

Evaluation of Legal Assistance Project LAS AD/IRA/99/E53

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As member of the team asked by UNODOC to lead the terminal evaluation of the various projects launched under NOROUZ Program, I have had the specific responsibility for the assessment of the Legal Assistance Project for Iran (AD/IRA/E53). This Project (total budget USD 813,600) had the following objectives:

1. IMMEDIATE OBJECTIVE (S):

At the end of the project, Iranian Justice Ministry and Judges will have at their disposal the needed legislative and investigative tools for responding to the challenges posed by drug trafficking and international organized crime.

Objectives:

OUTPUT LAS 1: The national legislation on drug related crimes addresses the challenges posed by drug crimes in Iran

OUTPUT LAS 2: The law on drug crimes is uniformly enforced by courts throughout the country.

OUTPUT LAS 3: Prosecutors and investigators from law enforcement agencies are endowed with modern technical tools and methodologies required for dealing with international drug crimes

OUTPUT LAS 4: Legal authorities in Iran co-operate with their counterparts in the regions and worldwide in dismantling and prosecuting international criminal organizations

LAS Activities

Output 1: The national legislation on drug related crimes addresses the challenges posed by drug crimes in Iran. Sponsored research studies on

- ¾ Substitute penalties;
- ¾ Judicial cooperation and extradition;
- ¾ Controlled delivery;
- ¾ List of controlled narcotic drugs, psychotropic substances and chemical precursors;
- ¾ Money laundering.

All the specialized studies commissioned by the project to the research teams from Tehran University, Shahid Beheshti University, the Criminology and the Penal Institutes were duly completed and their reports handed over to the PRC.

All studies included both a scientific analysis and operational recommendations aimed at updating/improving the related Iranian legislations.

- The first four above mentioned studies were published for distribution among judges, law enforcement agencies and universities.
- Following a decision of LAS PRC adopted in late 2002 on organizing an event on anti money laundering legislation, a seminar was held in the southern city of Shiraz – Fars Province- in May 2003. The exercise was co sponsored by UNODC Iran, the University of Shiraz, and the Iranian Judiciary. The seminar was aimed at both academic and executive purposes by providing a forum for the exchange of opinions on this sensitive matter to researchers, senior members of the governmental security, judiciary, economic and financial apparatus, and members of the national parliament who are currently involved into the ratification of a draft bill on money laundering. In addition, the participation to the event included a large representation of the Mini Dublin Group in Iran.
 - ¾ Upon approval of the proposal to compile and publish a book made up of the lectures delivered at the seminar, this was published in 3000 copies. The book was later distributed to relevant officials, judges, and universities.
 - ¾ Following the Shiraz Seminar on Money Laundering, an inter-institutional committee was established which was composed of members of the special commission of the Parliament, the High Council of Judicial Reform of the Judiciary, Judges of the Supreme Court, Drug Control HQs, and the Ministry of Finance and Economic Affairs. The committee was entrusted with the review and fine-tuning the bill on money laundering submitted by the Government to the Parliament.
 - ¾ In order to assist members of the committee to become more familiar with international practices and experiences in designing and implementation of anti money laundering legislation, the LAS PRC decided to launch a study tour for members of the committee to UNODC HQs in Vienna to exchange views with UNODC/GPML experts. The mission was launched from 13 to 15 October 2003.

Output 2: The law on drug crimes is uniformly enforced by courts throughout the country

- The LAS PRC subcontracted to a national judicial expert the designing and implementation of the entire training component of the project. According to the agreed TOR the subcontractor conducted a need assessment among judges and judicial officers from Revolutionary Courts in Tehran and other provinces with a view to identifying the main training needs of the receivers. In his final report submitted to and endorsed by the

LAS PRC, the national consultant identified more than 60 training priority areas to be delivered to four categories of beneficiaries, namely judges, police officers, intelligence officers, and prison organization personnel.

- Following the signing of sub-contracts with research teams for preparation of training materials on the training priority areas identified by the Project's national consultant, the research teams submitted their report along with finalized training packages. These packages cover the topics identified in the training need assessment conducted in 2003. These are divided according to their targeted beneficiaries, namely judges, police officers, security officers, and prison organization personnel.
- Upon finalization of training materials, LAS PRC decided to launch provincial training exercises according to a training schedule agreed upon by the members of PRC. In this context, by the end of June 2004, the following training workshops were organized and implemented in several Iranian provinces;
- A "Collection of Anti-Narcotics Laws and Regulations" has been printed in 2000 copies and delivered to LAS PRC for distribution among judges, police officers, etc.;
- In order to meet the requirements of Iranian judges, police officers and other relevant beneficiaries, a contract was signed with the Department for Laws and Regulations of the Office of the President for procurement and distribution of relevant legal books. Delivery and distribution of the books were finalized in September 2004.

Output 3: Iranian Judges and Police are endowed with modern technical tools and methodologies required for dealing with international drug crimes.

- An international workshop on comparative study of various national anti-drug laws and mechanisms was held in Tehran from 6 to 8 May 2001. Participants included policy makers, judges, police officers, drug control senior managers and experts from national drug control bodies, as well as universities and criminology and penal institutes. International experts attended the workshop and delivered lectures on their respective national and international drug control policies and institutional settings.
- Workshop on the Iranian Anti Narcotic effort was held in Tehran from 11 to 12 October 2001. Participants included judges of Revolutionary Courts, officers from the I.R. of Iran Police and the Drug Control Headquarters from Tehran and Esfahan. Academicians from Law Schools and Criminology and Penal Institutes lectured the audiences. Lectures covered areas related to criminology of drug-related offences, substitute penalties, judicial cooperation and extradition, controlled delivery, future perspectives of sanctions and penalties for drug-related crimes, proceedings in drug-related cases, international Convention against illicit drugs, and money laundering.

- In June 2002, seven Iranian legal experts including the Head of Tehran Justice Administration and the spokesman of the Judiciary attended a LAS organized and supported study tour to drug control judicial institutions in Germany, France, Italy, and the Headquarters of the UN Office on Drugs and Crimes. A two volumes report of the study tour, including a set of recommendations for the operational follow up by the LAS project, was cleared by the LAS PRC in November 2002.
- The inter institutional working group on organized crime including representatives from the Judiciary, Ministry of Information, the Anti Narcotic Police, the Ministry of Interior, the Office of the General Prosecutor, and ODC initiated its work in mid 2002, by defining its immediate operational priorities.
- In 2003, detailed information on the structures, functions, institutional and legal arrangements set for national anti organized crime specialized inter institutional bodies in various countries were translated by UNODC Iran and was later circulated among members of the working group.
- A study tour to the UK was launched in May 2004. The delegation was composed of officials and experts from Drug Control HQs, Tehran Justice Administration, Office of the Prosecutor General, Ministry of Interior, and UNODC Iran. During their mission to the UK, the delegation met with relevant officials and experts from the UK National Criminal Intelligence Service (NCIS). During these meetings, various aspects of the campaign against organized crime were discussed which included the coordination mechanism among domestic institutions, money laundering, human trafficking, etc.

Evaluation mission:

Meetings held:

- f* Dr. Alireza Jamshidi, Deputy Head of Judiciary for Legal Affairs and Secretary of High Council for Judicial Reform
- f* Hojatoleslam Abbas Ali Alizadeh, Head of LAS PRC and Head of Justice Administration of Tehran,
- f* Mr. Bozorgmehr Ziaran, Director General, International Specialized Agencies Department, Ministry of Foreign Affairs
- f* Mr. Mohammad Ali Hashemi, Director General, International Relations Office, Drug Control Headquarter
- f* Mr. Rahimi Esfehani, Director General, Department of Codification of Laws and Regulations, Office of the President (National Consultant for Collection of Anti-Narcotics Laws and Regulations)
- f* Mr. Mohamad Ali Taghavi, Deputy of Tehran Revolutionary Court on Judicial Affairs

- f* Dr. Mohamad Ali Ardebili, Professor of Criminal Law, University of Shahid Beheshti (National Consultant on “Mutual Legal Assistance and Extradition”, and “Controlled Delivery”)
- f* Dr. G.D.Sadeghi Ghahareh, Attorney at law, Tehran Bar Association
- f* Dr. Mohammad Ashouri, Professor of Criminal Law, Head of the Tehran University Criminology Institute (National Consultant on “Alternatives to Imprisonment”)
- f* Dr. Hamidreza Jamshidi, Pharmacist (National consultant on “List of Controlled Substances)
- f* Drug Liaison Officers from British Embassy and from Italian Embassy
- f* UNODC management,
- f* Representatives of Mini Dublin Group
- f* Visit to Ghezel Hesar Prison and the Triangular Clinics
- f* Visit to the Iranian National Center for Addiction Studies and meetings with Drs. Mokri and Rahimi.

Findings

Output 1. (The national legislation on drug related crimes addresses the challenges posed by drug crimes in Iran)

As already mentioned, several thematic studies and researches have been launched and realized.

Specifically:

- $\frac{3}{4}$ LAS Research study on “Controlled Delivery” (by Dr. Mohammad Ali Ardebili of the Tehran University);
- $\frac{3}{4}$ LAS Research study on “Substitutes penalties” (by Dr. Mohammad Ashouri, Head of Tehran University Criminology Institute);
- $\frac{3}{4}$ LAS Research study (by Dr. Hamidreza Jamshidi) on reviewing, updating and drafting of the lists of the controlled narcotic drugs, psychotropic substances and chemical precursors;
- $\frac{3}{4}$ LAS Research study on “Money Laundering” (by Dr. Seyed Mehdi Sahariian);
- $\frac{3}{4}$ LAS Research study on “Judicial cooperation and extradition” (by Dr. M.A. Ardebili).

The first three researches – sponsored with a very limited budget - have offered an important contribution to the current new legislative initiatives, as resulting from their essential results’ confluence in the new Amendment Anti-Drug Law draft project, recently prepared by the LAS Committee and approved by the Head of the Judiciary: the draft project, if approved also by DCHQ’s and Government, will be submitted to the competent legislative bodies.

Particularly, Dr. Ardebili's study on "Controlled delivery" has offered a modern approach to the delicate items linked to the use of this investigative technique, underscoring the need for strengthening the operational capabilities and powers of the public prosecutors' offices involved. That is coherent with the purpose to limit the risks of abuses connected to current police bodies' fake transactions practices (underscored also by the representative of the Teheran's Bar Association) and with the fundamental trends of the most recent development of the Iranian criminal proceedings legislation (in 2003 an Amendment Criminal Proceedings Law has sensibly enforced the role of the public prosecutors, assigned to them the power to direct and control the investigations from the very beginning).

Another interesting item of the research is related to the wished use of controlled delivery in the purpose to trace the financial resources and confiscation of the property or proceeds derived from illicit drug trafficking.

According to early mentioned Draft Project, the future Iranian anti-drug legislation should consider also the matter of the under covered operations, despite current international laws, as known, don't oblige States to provide their adoption in the domestic system.

In any case, the power to order the delay in the execution of apprehensions, arrests or seizures or fake transaction should fall under the jurisdiction of the prosecutor who co-ordinates the inquiries and who authorized the operation. Specific rules should be provided for the coordination between domestic and foreign jurisdictions involved in transit route.

Also in this perspective, all subjects involved in the use of controlled deliveries and covert actions (not only police officers but also public prosecutors and court's judges) are required to be highly and specifically trained. Specific and strictly oriented guidelines and instructions should be given to reduce the risk of illicit practises by the police and correlative damages for the individual rights and the transparency of the legal system. In these perspectives, a preference field for future international assistance programs immediately appears.

At the same way, LAS Research study by Dr. Hamidreza Jamshidi has offered to the DCHQ'S Committee the scientific basis for reviewing, updating and drafting new lists of the controlled narcotic drugs, psychotropic substances and chemical precursors.

The research team provided a set of criteria for classification of drugs and substances under control.

The criteria included physical harm, chronic harms, physical and psychological dependence, costs, pattern of abuse (e.g. injection), etc.

Four tables/schedules were designed ranging from the most harmful substances (table 1) to the least harmful substances (Table 4). The tables are designed in such a way to make it simple for the judges to identify the substance for which a

criminal case has been put before him. The research team proposed that the control mechanism and the criminal intervention (penalties) for each of these tables should be in accordance with the importance of the adverse effects and implications of the substances included therein. The research team also proposed a flexible approach so that every 2 years the tables will be reviewed to include new substances.

Separate tables were added to include “anabolic steroids” and “precursors”, currently not provided by the Iranian laws.

The same tables as proposed by the research team were included in the draft amendment to the anti-narcotics law.

Above all, on the basis of LAS research on “Alternatives to the imprisonment and Intermediate Retributions”, the Judiciary has proposed a significant modernization of the current Iranian anti-drug penalties’ system. The draft bill on “Social Penalties” has recently been approved by the Head of Judiciary and its ratification procedure in progress.

In fact, the legislative proposal to introduce a large decriminalisation of the illicit drug abuses (also indirectly, throughout a deferment of the Prosecution in case of submission of the abuser to rehabilitative treatments) is under consideration by competent Iranian authorities.

The peculiar sensitivity of this issue in the current stage of the legislation does not permit a definitive evaluation on it.

Besides, it has underscored that the positive impact and influence of the research on the current reviewing process of the domestic anti-drug legislation is based upon a separate research commissioned by the Iranian authorities in the perspective of larger modernization of the Iranian criminal policies.

A general view on all the items considered in the mentioned Amendment Anti-Drug Law Draft Project shows us that the new legislative proposal could be oriented to sensibly reduce the effects of the current indiscriminate criminalization of all illicit behaviors in drug matters and, at the same time, to improve the repression efforts towards the heaviest aspects of the phenomena, as the ones linked to organized groups’ involvement in drug trafficking.

If the previous legislative policy’s trends were founded, in fact, on the illusion of a radical eradication of the problem and of the deterrence capability of an euphemistically severe penalties’ threat, a much more realistic vision appears to mark the new legislative proposals.

At the moment, the highlights of the draft project can be summarized in the following way:

- ¾ Decriminalization of drug abuse not correlated to smuggling (drug abuse could not be considered as a crime, *per se*. Emphasis would be placed on treatment and rehabilitation);

- ¾ Mitigation of the penalties (specific provisions should be made for the complete abolition of lash penalties, as a limited use of the death penalty only to cases of armed drug trafficking where drug dealers involved in armed clashes with law enforcement forces or commit a murder, a sensible reduction of the period/terms of prison sentences, as compared to previous legislation, the introduction of alternatives to imprisonment);
- ¾ Introduction of new investigative techniques (controlled delivery and fake transactions), witness protection legal mechanisms, new discipline of seizure and confiscation of illegal proceeds and special criminal proceeding rules in the case of drug crimes connected to organized crime group's activities, basically aimed at facilitating the evidence collection in related cases;
- ¾ List of controlled substances would be updated taking into account the provisions of international conventions and considered scientific developments.

If approved according to the above summarized guide lines, the new project could offer a more adequate domestic legal framework than the current one to facilitate the development of international cooperation's activities, in addition to the clear advantages of its application for the same efficiency of the Iranian judiciary system, currently burdened with the enormous weight of an indiscriminate criminalization of all kind of drug abuse.

Naturally, the real meaning of the new trends should be verified in the progress of the legislative process, considering also the necessity to improve widespread and coherent training programs for all the subjects called to participate in its future application (above all, by means of specific training for trainers programs).

Separate considerations have to be reserved to the LAS sponsored study on the permeability of the Iranian financial and economic system to laundering of money, without considering the problems regarding the final approval of this research (at first, LAS Iranian counterparts took the decision to advocate only to Iranian institutions the findings of the research).

The remembered study offers a first realistic approach to the economic aspects of the matter considered.

The legalization of the free market in 2000 has in fact revealed the existence of a large under world of free changers who manage to evade governmental control. Unofficial sector of the Iranian economy, contraband commodity and brokering seem to be the most important field for organized felony and money laundering of drug trafficking proceeds.

Obviously, the legal issue related are particularly sensitive, also for the social aspects related to the unofficial economy growing around the huge commodities contraband in Iran and for the not controlled by Central Bank credit institutes' potential involvement in financial movement related to illicit activities both¹.

¹ Regulations for banks to tackle the financing of terrorism have been already approved.

The necessity of the introduction of coherent (also respecting to the international standards) legislative measures to tackle the phenomena is declaredly on the basis of the draft Anti-Money Laundering Bill, submitted by Judiciary to the consideration of the Iranian Parliament (Majlis), approved by this, but not also by the Guardian Council.

The text of the law is currently under consideration of the Expediency Council. According to the law approved by Majlis (I have examined an unofficial translation):

- f* Money laundering means (art. 1) the acquisition, possession, withholding or making use of the proceeds derived from illegal activities, knowing that the proceeds are the direct or indirect results of committing an offence or the conversion, exchange or transfer of the proceeds in order to conceal its illegal origin, knowing that the proceeds were derived from direct or indirect results of committing an offence or assisting the perpetrator in a way that he is not subject to the effects or consequences of that offence or the disguise, concealment or denial of the true nature, origin, source, location, disposition, movement or the possession of the proceeds procured, directly or indirectly, from an offence;
- f* Proceeds derived from any criminal offence are defined as any kind of property derived, directly or indirectly, from criminal acts;
- f* Anti-Money Laundering High Council (chaired by the Vice- President and comprising Ministers of Economic and Financial Affairs, Commerce, Information, Justice as well as Head of Management and Planning Organization, Governor of the Central Bank, and the Attorney General) is set up (art. 3) to fulfill the following tasks:
 - i. Compilation and ratification of the executive by- laws of the law;
 - ii. Setting up policies, planning educational and research programs, and cultural education;
 - iii. Organizing of appropriate establishments and providing necessary enforcement strategies to fulfill the assigned tasks of this law;
 - iv. Preparing the required infrastructures and mechanisms for the implementation of this law.
- f* All the financial operators and institutions (notary public's offices, lawyers, auditors, accountants, official experts of the House of Justice and legal inspectors and all legal entities including banks, financial and credit institutions- including Gharz-al-Hassaneh funds, foundations, charity organizations and municipalities) are required (art. 4) to implement the enactments of Anti-Money Laundering High Council as to the implementation of the law; particularly, they are required (according to art. 5) to ensure:

- i. Recognition and identification of the customer and his representative, agent and principal party, if any,
 - ii. Transmission of the information, reports, documents and records required by the competent authority assigned by Anti-money Laundering High Council,
 - iii. Report of suspicious transactions and operations to the competent authority (as determined by Anti- Money Laundering High Council),
 - iv. Storage of the documentation of evidence as to the identification of the customers, record of accounts, operations, and transactions;
 - v. Preparation of internal control criteria and education of managers and the employees to observe the provisions of this law and its executive by-laws;
- f* People charged with money laundering shall be fined in cash as much as one fourth of the proceeds derived from the offence, apart from refunding of the total revenues and the interests earned as a result of the crime including the total sum and the proceeds. If not available, other properties should be confiscated; the proceeds are transferred or converted into other forms of properties, the very same properties will be confiscated;
- f* In case, agreements on information and judicial assistance on money laundering are signed between the Islamic Republic of Iran and other countries, collaboration will be extended based on the conditions stipulated in the agreement. If bilateral or multi-lateral agreements are not available, having regard to the national and provisional interests, information and judicial assistance will depend upon the mutual cooperation of the parties (art. 8).

Not few of the afore-mentioned provisions seem to have a low attitude to ensure the transparency and the legality of the financial markets and an effective repression of related criminal activities.

It could be sufficient to consider that the new Bill provides just a fine (in cash as much as one fourth of the illicit proceeds) for the case of involvement in financial transactions of proceeds derived from predicate offences committed by others.

Or to consider also that the necessity to establish appropriate structure and methods for the implementation of the law's purposes has simply provided as Anti-Money Laundering High Council's future tasks.

But it has to be underscored with emphasis that the bill (if approved by the Expediency Council and put in force) would achieve some fundamental objectives:

- f* Introduction in the Iranian legislation of a form of the money laundering crime,
- f* Subjection of all kind of financial operators to the same regulations and provisions,

- f Placing a legal basis for future and more effective policies, also with a view to international cooperation in the same fields (starting from the mutual exchange of intelligence and information).

Consequentially, it is confirmed that this matter should continue to be considered as a crucial field of future international assistance projects, strictly finalized to facilitate the strengthening the Iranian system's capabilities to monitor and control the financial movement possibly connected to drug trafficking and organized crime through specific training programs.

Specifically, international workshops and sponsored research could assist the High Council for Anti-Money Laundering in the development of the tasks entrusted to it, starting from the crucial theme of the identification of legal mechanisms to report transaction suspected of concealing money or other assets derived from crimes. I have made recommendations accordingly.

In general, impulse and technical assistance should be provided to Iranian Judiciary' reform initiatives finalized to the modernization of the Iranian legal system.

Recently, the Second Judicial Reform Plan has been elaborated by the High Council for the Judicial Reform and approved by the Head of Judiciary

Its main declared targets are:

- ¾ To improve the structure of the Judiciary,
- ¾ To increase the role of women in the criminal justice system,
- ¾ To enhance human resource management,
- ¾ To ensure that uniform procedures are practiced by the courts and to reduce the duration of proceedings,
- ¾ To launch a large modification of State legal criminal policies, founded on a large decriminalization.

The Plan also provides training packages for judges to increase their knowledge and skills and the promotion of research studies in the judicial system.

These highlights design as many possible activities' fields for new international projects, with emphasis on the needs to guarantee human rights and a fair trial.

Specifically, I recommend a close relationship with the Judiciary (to which is constitutionally assigned the responsibility of the legislative initiative in legal matters) at the purpose to facilitate the progressively updated consideration of related issues, also with the contribution of international experts.

Finally, mention should be made of the opportunity to consider under Output 4 the findings related to the sponsored research on Mutual Legal Assistance.

Output 2: (the law on drug crimes is uniformly enforced by courts throughout the country)

Currently, as signalled by Judiciary members interviewed, there is a concrete risk that abolished laws may be applied, lacking a spread and update knowledge of the current regulations by judges and police officers.

To reduce this risk, Iranian authorities have launched a specific program aimed at a general compilation of laws and expurgation of laws and regulations.

The publishing and the distribution of the official Collections of anti-narcotics, criminal proceedings and crime and penalties' Iranian laws have special meaning for the purposes of the this evaluation.

The afore-mentioned and laws collections have already been distributed among Judiciary, lawyers, academic experts, police officers and Prison Organization officers.

A much larger distribution is needed (as of the UNODC sponsored researches) to improve knowledge and skills of all the subjects involved in the application of the law, in a framework of a permanent training system, opened to the participation of international and academic experts, with a specific view to the progressive harmonization of Iranian domestic legislation with the relevant international rules and standards.

At the same time, the update of the collections should be ensured.

The sponsored study (by Dr. Ali Reza Jamshidi, currently Vice Head of the Judiciary) on "Training Program" underscores that *"in many cases, judges refer to relevant laws with differing interpretations. Accordingly the laws are not enforced in a very uniform manner. Through the training program, the judges and other relevant law enforcement officers, will be encouraged to apply the laws with a more... uniform interpretation.*

In order to ensure higher levels of knowledge and skills, the research has identified specific priorities for the development of training programs.

The interviewed Iranian authorities have underscored that the expected outcomes could be sensibly limited by shortage of funding and the consequent necessity to satisfy these needs through other sources.

With a view to prospective of future international projects, I have made recommendations accordingly, at the same time focusing on the needs to foresee and increase closer and more frequent exchanges of views and experiences among foreign and Iranian judges, academic experts and lawyers.

Output 3: Prosecutors and investigators from law enforcement agencies are endowed with modern technical tools and methodologies required for dealing with international drug crimes

The proposed Second Judicial Reform Plan (2004-2008) aims to ensure:

- ¾ Appropriate geographical distribution of judicial courts branches in order to secure the access to justice for the public
- ¾ Application of information and communication technology (IT & ICT)
- ¾ Electronic automation of judicial and administrative work of the courts
- ¾ Information sharing system in the Judiciary
- ¾ Judges' capacity to use IT systems
- ¾ Monitoring and evaluation system for the Judiciary
- ¾ Incentives for the judicial and administrative staff of the judiciary
- ¾ Promotion of research studies in the judicial system
- ¾ Organizing judicial management.

Generally, Iranian legal system is still in need of sufficient knowledge, investigative skills and equipment that are required in a modern judiciary system organization.

Improving the Iranian judiciary system's capabilities to endow its offices (starting from judicial structures responsible for the management of inquiries and on drug trafficking cases) with a modern *data base* which could contain information from judicial sources (e.g. crime reports sent to the judicial authorities, arrest warrants, convictions, statements made by state's witnesses etc.) appears as a important short/medium term objective.

These pieces of information should be suitably analysed and computerised, thus they are more reliable than ordinary police intelligence, also with a view to international information exchanges between judicial authorities.

I recommend supporting with financial facilities the endowment, the management and the updating of equipments, which are needed.

The positive experience of the sponsored researches finalized to assist the Iranian legislative initiatives in the anti-drugs related matters could be continued and improved in the sector of the criminological studies.

Currently, no criminological research exists in Iran regarding international drug crimes and organized criminal group involved in them.

The preponderant role of the organized crime in the management of the transnational drug trafficking routes and related money laundering's activities is commonly recognized, but at the same time there is a deep lack of appropriate and comprehensive knowledge about the structures, internal rules, methods, the

transnational connections of the main organizations which rule those criminal processes.

Filling this gap seems a priority.

First, to support activities performed by prosecutors and their professional staff and investigators from law enforcement agencies: an effective capability to approach international drug crimes needs to avoid scattering of data and information only in the light of a deep and update knowledge of the criminological framework.

Generally, as known, organised crime-related offences are not impromptu, but as a rule they are committed within a plan previously established.

Hence such criminal offences are often connected and linked to one another so that only by pinpointing and verifying such connections and relations can their strategy be possibly understood and tackled.

Secondly, they will assist the Iranian legislative policies.

Also in this perspective, focus should be placed on the risk of dangerous fragmentations and disjoining of investigations and judicial proceedings on organised crime offences committed on a transactional scale and currently assigned to the responsibility of the various provinces' public prosecutor offices.

Obviously, for the purposes of this Output's evaluation it the findings on the current reform initiatives and on a feasible development of the international cooperation should also be considered.

Both items are analysed under different sections of this report.

Output 4: Legal authorities in Iran co-operate with their counterparts in the regions and worldwide in dismantling and prosecuting international criminal organizations

The need to improve international cooperation against transnational drug trafficking and other offences typically connected to the organized crime involved in it has to call us to account with high sensitivity of the issues related to the judicial legal assistance.

In this field, Iran had signed extradition agreements with a number of countries before the Islamic Revolution of 1979. Some of these - agreements with Pakistan (1959), Turkey (1937), France (1964) - are still formally enforceable, but practically are not applied.

In the last years, Iran has developed a more intensive cooperation policy at regional level. Specifically, I.R. of Iran signed:

- Agreement with the Russian Federation on Mutual Legal Assistance in Criminal and Civil Matters - 5/3/1996
- Agreement on Mutual Legal Assistance with the Republic of Azerbaijan - 21/2/1998

- Agreement on the Extradition of Offenders with the Azerbaijan Republic - 21/2/1998
- Agreement with the Syrian Arab Republic on Judicial Cooperation in the Legal, Commercial, Criminal, Personal Status, Extradition and Transfer of Convicted Offenders Matters - 15/5/1999
- Agreement on Extradition of Offenders with the Republic of Uzbekistan - 11/6/2000
- Agreement on Mutual Legal Assistance with Kazakhstan
- Agreement on Mutual Legal Assistance, Extradition of Offenders and Transfer of Sentenced Persons with Tajikistan
- Agreement on Extradition of Offenders with Belarus.

The cited agreements with Azerbaijan, Tajikistan, Russian Federation and Belarus have been approved by the Expediency of Council (after the ratification of the Parliament but the initial reject of the Council of the Guardian) leveraging on the Islamic “Principle of necessity”.

As referred to the said mentioned sponsored research on this issue, the different opinion of the Guardian Council (whose mandate, in accordance to the principles of the Constitution of the Islamic Republic of Iran, is to ensure the compatibility of the Parliament’s decisions to Sharia and Constitutional Law) is founded on believing that giving a judicial representation to an alien judge to perform functions such as collection of evidences or hearing confession or testimony does not have the same legal effects as in the case of a judicially qualified judge basing it on Sharia Law.

The objection of the Guardian Council targets in this case both the judicially disqualified judge and the judgments contrary to Sharia Law.

The outcome of such approach is necessary not to suffer from unjustified limitation of judicial assistance cases and of the possible levels of cooperation among States fighting against transnational delinquency.

The cited study examines items connected to relationships between Sharia Law and Iranian laws and constitutional principles, on one side, and international law and principles on the other side.

At the moment, an evaluation of the contents and the quality of this study is possible just on the basis of its conclusions.

Despite the relevant results of the interviews with the author, the need to thoroughly translate the research from the Persian should be underscored.

In fact, the peculiar complexity and the high sensitivity of the issues related to the mutual legal assistance issues make necessary to have a complete view of the only existing recent Iranian study concerning them.

Obviously, the importance of an thorough integral translation of this study is clear also from the point of view of the foreign authorities involved in current and prospective cooperation activities with Iranian judiciary system.

Above all, the issue should be the focus of future projects, giving impulse to the discussion among Iranian law makers, judges and academic centers, organizing workshops with international experts and comparative purposes, sponsoring larger distribution by the Iranian authorities of Dr. Ardebili's research and an analogue distribution of updated international laws and foreign researches collections, referring also to UN Convention on Transnational Organized Crime provisions (e.g., the UN's Legislative Guide for it) , signed by I.R. of Iran and still to be ratified.

A medium/long time strategy in the development of UNODC's projects related to this sensitive field could be combined with shorter time programs.

Since organized crime (starting from which involved in drug trafficking) has increased its transnational features, the judiciary authorities of the different countries need to co-ordinate themselves with a view to the punishment of crimes and obtain and process information and data relevant to foreign criminal groups interacting with the domestic ones in order to start or complete investigations and proceedings.

International praxis already know direct relations among central Judicial Authorities of various countries for the better development of investigations and proceedings carried out in each of them, in compliance with the ordinary secrecy of investigations.

In some cases, specific agreements have been stipulated to keep mutually informed as to the criminal and procedural legislation relevant to crimes, the criminal groups operating in their respective states, their structures and their connections as well as to provide each other with information regarding citizens of the other state who were apprehended on one's own territory on charges of organised crime.

It is worth noting that this praxis has nothing to do with the activity involving rogatory letters or police cooperation.

Rogatory letters intervene upon judicial proceedings under way and are aimed at obtaining – or providing – evidence, which can be acquired abroad on the basis of the findings of the proceedings.

The police cooperation activities (and the international agreements related to it) have different objects and aims, only potentially connected to the judicial inquiries and proceedings.

The mentioned praxis, instead, aim to provide the judicial authorities with intelligence and information which can trigger a fresh inquiry or which may be useful to complete an on-going inquiry.

In conclusion, we could say that although the road to implementation of this kind of cooperation is not paved, as it should be, yet it exists and could be improved.

The keen interest and availability showed by Iranian high-ranking judicial authorities during my meetings and contacts in order to possible development international cooperation at the current legislative stage confirm that conclusion.

Final recommendations:

The Evaluation Report on LAS Project is concluded with a set of recommendations below:

1. To follow the anti-drug law reform project through close contacts and meetings with Iranian competent authorities, to update UNODC evaluations and the future activities related to it;
2. To support (with financial resources and the contribution of international experts) the modernization trend started in the new ant-drug legislative proposal, to facilitate the making of knowledge and skills which is required for the application of the future laws, also in the general view of transparency and accountability of the Iranian legal system; thematic workshops – opened to international experts – should be organized on the main legal issues (from new penalties’ regulations to the alternatives to imprisonment, from controlled delivery to Iranian criminal proceeding laws);
3. To support the improvement of court regulations and practices aimed at ensuring fair trial and defendant’s rights during inquiries and proceedings;
4. To ensure financial facilities for a larger distribution of the sponsored LAS researches among judges, academic experts and police officers;
5. To ensure financial facilities for a larger distribution (and updating) of the Iranian laws collection among judges, academic experts and police officers;
6. In view of the new Anti- Money Laundering Bill:
 - I. To organize specific training programs (opened to international experiences) for Iranian public officers involved in the application of the law;
 - II. To support (with financial facilities and workshops opened to international experts) the Anti-Money Laundering High Council’s tasks, as referred by law;
 - III. To promote and sponsor economic and legal researches to strengthen the Iranian system’s capabilities to monitor and control the financial

movement connected to drug trafficking and organize crime involved in it;

7. To follow the Second Judicial Plan Reform implementation through close contacts and meetings with Judiciary, to update UNDOC evaluations and to plan the UNDOC activities related to it (promoting researches and study on the judicial system, supporting the Judiciary's training programs, etc.); in this perspective, could be requested cooperation of foreign institutions (e.g., Italian Superior Council of the Magistrates or the French *Ecole Nationale de la Magistrature* or the specific structure in this field of the European Union) responsible for training of judges with a view to the participation of Iranian judges into their training programs;
8. Improving the Iranian judiciary system's capabilities to equip its offices (starting from judicial structures responsible for inquiries and proceedings in order to drug trafficking cases) with a modern *data base* which could contain information from judicial sources, also in view of international information exchanges between judicial authorities;
9. To promote and sponsor criminological researches relating to Iranian transnational drug trafficking routes and organized criminal groups involved in them;
10. To promote the translation from Persian of the LAS sponsored and completed research on "Judicial Cooperation and Extradition" and ensure financial facilities for a larger distribution of the published Persian edition of it among Iranian judges and academic nerve centers;
11. To promote the translation from Persian of the published official Collection of Iranian laws on "Anti-Narcotic", "Criminal proceedings" and "Crime and Penalties" to facilitate the approach to the Iranian legal system by foreign judicial authorities;
12. To promote an International Workshop on "Mutual Legal Assistance" between Islamic Republic of Iran and the other States for high-ranking Iranian judicial authorities with the participation of academic and international experts;
13. To sponsor thematic studies (by Iranian and international experts jointly) on the legal framework relating to which direct exchanges of information on transnational drug crimes and organized groups involved in them in Iran between Iranian and foreign judicial authorities (also in the perspective of the UN Convention on Transnational Organized Crime) could be promoted and improved also at the current stage of the Iranian laws and principles.



NOROUZ PROGRAMME EVALUATION

TERMS OF REFERENCE

PROGRAMME TITLE: Narcotics Reduction United (NOROUZ) Programme Comprehensive Drug Control Programme for The Islamic Republic of Iran

Programme's Module
Number and Title:

- AD/IRA/99/E51 CIRUS - Combined Interdiction Unified Strategy for Iran
- AD/IRA/99/E52 DARIUS - Drug Abuse Reduction Unified Strategy for Iran
- AD/IRA/99/E53 Legal Assistance for Iran
- AD/IRA/99/E54 PERSEPOLIS - Participatory Experiences Empowering Local Initiatives for Iran
- AD/IRA/02/G46 AFGANIAI - Actions for Generating Awareness on the Narcotics Issue among Afghans in Iran

Background

The Islamic Republic of Iran (Jomhuri-ye Eslami-ye Iran) is bordered to the north by the states of Armenia, Azerbaijan and Turkmenistan and the Caspian Sea; to the east by Afghanistan and Pakistan; to the south by the Persian Gulf and the Sea of Oman. The geographical location of the region make Iran vulnerable to drug trafficking. Although illicit drug cultivation was totally eradicated in Iran by the end of 1980, in some other countries of the region, in particular Afghanistan, opium poppy has been transformed into a major cash crop since 1970's.

Iran has thus become one of the main conduits for these illegal substances destined for the western markets. Despite of the growing importance of trafficking routes passing through the Central Asian Republics, Iran indeed remains the main conduit for narcotics produced in Afghanistan and destined for both European and Middle Eastern illicit markets.

Illicit shipments of both opiates and hashish enter the Iranian territory from its eastern frontiers with Afghanistan and Pakistan. They are then carried overland to the country's western border with Turkey, and /or toward Turkmenistan. Hashish and to a much lesser extent opiates are also trafficked through the Iranian southern seacoast for shipment to the Persian Gulf States. In addition, new trends indicate the increased use of international airports and the international mail services.

Iran is not only a transit country for illicit drugs but also a large consumer market. The Government's estimates based on case enumeration using secondary data indicate that about 1.2 million people are regular drug users or are dependent on drugs, mostly opiates.

A 1998-99 UNDCP contracted drug abuse Rapid Situation Assessment study has been carried out in the country in an effort to better assess the nature and extent of the situation. The final results of RSA, undertaken in ten major urban sites of the country, corroborate a high prevalence of drug abuse in the country, indicating that 1-2% of the population have serious health/social problems provoked by the use of drugs (mainly opiates).

The most commonly used drugs are opium, opium residue and cannabis. The opiates described were traditionally smoked in opium pipes in old Persia for recreational purposes, as well as self-prescribed as treatment to several health related problems. In more recent time, however, the traditional use of opium given pace to the consumption of heroin, where users sniff, smoke and inject. Sharing of injection equipment among drug users is the main cause for HIV/AIDS spreading (67% of recorded HIV cases) and consequently a major source of concern for national health authorities.

All aspects of drug control are covered by the 1988 Anti - Narcotics Drug Law of the Islamic Republic of Iran which addresses the issues of cultivation, production, import, export, possession, consumption, distribution, sale and running premises for the use of drugs. The Revolutionary Courts deals with all drug cases.

The emergence of petty crime related to drug addiction in the major Iranian towns is an additional reason for concern for national authorities. No provision is made in the Iranian legislation for money laundering. There is an acceptance at Ministerial level that Iran needs to modernize its anti-drugs legislation.

The I.R. of Iran is a party to the Single Convention on Narcotic Drugs, 1961, as amended by 1972 Protocol, the Convention on Psychotropic Substances, 1971, and the Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances, 1988.

In January 1999, the Government of the I.R. of Iran and the United Nations International Drug Control Programme – UNDCP – signed a Memorandum of Understanding regarding the establishment of a UNDCP Office in Iran.

The immediate objectives of the NOROUZ Programme

The purpose of the Programme is to reduce the impact of the drug issue in the I.R. of Iran by implementing a multi disciplinary programme of action embracing supply reduction, demand reduction and legal assistance. In particular the Programme aims at:

- Enhancing the national capability in reducing illicit trafficking of narcotic drugs; By the end of the project Iranian law enforcement authorities in charge of anti drug trafficking operations will have increased their capability of intercepting and seizing

illicit consignments of narcotic drugs transiting the country from Afghanistan and Pakistan, as well as leaving the country through the mail system, international airports and seaports.

- Reducing the impact of the national drug abuse and consumption problem; By the end of the project, a network of drug demand reduction institutional and Non Governmental Organizations will co-operate in addressing the drug consumption phenomenon at national and local levels.

- Organizing and improving its judicial responses to the phenomena of illicit drug trafficking and international crime; By the end of the project, Iranian judges and magistrates will have at their disposal the needed legislative and investigative tools for responding to the challenges posed by drug trafficking and international organized crime.

- Mobilizing its civic society against the illicit drug culture and forging new strategic alliances with national and international partners in the fight against drugs; By the end of the project, opinion leaders, intellectuals, mass media and the general public will actively participate in the anti drug effort launched by the Government of Iran at central level. The mentioned objective will be achieved by first mobilizing national decision makers, opinion leaders and the general public to play an active role in the fight against drugs and criminality. Second, by empowering the community with the required instruments for designing, planning, and implementing, local drug control action plans.

During the implementation of NOROUZ Programme, the following outputs were reportedly achieved

A Project Review Committee was officially launched for each of the four components of the NOROUZ Programme. Membership of each PRC composed of Drug Control HQs of Iran, UNODC Iran, as well as relevant agencies of the project concerned. The mandate of the PRCs includes drafting and approval of the work plan and related annual budgets.

Project CIRUS has improved the capacities of Iranian law enforcement agencies, in particular the Anti-Narcotics Police of I. R. of Iran, in the eastern provinces bordering Afghanistan and Pakistan. The agencies in question, have been provided with training, vehicles, motorcycles, heavy duty construction equipment, night vision devices communication equipment, equipment for dog training center, and illicit drugs test kits.

Taking into account the increased production of drugs in neighboring countries, the abovementioned assistance has resulted in:

- Reduced smuggling of narcotic drugs at the eastern and south-eastern borders of Iran;
- Increased capability of the IRI Police in preventing and reacting to drug smuggling;

- Reduced flow of narcotic drugs through Iran by increasing the interdiction capability of Customs and IRI Police at the major exit points
- Effectiveness of drug scenting dogs

Project DARIUS has facilitated creation of a network of drug demand reduction institutional and non governmental organizations which shall co-operate in addressing the drug consumption phenomenon at national and local levels. As a result of assistance under this project:

- A group of Iranian drug demand reduction specialists (in prevention, treatment, rehabilitation, data collection and analysis) have been trained;
- The National Drug Abuse Research and Training Institute became operational;
- Universities, research centres and NGOs have been involved in demand reduction
- Training programmes have been developed and implemented and the information and other materials developed and distributed;
- Capacity for monitoring and analyzing drug abuse trends and patterns at local and regional level has been widened;
- Innovative pilot treatment (after care, relapse prevention) and rehabilitation projects have been tested in Iran
- National demand reduction initiatives are designed, launched and implemented at the local and community level
- Drug abuse phenomenon in prisons and penitentiary systems has been monitored and analysed.

In order to harmonize Iranian legislation with legislative standards of drug crimes and ensure that the national legislation on drug related crimes addresses the challenges posed by drug crimes, LAS Project implemented the following activities:

- Research studies on “Alternatives to Imprisonment”, “Controlled Delivery”, “Mutual Assistance and Extradition” and “Money Laundering”. The reports of some of these studies have been printed and published for distribution among judges, universities and other interested authorities;
- A need assessment study for training components of LAS project was implemented and preparation of training materials is currently underway;
- Two workshops for Iranian judges and law enforcement officials were organized in 2001;
- Due to the developments regarding ratification of a money laundering bill, a Seminar on this subject was organized in Shiraz, 7-8 May 2003;
- An inter-institutional sub-committee was established in 2002 aimed at assisting Iranian prosecutors and investigators from law enforcement agencies to become familiarized with modern technical tools and methodologies required for dealing with international drug crimes.

Through implementation of the PERSEPOLIS project, mass media, policy makers and general public have been sensitised to the different aspects of the drug issue through community based drug prevention and advocacy programmes. Support provided to NGOs has resulted in their empowerment and consequently their involvement in drug demand

reduction activities, e.g. innovative drug prevention activities targeting young people has proved to be very effective

Introduction of participatory planning exercises to drug control policy makers and experts has led to drafting of provincial plans of actions involving all stakeholders from both governmental and non-governmental organizations.

Project AFGANIAI has resulted in greater awareness of the Afghan refugees enrolled in the Afghan Transitional Government – I.R.of Iran – UNHCR voluntary repatriation programme about the consequences of getting involved in any drug related activity (cultivation, production, trafficking, and consumption). An added value of the project has been the generation of awareness on the narcotic issue among the officers of the national and international agencies responsible for the implementation voluntary repatriation programme in the field, viz. the Bureau for Aliens and Foreign Immigrants' Affairs of the Ministry of the Interior (BAFIA) and UNHCR field Offices in Iran .

Purpose of Evaluation

The evaluation is being undertaken to assess the impact of the assistance provided in relation to the objectives, outputs and the outcomes set out in the project document. The purpose of the evaluation is to assess and measure the results and the impact created by the project in reducing illicit drugs supplies, reducing demand for illicit drugs and provision of legal assistance to the Government of IRAN. The evaluation also aims at determining if the project enhanced national capacity to reduce illicit trafficking of narcotic drugs, reducing the impact of drug abuse, improving judicial response to drug trafficking as well as mobilising civic society against the illicit drug culture. Further the evaluation findings are also intended to contribute to the strengthening of the monitoring and evaluation system so as to support results-based management of the project. The inclusion in the evaluation process of a number of stakeholders is designed to reinforce the partnership among UNODC, recipient and donor governments, and civil society to achieve common goals.

Scope of the Evaluation

The evaluation will cover and analyse the following key components and processes:

1. The effectiveness of the project design, strategy and approach applied to attain the project objectives as well as the appropriateness of such a strategy and approach as vehicles for anti-corruption;
2. The scope and strategy of the project in relation to the magnitude of the problem;
3. The attainment/achievement of the project objectives as outlined in the project document
4. The results achieved by the project, in particular the outputs, outcomes and impact, in relation to the explicit or implicit objectives of the project;

5. The extent to which the project has contributed to the improvement of interdiction capacities to combat illicit drug trafficking in Iran;
6. The complementarity and synergies of NOROUZ Programme with other projects implemented by UNODC in the country and region;
7. The inter-relation and complementarity of the project with other activities of the Governments, as well as with assistance from bilateral donors;
8. The relevance of the main objectives of the project when considering developments of the drug problem in the country, including the impact determined by developments in Afghanistan.
9. The sustainability of project results;
10. Unintended impacts of the project, both positive and negative.
11. The appropriateness of institutional arrangements and effectiveness of programme management, as well as quality and timeliness of monitoring and backstopping of the project by all parties concerned.
12. The roles and responsibilities of the various parties: relevant government authorities; donor countries; UNODC; UNOPS; other parties.
13. The identification of specific areas of good practice.
14. The evaluation should identify lessons learnt both of a technical and substantive nature that can be applicable to other projects and which are of importance to international drug control.
15. Finally, the evaluation will make recommendations as appropriate and these must be based on the findings.

Evaluation Methodology

The evaluation of the project is being conducted as part of a cluster evaluation and will be based on the following:

1. The study of relevant documents (project reports; reports of missions by UNODC; reports produced by outside experts; statistics on drug seizures, etc.);
2. Initial briefing and interviews with key responsible UNODC staff in Vienna, in the UNODC Iran;
3. Interviews with national officials, the Secretary General of Drug Control HQs of Iran, Heads of relevant Project Review Committees, experts and other knowledgeable parties;
4. One or more round-table discussions with project staff, national officials and other concerned parties, including relevant UN agency

representatives;

5. A strategic analysis of the effects and impact of the Governments activities in the field of drug control and of UNODC assistance;
6. An assessment of the Governments achievements in terms of investigative and operational capacities through focused interviews and analysis of data and trends activities.
7. Field observations and rapid appraisal by the evaluators during field visits.

Upon completion of the fact-finding and analysis phase, a draft evaluation report will be prepared. The draft should be circulated among the parties for comments. The evaluator will incorporate comments as appropriate when producing the final report, for which he/she will be solely responsible for.

Composition Of The Evaluation Mission

A team of four independent experts shall conduct the evaluation. The experts shall act independently in their individual capacities, and not as representatives of the government or organization, which appointed them. UNODC and the Secretary of Drug Control Headquarters shall appoint one of the four experts as leader of the evaluation team. Interested donors to the project may provide experts to participate in the evaluation exercise. All costs for experts appointed by donors will be borne by the donor government directly. The report will be prepared by the team, under the leadership of the evaluation team leader and under the guidance of the Evaluation Section.

The team of evaluators would be formed by experts endowed with the following qualifications:

- International drug law enforcement experience at a senior level (one expert);
- International drug demand reduction expert at a senior level (one expert);
- International legal experience in narcotic matter at a senior level (one expert);
- Experience in conducting independent evaluations (one expert) Team Leader;
- Familiarity with the drug control situation in the South West Asia in general and Iran in particular (possibly all experts);
- Knowledge of bilateral/multilateral technical cooperation, particularly in illicit drug supply and demand reduction, border control (possibly all experts).

Briefing, Consultations And Administrative Support

The evaluation team will be briefed and debriefed on the project by UNODC HQs and the field office in Tehran. UNODC Iran elaborate and make available to the evaluation team an up-to-date status of the project. The UNODC Representative for Iran

and his staff will also provide necessary substantive and administrative support.

Although the evaluation team should be free to discuss all matters relevant to its assignment with the authorities concerned, it is not authorized to make any commitment on behalf of UNODC or the Government.

Evaluation Report And Follow-Up

The evaluation team will submit to and discuss its report with UNODC Headquarters, the Secretariat of Drug Control Headquarters and UNODC Iran. The report will contain the findings, conclusions and recommendations of the evaluation team as well as a recording of the lessons learned during project implementation.

The evaluation team, while considering the comments provided on the draft, will use its independent judgment in preparing the final report.

The final report should be submitted to UNODC no later than four weeks after completion of the mission. The report should be no longer than 25 pages, excluding annexes and the executive summary. The report will be distributed by UNODC as required to the governmental authorities and respective donors.

Timetable

The timetable of the evaluation mission is as follows:

- 15 working days in the field (including 2 working day briefing session in UNODC Vienna HQS);
- 5 working days for the preparation to the field mission
- 10 working days for the drafting writing of the final evaluation report .