AGREEMENT OF UNDERSTANDING AND COOPERATION IN THE FIELD OF PROTECTION AND SUPPORT OF WITNESSES AND OTHER PARTICIPANTS IN THE CRIMINAL PROCEEDINGS

between

Protection Unit of the Police Directorate of the Ministry of Interior Affairs of the Republic of Serbia,

Witness Protection Department of the State Agency for Investigations and Protection (SIPA) of Bosnia and Herzegovina

and

Witness Protection Unit of the Police Directorate of the Republic of Montenegro
Based on the Article 24 of the Convention of the United Nations on Transnational Organized Crime, no. 55/25 that entered into force on September 29, 2003, Articles 10 and 34 of the Police Cooperation Convention of South East Europe of the Stability Pact, signed on May 5, 2006, as well as based on the national legislations of the signatory parties, the signatory parties:

- Protection Unit of the Police Directorate of the Ministry of Interior Affairs of the Republic of Serbia

- Witness Protection Department of the State Investigation and Protection Agency of Bosnia and Herzegovina (SIPA)

- Witness Protection Unit of the Police Directorate of the Republic of Montenegro

(therein referred to as “signatory parties”) through their authorized representatives

understanding the role and importance of protection and support of witnesses and other participants of the criminal proceedings,

determined to strengthen mutual assistance and cooperation

desiring to cooperate and further relations from the field of the witness protection and support, have agreed on the following:

Article 1
General Provisions

Provisions of this Agreement regulate the cooperation of the signatory parties in relation to providing efficient protection and support to the witnesses and other participants in the criminal proceedings, their family members or other close persons, should they face the threat to their life, health, freedom, physical integrity, property of large scale and value.

Article 2
Definition

(1) Witness, i.e. participant in the criminal proceedings is a person that, in accordance with the national legislation of signatory parties, has the capacity of a participant in the criminal proceedings who posses
information about the criminal offense that has been committed, the perpetrator and other important circumstances crucial for the prosecution of suspects/defendants in the criminal proceedings, and who is admitted into the witness protection program or is under other protective measures of the signatory party.

(2) Family member and other close person of the witness, i.e. participant in the criminal proceedings is a person who, pursuant to the national legislation, faces the threat to his/her life, health, freedom, physical integrity, property of large scale and value, due to the intention of the witness to testify, i.e. intention of other participants in criminal proceedings to provide crucial information in criminal proceedings, and in relation to which the witnesses, i.e. other participants in criminal proceedings, request admission to the witness protection program.

(3) Threat to life, health, freedom, physical integrity, property of large scale and value is a real and serious threat, i.e. the well founded suspicion that a real danger exists.

(4) Each signatory party shall assess and decide, pursuant to its national legislation, on the admission of the witness, i.e. participant in criminal proceedings to the witness protection program or on the application of other protective and support measures.

Article 3
The Subject of Understanding and Cooperation

The signatory parties, pursuant to their national legislation, agree to cooperate in relation to the following:

- Conditions and manner of conduct in providing protection and support to witnesses, other participants in criminal proceedings, their family members and other close persons;

- Application of protection and support measures;

- Providing conditions for relocation of witnesses, other participants in criminal proceedings, their family members and other close persons, along with the conclusion of separate agreements in an each particular case;

- Exchange of experience and information;

- Conducting special trainings, seminars and study visits;
- Coordination of joint activities and application of joint measure of protection and support on the territories of the signatory parties, along with the appointment of the liaison officers;

- Establishment of special border crossing and control procedures for the witnesses, other participants in criminal proceedings, their family members and other close persons at the border check points of the signatory parties;

- Providing logistic and technical cooperation;

Article 4
The Scope of Cooperation

In accordance with the signed and ratified international agreements of the signatory parties, and the national legislation of the signatory parties, the cooperation in relation to providing efficient protection and support to witnesses, other participants in criminal proceedings, their family members and other close persons, shall be established in relation to the persons included in the witness protection program, as well as the persons subject to other protection measures of the signatory parties.

Article 5
The Manner of Cooperation

(1) The cooperation of the signatory parties in relation to providing efficient protection and support to witnesses, participants in the criminal proceedings, their family members and other close persons shall be carried out on the basis of signed and ratified international agreements, reciprocity and national legislation.

(2) Under the conditions set forth in the paragraph 1 of this Article, the signatory party submits the request in the written form to the requested party, with the purpose of receiving information, providing assistance and support, and accepting the protected witness, other participant in the criminal proceedings, their family members and other close person, and the implementation of the protection and support measures.

(3) In conducting the activities referred to in paragraph 2 of this Article, the communication between the signatory parties shall be administered directly.
(4) In exceptional circumstances the signatory parties can implement the measures and conduct other activities on the basis of the oral request, to be subsequently followed by the justified written request that shall be submitted to the requesting party within a reasonable timeframe, but no later than 7 days.

Article 6
Handling Confidential Data

(1) Data that authorized bodies come across during the performance of their official duties that is in relation to the protected witnesses, other participants in criminal proceedings, their family members and other close persons, as well as in relation to the applied protective and support measures is considered confidential and is protected by the appropriate level of confidentiality in accordance with the national legislation of the signatory parties.

(2) The authorized bodies of the signatory parties are obligated to provide adequate protection of confidential data exchanged during implementation of this Agreement from the unauthorized access, disclosure, alteration, publication or destruction.

(3) In the case that unauthorized persons come across information, or confidential data that is subject to the cooperation, the signatory parties are obligated to immediately inform each other and undertake necessary measures to prevent the consequences for the persons subject to the protection and support.

Article 7
Official Language and Alphabet

(1) Each signatory party shall use its official language and alphabet in the official written communication.

(2) This agreement has been written in 6 (six) identical copies, 3 (three) of which have been written in the languages of the signatory parties, and 3 (three) in English, each representing an original document.

(3) After signing of this Agreement the authorized representatives of the signatory parties shall each receive 1 (one) copy in the language of the signatory parties, and 1 (one) copy in English.
Article 8
Accession to the Agreement

Other countries that accept all the rights and obligations of this Agreement may become a signatory party to this Agreement with the consent of all prior signatory parties.

Article 9
Entering into Force, Duration Period, Modifications and Cancellation

(1) This agreement is concluded for an indefinite time and shall enter into force on the day of the signing of the Agreement.

(2) Modifications and amendments to this agreement can be entered into the agreement in the written form, upon consent of all the signatory parties, and shall enter into force on the day of the signing of the modifications or amendments by all signatory parties.

(3) Each of the signatory parties may cancel this agreement with the prior written notification to the other signatory parties. Signatory party that has announced the cancellation is obligated to notify the other signatory parties of its intention within 30 days prior to official cancellation, and is obligated to fulfill all obligations previously undertaken from this Agreement.
Signed in Washington D.C., on July 20, 2006 in 6 (six) identical copies.

Dragan Jovanović  
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Ministry of Interior Affairs of the Republic of Serbia

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Coordinator of the Witness Protection Department  
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