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## SEESAC ACTIVITY REPORT – AR/079

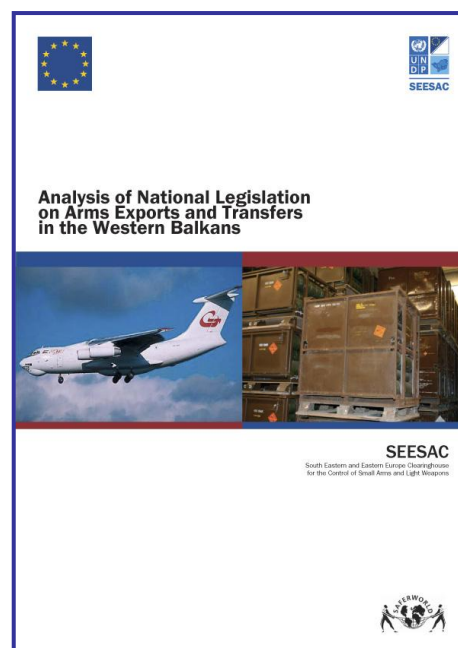
### ANALYSIS OF ARMS EXPORT AND TRANSFER NATIONAL LEGISLATION IN THE WESTERN BALKANS

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|------------------------------------|--|
| <b>SEESAC FUNCTIONAL AREA</b>      | <b>FA 3 - Management Information</b>   |
| <b>SEESAC OPERATIONAL ACTIVITY</b> | <b>SG 2 - Co-ordination Measures<br/>SG 4 - Project Support<br/>SG 8 - Operational Research Activities</b> |

The European Union (EU) has long been a provider of diplomatic and technical support for the enhancement of international controls governing arms transfers. In June 1998, the EU Code of Conduct on Arms Exports (EU Code) was developed and agreed among member states. The EU Code includes a list of eight criteria designed to guide decisions on whether to grant or refuse export licence applications, as well as a number of operative provisions designed to aid its implementation, including, for example, a system for circulating reports among member states concerning both licences granted and applications denied. Subsequently, the EU has developed a number of other instruments and strategies.<sup>1</sup>

Since 1998, the EU Code has since come to be seen as a progressive and effective transfer control regime, leading to its voluntary uptake by many EU accession and neighbouring states. While these commitments are a valued expression of states' desire to align themselves with regional and international norms on arms transfer controls, the context facing many EU neighbourhood states, particularly the post-conflict countries of South Eastern Europe (SEE), is one that poses significant challenges. Whether for reasons associated with past conflicts, or because of the difficulties of state-building and political transition, SEE states have struggled in the past to control the availability and transfer of arms from their territories. As a consequence, the regulation of official arms transfers from the region is an ongoing concern.

This analysis was commissioned by SEESAC, as part of the implementation of the EU Western Balkans SALW Control Support Plan (EU 2PP). Saferworld, an independent non-governmental organisation based in



<sup>1</sup> These include:

- The Joint Action on the EU's Contribution to Combating the Destabilising Accumulation and Spread of Small Arms and Light Weapons (1998);
- The EU Common Position on Arms Brokering (2004);
- The EU Council's Strategy To Combat Illicit Accumulation and Trafficking of Small Arms and Light Weapons and their Ammunition (2005); and
- The European Commission (EC) Western Balkans SALW Control Support Plan (2006).

London, were responsible for the analysis with the support of a number of external research partners. Research was conducted between March and June 2006 through a combination of in-country interviews, analysis of existing laws, regulations and procedures and reviews of published information. An innovative research methodology was developed specifically for this analysis, which included a questionnaire of over 60 questions relating to all aspects of transfer control decision-making.

The EU has an important role in supporting the process of security and governance sector reform across the Western Balkans. In the area of arms transfer control, agreements and initiatives such as those listed above, combined with SEE states' rhetorical commitments to abide by the content of the EU Code, presents the EU and its institutions with a unique set of opportunities for catalysing change. As a contribution to the development and enforcement of effective arms transfer controls in the Western Balkans, and building on the extensive experience and existing work of its institutions, the support provided by the EU under the auspices of EU 2PP is an important component to support the development of appropriate legislation and implementation mechanisms.

Across the Western Balkans region, progress in addressing arms transfer challenges is easiest to detect at the legislative level. Many states have over recent years, with the support of international partners, developed new arms transfer legislation. In some cases, including Albania for example, this process is still underway and in others, including Serbia, the quality of recent progress is to be applauded. However, whilst progress is evident in all states and entities covered during research for this study, there are in all cases areas for improvement. Good initial work runs the risk of stalling if loopholes allow for the manipulation of legislation, which will seriously damage public and international confidence in its efficacy. Areas in which laws were often weak include; 1) effective control of transit and transshipment; 2) international arms brokering; 3) licensed production of military material overseas; 4) production and transfer of component parts for incorporation; 5) intangible transfers; and 6) dual-use goods and technologies. In all cases, legislative provision for monitoring delivery verification and end-use of transfers was weak, as was inclusion of measures to promote and ensure accountability and transparency in the licensing process.

Whilst in most states fairly comprehensive laws exist, it is also the case that in all more is needed to develop the regulations and guidelines required to operationalise legislative commitments. For instance, in several cases, whilst the EU Code is referenced in legislation, it is often unclear how the letter and spirit of the Code affects transfer licensing decision-making.

The next phase of this component of the EU 2PP is to advocate for change, and provide technical and financial assistance to states' to enable them to develop and implement the necessary legislative changes.

The analysis can be downloaded from the SEESAC website ([www.seesac.org](http://www.seesac.org)) from 01 September 2006. Copies of the report (pdf version only) will also shortly be available in English language, upon request from the SEESAC Communication Officer, Ana Martinovic, who can be contacted on (+381) (11) 344 63 53 or by email at [ana.martinovic@undp.org](mailto:ana.martinovic@undp.org).



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