 1 of this Article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

- a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons.
- b) Providing evidentiary rules to permit witness testimony to be given in a manner that ensures the safety of the witness, such as permitting testimony to be given through the use of communications technology such as video links or other adequate means. State Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in Paragraph 1 of this Article. The provisions of this Article shall also apply to victims insofar as they are witnesses.

5.2 *De lege lata* Framework in Bosnia and Herzegovina

The legal framework that regulates the Witness Protection Program in BiH, and that includes protection before, during, and after the criminal proceeding, comprises of the following laws:

- Zakon o programu zaštite svjedoka (Witness Protection Program Law, 2004).
- Zakon o državnoj agenciji za istrage i zaštitu (Law of State Investigation and Protection Agency, 2004).
- Zakon o krivičnom postupku BiH (Criminal Proceeding Code of Bosnia and Herzegovina, 2003).
- Krivični zakon BiH (Criminal Code of Bosnia and Herzegovina, 2003).
- Zakon o zaštiti svjedoka pod prijetnjom i ugroženih svjedoka (Law act for endangered witnesses and the witnesses under threat, 2003).

5.2.1 Witness Protection Program Law, Article 2.

According to Witness Protection Program Law (Zakon o programu zaštite svjedoka, 2004: Article 2):

- A WITNESS – shall be a person without whose testimony there would be no respects in criminal proceedings of investigating the facts or of ascertaining the whereabouts of the suspect, or such would be made much more difficult.
- A WITNESS may be protected with his consent in accordance with the present Law if he or a family member as faces a danger to life, health, or freedom because of his willingness to testify, and if he is suitable for witness protection measures.

5.2.2 Witness Protection Unit – SIPA

SIPA (State Investigation and Protection Agency) is one of the police agencies formed by the Ministry of Security of Bosnia and Herzegovina. According to Zakon o državnoj agenciji za istrage i zaštitu (Law of State Investigation and Protection Agency, 2004), the Criminal Investigation Department, the Financial-Intelligence Department, Internal Control Department, Special Support Unit, and the Witness Protection Unit (WPU) are operating within SIPA. The Witness Protection Program in BiH is under the competence of the WPU and is organized at the state level. The WPU is organized professionally and is staffed adequately to perform all complex tasks. SIPA and WPU are financed from the budget of the Institutions of Bosnia and Herzegovina. See Figure 2.

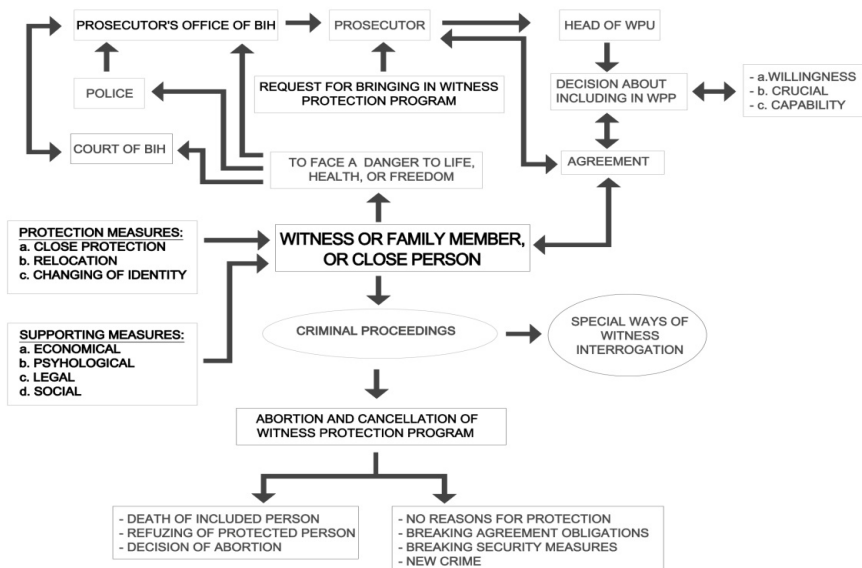
Figure 2:
Position WPU
in Ministry of
Security of BiH



5.3 Procedures for Starting, Ending and Terminating the Witness Protection Program in Bosnia and Herzegovina

The Witness Protection Program in BiH can be implemented before, during, or after the criminal proceeding. The subjects to this kind of protection are witnesses and/or his family and friends or any other persons close to the witness. In case that the witness, his family, or friends are facing threats against their life, health, and freedom as the result of a testimony in criminal proceedings in BiH courts, they meet the requirements for entering the Witness Protection Program.

Figure 3:
Preconditions
Necessary
for Entering
the Witness
Protection
Program



After receiving an application from the witness, the prosecutor submits a request for initiating the Witness Protection Program. The request is submitted to the head of the Witness Protection Unit (WPU). The request has to include all necessary information, especially the facts that refer to the threats against the life, health, or liberty of the witness. According to the *Zakon o programu zaštite svjedoka* (Witness Protection Program Law, 2004) the Witness Protection Unit of the State Investigation and Protection Agency BiH (SIPA) adopts all decisions independently after careful deliberation.

The gravity of the criminal offence and the risk level, as well as the rights of the accused and the effects of the measures taken, are all taken into account when adopting decisions. Before the final verdict, an agreement with the Prosecutor's Office of BiH is reached about the starting and termination of the program. The Prosecutor's Office of BiH is later informed about the decision to terminate the witness protection.

After adopting the decision on entering the Witness Protection Program, the WPU implements all necessary legal procedures that ensure a "new life" for the participating subjects. That implies that those subjects can continue to live freely in new environments, among new neighbours, in new cultures, and customs. It is impossible to create such conditions as to make the "new life" equal to the earlier one. It is a permanent relocation from the current residence (new host country that will ensure the best conditions for the witness is requested). It is not a simple process, as it implies a series of complications and obligations that need to be resolved before the permanent relocation is finalized. Of course, we have to pay attention to the national, ethnical, and religious group the witness belongs to, as well as whether he understands the language, culture, and customs of the

host country. An assessment of the host country, with regards as whether it is adequate and whether the witness will be able to adapt and continue living freely, is necessary.

Have you ever heard about the meaning of “Social death”? In short, it means the loss of family, loss of friends, and removal from the environment they know and understand, living the life of a stranger. We can only assume how the persons participating in the Witness Protection Program, and who need to start a completely new life, feel and what problems and ordeals they have to face. Imagine the following situation: the father of a teenage boy has to forbid his son to use Facebook, Twitter, or other social networks, to tell him to erase former acquaintances and friends from his life, to forget his former sweethearts, favourite teachers, classmates, and all earlier memories. He has to tell him not to contact them and to keep his new home a secret. How can he deny him to talk about his past to his new surroundings, and to make sure that he will strictly tell the “cover story”⁶ which he will have to know for the rest of his life.

Witness assessment is of crucial importance for a detailed analysis, in order to provide him with the best possibilities in accordance to his needs. Without cooperation and honesty of the witness in the interviews that are performed by the employees of the Witness Protection Unit (WPU), priorities of the Witness Protection Program cannot be defined in a quality manner, and it cannot be as sustainable and effective as it should. The well-trained team consists of criminalists, criminologists, penologists, psychologists, and, if necessary, social workers, psychiatrists, pedagogues, various medical doctors, etc. The conditions the witness needs to meet are the following: voluntariness, cruciality, eligibility. The protection methods include close protection, relocation, and identity change. In the Witness Protection Program, the handlers work with the witnesses. Handlers are very important to the Program, as they are in charge of the witnesses, and they are literally their mother and father. They know the witness the best, as they know all about their history, habits, affections, hobbies, and interests, and often they know their most private thoughts and secrets. They are trained for this through various special courses and trainings that enable them to display a high level of security and integrity in performing complex tasks.

5.3.1 Close Protection

It is performed by police officers of the Witness Protection Unit, and, if necessary, Special Police Units, as safe escorts⁷ during the performing of necessary activities. Officers are trained by domestic and international experts in the field of close protection.

⁶ A well-planned and realistic life story that serves as a form, and in which the witness will receive “his” new past, origin, education, family, job, hobbies, and which he will learn by heart and use when necessary in his new surroundings, among new friends, colleagues, and neighbours.

⁷ Motorized or foot infantry escort for the witness done by the WPU officials.

5.3.2 Relocation

Relocation can be temporary or permanent. Witnesses can be relocated on the territory of Bosnia and Herzegovina or to other states. Safe houses that provide safety to the witnesses are necessary for the implementation of Witness Protection Program. Therefore, a network of those safe objects is made for the urgent relocation of witnesses from high-risk zones. Relocation to other states is performed based on bilateral agreements on witness protection, and it is regulated based on the reciprocity principle. Relocation is one of the basic forms of protection necessary for the operation of the Witness Protection Program, because it is virtually impossible to protect witnesses in states with small territories.

5.3.3 Changing of Identity

Identity change is a very complex measure taken by the Witness Protection Program that demands cooperation with several administrative departments, a legal system and the harmonization of procedures. The witness receives new identification documents with a false identity that he needs for his “new life”, but that is not enough. New documents have to be made for everything that the witness has done during his life; or one single detail can be missed or a backup story missing. The “cover story” of the witness must be backed up with real facts and data and accompanied with adequate documentation. Can you imagine a college diploma issued 20 years ago, and printed on brand new paper, with a new protocol number, new stamps and signatures? How convincing would it be in real life? The introduction of new biometrical documents presents another challenge in the process of identity change. New technology makes the process more complex. Facial Recognition Systems (FRS), based on algorithms and 3D computation processes the photographs, poses a real threat regarding the disclosing of the true identity of witness⁸.

5.3.4 Duration of Witness Protection Program and Its Sustainability

The duration of the Witness Protection Program is as long as necessary for every witness to become completely independent. During that time, the Witness Protection Program provides full economic, legal, psychological, and social support. The point is for the Witness Protection Program to be realistic and sustainable in the “new life” and for persons to adjust and fully socialize in their new environment. The witness has to have nearly the same social status that he had before, but that, of course, does not mean that he will get villas, swimming pools, sport cars, yachts, etc. He will be provided with adequate economic and social conditions for a decent life. His formal and informal education will be harmonized so that he can do a

⁸ It practiced in Federal German Police, Australian Customs, and US Department of State has around 75 million of photos in their database.

job for which he is qualified. This includes necessary additional training and an assessment of the previous work experience, so that he can lead an independent life. Sustainability is one of the essential things, since without planning and assessment it can lead to the stopping and termination of the Witness Protection Program. How big is the risk for the handlers and other employees if they missed a relevant fact? The smallest omission or mistake in their work can risk the entire the Witness Protection Program.

6 CONCLUSION

The Witness Protection Program in BiH and in the world, according to expert estimates, will play a key role in the future. The importance of the tool that gives results in the fight against organized crime will undoubtedly increase. Witness protection of “collaborator of justice” in the fight against leaders of criminal organizations will be an imperative in the fight against organized crime. Only the persons who were the witnesses of events, crimes, and criminal activities can provide certain evidence to prosecutors, and their protection and participation in the Witness Protection Program is, therefore, crucial for every democratic society. Experience shows that witnesses who are placed in a safe surrounding, are protected for the rest of their life and can start a “new life”, while the benefits for society are multiple: criminal organizations are crushed, many felons are captured and receive long sentences. The capability of a state will be measured by its ability to successfully protect witnesses. It is necessary to provide technical and financial support for the implementation of the Program. It is necessary to perform constant recruitment of new and best-qualified candidates into the Witness Protection Unit, to provide constant training for them and for members of other Agencies. In addition, the conclusion of more bilateral agreements with partner states and the Witness Protection Unit is necessary. The legislative bodies of the state certainly play one of the most important roles, and they have to provide legal preconditions that will ensure the free implementation of the Program. We have to constantly follow new trends in organized crime in order to collect necessary intelligence and data about criminal organizations, their structure, and their criminal activities. It is also important to hire personnel with advanced academic knowledge, at higher and medium levels, which will perform scientific analyses in the field of organized crime, and offer the best methods for the implementation of the Program.

REFERENCES

- Bošković, M. (2003). *Transnacionalni organizirani kriminalitet, oblici ispoljavanja i metode suprotstavljanja*. Beograd: Policijska akademija.
- Commission of the European Communities. (2007). *European Commission working document on the feasibility of EU legislation in the area of protection of witnesses and collaborators with justice* COM 693. Retrieved from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0693:FIN:EN:PDF>

- Dobovšek, B., & Petrović, B. (2007). *Mreže organiziranog kriminaliteta*. Sarajevo: Pravni fakultet.
- Jusufović, A. (2010). *Organised crime in Bosnia and Herzegovina* (Master's thesis). Zenica: Pravni fakultet.
- Krivični zakon BiH [Criminal Code of Bosnia and Herzegovina]. (2003). *Službeni glasnik BiH*, (3/03).
- Maljević, A., Datzler, D., Muratbegović, E., & Budimilić, M. (2006). *Otvoreno o policiji i korupciji*. Sarajevo: Udruženje diplomiranih kriminalista u BiH.
- Montanino, F. (1987). Unintended victims of organized crime witness protection. *Criminal Justice Policy Review*, 2(4), 392–408.
- Presuda Suda BiH br. KPŽ-18/06 [Verdict of Court of BiH, KPŽ-18/06]. (2007). Sarajevo: Sud BiH.
- United Nations convention against transnacional organised crime. (2000). United Nations.
- United Nations Office on Drugs and Crime. (2008). *Good practices for the protection of witnesses in criminal proceedings involving organized crime*. New York: United Nations.
- Zakon o državnoj agenciji za istrage i zaštitu [Law of State Investigation and Protection Agency]. (2004). *Službeni glasnik BiH*, (27/04).
- Zakon o krivičnom postupku BiH [Criminal Proceeding Code of Bosnia and Herzegovina]. (2003). *Službeni glasnik BiH*, (36/03).
- Zakon o programu zaštite svjedoka [Witness Protection Program Law]. (2004). *Službeni glasnik BiH*, (29/04).
- Zakon o zaštiti svjedoka pod prijetnjom i ugroženih svjedoka [Law act for endangered witnesses and the witnesses under threat]. (2003). *Službeni glasnik BiH*, (21/03).

About the author:

Adnan Jusufspahić, M.A., is an investigator in the SIPA, Ministry of Security Bosnia and Herzegovina. His research interests include organised crime, criminal organisations and trans-border crimes. He has a Masters in Criminal Law at University of Zenica, BiH. The views expressed in this study are this author's and do not necessarily reflect the position or policy of the SIPA. E-mail: adnan_js@hotmail.com