

V. International Obligations

As a member of the UN, OSCE, and Council of Europe, *inter alia*, Bosnia & Herzegovina is under many international obligations in the fight against terrorism – both in the form of international conventions and politically binding agreements.

Prior to September 11th, the UN Security Council and General Assembly had, over the last three decades, put forth several resolutions against terrorism and its particular forms. These included the 12 main UN conventions and protocols against terrorism, as well as some related conventions and protocols against international organized crime. After the al Qaeda attacks, UN Security Council Resolution 1373 was passed in late September 2001 as a comprehensive set of commitments for the international community toward fighting and preventing terrorism. It serves as both a summary of all previous anti-terrorism resolutions and creates new obligations for States in this struggle. Later Security Council Resolution 1377 (November 2001) reiterates the importance 1373 and also encourages regional security organizations, such as the OSCE, to assist States in its implementation.

As part of the international community's increased mobilization in fighting and preventing terrorism post-September 11th, the OSCE organized a December meeting of the Ministerial Council in Bucharest. The result of this meeting was the Bucharest Ministerial Declaration, which includes the Bucharest Plan of Action for Combating Terrorism. The Plan of Action delineates steps to be taken by OSCE institutions, missions, and Member States. Less than two weeks later the OSCE, along with the UN Office for Drug Control and Crime Prevention, hosted the Bishkek International Conference on Enhancing Security and Stability in Central Asia: Strengthening Comprehensive Efforts to counter Terrorism. While the focus of this conference was on Central Asia, *all* OSCE Member States were encouraged to implement the resulting "Programme of Action" – which reaffirmed the Bucharest Plan of Action and laid out further anti-terrorism measures. Internally, OSCE

divisions such as ODIHR and FSC created “Road Maps” for implementing the Bucharest and Bishkek documents.

Within a few short months, Bosnia & Herzegovina also became a member of the Council of Europe, which has many of its own conventions and protocols related to the fight against terrorism, which are mandatory for all members to sign, ratify, and implement.

Lastly, while Bosnia & Herzegovina is not yet in negotiations with the European Union for membership, eventual European integration is the priority of most officials in the government. In fact, new High Representative Paddy Ashdown noted in his inaugural speech that his main task is “to put this country irreversibly onto the road to statehood and membership of Europe.”⁸³ Therefore, European Union guidelines for fighting and preventing terrorism – though not *obligations* under international law for Bosnia & Herzegovina – should be emulated as much as possible. For this reason they have also been included in this chapter.

V.1. The OSCE Concept of a Comprehensive Approach to Security

Politico-Military Dimension

Under the politico-military dimension, BiH’s international obligations focus mainly on criminalizing specific acts of terrorism or terrorist assistance, sharing information between government bodies and with other States, and assisting with any investigations or proceedings upon another State’s request. High emphasis is placed on international cooperation, particularly informational exchange. Highly linked to the criminalization of terrorist acts and assistance is the strengthening of police border controls, training, and intelligence to counter the criminal activities.

⁸³ Inaugural speech by Lord Paddy Ashdown, 27th May 2002, Sarajevo, BiH State Parliament

Economic and Environmental Dimension

Under the realm of the economic dimension, the international anti-terrorist documents emphasize the regulation of financial systems in order to suppress terrorist financing and money laundering. They also mention improving the standard of living and level of environmental protection, so as to remove the base for terrorist sentiment that stems from poverty.

Human Dimension

Relative to the human dimension, the international conventions, protocols, and other obligations emphasize the maintenance or creation of civil society – namely, promoting tolerance among different ethnic or religious groups, ensuring minority rights, solving the displacement of persons, and promoting respect for the rule of law – in order to remove some of the feelings of disenfranchisement that can lead to desperate terrorist acts or sympathies. The humane treatment of offenders or alleged offenders is another theme that runs throughout all of the documents.

The following pages contain a comprehensive list of obligations which BiH is committed to fulfil, arranged by organization and document, as well as an outline of the European Union guidelines.

V.2. Specific OSCE Obligations

Bucharest Plan of Action

The *Bucharest Plan of Action* lays out several duties for both OSCE institutions and Member States themselves. Most of these obligations were reinforcements of those laid out in UN resolutions and conventions.

In particular, States pledged to:

- Become parties to all 12 of the United Nations conventions and protocols relating to terrorism by December 31, 2002; {*Note: See later section on UN conventions and protocols*}
- Inform the Permanent Council of steps taken to become parties to these 12 conventions and protocols;
- Implement all the obligations assumed under the conventions and protocols relating to terrorism (including the *United Nations Convention against Transnational Organized Crime* and its protocols,) in particular:
 - Working especially under the *United Nations Convention on the Suppression of Financing of Terrorism* – specifically providing training for domestic financial institution employees to counter money laundering and monitor financial flows;
 - Preventing the movement of terrorist individuals and groups through effective controls over borders and issuance of identity papers and travel documents, while respecting international human rights and refugee law;
 - Assuring that asylum is *not* granted to persons who have participated in terrorist acts;
 - Providing timely detention, prosecution or extradition of persons charged with terrorist acts;
- Participate constructively in negotiations at the United Nations on the *Comprehensive Convention against International Terrorism*, *International Convention for the Suppression of Acts of Nuclear Terrorism*, and global instrument against corruption;
- Enhance implementation of existing OSCE politico-military commitments and agreements, especially the *Code of Conduct on*

Politico-Military Aspects of Security and the Document on Small Arms and Light Weapons (SALW);

- Submit responses to the *Code of Conduct Questionnaire*;
- Use the Forum for Security Co-operation (FSC) to strengthen efforts in combating terrorism by implementing all relevant measures agreed by the OSCE;
- Consider how the OSCE may draw upon best practices in preventing and combating terrorism;
- Strengthen co-operation and information exchanges between States, groups, organizations, and institutions combating terrorism;
- Aim to identify and combat economic and environmental issues that undermine security;
- Work with OSCE and UNHCR to find solutions to protracted displacement of persons;
- Promote tolerance, co-existence and harmonious relations between ethnic, religious, linguistic and other groups;
- Ensure that national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity;
- Provide early warning and appropriate responses to violence, intolerance, extremism and discrimination against these groups;
- Promote respect for the rule of law, democratic values and individual freedoms;

Bishkek Programme of Action

The Bishkek Conference culminated in a Programme of Action, laying out duties for OSCE bodies and Member States which reaffirmed the Bucharest guidelines. States committed themselves to:

- Enhance co-operation between anti-terrorist and crime-fighting agencies;
- Enhance co-operation between those agencies at the regional and international levels as well;
- Adopt anti-money laundering legislation and structures;
- Rapidly ratify of all relevant international instruments, including Financial Aid Task Force (FATF) 40 recommendations; *{See later section in this chapter on OECD obligations}*
- Gather and share information and analysis on criminal activities
- Increase funding for relevant research;
- Prevent accumulation and trafficking of small arms and light weapons (SALW);
- Increase co-operation in human rights and fundamental freedoms by strengthening rule of law and building democratic institutions;
- Allow judiciary to deal with all terrorism aspects;
- Address inter-ethnic frictions at earliest stage;
- Promote active civil society engagement, especially among young people;
- Emphasize tolerance and dialogue among civilizations;
- Assist the free media;
- Provide psychological and social services to victims and families;

- Address economic and social problems exploited by terrorists;

Code of Conduct on Politico-Military Aspects of Security (1994)

The Code of Conduct, originally agreed upon in 1994 in Budapest, lays out specific guidelines for the organization and use of military forces by OSCE Member States. Specifically regarding terrorism, the Code of Conduct makes several points, requiring that States:

- Not support terrorist acts in any way; [Art.II (6)]
- Take appropriate measures to prevent and combat terrorism, including fulfilling international agreements; [Art.II (6)]
- Counter tensions that may lead to conflict, such as aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism; [Art.VI (17)]
- Ensure a politically neutral armed forces that is trained in international humanitarian law; [Art.VII (23,30)]
- Respect fundamental freedoms and human rights in recruitment of military, paramilitary, or security personnel; [Art.VII (27)]
- Guard against accidental or unauthorized use of military means; [Art.VII (24)]
- Not to use their armed forces to limit the peaceful exercise of human and civil rights; [Art.VIII (37)]

The Code of Conduct also includes a 10-point questionnaire, which is to be completed April 15th of each year. Question #1 asks directly what measures the Member State has taken to prevent and combat terrorism.

Document on Small Arms and Light Weapons (2000)

The obligations of OSCE Member States under SALW Document are mirrored by those under the later UN Protocol against Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (2001). *{Note: See later section on UN conventions and protocols}*

In particular, States agreed to combat illicit trafficking through National control of manufacture by licensing; [Sec.II(A)]

Ensuring comprehensive and accurate records by the State and manufacturers; [Sec.II(C)]

Controlling brokers through licensing and disclosure of transactions; [Sec.]

Requiring strict import, export, transit documentation; [Sec.III(C)]

Demanding import licenses before accepting transit or imports [Sec.III(B)(2)]

Denying export licenses if there is a clear risk that the small arms will be used to create instability (i.e. terrorism, organized crime, threatening other States, etc.); [Sec.III(A)(2)(b)]

Considering a country's situation, legitimate need for arms, respect for human rights, and record of compliance with international agreements before exporting small arms; [Sec.III(A)(2)(a)]

Requiring permanent marking of all small arms with year, country, manufacturer, and serial number; [Sec.II(B)(1)]

Permanently destroying unmarked small arms, or marking them before use or export; [Sec.II(B)(2), IV(C)]

Transferring only small arms with identifying markings; [Sec.III(B)(7)]

Having procedures to ensure that transit in small arms is physically secure; [Sec.III(B)(1),(6)]

Ensuring enforcement through judicial system, including prosecution of illegal producers through penal codes, and criminal sanctions for violating UN arms embargoes; [Sec.II(A), Sec.III(E)(1),(2)]

Cooperating with other States and international organizations with investigations and elimination of surplus arms; [Sec.III(E)(3),(4), Sec.IV(D)]

Sharing information confidentially on arms manufacturers and brokers, illicit trafficking, convicted legal persons, and enforcement experiences; [Sec.III(E)(6)]

Providing early warning about uncontrolled spreads of small arms; [Sec.V(A)]

Exchanging information on all marking systems, imports, exports, surpluses, etc. by 30 June 2001; [Sec.II(D), Sec.IV(E)]

OSCE Road Maps

Road Map of the FSC – Forum for Security Cooperation

The FSC Roadmap for implementing the Bucharest Plan also reiterates that States should implement international agreements on terrorism and enhance implementation of both the *Code of Conduct* and the *Document on SALW*.

ODIHR Road Map

The ODIHR Roadmap for implementing the Bucharest Plan restates the obligation on Members States to promote tolerance and to monitor the situation of protracted displacement of persons.

V.3. United Nations Commitments

Resolution 1373

Passed in the wake of the September 11th attacks, UN Security Council Resolution 1373 on “Anti-Terrorism Measures” is a wide ranging resolution covering many aspects of fighting and preventing terrorism. As well it serves as a summation of all previous General Assembly and Security Council resolutions regarding terrorism. In it, the Security Council laid out a long list of actions – some of which are mandatory for States to implement, while others are strongly advised. In particular, States “shall”:

- Prevent and suppress the financing of terrorist acts, by
 - Criminalizing provision or collection of funds with intent or knowledge that they be used for terrorist acts; [Art.1(b)]
 - Freezing assets of offenders or attempted offenders; [Art.1(c)]
 - Prohibiting people from making any funds available for terrorist acts; [Art.1(d)]
- Establish terrorist acts as serious offenses under criminal law, with punishments that reflect the seriousness of the crimes; [Art.2(e)]
- Stifle support of people or entities involved in terrorist act by suppressing recruitment and eliminating weapons supply; [Art.2(a)]
- Prevent movement of terrorists via border controls measures to prevent fraudulent ID or travel papers; [Art.2(g)]
- Prevent use of their territory by terrorists; [Art.2(c)(d)]
- Provide early warning systems to other States; [Art.2(b)]

- Afford other States assistance in criminal investigations and proceedings; [Art.2(f)]

In addition, States are “called upon” to:

- Find ways to increase inter-body exchange of information in preventing terrorism; [Art.3(a)(b)]
- Become parties to all relevant conventions and protocols relating to terrorism; [Art.3(d)]
- Assure that refugees and asylum seekers have not been involved with terrorism; [Art.3(f)(g)]
- Report to the Counter-Terrorism Committee on steps taken to implement resolution 1373 by end of December 2001; [Art.6]

UN Conventions and Protocols on Terrorism

There are twelve major international conventions and protocols that delineate States’ duties in combating terrorism, which can be separated into the following topical categories:

Aircraft/Airport Terrorism:

- 1) Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963)
 - Criminalizes any act on board aircraft which is already subject to penal law or which endangers crew, passengers, or plane.
 - States must take measures to establish appropriate jurisdiction over such offenses. [Art.3]

- If States have joint air transport operating organizations, then they must designate which State is the State of registration of each aircraft, and notify the International Civil Aviation Organization (ICAO.) [Art.18]
- In case an incident takes place, States are required to:
 - Take measures to restore control to the aircraft commander; [Art.11(1)]
 - Allow passengers and cargo to resume travel as soon as practicable; [Art.11(2)]
 - Allow disembarkation of offenders or alleged offenders and take them into custody, allowing immediate communication with their home State; [Art.12, 13(2),(3)]
 - Give offenders or alleged offenders no less favorable treatment than State nationals; [Art.15(2)]
 - Begin an immediate inquiry; [Art.13(4)]
 - Notify other States that have jurisdiction or interest in the matter. [Art.13(5)]

2) Convention for the Suppression of Unlawful Seizure of Aircraft (1970)

- Creates offense for anyone to unlawfully, by force, threat of force, or other intimidation, seize or exercise control of the aircraft
- States must undertake to make the offense punishable by severe penalties under domestic law. [Art.2]
- States must establish appropriate domestic jurisdiction over such acts. [Art.4]

- If States have joint air transport operating organizations, then they must designate which State is the State of registration of the aircraft, and notify the International Civil Aviation Organization (ICAO.) [Art.5]
 - States should include such offenses as extraditable offences in every new extradition treaty. [Art.8(1)]
 - In case an incident takes place, States are required to:
 - Take measures to restore control of the aircraft to the commander; [Art.9(1)]
 - Facilitate the continued journey of passengers and cargo as soon as practicable; [Art.9(2)]
 - Take offenders or alleged offenders into custody for as long as necessary for criminal or extradition procedures to begin, allowing immediate communication with their home State; [Art.6(1),(3)]
 - Begin an immediate inquiry; [Art.6(2)]
 - Notify other States that have jurisdiction or interest in the matter; [Art.6(4)]
 - Either extradite or submit such cases to the competent domestic authorities for prosecution; [Art.7]
 - Assist each other in criminal proceedings; [Art.10]
 - Report all circumstances to the ICAO. [Art.11]
- 3) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)
- Creates offense for anyone to unlawfully and intentionally perform an act of violence against a person on board in-flight aircraft, plant

an explosive device, attempt or be an accomplice, if that act is likely to endanger aircraft safety.

- States must undertake to make the offense punishable by severe penalties under domestic law. [Art.3]
- States must establish appropriate domestic jurisdiction over such acts. [Art.5]
- States should include such offenses as extraditable offences in every new extradition treaty. [Art.8(1)]
- If States have joint air transport operating organizations, then they must designate which State is the State of registration of each aircraft, and notify the International Civil Aviation Organization (ICAO.) [Art.9]
- States must take all practicable measures under international and domestic law to *prevent* such offenses from being carried out. [Art.10(1)]
- Each State has a duty to exchange preventative information, if it has reason to believe that an offense will be committed. [Art.12]
- In case an incident takes place, States are required to:
 - Take offenders or alleged offenders into custody for as long as necessary for criminal or extradition procedures to begin, allowing immediate communication with their home State; [Art.6(1),(3)]
 - Begin an immediate inquiry; [Art.6(2)]
 - Notify other States that have jurisdiction or interest in the matter; [Art.6(4)]
 - Either extradite or submit such cases to the competent domestic authorities for prosecution; [Art.7]

- Assist each other in criminal proceedings; [Art.11]
 - Facilitate the continued journey of passengers and cargo as soon as practicable; [Art.10(2)]
 - Report all circumstances to the ICAO. [Art.13]
- 4) Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988)
- Extends the above convention to include terrorist acts at airports serving international civil aviation

Maritime Terrorism:

- 5) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)
- Protects maritime navigation (ships) in same manner as international aviation (aircraft.)
- 6) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988)
- Protects fixed platforms on the continental shelf in same manner as aircraft and airports.

General Terrorist Activities:

- 7) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons (1973)
- Defines persons who are entitled to special protection from attack.

- States are required to stiffly criminalize murder, kidnapping, or other attack on the person or official premises, private accommodation, or means of transport of the protected person – as well as criminalizing threat, attempt, and participating as accomplice. [Art.2(2)]
 - States must establish appropriate domestic jurisdiction over such acts. [Art.3]
 - States must take all practicable measures to prevent preparations for such acts within their territories, including exchanging information and administrative coordination. [Art.4]
 - States should include such offenses as extraditable offences in every new extradition treaty. [Art.8]
 - In case an incident takes place, States are required to:
 - Communicate to other States immediately if the suspect or offender is believed to have fled; [Art.5(1)]
 - Transfer any information about the victim and circumstances to the victim's official State; [Art.5(2)]
 - Keep the offenders or alleged offenders in the State for as long as necessary for criminal or extradition procedures to begin, allowing immediate communication with and an official visit from their home State; [Art.6]
 - Either extradite or submit such cases to the competent domestic authorities for prosecution; [Art.7]
 - Guarantee fair treatment during proceedings; [Art.9]
 - Assist each other in criminal proceedings; [Art.10]
 - Communicate the outcome to the UN Secretary-General; [Art.11]
- 8) International Convention against the Taking of Hostages (1979)

- States are obliged to establish hostage-taking as a criminal offense under domestic law, with punishments appropriate to the gravity of the offense. [Art.2]
- States must prevent hostage-taking by adapting domestic legislation to counter preparations and illegal groups and activities within their territories, allowing for appropriate informational exchange within the administration. [Art.4]
- States must establish appropriate domestic jurisdiction over such acts. [Art.5]
- States should include such offenses as extraditable offences in every extradition treaty. [Art.10]
 - In case an incident takes place, States are required to:
 - Take all measures possible to secure release of the hostages and return all objects obtained through the hostage-taking; [Art.3]
 - Take offenders or alleged offenders into custody for as long as necessary for criminal or extradition procedures to begin, allowing immediate communication with and official visit from their home State or from the International Red Cross; [Art.6(1),(3),(5)]
 - Begin an immediate inquiry and notify other States that have jurisdiction or interest in the matter or the UN Secretary-General; [Art.6(1),(2)]
 - Communicate the outcome to the UN Secretary-General; [Art.7]
 - Guarantee fair treatment during proceedings; [Art.8(2)]
 - Either extradite or submit such cases to the competent domestic authorities for prosecution; [Art.8(1)]
 - Assist each other in criminal proceedings; [Art.11]

9) Convention on the Physical Protection of Nuclear Material (1980)

- Requires that States take appropriate steps to ensure that during transport, nuclear material is protected according to specific guidelines – and include this in their domestic law. [Art.3, 4(4)]
- Prevents States from importing or exporting nuclear material without assurances that the protection guidelines will be met. [Art.4]
- States must identify and inform each other of their central authority and contact responsible for protection of nuclear material and for response operations if such material is compromised or threatened. [Art.5(1)]
- States are obliged to establish criminal offenses under domestic law for, *inter alia*, unlawful contact or transfer of nuclear material, threatening demands for nuclear material, or threatening use of nuclear material – with punishments appropriate to the gravity of the offense. [Art.7]
- States must establish appropriate domestic jurisdiction over such offenses. [Art.8]
- Offenses under this Convention will be considered an extraditable offense in all previous extradition treaties, and States must undertake to add it to all future extradition treaties. [Art.11]
- States should cooperate with each other and international organizations to obtain guidance on protection systems for nuclear material during transport; [Art.5(3)]
- States must ensure appropriate confidentiality toward information gained from other States; [Art.6]
- States must inform the depository of the domestic laws and regulations which give this Convention effect. [Art.14(1)]
- In case an incident (or threat) takes place, States are required to:

- Exchange information and cooperation to any other interested States or international organizations; [Art.5(2)]
- Ensure that alleged offenders remain in the State until necessary for criminal or extradition procedures to begin, notifying all other States with jurisdiction or interest in the matter; [Art.9]
- Either extradite or submit such cases to the competent domestic authorities for prosecution; [Art.10]
- Guarantee fair treatment during proceedings; [Art.12]
- Assist each other in criminal proceedings; [Art.13]
- Communicate the final outcome to the UN Secretary-General; [Art.14(2)]

10) Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)

- States must take necessary measures to prohibit and prevent manufacture of unmarked explosives within their territories. [Art.2]
- States must also prevent movement of unmarked explosives into their territories. [Art.3(1)]
- States must control movement of all unmarked explosives manufactured or brought into the country before the Convention came into force. [Art.4(1)]
- States must ensure that all stocks discovered or not held by the authorities for legitimate military or police purposes be destroyed, consumed, marked, or rendered permanently ineffective within 3 years of Convention coming into force. [Art.4(2)]
- States must ensure that all stocks held by authorities that are NOT an integral part of duly authorized military devices be destroyed,

consumed, marked, or rendered permanently ineffective within 15 years of Convention coming into force. [Art.4(3)]

- State parties must, if possible, transmit any information to the International Civil Aviation Council that will help it evaluate technical developments in the manufacture, detection & marking of explosives. [Art.8(1)]
- States parties must inform the Council of measures taken to implement the Convention. [Art.8(2)]

11) International Convention for the Suppression of Terrorist Bombing (1997)

- States are obliged to establish terrorist bombings as a criminal offense under domestic law, with punishments appropriate to the gravity of the offense. [Art.4]
- States must establish appropriate domestic jurisdiction over such offenses, and notify the UN Secretary-General. [Art.6(1),(2),(3)]
- States must prevent bombings by adapting domestic legislation to counter preparations and illegal groups and activities within their territories, allowing for appropriate informational exchange within the administration. [Art.15]
- States are urged to create standards for marking explosives in order to identify their origins in case of a blast. [Art.15(c)]
- States should include such offenses as extraditable offences in every extradition treaty. [Art.9(1)]
- In case an incident (or threat) takes place, States are required to:
 - Immediately begin an investigation; [Art.7(1)]
 - Ensure that alleged offenders remain in the State until necessary for criminal or extradition procedures to begin, notifying all other States with jurisdiction or interest in the matter; [Art.7(2),(6)]

- Either extradite or submit such cases to the competent domestic authorities for prosecution; [Art.8]
- Assist each other in criminal proceedings, investigations, or extradition proceedings; [Art.10]
- Guarantee fair treatment during proceedings according to domestic and international human rights law, including allowing suspects or offenders to contact their State of nationality and be visited by a State representative and/or International Red Cross representative; [Art.14, Art.3(3)(a),(b), Art.7(5)]
- Inform the offenders or suspects of their rights; [Art.3(3)(c)]
- Notify other States that have jurisdiction or interest in the matter, possibly through the UN; [Art.7(6)]
- Communicate the final outcome to the UN Secretary-General; [Art.16]

12) International Convention for the Suppression of the Financing of Terrorism (1999)

- States are obliged to establish terrorist financing as a criminal offense under domestic law, with punishments appropriate to the gravity of the offense. [Art.4]
- States must enable legal entities within the State to be held liable if management of the entity has committed an offense. [Art.5(1),(2)]
- States must ensure that such entities are subject to sanctions promoting deterrence, including monetary sanctions. [Art.5(3)]
- States must adopt measures necessary to ensure that terrorist financing is in no way justifiable. [Art.6]

- States must establish appropriate domestic jurisdiction over such offenses, and notify the UN Secretary-General. [Art.7(1),(3)]
- States must take measures to identify, freeze, and seize any funds allocated toward financing terrorism, and allow for forfeiture of such funds. [Art.8(1),(2)]
- States may share forfeited funds and should consider setting up system to use such funds to compensate victims. [Art.8(3),(4)]
- Terrorist financing will be considered an extraditable offense in all previous extradition treaties, and States must undertake to add it to all future extradition treaties. [Art.11(1)]
- If alleged offenders may be present in a State's territory, then the State must
 - Investigate, and take measures to ensure the persons remains in the State; [Art.9(1),(2)]
 - Allow the persons to communicate with and be visited by a representative of their home States; [Art.9(3)]
 - Guarantee fair treatment to offenders or alleged offenders, in accordance with domestic law and international human rights law – and inform them of their rights. [Art.17; Art.9(3)(c)]
 - Notify other States that have jurisdiction or interest in the matter, possibly through the UN; [Art.9(6)]
 - Either extradite or submit such cases to the competent domestic authorities for prosecution; [Art.10(1)]
 - Assist each other with investigations or extradition proceedings, with assurances that information will be kept confidential unless agreed upon; [12]

- Communicate the final outcome to the UN Secretary-General; [Art.19]
- States should cooperate in *preventing* terrorist financing by:
 - Taking measures to prohibit illegal activities of persons that encourage, instigate, organize, or engage in terrorist financing; [Art.18(1)(a)]
 - Requiring financial institutions to efficiently identify customers and identify unusual or suspicious transactions; [Art.18(1)(b)(i)]
 - Adopting regulations prohibiting blind trusts or anonymous accounts; [Art.18(1)(b)(i)]
 - Requiring financial institutions to verify the legal existence of the customer or business customer through public registries; [Art.18(1)(b)(ii)]
 - Requiring financial institutions to report complex or unusual transactions with no apparent lawful or economic purpose – without fear of breach of privacy lawsuits, if done in good faith; [Art.18(1)(b)(iii)]
 - Requiring financial institutions to maintain records for at least 5 years; [Art.18(1)(b)(iv)]
 - Creating measures for supervising all money-transmission agencies; [Art.18(2)(a)]
 - Creating measures to monitor cross-border cash and bond movements, without impeding freedom of capital; [Art.18(2)(b)]
 - Exchanging accurate and verified information within the State's administration; [Art.18(3)]
 - Cooperating with each other on identifying persons and funds used to finance terrorism – including considering mechanisms for sharing information. [Art.18(3)(a),(b)]

In addition, States have been urged to quickly finalize and ratify the Comprehensive United Nations Convention on International Terrorism.

Noting the strong link between organized crime and terrorism, there is also one UN Convention on combating international organized crime, along with four additional Protocols:

UN Convention Against Transnational Organized Crime (2000)

- States are required to adopt laws establishing participation in an organized criminal group, laundering, corruption, obstruction of justice (and being an accomplice to such acts) as serious criminal offenses. [Art.5(1); Art.6(1); Art.8(1); Art.11(1); Art.23]
- States must furnish copies of laws that give effect to this Convention to the UN Secretary-General. [Art.6(2)(d); Art.13(5)]
- States must take measures to establish appropriate jurisdiction over such offenses. [Art.15(1)]
- States are to establish liability of legal persons for these offenses, including dissuasive criminal and non-criminal sanctions. [Art.10]
- States should ensure that any prosecutorial discretion is used with maximum effectiveness against these offenses. [Art.11(2)]
- States should establish a long statute of limitations for these offenses. [Art.11(5)]
- States must adopt measures to identify, trace, freeze, and confiscate any proceeds of crime or objects used to commit the crimes. [Art.12(1),(2),(3)]
- States should create special investigative techniques for combating these crimes. [Art.20(1)]

- States should use proceeds from confiscation to compensate victims, fund IGO's who fight transnational organized crime, and share with other affected States. [Art.14(2),(3)]
- States must empower courts or other competent authorities to order financial records to be opened or seized. [Art.12(6)]
- States must take measures to provide both witness protection *and* assistance to victims. [Art.24; Art.25]
- States must take measures to encourage past offenders to cooperate with law enforcement. [Art.26]
- States must consider analyzing trends in organized crime and sharing information on effective prevention and policing. [Art.28]
- States must initiate, develop, or improve training programs for law enforcement personnel, and assist other States with the same. [Art.29]
- States should consider concluding bilateral and multilateral agreements for cooperation under this Convention, including these offenses in any extradition agreements and allowing for transfer of criminal proceedings. [Art.13(9); Art.16(3); Art.16(17); Art.17; Art.19; Art.20(2); Art.27(2)]
- States should take measures to ensure expedited extradition and simplified evidentiary requirements for these offenses. [Art.16(8)]
- States must designate central authorities for receiving requests for mutual legal assistance, and for preventing transnational organized crime, and notify the UN Secretary-General. [Art.18(13); Art.31(6)]
- States are foster close cooperation between their domestic administrative bodies and also with other States' administrations, including informational exchange. [Art.27(1)]

- States should focus on preventing transnational organized crime by:
 - Developing national projects to promote best practices in preventing transnational organized crime. [Art.31(1)]
 - Strengthening cooperation between law enforcement and private entities; [Art.31(2)(a)]
 - Developing codes of conduct for professions such as lawyers and accountants; [Art.31(2)(b)]
 - Disqualifying offenders from managing legal persons; [Art.31(2)(d)(ii)]
 - Establishing national records of disqualified persons; [Art.31(2)(d)(iii)]
 - Reintegration of past offenders into legal society; [Art.31(3)]
- States are to combat money-laundering specifically by
 - Creating a comprehensive domestic regulatory and supervisory regime for financial institutions; [Art.7(1)(a)]
 - Ensuring that judicial, administrative, and law enforcement bodies cooperate and exchange information on both the national and international level; [Art.7(1)(b)]
 - Considering establishing a national financial intelligence unit; [Art.7(1)(b)]
 - Implementing measures to monitor the flow of cash across borders, without impeding the free movement of legitimate capital; [Art.7(2)]
 - Using regional and multilateral organizations as a guideline, and endeavoring to promote multilateral cooperation; [Art.7(3),(4)]
- States are to combat corruption specifically by

- Adopting measures to promote integrity and prevent, detect, and punish corruption of public officials; [Art.9(1)]
- Ensure effective action by authorities through adequate independence; [Art.9(2)]
- Should States take action against alleged offenders, they are required to:
 - Ensure the presence of defendant through the proceedings, while respecting defendants' rights; [Art.11(3); Art.16(9)]
 - Consult with other States who have jurisdiction or interest in the matter; [Art.15(5)]
 - Either extradite or submit such cases to the competent domestic authorities for prosecution; [Art.16(10)]
 - Cooperate with other States in investigations and criminal proceedings to increase their efficiency, while keeping any shared information confidential; [Art.16(10); Art.18(1),(2),(3),(4),(5)]
 - Guarantee fair treatment to alleged offenders; [Art.16(13)]
 - Follow the Convention's specific set of guidelines for requesting mutual legal assistance; [Art.18(14),(15)]
- Upon request from another State, States must:
 - Identify, trace, freeze, and/or seize any proceeds, property, equipment, etc. from the crime; [Art.13(1),(2)]
 - Allow, according to specific guidelines, the transfer or people already in custody to give evidence; [Art.18(11)]
 - Allow for the transfer of criminal proceedings; [Art.21]

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000)

- States must establish trafficking as a criminal offense, including attempt, organizing, or being an accomplice. [Art.5]
- States must ensure assistance to victims by
 - Protecting victims' privacy and identity through confidential proceedings [Art.6(1)]
 - Providing information on proceedings; [Art.6(2)(a)]
 - Allowing them to present their concerns during criminal proceedings; [Art.6(2)(b)]
 - Implementing measures (along with NGOs) toward victims' physical, psychological, and social recovery – in particular housing, legal and personal counselling in a language victims can understand, medical assistance, and employment and educational opportunities; [Art.6(3)]
 - Providing for physical safety of victims [Art. 6(5)]
 - Ensuring that the domestic legal system allows for victims to obtain compensation for damages [Art.6(6)]
 - Adopting measures allowing victims to remain in the State [Art.7]
 - Accepting the safe and preferably voluntary return of traffickees that are nationals or residents of the State [Art.8(1)&(2)]
 - Protecting persons from revictimization [Art.9(1)(b)]

States must establish comprehensive policies toward preventing **and** combating trafficking by:

- Undertaking research, information, and mass media campaigns, as well as social and economic initiatives; [Art.9(2)]
- Cooperating with NGOs and other organizations; [Art.9(3)]
- Creating bilateral and multilateral agreements to alleviate factors which make people vulnerable; [Art.9(4)]
- Adopting or strengthening measures to discourage demand; [Art.9(5)]
- Exchanging information between law enforcement agencies; [Art.10(1)]
- Providing or strengthening training for law enforcement and immigration officials; [Art.10(2)]
- Strengthening border controls and direct cooperation between border services; [Art.11(1)&(6)]
- Adopting measures – including sanctions – to prevent commercial carriers from being used to commit the offense, including establishing obligation on carriers to ascertain that all passengers have appropriate travel documents; [Art.11(2)&(3)&(4)]
- Denying entry or revoking visas of persons implicated in trafficking; [Art.11(5)]
- Ensuring that State travel and identity documents cannot be easily misused, falsified, or altered; [Art.12]
- Allow for timely verification of the validity of documents, in case another State party requests; [Art.13]

Protocol against the Smuggling of Migrants by Land, Sea and Air (2000)

- States must establish migrant-smuggling as a criminal offense. [Art.6]
- States must ensure that migrants themselves will not be subject to criminal prosecution. [Art.5]
- States must cooperate to suppress smuggling of migrants by sea. [Art.7]
- Each States must designate an authority responsible for responding to requests for assistance or information by other States, and notify the UN Secretary-General. [Art.8(6)]
- States must strengthen border controls necessary to prevent and detect smuggling, including direct cooperation with other border services. [Art.11(1),(6)]
- States must adopt measures – including sanctions – to prevent commercial carriers from being used to smuggle, including establishing obligations on carriers to ensure proper travel documents. [Art.11(2),(3),(4)]
- States should have methods of denying entry or revoking visas of persons implicated in trafficking; [Art.11(5)]
- States must ensuring that State travel and identity documents cannot be easily misused, falsified, or altered; [Art.12]
- States must provide or strengthen training for law enforcement and immigration officials, cooperating with IGOs, NGOs, and other relevant organizations – including humane treatment of migrants. [Art.14]
- If a vessel is suspected of smuggling migrants then States must:
 - Respond to any requests for information or boarding by other States; [Art.8(1),(2),(4)]
 - Notify the State of the vessel’s flag [Art.8(3)]

- Ensure the safety of the vessel, people and cargo – maintaining interests of the flag State; [Art.9(1)]
- Compensate the vessel for any loss or damage if no wrongdoing is found; [Art.9(2)]
- Denying entry or revoking visas of persons implicated in trafficking; [Art.11(5)]
- Allow for timely verification of the validity of documents, in case another State party requests; [Art.13]
- Afford migrants protection against violence; [Art.16]
- Facilitate safe return of migrants, including issuing appropriate documents; [Art.18]
- States must take measures and cooperate to increase public awareness of the criminality of migrant-smuggling. [Art.15(1),(2),(3)]
- States must cooperate to combat the root socio-economic causes of smuggling. [Art.15(3)]
- States should conclude bilateral and regional agreements to prevent and combat smuggling. [Art.17]
- States must take measures to prevent smuggling by sharing information on [Art.10]:
 - Means of transport, routes, embarkation points, etc.;
 - Identity and methods of known criminal groups;
 - Authenticity of travel documents;
 - Best practices in prevention and law enforcement;

Protocol Against Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (2001)

- States must establish illicit manufacturing and trafficking in firearms, ammunition, and components as a criminal offense, including organizing, directing, aiding, abetting, facilitating, or counseling. [Art.5]
- States must adopt legal measures to allow confiscation, seizure, and destruction of illicit firearms. [Art.6]
- States must ensure maintenance of information on firearms for at least 10 years. [Art.7]
- States must require marking of firearms at the time of manufacture, including country, manufacturer, serial number or other user-friendly markings. [Art.8(1)(a)]
- States must require markings on all imported firearms. [Art.8(1)(b)]
- States must encourage manufacturing industry to develop measures against removing or altering markings. [Art.8(2)]
- States must ensure that deactivation of firearms render them permanently inoperable and be verifiable by record – and prevent illicit reactivation by law. [Art.9]
- States must maintain an effective system of secure export and import licensing and control, verifying import licenses from other States, obtaining clearance from transit States, and requiring licenses to include date and place of issuance; expiration; countries of import, export, and transit; final recipient; and description of firearms shipment. [Art.10(1),(2),(3),(5)]

- States must require the security of firearms during manufacture, import, export, and transit. [Art.11]
- States should establish a system for regulating brokers of firearms, including required registration, licensing, and disclosure of transactions. [Art.15]
- States must seek the support and cooperation of manufacturers, dealers, importers, exporters, brokers, and other commercial actors in carrying out this Protocol. [Art.13(3)]
- States must exchange information on carriers, known criminal groups, means of illicit activities, methods of law enforcement, and technological information – while ensuring confidentiality of shared information. [Art.12]]
- States should cooperate to prevent and combat illicit firearms, including training and tracing. [Art.12(4), 13(1), 14]
- States must designate a national body as the point of contact for other States about this Protocol. [Art.13(2)]

V.4. Council of Europe Obligations

As a new member of the Council of Europe, BiH also needs to sign and ratify many of the CoE treaties and protocols. In particular, the following conventions related to terrorism must be signed and ratified:

- *European Convention on the Suppression of Terrorism;*
- *European Convention on the Control of the Acquisition and Possession of Firearms by Individuals;*
- *European Convention on Mutual Assistance in Criminal Matters,* along with its two “additional” Protocols;

- *European Convention on Extradition*, along with its two “additional” Protocols;
- *European Convention on the Compensation of Victims of Violent Crimes*;
- *Convention on Laundering, Search, Seizure and confiscation of the Proceeds of Crimes*;

BiH must also implement the *Criminal Law Convention on Corruption*, which it has already signed and ratified. The convention entered into force in January 2002. The convention reiterates much of the substance of the *UN Convention against Transnational Organized Crime*. In addition, States must:

- Adopt legislation establishing a crime for bribery of *foreign* as well as domestic officials and officials of *international organizations*; [Art.5,6,9,10,11]
- Submit to the Secretary-General of the Council of Europe the central authorities responsible for sending and answering requests for mutual assistance, information, extradition; [Art.29]

V.5. Organization for Economic Co-operation and Development Guidelines

As mentioned in the Bishkek Programme of Action, the OECD, through its Financial Action Task Force on Money Laundering (FATF), has put forth Forty Recommendations – which OSCE Member States agreed to rapidly ratify. These forty recommendations for the most part duplicate the obligations under the *UN International Convention for the Suppression of the Financing of Terrorism* and *Convention against Transnational Organized Crime*. In addition, the FATF recommends that States:

- Ratify and implement the 1988 UN *Convention against Illicit Traffic in Narcotics, Drugs and Psychotropic Substances*; [Recommendation #1]
- Prohibit financial institutions from having anonymous accounts or obviously fictitious names; [#10]
- Prohibit financial institutions or employees from warning customers if their information is being reported to the authorities; [#17]
- Ensure that financial institutions with branches or subsidiaries in countries with insufficient anti-laundering measures still abide by these principles; [#20]
- Take measures to guard against control or acquisition of financial institutions by criminals; [#29]
- Record international flows of cash and report it to the IMF; [#30]

In addition, the FATF had requested that even non-Member States (such as BiH) submit by May 2002 a “Self-Assessment Questionnaire for the FATF Special Recommendations on Terrorist Financing.”

V.6. European Union Plan of Action

The European Council arranged an extraordinary session in response to the September 11th attacks, in which it adopted a “Plan of Action” of European policies to combat and prevent terrorism. Included in the plan were the following policies:

- The establishment of a pan-European arrest warrant, to replace extradition proceedings;
- Creating a comprehensive list of presumed terrorists and organizations;

- Sharing with Europol all useful data;
- Ratifying all relevant UN conventions;
- Implementing the FATF 40 guidelines;
- Updating aircraft security – including specialized crew training, increased cockpit safety, and increased monitoring of luggage;

