

Project Summary

Project Title: Balkan Organized Crime through the Lens of Legislation
Leading Expert: Iva Pushkarova
Time: 2008
Funding: OSI-Sofia, OSI-NY
Brief Description: The project is a comparative legal study of the framework of positive law on organised crime in the penal laws of the Balkan states (Bulgaria, Albania, Croatia, Romania, Greece and Turkey). The project experts adopted standardized objectives and methods of study and analyses, after which they proceeded with an analysis of the common tendencies and legislative approaches to the framework dealing with organized and group crime and their forms. The study was publicly presented and discussed at a closing regional conference with the participation of representatives of the three branches of government (the authorities engaged in the prevention and suppression of group and organized crime), the non-governmental sector and the academic community.
Findings and Conclusions: • The unusually fast growth and proliferation of organized crime in the Balkans has resulted from the concurrence of prerequisites which separately give rise to the phenomenon in their own right. • Organized crime in the post-Communist Balkan states belongs to the “state-sponsored” or “East European” type, and its individual profile directly depends on the peculiarities of the local totalitarian regime. The state origin is a factor of the quick strengthening and limited number of criminal associations, as well as of their relatively early renunciation of violence as a means to achieve their criminal ends. The only exception to this tendency is Albanian organised crime, whose propensity to use violence is a result combining the influence of the Italian ‘Ndrangheta and the military-political involvement in the Kosovo conflict. • Organized crime in the Balkans is of a regional and trans-national nature, initially conditioned by the relative economic egalitarianism in Balkan societies on the threshold of the transition and the large-scale emigration of workforce to Greece, Turkey and countries outside the Balkans. • The legal and political nihilism that evolved under the non-democratic dictatorships as a negative attitude of society to state regulation is one of the main reasons for the lack of a pronounced terrorist profile in organized crime in the former totalitarian states of the Balkans. The only exception is Albanian organized crime, whose terrorist leaning is provoked by the operation of additional factors: 1. Pan-Albanian nationalism as an outgrowth of an extreme interpretation of the political idea of Kosovo independence; and 2. the significance of the religious affiliation of the Albanian criminal groups, which brings them closer to Turkish religious-oriented terrorist groups. • Law-making activity is among the leading factors of the dynamics of organized crime in the Balkans. This activity typically lags behind the objective development of the phenomenon and ignores its peculiarities. • The deregulation of key sectors, which occurred upon the collapse of the non-democratic regimes in the Balkans, created a statutory, administrative and justice-administration vacuum in which the person, property and public order are not safeguarded by the state and society does not develop an expectation of their protection by the state. This preconditions a public demand for alternative forms of protection and self-assistance, some of which assume the form of criminal associations practising unregulated activities. • The “extralegal” nature of criminal associations leads to an aspiration to legitimize them through the dominant political emotions of society: post-authoritarian anti-state or nationalist moods. Combined with the inadequate reaction of the legislator, this leads to a belated

identification of such associations as socially dangerous, which blocks the possibility of adequate counteraction. The conclusion that these associations are essentially antisocial acquires universal validity only at those late stages of the transition period when the conscious social demand for a state-type protection through regulation and control over its enforcement is revived.

- In the Balkans, the legislative assessment is strongly influenced by the foreign policy priorities of the states in the region and reflects the views and findings of the international legislator. There is a clear tendency to transpose mechanically these views and findings into national legislations. The legislative approach is formalistic and unconcerned. Harmonisation does not reckon with effective law and leads to conflicts and statutory superfluity, mainly in the area of human trafficking and money laundering. The most graphic examples in this respect are Bulgaria, Romania and Croatia.

- Despite the system of bilateral and multilateral agreements on cooperation in the suppression of organized crime, which involves all states studied, their national legislations against organized crime develop in a total lack of incentives for standardization. In the areas where international standards do not exist, there are statutory gaps or disparate statutory interpretation in the different states. At the inter-state level, the lack of harmonized legal policy makes possible the export of specific organized crime to states where the protection against its specific manifestation is weaker. If the international legal standard is unsuccessfully incorporated in some of the states, this leads to a collapse of the criminal-law protection in the specific area and conditions a concentration of regional crime in that state.

- International borders benefit organized crime to a greater extent than criminal justice and the rule of law.