1. Basic Information
1.1. CRIS Number: 2003/005-850.01.02
   Twinning  EE03-IB-JH-03
1.2. Title: Support to the creation of witness protection system
1.3. Sector: Justice and Home Affairs
1.4. Location: Estonia

2. Objectives

2.1. Overall objective(s):
To fight against organised crime in Estonia

2.2. Project purpose:
Set up an effective witness protection system

2.3. Accession Partnership and NPAA priority

**Accession Partnership 2001**
Co-operation in the field of justice and home affairs
– Improve co-ordination among law enforcement bodies and the judiciary; continue the fight against organised crime;

**2002 Regular Report on Estonia’s Progress Towards Accession**
Overall assessment
In terms of implementation, the capacity of police forces should be further developed to combat more efficiently specific forms of organised crime such as trafficking in human beings, especially women and children, trafficking in drugs and new types of crime (financial crime, money laundering and "high-tech" crime).

2.4. Contribution to National Development Plan
N/A

2.5. Cross Border Impact
N/A

3. Description

3.1. Background and justification:

Estonian has made significant progress in development of effective measures to restrain and fight against crime in its many forms. Firstly necessary legislation has been adopted and is implemented by law enforcement authorities, secondly effective administrative structures have been established and finally there is a functional international co-operation with neighbouring countries. All these features are developing and broadening, as crimes become more complex.

During the first 3 months of 2003, 12 435 crimes were registered, 6086 of which in Tallinn. 4631 crimes were detected during the first 3 months of 2003. 800 (i.e. 6.4 %) of registered crimes were
crimes of first degree (a criminal offence in the first degree is an offence the maximum punishment prescribed for which in Penal Code is imprisonment for a term of more than five years, life imprisonment or compulsory dissolution) 508 crimes against person were registered, 31 of which were murders (25 murders were detected). 234 drug crimes were registered, which is 43% less compared to the same period in 2002. 94 vehicles were stolen (23 of those crimes were detected).

The efficient fight against organised crime, drugs and money laundering is set as the priority by the Ministry of Internal Affairs in the strategy document “Police Priorities up to the year 2006”. This document foresees the implementation of modern forensic equipment and techniques as well as the necessary training of qualified personnel. The project is considered to be the part of that strategy, as it will intensely contribute to the achievement of strategy objectives.

Sub-chapter 4.3.2 Organised crime (chapter 4.3 Fight against crime) of the “Police Priorities up to the year 2006” states: “/…/ In its struggle against organised crime the police shall direct the main attention on detecting, clearing up and investigating crimes against persons as well as crimes bringing large profits, committed by criminal groups and criminal associations (connected with illegal economic and mediatory business, money laundering, articles and substances having restrictions in trade, as well as trafficking in human beings). In the nearest years the further fight against drug-related crimes will be the priority of the police activities. The main target is more intensive detecting of elements of the mentioned crimes by carrying out more skilful surveillance activities and using more effectively materials of pre-trial proceedings, by the analysis and effective use of information and by developing effective international co-operation as through lines of Interpol, Europol so as using direct contacts with other countries.

Fight against organised crime and smuggling shall be based on:

- constant improvement of legislative bases and use of possibilities resulting from that by law enforcement authorities;
- improvement of special technical means and technical investigation systems;
- ensuring sufficient material-technical conditions for surveillance authorities by the state;
- strengthening the economic police;
- active work of executive power structures and activities of commissions convened by different state management institutions;
- continuous improvement of work of law enforcement authorities, training of personnel;
- co-ordinated co-operation of institutions subordinated to special government organisations;
- active international co-operation.

In co-operation with relevant authorities it is necessary to cut down effectively the property base and profits of organised crime. That presupposes existence of appropriate investigative means. /…/ It is necessary to make investments into international co-operation, in particular with the police of countries of East and Central Europe, to develop a network of police liaison and contact officers.

It is necessary to protect witnesses and undercover police officers.

It is necessary in co-operation with the private sector (particularly, motor vehicle business, credit card business, insurance, banking and apartment building businesses) to support ideas of implementing more effective contemporary criminal surveillance and technical investigation means and, if necessary, to work out complementary regulative base.

It is necessary for public relations divisions in co-operation with mass media to create in the community a negative attitude towards organised crime, clarifying negative influence of organised crime as on the state so as on an individual.”

As is evident in the “Police Priorities for 2006”, witness protection has a solid place in the future developments of the Estonian Police and in the fight against organised crime in particular.
Peer Review from July 2002 concluded with the assessment that Recruiting suitable persons to tasks requiring special professional skills and the small number of specially trained staff (e.g. two persons in IT crimes) are problems. Both 2002 and 2003 reports also show uncertainty and problems in starting witness protection programme.

The most difficult crimes to detect and disclose are committed by criminal organisations. These organisations are associations with the tasks of criminal objectives assigned among the members, which live on proceeds of crime. In Estonia main fields of their activities are the purchase, sale and mediation of drugs and other goods illegally in commerce, traffic in alcohol, tobacco and other goods, organised thefts, extortion, homicides and threatening to achieve the goals, mediating and organising prostitution. There have also been cases of financial fraud, acts of corruption in state departments, tax fraud, large-scale fraud. There is a tendency of organised crime becoming more international, i.e. criminal organisations active in one county have international contacts with criminal organisations in other countries.

Organised crime is well equipped technically and extremely mobile. Since crime is organisationally well conspired, the action of law enforcement agencies against crime becomes gradually more complicated. Although Estonian authorities have received some assistance in various areas there are still some urgent needs.

In order to benefit from the hard work of investigators and expensive equipment already available it is equally important to pay attention to witness protection. It must be avoided that criminals get “off the hook” because potential witnesses are threatened and therefore choose not to testify. Without effective witness protection before, during and after prosecution no one is willing to risk their own or their loved ones' well-being.

International co-operation
Estonia has ratified the United Nations Convention Against Transnational Organized Crime (State Gazette, RT II, 09.01.2003, 1, 1). Article 24 of the Convention stipulates the principles of the witness protection. Estonia is also part of the following agreements: Agreement on Co-operation Among Interior Ministry of Republic of Estonia, Interior Ministry of Republic of Latvia, and Interior Ministry of Republic of Lithuania that includes protection and coverage of witnesses and victims from 30 June 1995 and Agreement Between the Government of the Republic of Latvia, the Government of the Republic of Estonia and the Government of the Republic of Lithuania on Co-operation in Protection of Witnesses and Victims form 17 March 2000. According to these agreements Baltic states shall co-operate within the field of witness protection. This co-operation includes mutual change of information and the movement of persons under protection program within the territory of Baltic states to provide better safety and to make their disclosure harder.

As Estonia has no special law for witness protection nor witness protection unit, Estonia is currently not participating at fulfilling the agreement between Baltic states. Still, Estonian officials have had study – visits to Latvia and Lithuania to get acquainted with their witness protection systems. The current project should help Estonia to effectively implement those agreements.

Estonia and Finland have close co-operation in the fight against crime. Future perspectives also predict discussions on co-operation between the law enforcement agencies of Estonia and Finland within the framework of the witness protection programme. Since the Finnish party lacks practice as well as the legal basis in the field, it is difficult to predict specific results. On the other hand, Estonia itself has not yet developed a programme that could be offered to the Finnish party as well. With regard to that, the launching of the witness protection programme would benefit both parties.

Besides above-mentioned convention and agreements the witness protection system is not
Legal framework
Estonian domestic legislation provides the basis for the protection of witnesses that is an important (in some cases essential) tool in the fight against crime. Currently Estonia does not have neither special law nor other laws to provide protection to persons concerning criminal proceedings. Witness protection features such as protection of persons, places of residence and property have been put into practice by law enforcement agencies, but temporarily and in *ad hoc* bases (see the extracts of the Criminal Procedure Code at annex 4). The Criminal Procedure Code foresees application of anonymity of a victim or a witness, but this is possible in limited cases, where the testimony comes from unknown person to other participants in the criminal proceeding. Practice has shown that these means are not enough to fight against organised crime. When witness protection system is applied, the testimony could come from known person to all parties.

In order to properly implement this measure there is a special draft law on witness protection as the existing legislation has many deficiencies. According to the estimated timetable, the draft law will be submitted to the government in October 2003. Estimated entry into force is January 2004. The main aspects that the draft covers are: 1) legal base and coverage for witness protection; 2) basic principles; 3) definition of criminal influence and significant evidences and testimonies; 4) the structures of witness protection unit; 5) persons admitted to witness protection program; 6) basic demands on persons; 7) duration of the program; 8) the procedure of the program; 9) definition of the protection agreement; 10) means and methods of witness protection; 11) financing. Draft does not cover international co-operation, which shall be regulated with particular international treaties.

In the future, while having witness protection law and fully operative witness protection unit (WPU), it is possible to co-operate within the Baltic states agreement. There will be also an opportunity to expand international co-operation with other states. International co-operation would include exchange of information and accommodating persons under protection abroad.

Although Estonia has had only few cases that required witness protection it is unacceptable to disregard potential threat that one must face while collaborating with the police. As Estonia is a small country (territory app 45 000 km²) with limited resources it is difficult to build up and implement well functioning witness protection system. Such a system includes issuing of cover documents; entering fictitious documents into various registers; replacement of original data, closure of data in various registers, change of identity, removal of the protected person etc and highest security requirements. It is most important to have guaranteed results of this very expensive system and Estonia must have well trained staff and logical organisational structure to implement it.

Although Estonia lacks major experience in witness protection, there have been a few cases in which the witness protection programme could have been vital. For instance, in 2002 the serial killers Ustimenko and Medvedev kept all the people they had contact with under constant terror and the only means for gaining testimonies against them would have been offering witness protection. Since one of the murderers was killed in shooting and the witnesses became less reluctant to testify against the other one, witness protection was no longer an option.

In another significant case the leaders of a criminal organisation ordered the murders of several people. The Central Criminal Police managed to take into custody the person who agreed to deliver the order and who had some information about the person who submitted the order but his testimony may have proven insufficient in court, since the person who ordered the murders and the person who was to deliver the order had had no direct contact. By offering witness protection it
would have been possible to find a link connecting the two persons.

Although no official statistics have been made concerning cases where witness protection would have been necessary, the SPB can say that these cases involve high risk of influence or threat to witnesses. Therefore preparedness for witness protection is necessary. Relaying on the estimations, given by practitioners, the SPB can predicts that 3-5 persons per year related with corruption crime and crimes related with terrorism (explosions, illicit traffic in prohibited goods, unlawful handling of explosive substances) need witness protection. However, these figures are extremely approximate.

Estonia is currently making first steps in establishment of the Witness Protection Unit (WPU). Since we are lacking experience in this field, expert assistance is required for creation of witness protection system covering administrative and functional aspects of the system. Social reintegration of the persons involved in the protection scheme (i.e. persons with new identity) as well as psychological treatment and other medical services, with special attention to minors must also be addressed.

The WPUs will be established within the Central Criminal Police (CCP) and the Security Police Board (SPB) locating separately from the structural units, which conduct the pre-trial investigation. (For more information see p 4 Institutional framework.)

Considering the nature of the project, no NGOs were consulted during the project preparation process. The project aims at institution building at the central government level and the NGOs are not seen as directly benefiting or having a role in the project’s activities.

3.2. Linked activities:
The following home affairs projects have been financed under Phare programme in Estonia:

<table>
<thead>
<tr>
<th>Project no</th>
<th>Name</th>
<th>Amount EUR</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>ES9620</td>
<td>Supply of electro-optical sensors to Estonian Board of Border Guard</td>
<td>2 000 000EUR</td>
<td>Completed</td>
</tr>
<tr>
<td>ZZ9704</td>
<td>The Baltic Eastern Border Management Programme</td>
<td>1 700 000EUR</td>
<td>Completed</td>
</tr>
<tr>
<td>ES9905</td>
<td>Developing Police Criminalistics and Forensic Science</td>
<td>2 500 000</td>
<td>Completed</td>
</tr>
<tr>
<td>ES007-2</td>
<td>Police training and educational system</td>
<td>390 000</td>
<td>Completed</td>
</tr>
<tr>
<td>ES01.04.01</td>
<td>Developing the readiness to implement SIS</td>
<td>1 675 990</td>
<td>Ongoing</td>
</tr>
<tr>
<td>ES01.04.03</td>
<td>Program of information system for criminal investigation and criminal analysis</td>
<td>605 313</td>
<td>Ongoing</td>
</tr>
<tr>
<td>2003/005-026.05.01</td>
<td>Enhancing border control and development of border surveillance at Estonian Eastern Border</td>
<td>3 324 600</td>
<td></td>
</tr>
<tr>
<td>2003/005-026.05.02</td>
<td>Extension of Estonian Automated Fingerprint Identification System</td>
<td>2 175 000</td>
<td></td>
</tr>
</tbody>
</table>
The current project is however not directly linked to the projects listed above or to any other project.

3.3. Results¹:

Effective witness protection system:

3.3.1. Institutional and legal basis for a sustainable witness protection system created.
3.3.2 Functional Witness Protection Units within the SPB and the CCP (including statute, job descriptions and other relevant documents);
3.3.3 Developed strategy for efficient witness protection system;
3.3.4 Elaborated activity manuals (best practice manual) for Witness Protection Units staff;
3.3.5 Trained Witness Protection Units staff;

3.4. Activities:

Contract 1 Twinning (12 months, Phare 303 000 EUR + Estonian co-financing 11 200 EUR)

PAA (12 working months over 12 consecutive months, Phare 180 000 EUR)

PAA will work in the witness protection structural unit, which will be established according to the witness protection act.

Tasks:
- General co-ordination, monitoring.
- Analysis of existing legislation incl. recommendations for amendments, proposals for secondary legislation, elaboration of documents for the WPUs;
- Elaboration of Estonian strategy for the witness protection system. Strategy should focus on management, supervision, inter-institutional exchange of information, protection methods selection according to the case and social background of the person etc.
- Elaboration of “best practice manual” for the WPUs staff. Best practice manual should involve subjects like geographical relocation, change of identity, cover documents, fictitious data in registers, physical protection. Also vulnerability aspects should be brought out in "best practice manual" like all other vital information for the effective WPU.
- Identification of training programme, training provision and evaluation;
- Identification of possible agreements/co-operation with neighbouring countries;
- Other guidance and evaluation of short-term twinning experts.

Profile:
- At least ten-year experience in the field of prevention and combat of organised crime incl 3 years experience in witness protection system (working in international environment would be favoured);
- Experience in planning and implementation of the action plans;
- Knowledge about the co-operation mechanisms between the responsible institutions;
- Fluency in English.

PAA assistant (12 months over 1 year, 12 000 EUR)

Tasks:
- Provision of full time assistance for purposes of translation and interpretation, organisation of meetings and office duties on a daily basis.

¹ For the indicators please see Annex 1 - Logical Framework Matrix
**MS Project Leader** (for 20 working days over 1 year, 26 640 EUR, incl. 5 days per quarter in Estonia during the implementation of the project)

**Tasks:**
- Co-ordination and supervision of the project;
- Composition of the reports.

**Profile:**
- High level experience in the area of witness protection in a Member State
- Excellent leadership quality and communication skills;
- Fluency in spoken and written English;
- Computer literate.

**Short term expert 1** (90 working days over 4 months, 40 000 EUR)

**Tasks:**
- Development of the training programme incl. study visit and case training in Estonia;
- General training for involved authorities (police prefectures, Central Criminal Police, Security Police Board, Prosecutor’s Office, courts; up to 20 persons). Training should include legal aspects and i.a such topics as the essence of witness protection, general functioning of the witness protection system, methods of witness protection, source of information transition to witness protection etc.

**Profile:**
- At least three years experience in the field of witness protection;
- Experience in organising and implementing training/seminars;
- Fluency in English.

**Short term expert 2** (30 working days over 3 months, 15 000 EUR)

**Tasks:**
- Specific training of WPUs staff (6 persons - 3 from the CCP and 3 from the SPB). Training should include legal aspects and i.a such topics as functioning of witness protection system, division of tasks and responsibilities and their implementation in day-to-day life. After the training the WPU staff should be able to implement the witness protection strategy and orient well in legislative possibilities.

**Profile:**
- At least three years experience in the field of witness protection;
- Experience in organising and implementing training/seminars;
- Fluency in English.

**Study visit** (5 days for 6 persons, Phare 10 000 EUR + Estonian co-financing 4 200 EUR)

PAA will be responsible for organisation of study visit to EU member state relevant institution.

**Training seminars and materials** (incl. translation) - Estonia 7 000 EUR

3.5 Lessons learned:

Ministry of Internal Affairs is currently implementing four Phare projects: Developing the readiness to implement SIS, Program of information system for criminal investigation, Enhancing
border control and development of border surveillance at Estonian Eastern border and Extension of
Estonian Automated Fingerprint Identification system. All projects cover different fields of justice
and home affairs.

As regards project implementation the decentralised approach has been most successful. Direct
beneficiaries are implementing the projects having designated or employed project managers and
assisting staff for proper implementation.

It is planned to continue practice of close involvement of direct beneficiaries. To that effect, all
directly and indirectly involved institutions are involved in the Steering Committee. To ensure
smooth preparation of the Twinning Covenant the beneficiaries (CCP, SPB) are showing their best
intentions by appointing both a twinning counterpart. Twice a year also gathers the Phare Sectoral
Monitoring Working Group on Justice and Home Affairs.

On the basis of the experience acquired from the implementation of previous twinning project
(ES0007-2), the sub-chapter V.4. (Reflections on Implementation; Problems, Modifications and
Delays) of the Monitoring Report M/ES/JHA/03005 states:... Too ambitious project fiche is a
lesson learned for the future. In the future Estonian side should also show initiative in composing
a TC [Twinning Covenant].

The current project fiche is prepared by working group that included representatives from MoIA,
CCP and the SPB. The MoIA and the MoF have given assistance and guidance, the European
Commission has pre-commented it. Careful attention was paid when designing the fiche to avoid
too ambitious objectives. The project is therefore targeted to a very specialised component of the
overall strategy to fight organised crime. As most elements of witness protection programme are
subject to state secret it was not possible to make comparative studies or highlight best practices.

4. Institutional Framework

The direct beneficiaries of the project will be the Central Criminal Police within the
administrative area of the Estonian Police Board and the Security Police Board. Estonian Police
Board and the SPB belong to the governing area of the Ministry of the Internal Affairs.

Main tasks of the SPB are counterintelligence, protection of constitutional order and territorial
integrity, protection of state secrets, fight against corruption and terrorism. The structure of the
SPB consists of central command, located in the capital Tallinn and four regional departments,
covering the whole territory of Estonia.

The CCP, on the other hand, prevents, combats and detects criminal offences which cover the
whole state, several counties, are very severe, draw special public attention or have had serious
results. For example: organised crime, serious crimes against persons, serious drug crimes, crimes
related to money laundering, crimes needing comprehensive international co-operation and crimes
causing great material damage to state. There are nine structural units in the CCP: three regional
units, operating centre, organised crime department, economic crime department, surveillance
department, international criminal intelligence department, drug crime department, IT crime
department, information department and swat-team.

Generally pre-trial investigation is conducted by the officials of the Estonian Police Board, the
CCP and Police Prefectures. According to the Criminal Procedure Code the SPB investigates:
• Offences against peace;
• War crimes;
• Offences against International Security (Hijacking of aircraft, etc.);
• Murder by using an explosive device or explosive substance;
• Offences against the Republic of Estonia;
• Offences against State Power (terrorism, etc.);
• Causing explosion;
• Unlawful handling of explosive device or essential component (also criminal offences related to defence service, if it is deemed necessary by the head of the investigation of the SPB)
• Criminal offence referred on in § 391 (illicit trafficking) of the Penal Code if the criminal offence was committed by and official taking advantage of his or her official position, and a criminal offence referred to in § 392 (illicit trafficking in prohibited goods or goods requiring a special permit) of the Penal Code if the object of the criminal offence was a radioactive substance, explosive substance, strategic goods, firearms or ammunition, or if the criminal offence was committed by and official taking advantage of his or her official position;
• Misuse of official position; negligence related to office; abuse of authority; accepting, giving or arranging of gratuities and bribes, when offence was committed by a higher official specified in the State Public Servants Official Titles and Salary Scale Act;
• Criminal organisation if the objective of the criminal organisation was the commission of terrorism or if not less than three higher officials or police officers specified in clause 4 (1) 1) of the State Public Servants Official Titles and Salary Scale Act were members of the criminal organisation.

As well as the Estonian Police Board, the SPB has a wide-range investigative jurisdiction. The CCP and the SPB are conducting surveillance activities respectively according to the Surveillance Act and Security Authorities Act.

The attention should be drawn that most of the persons who will be submitted to witness protection program have been previously in a status of permanent or temporary secret co-operation in surveillance activity. Such kind of co-operation specifically with the SPB is considered a state secret and therefore from the point of view of protection of state secrets 2 different WPUs will be established within the CCP and the SPB.

The need for 2 separate WPUs depends on the legal situation in Estonia. Estonian Criminal Procedure Code regulates the investigative jurisdiction. According to paragraph 105 of the Criminal Procedure Code, pre-trial investigation is conducted by the officials of the Police Board, the Central Criminal Police and police prefectures who have the authority of a preliminary investigator, unless otherwise provided. But for certain crimes, the pre-trial investigation is conducted by the officials of the Security Police Board, who have the authority as a preliminary investigator. Literally there are 2 types of witnesses. Witnesses that are protected and taken into a program by the CCP and others by the SPB.

The number of workers in these two units will be very limited, up to approximately 5 persons in one unit. Additional staff from other structural units are obliged to support operations, which need more manpower such as physical protection and transportation. WPUs in the CCP and the SPB will have a similar statute, where bases of mutual co-operation between these units will be fixed.

The co-operation with other law enforcement agencies (Customs, Tax and Border Guard Board) is very important. The WPUs are obliged to take under protection the witnesses, who are handed over from other law enforcement agencies. The CCP and SPB will divide co-operation with WPUs from foreign countries according to the criminal investigative jurisdiction i.e. for example organised crime falls within the competence of the CCP and terrorism within the SPB.

For the witness protection purposes a separate unit within headquarter of the SPB will be
established (up to 5 persons). This unit of headquarters will have the jurisdiction to act in the whole territory of Estonia. This unit will be separate and independent from the structural units, which carry out criminal investigation.

Similar structure is planned to be established in the Central Criminal Police (up to 5 persons).

Different authorities will be involved in the implementation of the project – departments of the Central Criminal Police, Security Police Board, Ministry of Justice, Ministry of Social Affairs, State Prosecutor’s Office, Citizenship and Migration Board, Board of Border Guard.

5. Detailed Budget

<table>
<thead>
<tr>
<th>Phare Support (EUR)</th>
<th>National Cofinancing</th>
<th>IFT</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Investment Support</td>
<td>Institution Building</td>
<td>Total Phare (=I+IB)</td>
</tr>
<tr>
<td><strong>Contract 1</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Twinning package</strong></td>
<td>303 000</td>
<td>303 000</td>
<td>11 200</td>
</tr>
<tr>
<td>Twinning covenant preparation</td>
<td>7 000</td>
<td>7 000</td>
<td>7 000</td>
</tr>
<tr>
<td>PAA for 12 months</td>
<td>180 000</td>
<td>180 000</td>
<td>180 000</td>
</tr>
<tr>
<td>PAA assistant</td>
<td>12 000</td>
<td>12 000</td>
<td>12 000</td>
</tr>
<tr>
<td>MS project leader</td>
<td>26 640</td>
<td>26 640</td>
<td>26 640</td>
</tr>
<tr>
<td>STE 1 (training programme, general training)</td>
<td>40 000</td>
<td>40 000</td>
<td>40 000</td>
</tr>
<tr>
<td>STE 2 (specialised training)</td>
<td>15 000</td>
<td>15 000</td>
<td>15 000</td>
</tr>
<tr>
<td>Training seminars and materials (incl translation)</td>
<td></td>
<td>7 000</td>
<td>7 000</td>
</tr>
<tr>
<td>Study tour</td>
<td>10 000</td>
<td>10 000</td>
<td>4 200</td>
</tr>
<tr>
<td>Audit</td>
<td>5 000</td>
<td>5 000</td>
<td>5 000</td>
</tr>
<tr>
<td>Reserve (ca 2.5 % of the budget)</td>
<td>7 360</td>
<td>7 360</td>
<td>7 360</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>303 000</strong></td>
<td><strong>303 000</strong></td>
<td><strong>11 200</strong></td>
</tr>
</tbody>
</table>

The amounts for co-financing indicated in the table correspond to cash co-financing. In addition, in-kind contributions from the Estonian administration for effective implementation of the twinning/twinning light/TA may be further detailed in the twinning covenant/Terms of references.
The beneficiary and the National Authorising Officer (NAO) will monitor the co-financing expenses. For the co-finance, a clear and verifiable set of costs will be provided. The beneficiary will define which budget lines are the sources for co-finance. Flow and stock data on co-finance will be submitted quarterly for steering committees, twice a year to the Sector Monitoring Working Group.

The beneficiary, together with the NAO commits to sound financial management and financial control.

### National co-financing

<table>
<thead>
<tr>
<th>National co-financing</th>
<th>2003</th>
<th>2004</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>State budget</td>
<td>11 200</td>
<td>11 200</td>
<td>11 200</td>
</tr>
</tbody>
</table>

Co-financing funds will be used for financing study visits and training material.

### 6. Implementation Arrangements

#### 6.1. Implementing Agency

The Implementing Agency is Central Financing and Contracting Unit (CFCU) within the Ministry of Finance (MoF). The CFCU will be responsible for handling tendering, contracting and payments of contracts.

The responsibility for project preparation, actual implementation and monitoring will remain within the responsibilities of beneficiary institutions.

The Programming Authorising Officer/PAO is:
Mr. Renaldo Mändmets  
Deputy Secretary General Ministry of Finance  
Phone: (+372) 6 113 545  
Fax: (+372) 6 966 810  
e-mail: renaldo.mandmets@fin.ee

The Programme Officer/ PO is:
Mr Hannes Kont  
Adviser to the Foreign Relations and European Integration Department  
Ministry of Internal Affairs  
Phone (+372) 612 5150  
Fax: (+372) 612 5087  
e-mail: hannes.kont@sisemin.gov.ee

A high-level project leader will be nominated before the twinning selection meeting.

Estonian Project manager is:
Mr. Lauri Järve  
Central Criminal Police  
Phone: (+372) 612 5392  
e-mail: lauri.jarve@kkp.pol.ee
A Steering Committee will be set up to oversee the project implementation. The Steering Committee will meet once a quarter and it will include the representatives of Ministry of Internal Affairs, Security Police Board, Police Board and Central Criminal Police, State Prosecutors Office, the EC Delegation in Tallinn and the Ministry of Finance, Ministry of Justice, Ministry of Social Affairs, Citizenship and Migration Board, Board of Border Guard, Customs and Tax Boards.

6.2. Twinning
Direct beneficiaries of the twinning component are the Police Board and Security Police Board.

There will be two counterparts for the twinning. Main counterpart for the PAA will be Mr. Lauri Järve
Central Criminal Police
Phone: (+372) 612 5392
e-mail: lauri.jarve@kkp.pol.ee

The other will be:
Mrs Helle Sagris
Security Police Board
Phone: (+372) 612 1522
Fax: (+372) 612 1401
e-mail: helle@kapo.ee

6.3. Non-standard aspects
No non-standard aspects are foreseen. The Twinning Manual (Preparing Candidate Countries for Accession to the EU. Institution Building. A Reference Manual on "Twinning" Projects) will strictly be followed.

6.4. Contracts
Twinning – 303 000 EUR

7. Implementation Schedule

7.1. Start of tendering/call for proposals
November 2003

7.2. Start of project activity
May 2004

7.3. Project Completion
May 2005

8. Equal Opportunity
During the implementation of the project there will be no discrimination on the grounds of race, sex, sexual orientation, mother tongue, religion, political or other opinion, national or social origin, birth or other status. Equal opportunities for women, men and minorities will be ensured by the Steering Committee during the implementation of the project. The Estonian laws and regulations concerning the equal opportunities for women, men and minorities will strictly be followed. Equal opportunity for men and women to participate in the project will be measured by recording the
experts and consultants employed.

9. Environment
N/A

10. Rates of return
Although not modelled, it is envisaged that the positive externalities from the meeting of specific objective will lead to a better rule of law, resulting therefore in a positive rate of return to Phare funding.

11. Investment criteria

11.1. Catalytic effect:
Phare assistance in creation of witness protection speeds up introduction of the system in Estonia as EU member states already have functioning protection systems. This also provides us opportunity to become reliable partner in investigation of larger criminal schemes.

11.2. Cofinancing:
Project is co-financed from the Estonian State Budget.

11.3. Additionality:
Phare funds shall not duplicate or displace other financial resources.

11.4. Project readiness and Size:
Project will be ready for tendering at the time FM is being signed.

11.5. Sustainability:
The work of the WPU will be secured both by regulations detailing the work process and also by providing the features and functionality for the unit. The regulations and necessary amendments to relevant acts will be drawn up during the project. However, successful implementation is conditional upon financial allocation of resources after the project lifetime.

A written commitment from national authorities to apply for financing of all necessary accompanying measures on national resources to ensure the good functioning of the system after completion of the project was sent to the EC Delegation in June 2003.

11.6. Compliance with state aids provisions
N/A

11.7. Contribution to National Development Plan
N/A

12. Conditionality and sequencing

The following conditionalities must be addressed:

• Before the Twinning Covenant can be completed the witness protection law has been adopted.
• Adequate financial resources will be earmarked in the addendum of the state budget for 2004 and communicated to the Commission for implementation of the witness protection system.
ANNEXES TO PROJECT FICHE
1. Logical framework matrix in standard format
2. Detailed implementation chart
3. Contracting and disbursement schedule by quarter for full duration of programme (including disbursement period)
4. List of relevant Laws and Regulations
5. Reference to feasibility /pre-feasibility studies
**ANNEX 1**

**Phare logframe**

<table>
<thead>
<tr>
<th>LOGFRAME PLANNING MATRIX FOR</th>
<th>Programme name and number</th>
<th>2003/005-850.01.02</th>
</tr>
</thead>
<tbody>
<tr>
<td>Support to the creation of witness protection system</td>
<td>Contracting period expires:</td>
<td>30/11/2005</td>
</tr>
<tr>
<td></td>
<td>Disbursement period expires:</td>
<td>30/11/2006</td>
</tr>
<tr>
<td></td>
<td>Total budget:</td>
<td>314 200 EUR</td>
</tr>
<tr>
<td></td>
<td>Phare budget:</td>
<td>303 000 EUR</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overall objective</th>
<th>Objectively verifiable indicators</th>
<th>Sources of Verification</th>
</tr>
</thead>
<tbody>
<tr>
<td>To fight against organised crime.</td>
<td>Functioning international cooperation (esp Baltic states) on witness protection</td>
<td>police statistics</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Project purpose</th>
<th>Objectively verifiable indicators</th>
<th>Sources of Verification</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Set up an effective witness protection system</td>
<td>Established witness protection unit; units in the CCP and in the SPB (estimation: by 2nd half of 2004) Trained staff (26 persons, by the 8th month of the project implementation)</td>
<td>Statute of the unit or relevant authority; Personnel records.</td>
<td>Adequate political commitment and financial resources will be made available for implementation of the witness protection system</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Results</th>
<th>Objectively verifiable indicators</th>
<th>Sources of Verification</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effective witness protection system: 1. Institutional and legal basis for a sustainable witness protection system created (3.3.1). 2. Functional WPUs within the SPB and the CCP (incl statute, job descriptions and other relevant documents) (3.3.2); 3. Developed strategy for efficient witness protection system (3.3.3); 4. Elaborated activity manuals (best practice manual) for WPU staff</td>
<td>Strategy developed by 12th month of the project implementation; Training courses conducted by 8th month of the project implementation; Study visit conducted by 6th month of the project implementation; Best practise manual developed by 5th month of the project implementation.</td>
<td>Project reports, Training records</td>
<td>PAA has the necessary skills and experience STTEs available</td>
</tr>
</tbody>
</table>
Activities | Means | Cost (EUR) | Assumptions
--- | --- | --- | ---
- general co-ordination, monitoring; | *Twinning contract (12 months)* | Phare | PAA with required qualifications and experience available
- analysis of existing legislation; | PAA (12 months) | 180 000 | STTEs available when required
- elaboration of Estonian strategy for the witness protection system; | PAA assistant (12 months) | 12 000 | EU Member State appropriate to make study visit to identified
- elaboration of “best practice manual” for the WPUs staff. | MS project leader (5 days per quarter during the implementation of the project) | 26 640 |
- identification of training programme, training provision and evaluation; | STTE 1 (90 days over 4 months) | 40 000 |
- identification of possible agreements/co-operation with neighbouring countries; | STTE 2 (30 days over 3 months) | 15 000 |
- other guidance and evaluation of short-term twinning experts. | Study visit (5 days for 6 persons) | 10 000 | 4 200
- development of the training programme incl. study visit and case training in Estonia; | Audit | 5 000 |
- general training for involved authorities; | Reserve | 7 360 | 7 000
- specific training of WPUs staff. | Training seminars and materials (incl. translation) | | |
**TOTAL** | **303 000 EUR** | **11 200 EUR** | **Preconditions**

1. By the time project starts Band before the Twinning Covenant could be completed the witness protection law has been adopted.
2. By the time project starts, WPU staff is selected and
|   |   | office space provided.  
|---|---|---
| 3. | Adequate financial resources will be earmarked in the addendum of the state budget for 2004 and communicated to the Commission for implementation of the witness protection system. |   |
### 5.2 Time Implementation Chart

**Project No:** 2003/005-850.01.02  
**Project Title:** Support to the creation of witness protection system

<table>
<thead>
<tr>
<th></th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N</td>
<td>D</td>
<td>J</td>
</tr>
<tr>
<td>Contract 1</td>
<td>T</td>
<td>T</td>
<td>T</td>
</tr>
<tr>
<td>Twinning package</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PAA</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PAA assistant</td>
<td></td>
<td></td>
<td>I</td>
</tr>
<tr>
<td>MS Project Leader</td>
<td>I</td>
<td>I</td>
<td>I</td>
</tr>
<tr>
<td>STE 1</td>
<td></td>
<td></td>
<td>I</td>
</tr>
<tr>
<td>STE 2</td>
<td></td>
<td></td>
<td>I</td>
</tr>
<tr>
<td>Study visit</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 5.3 Cumulative Contracting Schedule

**Project No:** 2003/005-850.01.02

**Project Title:** Support to the creation of witness protection system

<table>
<thead>
<tr>
<th>Contract 1 Twinning package</th>
<th>2004</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>31.03.</td>
<td>30.06.</td>
<td>30.09.</td>
<td>31.12.</td>
<td>31.03.</td>
<td>30.06.</td>
<td>30.09.</td>
</tr>
<tr>
<td></td>
<td>303 000</td>
<td>303 000</td>
<td>303 000</td>
<td>303 000</td>
<td>303 000</td>
<td>303 000</td>
<td>303 000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>303 000</td>
<td>303 000</td>
<td>303 000</td>
<td>303 000</td>
<td>303 000</td>
<td>303 000</td>
<td>303 000</td>
</tr>
</tbody>
</table>
5.4 Cumulative Disbursement Schedule

Project No: 2003/005-850.01.02

**Project Title:** Support to the creation of witness protection system

<table>
<thead>
<tr>
<th>Date</th>
<th>2004</th>
<th>2005</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>31.03.</td>
<td>30.06.</td>
</tr>
<tr>
<td>Contract 1</td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Twinning package</td>
<td>0</td>
<td>59 000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td>0</td>
</tr>
</tbody>
</table>
List of relevant laws and regulations

1) Resolution of the Council of 23 November 1995 (95/C 327/04) on the protection of witness in the fight against international organised crime

2) Resolution of the Council of 20 December 1996 (97/C 10/01) on individuals who cooperate with the judicial process in the fight against international organised crime

3) Draft Law on Witness Protection

4) Criminal Procedure Code
   Paragraph 17 of the Criminal Procedure Code foresees the court hearing.
   § 17. Court hearing is public
   (1) The hearings of matters in all courts are public.
   (2) A court may declare that a session or a part thereof be held in camera:
       1) to maintain a state or business secret;
       2) to protect morals or the private or family life of a person;
       3) to maintain the confidentiality of adoption;
       4) in the interests of a minor;
   5) in the interests of the security of the participants in the criminal proceeding, and of witnesses.
   (3) At a court session held in camera the participants in the criminal proceeding and, if necessary, with the permission of the judge, also witnesses, experts, interpreters and translators shall be present at the hearing of the matter. With the permission of the judge, court officials, trainees, and persons with a particular reason therefor may also be present at a court session held in camera; such persons shall be cautioned against the prohibition of disclosure of information concerning the proceeding.
   (4) Persons of up to fourteen years of age who are neither participants in the proceeding nor witnesses may be present in a court session with the permission of the court.
   (5) Court judgments shall be made public unless the interests of a minor, a spouse or a victim require otherwise.

Paragraph 79 of the Criminal Procedure Code foresees using anonymity.
   § 79. Minutes upon application of anonymity of victim or witness
   (1) In order to ensure the security of a victim or witness or persons close to him or her, anonymity of such persons may be applied. Anonymity shall be formalised by a reasoned order of a preliminary investigator at the request of a witness or a victim, or on the initiative of the preliminary investigator.
   (2) The full name and address of the victim or witness whose anonymity is ensured, and other information directly facilitating the identification of such person, shall not be documented in any of the minutes included in the investigation file, or any other document or audio-recording. Upon mentioning the witness or the victim in the minutes or other documents, only a fictitious name of the witness or the victim shall be used. The true name and address of the victim or witness, and other data, if necessary, together with a signature certifying the correctness of the data shall be entered on a separate sheet of paper which shall be enclosed in an envelope. The envelope, bearing the number of the file and the signature of the preliminary investigator shall be sealed and deposited with the preliminary investigator. The preliminary investigator shall produce such envelope to the court or the prosecutor at the first demand of the court hearing the matter or of a prosecutor.
Paragraph 243, 246 of the Criminal Procedure Code foresees the hearing of witnesses.

§ 243. Hearing of witnesses
(1) Witnesses shall be heard individually, in the absence of other witnesses who have not been heard. Before a hearing, a witness is questioned in order to identify him or her and clarify the relationship between him or her and the accused at trial and the victim.
(2) A judge shall make a proposal to a witness to tell the court everything he or she knows concerning the criminal matter.
(3) After a witness has given testimony, he or she shall be examined by the prosecutor, the victims and the representatives thereof, the plaintiffs, defendants or the representatives thereof, the accused at trial and the criminal defence counsel.
(4) If a witness has been summoned to a court at the request of a participant in the proceedings, the witness is first examined by such participant.
(5) Additional questions may be submitted to a witness to clarify and supplement the testimony previously given by him or her. A judge is required to exclude questions which are irrelevant to the criminal matter, and leading questions. A court has the right to examine a witness at every stage of examination by the court.
(6) A court may confront witnesses with one another on its own initiative or at the request of a participant in the proceedings.
(7) Witnesses who have been heard shall stay in the courtroom until the end of the examination by the court and shall not leave the courtroom without the permission of the court.
(8) If a court deems it necessary to hear a witness with regard to whom anonymity has been applied, the witness is heard in the absence of the participants in the proceeding on the basis of the questions submitted by them. The content of a testimony shall be disclosed in a court session.
(9) A witness with regard to whom anonymity has been applied may be heard in a court session in the presence of the participants in the proceeding only with the consent of the witness.

§ 246. Disclosure of testimony given by witness in pre-trial investigation
(1) A testimony given by a witness in pre-trial investigation may be disclosed and an audio recording of his or her testimony annexed to the record of the hearing may be presented for hearing in the following cases:
1) if the testimony given by the witness in pre-trial investigation contradicts the testimony given by him or her in examination by the court;
2) if the witness fails to appear in a court session or refuses to give testimony in a court session;
3) if the whereabouts of the witness is unknown;
4) if anonymity has been applied with regard to the witness;
5) if the testimony contains numerical data, names or other data which are difficult to memorise, whereas such testimony may be disclosed only after the oral hearing of the witness.
(2) The provisions of subsection (1) of this section apply also to the disclosure of testimony given by a witness in court.
(3) Testimonies of witnesses heard by the court pursuant to subsection 233 (2) of this Code may also be disclosed in a court session.
(4) The presentation of an audio recording is not permitted if the testimonies included in the record of the corresponding hearing or the minutes of the corresponding court session have not been disclosed previously. The presentation of an audio recording shall be recorded in the minutes of a court session.
Reference to feasibility /pre-feasibility studies.

There is no feasibility studies to be attached as current project does not include investment components.