

Resume of Project

Project Title: <i>Normative Profile of Organised Crime in Bulgaria</i>
Leading Expert: Iva Pushkarova, PhD
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Funding: Trust for Civil Society in Central and Eastern Europe, OSI-Sofia, OSI Justice Initiative – New York
Brief Description: The project includes legal research of national and international criminal and administrative laws and provisions on prevention and control over organised criminal activity enforced in Bulgaria, as well as the court practice over them. It analyses and assesses the level of comprehensiveness of the regulation, its internal coherence and harmonization with international standards by outlining the trends in its development and social adequacy. The research aims to establish the concept of the Bulgarian legislator about criminal enterprises and their criminal occupation and to evaluate this concept's correspondence with actual instances of organised crime in Bulgaria, as well as to draw general conclusions on the effectiveness of the Bulgarian legislative policy against organised crime to the benefit of the legislator.
Findings and Conclusions: <ul style="list-style-type: none">○ Organised criminal activity was identified as significant criminal-law issue by the first Bulgarian criminal act.○ The normative profile of the organised crime comprises of national provisions created under the increasing influence of international acts.○ A separate trend is the emergence of non-criminal preventive and repatriation acts aimed to supplement criminal policy. In relation to the normative profile of organised crime they attract grave criticism. Some of them have been taken from the legislation of states which legal systems do not recognize the branch-structure of legal matter or go behind its practical implementation. Therefore the prime-source act is unable to exercise its original impact in Bulgarian legal environment, especially given the traditionally frivolous approach of the legislator who prefers automatic reception. Among the direct consequences of this situation is the trend according to which non-criminal acts define criminal-law concepts in deviation from the Criminal Code.○ There is a trend according to which the criminal and non-criminal definitions created by the legislator exceed international standards. Although, in general, such an excess is permitted by the relevant international acts, its accomplishment in Bulgarian legal environment is unsuccessful, unsupported by strategic considerations for improving law effectiveness and

conducted as a short-time measure for expedient but unconvincing overcoming of the weak preparedness of law-enforcement bodies to enforce international standards. This establishes contradiction between the international and the national standard which reflects retreat from the goals of the international acts and constitutes failure of the state to fulfill its obligations under it.

- **In general, organised crime does not have an integral and consistent normative profile outside criminal legislation.** Non-criminal laws' concepts are far more limited and discrepant than the criminal profile and contribute to the dualistic legislative attitude towards certain organised crime phenomena. The last legislative initiatives допълнително дестабилизират the normative profile of organised crime. The 2008 SANS Law, for example, reflects chaotic and нестандартни concepts drastically different from the enforced legal concepts and approaches and related to introduction of new undefined concepts.
- **The general consequence from the trend described is deterioration of the normative profile of organised criminal activity and phenomena related to it.** This makes it necessary to consolidate legislative policy around two principal principles – internal coherence of the normative profile and adequacy to international standards. **The first one** requires measures towards: synchronization and enrichment of both criminal and administrative profile of organised crime; making the legislative ideas on the relation between concepts belonging to the criminal profile and between them and phenomena unrelated to organised crime more precise; synchronization of criminal liability for different types of crime committed within the scope of criminal associations; improved synchronization of the criminal policy with non-criminal policies, such as protection of victims and witnesses, encouragement of civil-society cooperation in criminal investigation, prevention of crime-related risk factors, etc. **The second principle** requires that the legislative technique of automatic direct reproduction of international standards into national provisions be abolished. This principle makes it necessary to impose effective practice of introduction of the international standard with its original scope and to deviate from it only after evaluation of its successful incorporation.