Project Summary

Project Title: Countering Money Laundering in Bulgaria

Leading Expert: Georgi Petrunov

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Brief Description: Countering money laundering is essential in curbing organized crime and its penetration of the legal, financial and economic system of the state. The project examines the adequacy of national policies and legislation in this sphere, as well as the extent to which they are applied in practice. It looks into the specific measures taken in Bulgaria against money laundering and into the effectiveness of cooperation among the various public institutions responsible for the suppression of this phenomenon.

Findings and Conclusions:

Legislation in Bulgaria conforms to international standards. This applies both to the legislation relating to the preventive pillar and to the measures of criminal law. Practical application, however, leaves much to be desired. The preventive pillar practically does not function. Approved internal rules cover merely 10-15 per cent of the entities obligated under the Measures against Money Laundering Act. Moreover, criteria for identifying suspicious operations making it possible for the entities concerned to fulfil effectively their obligations have not been developed. The measures of criminal law require a binding interpretative judgment of the Supreme Court of Cassation or a legislative revision in the part concerning the predicate offence, i.e. the criminal activity from which the proceeds of the crime are derived. Proving this offence and the link between it and the amounts subject to laundering presents difficulties. This link must be weakened to a certain extent by making convincing circumstantial evidence that the person deals with criminal activity admissible to prove the predicate offence.

- Relationships and coordination among the institutions, which do not allow effective countering of money laundering. The principal points of conflict, identified by the study, are between the court and the investigative bodies, as well as between the financial intelligence unit and the police services, which handle the alerts from the financial intelligence unit.
- Organization of work at the principal institutions on an artificial basis. The predicate offence and the investigation of cash flows are artificially separated. An internal organization of work at the principal institutions that does not allow the investigation of offences generating large profits parallel to the tracing of cash flows.
- Legislation against money laundering and its application run into a huge obstacle: the entire remaining part of the legal environment and especially the legislation regulating the economy are not favourable to countering money laundering. The special legislation against money laundering, which is supposed to cope with those amounts of dirty money which have somehow «slipped through» the previous barriers. Therefore, when the entire legislation is not adequately constructed so as to prevent or minimize the generation and laundering of dirty money, no matter how much the fight against money laundering is

expanded, it will not be able to cope with the phenomenon. Legislation against money laundering cannot change the entire economic environment, no matter how good this legislation is and how selflessly it is applied by the competent institutions.

- There is a need to change the philosophy of the legislation on forfeiture of criminal assets. The restriction of forfeiture of such assets to persons whose criminal activity meeting specific essential elements defined by the Penal Code has been proved in court must be lifted. A legal possibility must be provided for the confiscation of property acquired by unlawful activity or by unearned income. The specialized body identifying such property must be competent to apprise itself, similar to the operational services. Strict control over that body must be established and, to this end: it must pass under the jurisdiction of an institution like the State Agency for National Security, the Ministry of Interior etc.; single-handed management and responsibility for the decisions made at the specialized body must be ensured; a time limit must be set for the proceedings under the Criminal Assets Forfeiture Act; a special methodology must be developed for valuation of the property checked and the transformation of such property over a specified interval of time.