

POLICY RESPONSES
TO ORGANIZED CRIME
IN THE BALKANS

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Riskmonitor Foundation

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for Democracy

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RiskMonitor Foundation

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POLICY RESPONSES TO ORGANIZED CRIME IN THE BALKANS

Overview

The professional research and publications dedicated to Balkan organized crime dub it one of the worst in the world and a major risk for all European countries. Scientific studies refer collectively to „Balkan organized crime,“ instead of developing a typology of organized crime for each country in the region. This expression has become a common denominator, aggregating various illegal activities carried out on the territory of Southeast Europe (SEE).

Many studies have shown that despite their local characteristics, the large criminal networks operate transnationally; the levels of local and regional crime operations have fused into one. However, the counter-measures at local level do not necessarily produce the same effect as transnational actions. Data from past studies and reports repeatedly raise concerns about the methods and the means that countries in SEE need to develop and apply as part of a cooperative effort to fight transnational organized crime, taking into account also the local specifics of crime groups and the types of crime.

International studies usually focus on the organized crime groups in the Balkans, but rarely touch on the institutional mechanisms adopted by each country in the fight against non-conventional crime. This is the rationale behind the current comparative legal study, conducted by RiskMonitor. The main goal of the study is to provide critical evidence to aid the development of public and institutional policies for countering organized crime and to encourage the regional cooperation between the countries in Southeast Europe.

The study looks at the experience of four countries – Albania, Bulgaria, Croatia, and Serbia. The choice of countries is by no means arbitrary; the project team sought to identify the similarities and differences between countries already members of the EU as well as accession (or candidate) countries. The project focuses primarily on the description of the institutions engaged in anti-organized crime efforts and their main activities. In the spotlight are the specific institutional policies and methods applied by each country in this area. The research conducted aims at providing a better understanding of the functions of each national institution(s), and the main difficulties they face in performing their mandate and responsibilities. The comparative approach allows for a more accurate assessment of good practices and institutional policies, as well as for a better analysis of any drawbacks on both institutional and national levels.

The improvement of regional cooperation in the fight against crime requires good understanding of the institutional policies at national level. A necessary condition for any future effort seeking to improve the mechanisms for cooperation is the detailed knowledge of the practices and institutional procedures in each country for tackling organized crime. The current project is therefore a valuable platform for a debate that has been long in the making, namely, what institutional arrangements would best meet the need for a regional cooperation effort. What should be the structure of a regional institution charged with a task of that scale? What should be its mandate and functions? Is a decentralized or centralized approach to countering organized crime more effective?

I. Main Conclusions

Organized crime is a common threat to all Balkan countries. In their efforts to tackle this problem, countries opt for both conventional and non-conventional methods. Such is the example of the countries studied here. The reports show that all four countries have chosen similar methods and are facing similar difficulties, too. It must be stressed that Bulgaria, despite being an EU member state and still subject to the monitoring mechanism of the EU, has been lagging behind in reforming its crime-fighting institutions. In fact, Albania, Croatia and Serbia have long since implemented measures, which have only recently been introduced in Bulgaria.

Each of the countries studied has specific institutional and political characteristics, but the following commonalities can be identified.

- Intensive legislative process

All countries show significant progress in the implementation of reforms related to tackling organized crime. Among these reforms are the ratifications of international conventions, the adoption of new legislation and regulations (including on criminal asset forfeiture), the preparation of strategic documents regarding the counteraction of organized crime and corruption. Without exception, the governments in power all declare the fight against organized crime as their main priority and show the political will to act on their words.

- The specialized bodies for the combat of organized crime are the key method chosen by the national governments

The establishment of specialized structures for the combat of organized crime is a very attractive idea to begin with; it seems like an easy and effective way to deal with that threat. Perhaps this type of reasoning has led most of the countries studied to adopt this method.

In all four countries, we find specialized departments within the respective Ministry of Interior (Mol) and within the prosecution, responsible for the operative and investigative work on organized crime cases. Noteworthy is the fact that three of the countries have also chosen to create specialized courts to handle organized crime cases (Albania, Bulgaria, and Serbia). In Croatia, there are specialized departments in the county courts, which are in charge of all organized crime and corruption cases. Several main reasons are cited for this decision: improving the effectiveness of the fight against crime by speeding up the trial process, including the specialization of prosecutors and judges to adjudicate in such cases. Yet in both Bulgaria and Serbia the reaction to these specialized bodies has been far from enthusiastic; most people feel that such institutions will be used for political purposes and only hand-picked cases will find their way to the bench.

On the other hand, the Albanian example speaks positively for such practice: statistics show a steady growth of indictments and convictions for each successive year after the establishment of the specialized bodies. The public reaction to the creation of the specialized court in Serbia is also rather positive, because it is seen as a necessary measure in increasing the effectiveness in the fight against crime. Nevertheless, the court has been criticized for the selective application of the law and of its powers. The court avoids taking cases which involve representatives of political parties or public officials. Therefore, it has been hard to convince the public that the court is impartial and dedicated to its mission.

In Bulgaria, the specialized court and prosecutor's office have not yet started their work. The establishment of the two institutions was marred by a series of failures, both as concerns their legal mandate as well as insufficient staffing. It is expected that both institutions will start working in January 2012; the legislative act on the specialized court has been challenged before the Constitutional Court and its ruling is still pending.

- The combat of organized crime is considered primarily as a form of criminal justice policy

In most of the countries, the counter-measures against organized crime are considered part of the penal policy system. This reasoning is behind the attempts to create new specialized institutions, which are expected to conduct investigations that will lead to effective convictions. The need for preventive policies and measures is rarely considered a priority.

A positive example in this respect is Serbia, which has undertaken reforms in its police service, in order to introduce the practice of intelligence-based criminal investigation against organized crime. This type of policy is considered the most suitable method that can counter both the classical forms of organized crime as well as terrorism. The intelligence-based approach allows the use of special methods of investigation, i.e. phone wiretapping, electronic surveillance, undercover agents. However, this practice has suffered from the excessive use of special investigation devices for conventional crimes, instead of being used only in cases of organized crime.

Bulgaria is the second country, which has made an attempt to introduce this type of intelligence-based investigation with the creation of the State Agency for National Security (SANS). SANS is an intelligence body with a mandate also in the sphere of organized crime. In its initial set-up, the Agency was a hybrid between an intelligence, police and investigative body. During the first year of its existence SANS faced a number of challenges: its functions and powers were vaguely formulated, while also duplicating to a significant extent those of the specialized anti-organized crime bodies existing within the Ministry of Interior. The outcome was several public scandals involving the Agency. This forced the government to undertake internal reforms, as a result of which SANS was stripped off of its powers as an investigative body and its current mandate involves only intelligence functions.

- Corruption is the main hindrance to the effective functioning of the institutions designated to fight organized crime

The governments of the countries studied here declare as their main priority the fight against organized crime. Despite that, one of the main obstacles before the effective functioning of the bodies designated to fight crime is corruption, including corruption within these bodies themselves. The political pressure on the institutions also hampers their work. All of the four countries have high levels of institutional corruption, widespread also in the judiciary, which explains the low confidence of the public in the courts and the justice system.

Croatia is one of the countries where the specialized anti-organized crime institutions are facing significant obstacles. The past period (during the mandate of Ivo Sanader's government) was marked by high levels of corruption within the institutions themselves and a strong political pressure upon them. Both of these factors influenced negatively the performance of the specialized bodies existing within the Ministry of Interior and the Prosecutor's office.

- Reforms in the judiciary are imperative

The lack of reforms in the judiciary is the single most serious obstacle to counteracting organized crime effectively in all four countries. The study shows that the lack of transparency and accountability hampers the smooth running of the judiciary system. Consequently, in all four countries we see a low level of confidence in the judiciary and a pervading belief that the investigation and the prosecution are consistently failing to carry out their responsibilities. In the public eye, the unreformed courts are responsible for the lack of guilty verdicts in the criminal trials involving public officials.

Instead of strict adherence and implementation of the law against organized crime, the authorities opt for non-traditional alternatives in tackling crime, namely, creating more specialized institutions. However, taking this path merely puts off the solution to the existing critical problems, such as the poor performance of the investigation, corruption in the institutions, etc. We see this process unfold in all four countries; Bulgaria is by far the country where the government has been most active in setting up new specialized structures. In the last two years, for example, three new institutions were established: the State Agency for National Security, the Center for the Prevention and Combat of Corruption, and the Specialized Court which will handle organized crime cases. Each of these institutions was advertised as a major new step expected to increase the effectiveness in the combat of non-conventional crime. Yet, an institutional „spillover“ such as this only holds back the actual reforms in the prosecution and the investigation, and shifts the efforts and resources into the wrong direction.

- Lack of an encompassing system of performance indicators

The current study also identifies as common in the institutional response to organized crime the focus on penal policy versus policies for prevention. This is observed in all four countries. Prevention is never considered an effective counter-measure; consequently, the indicators for success stress on the number of convictions in organized crime cases. Across the board, we see the performance criteria reduced to a set of statistical data about the criminal court cases. This is by far insufficient. Therefore, the lack of adequate criteria to measure the effectiveness of the system beyond its repressive function is seen as a weak side in the institutional policy of each of the countries. The statistics reflect the specific powers and functions of each institution; in addition to that, there are differences in the type of data gathered and presented. What we see is in fact only the rate of success and effectiveness of a single institution; for example, the main success indicator for the investigation is the number of pre-trial proceedings, for the prosecution – the number of indictments, etc. This study argues that the performance indicators must reflect the entire process of countering organized crime, from prevention to the final court ruling.

- Strong focus on regional cooperation in anti-organized crime policies

Regional cooperation is a main element in the anti-organized crime policies in all four countries. It encompasses both the ratification of international treaties, conventions, and agreements, as well as operations of joint investigation teams, institutional cooperation, etc. The study recognizes the active efforts of the countries in this respect. In some cases, the regional cooperation efforts seem to yield more success than the specific policies and actions within a single country.

II. Recommendations

The comparative study shows that with respect to legislation, each country has taken adequate measures and for the most part, the national regulations are harmonized with the European and international standards. The institutions designated to fight organized crime are also compliant with international standards. Therefore, the project experts conclude that the problems in this field are not so much the lack of adequate counter-measures but rather the lack of effective implementation of the adopted measures.

Based on the main research findings, the following recommendations can be proposed for improving the policies for the combat of organized crime on national level.

1. Further emphasis on the existing mechanisms for the combat of organized crime;
2. Building up mechanisms for control of the institutions mandated to fight organized crime;
3. Developing policies for the counteraction of non-conventional crime based on a systematic assessment of the relevant risks and threats;
4. Encouraging policies based on proactive approach to the investigation of organized crime;
5. Introducing mechanisms supporting stricter accountability and transparency in the work of the institutions, in order to reduce the political pressure upon them.

The counteraction of organized crime in the Balkans proceeds on two levels. On the one hand, each of the countries follows its own institutional policy and measures. On the other hand, each of the countries is party to various regional cooperation mechanisms and agreements. The term „Balkan organized crime“ is intrinsically related to regional cooperation. However, for the most part this cooperation is the result of external pressure, in particular by the European and international institutions. For the accession countries in the Balkans, regional cooperation initiatives are a necessary requirement for joining the EU.

Cooperation efforts are strong in the political and economic areas, in the field of security and justice. In the last fifteen years, there have been various intergovernmental forums, round table discussions and political initiatives, aimed at strengthening the regional dialogue between neighboring countries on important social and political issues. Some of the most promising initiatives related to the fight against organized crime are, to name a few, the Southeast European Law Enforcement Centre (SELEC) (former Southeast European Cooperative Initiative Regional Center for Combating Trans-border Crime, SECI), the Police Cooperation Convention for Southeast Europe (PCC), the Southeast Europe Police Chiefs Association (SEPCA), the Southeast European Prosecutors' Advisory Group (SEEPAG), and the Regional Anti-Corruption Initiative (RAI). Among these organizations the most prominent is SELEC, established in 1999. Unlike other anti-organized crime bodies, SELEC is the only one whose mandate is the result of a long-term strategy to tackle trans-border organized crime. The Center functions as an operation and information exchange venue, facilitating a more effective cooperation between 13 countries in the region, specifically, between their police and customs agencies.

This study also reveals the essential role of regional collaboration in the policy development and implementation of anti-organized crime measures in the Balkans, as well as the specific contribution of each country to this process. It is the understanding of the authors of this study, as well as the position of many international and European documents that further efforts and strengthening of regional cooperation is needed. The crucial question the study poses can be formulated as follows: how can we ensure a process of effective regional cooperation if each of the Balkan countries is still struggling to contain organized crime on its own territory?

Essential prerequisites for regional cooperation to expand and become more effective include, among others, the following:

- Creating the perception of a so-called „regional identity“¹;
- Quick and reliable information exchange;
- Establishing a shared communication space and active use of information channels;
- Creating an atmosphere of professional solidarity and trans-border professional interactions, immune to the political preferences of the day;
- A new type of trans-border thinking of organized crime, going beyond the lines of national specifics.

¹ *Analytica*, „Has regional cooperation led to the establishment of Balkania: Europe's Southeastern Dimension?“, September 2007, www.analyticamk.org/files/ReportNo7.pdf

Institutional Response to Organized Crime in Albania

Besnik Bakiu

Recommendations on Improving the Policies Against Organized Crime

- Albania needs to complete the legal framework in the fight against corruption and focus on eliminating the obstacles to effective investigation of cases, especially those involving judges, members of Parliament and members of the government.
- Full implementation of the anti-corruption strategy and action plans is needed, as well as pushing for proactive investigations and just convictions in corruption cases at all levels.
- The process of reforming the judiciary must continue, including the adoption of a comprehensive strategy to reform the judiciary and of key laws that have remained pending; it is necessary to create a solid track record of results in law enforcement, which would demonstrate the independence and efficiency of the judiciary. Further efforts are needed to increase the independence, transparency and accountability with respect to the system of appointing magistrates.
- Adequate human and financial resources, as well as infrastructure are needed for the efficient functioning of the courts. Albania also needs to address the issue of corruption in the judiciary and find ways to deal with all aspects of that problem (salaries, immunity, security and the high level of politicization of the nomination process for key positions).
- Strengthening the fight against organized crime, based on risk assessment and proactive investigation, increased collaboration with regional partners & EU bodies, and coordination of law enforcement agencies.

Introduction

A number of factors influenced the gradual development of organized crime in Albania at the end of the 1990s. The existing criminal groups were replaced by more structured and better-organized ones. Researchers identify several factors as most important for this evolution: a) the establishment of contacts between Albanian criminals and those in neighboring countries, the exchange of experience and the forms of development of organized crime; b) low awareness of the community of the risks and consequences of organized crime; c) the high profits acquired from organized crime within a short period of time; d) high levels of poverty throughout the country; e) the geographical position of the country at the crossroads between the East and the West; f) insufficient capacity of the state to control, fight and stop the emergence and development of organized crime; g) lack of appropriate legal instruments in the fight against organized crime; h) growing levels of corruption primarily within law enforcement structures: the courts, prosecution, and the police.

The reaction of the state institutions, in particular, of the specialized bodies in charge of fighting typical forms of organized crime (such as drug trafficking, human trafficking, especially trafficking of women for sexual exploitation, smuggling and other criminal activities) followed immediately upon the emergence and development of organized crime in Albania. At the same time, other processes had begun to develop: the criminal organizations became engaged in serious crimes such as killings, armed robbery, kidnapping and terrorist acts by using explosive materials, etc. Some of the criminal organizations operated as pyramidal structures, primarily involved in money laundering and other related crimes.

However, the reaction toward the growing crime rate in the country was weak due to the impact of other factors such as political pressure, corruption, fear and insecurity, etc. It was the pressure of the international organizations and the community itself that forced the government to undertake new institutional steps in the fight against organized crime in Albania.

Between 2004 and 2011, several legal instruments were adopted and many international documents regarding organized crime were approved and ratified, and their implementation began. Many criminal groups were eliminated and several court cases against organized crime ended with effective sentences. The public confidence in the justice system grew. The harsh punishments of persons arrested for illegal trafficking and other serious crimes gave a boost to the public institutions in their efforts against organized crime.

The anti-organized crime legislation in Albania includes national laws regulating the law enforcement agencies, as well as legislation regarding the prevention and combat of organized crime, ratified conventions and international treaties. In 2009 was adopted the Anti-Mafia Law, which defines the procedures, competences and the criteria for the implementation of preventive measures against the proceeds of persons suspected for participation in organized crime and trafficking. The aim of this law is the prevention and the fight of organized crime and trafficking through confiscation of property acquired from criminal activity. The provisions of this law are applied not only to the persons who are indicted or have effective sentence, but also to their relatives.

1. Interdepartmental Committees Responsible for the Combat of Organized Crime in Albania

1. State Committee Against Human Trafficking

The Committee analyzes the reports from each state institution and the other bodies designated in the National Strategy for the Combat of Human Trafficking, and recommends possible solutions and counter-measures. It is composed of representatives of the Ministry of Justice, Ministry of Foreign Affairs, Labour and Social Affairs, Finance, Education and Sciences, and the Ministry of Defense. Representatives of the Attorney General's Office, the judiciary and representatives of international organization in Albania (the missions of OSCE, CE, IOM, UNHCR), as well as non-governmental organizations, national or foreign, working in Albania are invited to the Committee meetings.

2. Inter-departmental Committee for Measures Against Organized Crime, Trafficking and Terrorism

It monitors the intersectoral strategy for the fight against organized crime, trafficking and terrorism, and coordinates the activity of the institutions designated in this strategy. This committee is headed by the Prime Minister; representatives

of the Ministry of Interior, Foreign Affairs, Defense, Finance, Justice and the Director of the State Intelligence Services are members of the committee. The Attorney General is invited to take part in the committee meetings. Depending on the problems discussed, the Prime Minister invites representatives of other institutions as well.

3. Coordination Committee of the Fight Against Money Laundering

The Committee is in charge of developing guidelines and the general state policy for the prevention and fight against money laundering and the financing of terrorism. The committee is headed by the Prime Minister; members include the Ministers of finance, foreign affairs, defense, interior, justice, the Attorney General, the Governor of the Albanian National Bank, the Director of the Albanian Intelligence Service, and the General Inspector of ILDKP.

4. Interministerial Anti-Drugs Committee

It prepares the general directives of the national policy for the prevention and fight against the use, production and illegal trafficking of narcotic and psychotropic substances and their precursors; the provision of health services for drug users, their rehabilitation and integration in society. The Committee is responsible for preparing the national anti-drug strategy and the action plan for its implementation; it co-ordinates the work of all institutions involved in the implementation of the measures set in the strategy and the action plan for its implementation. It examines and analyzes the reports and recommendations of the institutions and international organizations and those of the Secretary's office set up by the Committee, proposes respective measures and takes action. The Committee is headed by the Prime Minister.

II. Specialized Agencies

1. The Ministry of Interior (State Police) is responsible for identifying and fighting organized crime and conducting criminal investigations.

The police force is organized at central and local level. The General Police Directorate constitutes the central level of the police service, while the regional police directorates, the regional border and immigration police directorates and the structures under their supervision constitute its local level. The State Police is organized in five structural units: Organized and Serious Crime Department; Public Security Department, Border and Immigration Department; Support Services and Police Training Department. At the local level, there are 12 regional police directorates, with police commissariats and stations.

Special units for the fight against organized crime have been established in this agency, within the Criminal Investigations Department, the General Directorate of State Police (with central and local divisions), the Directorate of Criminal Information Analysis, which oversees the Criminal Information Analysis Sector, the Crime Investigation Records Sector, the Sector for Information Quality and Auditing (Memex); the Witness Protection Directorate; Directorate for Narcotics and Trafficking; Directorate for Financial Crimes; Directorate for Serious Crimes; Directorate of the Special Operations Force.

The Criminal Investigations Department supervises the activities of the bodies in charge of the prevention and fight of organized crime and works to increase the security standards in the country.

2. The Ministry of Justice is responsible for drafting legislation and regulations against organized crime and illegal trafficking.

3. The Prosecutor General's Office participates in the investigation of organized crime cases and makes legislative proposals.

- The Prosecutor's Office (PO) supervises the legal application of new methods and techniques for the investigation of organized crime and terrorism by gathering legal evidence for the activity of perpetrators.
- The Prosecutor's Office is organized and operates under the supervision of the Prosecutor General; this is a centralized structure, where the office of the Prosecutor General, the Prosecutor's Office Council and the Prosecutor's offices of the judicial system are included. The Prosecution is within the judicial system.
- It should be stressed that with a Memorandum of Understanding (MoU) signed by the Prosecutor General, the Minister of Interior, the Minister of Finance, the Director of State Intelligence Service, the General Inspector of the High Inspectorate of Asset Declaration and Control and the Chairman of the High State Audit, under the leadership of the PO, 7 new Joint Investigative Units have been established and are operating as part of the structure of the PO's in the jurisdiction of the cities of Tiranë, Durrës, Vlorë, Fier, Shkodër, Korçë dhe Gjirokastër.

In addition to strengthening the inter-agency cooperation, these units aim at improving the quality of investigation and undertaking criminal prosecution against economic crime and corruption, as well as increasing the number of indictments and trials against perpetrators of these crimes.

4. State Intelligence Service (SIS)

It is engaged in implementing several main priority areas of the national policies for Albania's EU accession, especially in tackling organized crime, drug trafficking, corruption, tax fraud and tax evasion, smuggling and other criminal activities threatening the country's integrity.

As the top agency responsible for conducting specialized intelligence activity in the sphere of national security, SIS cooperates with other institutions, especially with the Ministry of Interior (Mol), not only in terms of exchanging classified information, but also in undertaking joint operational efforts.

5. Ministry of Labor and Social Affairs (MOLSA) is active in developing policies and measures for accommodating and reintegrating victims of trafficking (VOT's) and for the rehabilitation of VOT's.

6. Ministry of Transport is engaged in the prevention and fight against smuggling of motor vehicles; it is responsible for the implementation of an accurate registration and vehicle control system.

7. Ministry of Finance (MoF) (General Directorate of Customs, General Anti Money Laundering Directorate, Directorate of Taxation).

a) Albanian Customs Service

The General Directorate of Customs is divided into 3 departments: Administrative, Technical, Operational-Investigative (Anti-Smuggling Directorate, Anti-Trafficking Directorate, Directorate for Post-clearance Control, Information Directorate, Directorate of Operational Center).

b) General Anti-Money Laundering Directorate

This is the Financial Intelligence Unit in Albania, which has the task of cooperating actively with law enforcement agencies and supervisory licensing agencies in the country and partner financial intelligence agencies, to help in the detection, assessment and fight against money laundering and the financing of terrorism.

This directorate has two main departments:

- Directorate of Analysis and Monitoring
- Directorate of Prevention and Supervision.

The mission of this directorate is to prevent money laundering and to support the fight against the financing of terrorism by gathering, verifying, and storing information received from reporting entities. It is also responsible for asset forfeiture and the prevention of moving, smuggling or hiding assets and proceeds from criminal activities.

c) General Directorate of Taxes

The Tax Administration cooperates with the Directorate for Prevention of Money Laundering, the Prosecutor General's Office and the State Police to identify money laundering cases and economic crimes.

The General Directorate of Taxes is organized in 4 departments: Internal Audit, Tax Appeal, Internal Investigation Directorate (Anticorruption) and Tax Investigation.

d) The Agency of Management of Seized and Confiscated Assets

The main goal of the Agency's activity is the management of assets confiscated by the Serious Crimes Court, in enforcement of the Anti-Mafia Law. The Agency carries out its activities in cooperation with the institutions involved in the management of confiscated assets, such as courts, the prosecution office, banks, local government structures and real estate offices. The civil assets forfeiture intends the confiscation of assets belonging to individuals suspected in organized crime activities, including also assets belonging to their relatives or associates. The agency is responsible for preparing the required documentation related to funding special projects on crime prevention and public awareness raising campaigns.

8. Ministry of Defense, responsible for gathering information related to air and maritime space security and providing information to other state structures. It also supports the law enforcement entities responsible for counteracting border crime, as well as the control and prevention of trafficking in the maritime space.

9. Ministry of Foreign Affairs, works in the area of international assistance and cooperation in the combat of organized crime; drafts and signs agreements, treaties and other international acts, etc.

10. Ministry of Education and Science, which cooperates with Mol in fulfilling the bilateral agreement „On fighting against the phenomenon of use, abuse and distribution of drugs in educational institutions.“

11. Ministry of Agriculture, cooperates with Mol in fulfilling the bilateral agreement „On fighting against cultivation of narcotic plants“.

12. Ministry of Health, cooperates with Mol in accordance with the bilateral agreement „On strengthening the control measures against precursors and drugs used in medicine“.

13. The High Inspectorate of Assets Declaration and Control began its operation based on a law adopted in 2003 „On declaration of assets, financial obligations of politically exposed persons and some public officials.,,

It administers the declaration of assets and financial obligations, collects data, and conducts investigations and administrative research about declarations of politically exposed persons obligated by law to declare private assets.

It cooperates with the audit authorities and other responsible structures for fighting corruption and economic crime; it is also the Central Responsible Authority for preventing the conflict of interests in public office.

Currently the Inspectorate develops and implements policies for the prevention and reduction of conflict of interest; offers technical assistance in advising and supporting legal initiatives undertaken by public agencies to prevent conflict of interest; monitors, checks and evaluates the enforcement of the law, etc.

14. The Court for Serious Crimes started functioning in January 2004 (as a First Level and Appeals Court). The Attorney's office for these levels started functioning, too. The reason for the establishment of the courts was to increase the effectiveness in the fight against organized and heavy crime and to improve the prosecution. The Appellate Court and the Attorney's Office have jurisdiction over the entire territory of the Republic of Albania; they are located in the capital city Tirana.

During 2010 the First Instance Court on Serious Crime has examined 1413 cases in total (991 during 2009). Among them were

- 111 requests for trials (basic cases),
- 246 requests for safety measures,
- 108 requests for information on security measures,
- 22 confiscation requests based on the Anti-Mafia Law,
- 840 requests for interception permission,
- 84 other penal requests.

During the same year, the following cases made it to the bench:

- 24 cases and 72 defendants convicted for trafficking narcotics/weapons and possession of weapons and ammunition,
- 10 cases and 12 defendants convicted for human trafficking,
- 7 cases and 14 defendants convicted for weapon trafficking,
- 1 case and 1 defendant convicted for assisting illegal border-crossing,
- 1 case and 5 defendants convicted for manufacturing and delivering counterfeit currency,
- 1 case and 5 defendants convicted for the creation of criminal organization,
- 13 cases and 21 defendants convicted for kidnapping or holding hostages.

The number of individuals sentenced by this Court for 2010 is 104. Five of them received life imprisonment sentences, five were fined, and five others received sentences for 1 to 2 years imprisonments. Twelve individuals were sentenced to 2 to 5 years imprisonment, 61 with 5 to 10 years imprisonment and 21 received 10 to 25 years.

III. Priorities in the Fight Against Organized Crime

1. Fight Against Criminal Organizations and Armed Gangs

The government of Albania has made efforts to counter organized crime by targeting criminal organizations and armed gangs in the initial phase of their creation or at the time of their identification.

The Albanian organized crime groups are treated by law as criminal organizations, which commit crimes in order to gain material profits; they are engaged in drug trafficking, human trafficking, smuggling vehicles, and have also committed homicides, robberies and thefts. Armed gangs arose mostly in 1997 and were engaged in thefts, homicides, and robberies for several years.

The Albanian criminal gangs have been involved in international drug trafficking by becoming part of such networks; they have been involved in human trafficking, especially trafficking women for prostitution; trafficking of weapons to neighboring countries and other types of illegal trafficking.

In addition to the Prosecutor's Office and police structures, other bodies, such as the judiciary, intelligence services, the military intelligence service, are also involved in fighting against criminal organizations and armed gangs.

2. Fight Against Drug Trafficking

The convenient geographical position of the country has had an impact on drug trafficking. Criminal groups involved in this crime use Albania as a transit country for shipping hard drugs, mostly heroin, to western country destinations. Part of this amount remains in Albania to meet internal demand; in recent years, the number of drug users has been steadily on the rise.

The country remains on the list of countries which cultivate cannabis; despite reductions resulting from police operations in recent years, there are still some areas where cannabis cultivation has continued.

Even though this is a new experience, results from recent years have shown that the police have been successful in fighting this phenomenon. The amounts of drugs trafficked to other destination countries have been constantly decreasing. These results are due to the stricter enforcement of legislation in this area, the use of special investigation techniques and the increased capacity of the specialized anti-drug units.

The following structures and agencies are responsible for the implementation of the legal provisions against drug trafficking.

- The anti-drugs sector in the Ministry of Interior, whose mission is to:
 - Coordinate the administrative and investigative activities and the operations against drug-related crimes and those delegated by the Prosecutor's Office over the whole territory of Albania; implement other duties as defined in the Penal Code and relevant legislation;
 - coordinate activities related to international police cooperation and cooperation with international anti-drug organizations;
 - coordinate the operational activities between the sections for the fight against drugs (regional offices) and other crime-fighting structures.

Other agencies that are engaged in anti-drug efforts include:

- The National Drugs Control Center, which is responsible for analyses and the administrative oversight of legal drugs.
- The Pharmaceutical Department, which is responsible for monitoring the pharmaceutical activities through the Pharmaceutical Inspection Service.

- The Public Health Institute monitors the procedures for medical prescriptions and prepares guidelines for the prescription of medicine containing narcotic substances.

3. Fight Against Other Types of Illegal Trafficking

The most widespread phenomenon of illegal trafficking has been trafficking in human beings. As a result of the preparation of a special strategy to fight human trafficking, the commitment and support given (through a series of initiatives to create joint committees and groups to fight this phenomenon), considerable success has been achieved. It is fair to say that Albania is no longer considered a transit country for trafficking human beings.

An Anti-trafficking Unit has been established and is in operation. This structure's main duty is to monitor the activity of the agencies that are in charge of the implementation of the National Strategy for the Fight Against Trafficking in Human Beings, coordinate the activity with these agencies, collect information and data on issues related to trafficking, etc. All the agencies involved in the prevention and fight of trafficking are expected to propose action plans and specific prevention and crime reduction measures; they are also expected to propose improvements to the Strategy in accordance with the Government's priorities and program. This involves drafting concrete and tangible measures, with quantitative success indicators and deadlines for implementation.

The Regional Anti-trafficking Committees function on local level, with representatives from the regional police directorates, education directorates, local government and the social services. These committees play an important role in treating persons identified as victims or potential victims of trafficking.

In May 2006, the Authority for the National Referral Mechanism responsible for victims of trafficking was established, comprised of representative from the Ministry of Interior, Ministry of Labor and Social Affairs and the Ministry of Foreign Affairs. It will coordinate the process of referral, initial protection and long-term rehabilitation of victims of trafficking, in close cooperation with the state social services, the Albanian diplomatic missions abroad and the specialized shelters for victims in the country.

Currently, Albania is a destination country for smuggling stolen cars. It remains a country of origin and transit territory for trafficking of weapons and ammunition.

As a result of the employment of special investigative techniques, some success has been achieved in controlling and reducing other types of illegal trafficking.

4. Money Laundering Prevention

In the area of money laundering prevention, the objective is to strengthen the efforts against laundering the proceeds from illegal trafficking and terrorism in order to boost the confidence in the country and in its economic and legal system.

To reach this objective, better cooperation is required between national agencies, as well as with other countries, in order to prevent the use of their financial systems for laundering the proceeds acquired from criminal activities and financing of terrorism. Cooperation in this area will rely on the implementation of standards and mechanisms for fighting money laundering, with a special focus on EU standards and other international instruments.

To fulfill the obligations set in the law for money laundering prevention, the following structures have been set up:

- a) General Directorate for Money Laundering Prevention,
- b) Committee for the Coordination of the Fight Against Money Laundering,
- c) Sector for the Fight Against Money Laundering within the Directorate for the Combat of Organized Crime and the Department of Criminal Investigations in the Ministry of Interior. This sector's duty is to supervise, coordinate, control and exercise activities for the prevention, discovery, reporting and control of criminal activity related to money laundering and economic and financial crimes.

An inter-agency cooperation agreement has been signed between the Ministry of Finance, the Bank of Albania, the National Intelligence Service, the Prosecutor's Office, and the Ministry of Interior to enable the identification, detection, freezing, seizure and confiscation of money, assets, proceeds and profits from criminal activity, chiefly from organized crime.

All sectors that are part of the agencies investigating economic and financial crimes cooperate in accordance with the legal provisions regulating the exchange of information on physical or legal persons, whose assets are suspected to result from criminal activity. Their duties also involve handling the information provided by border check-points in cases of cash imports/exports, including traveler's checks. These institutions also cooperate in tracking, documenting and identifying assets from organized criminal activities, such as trafficking (in human beings, drugs, weapons), smuggling, tax evasion, etc. There is a Working group consisting of members of various institutions, which meets on a quarterly basis to prepare action plans.

In the framework of the interagency cooperation, cooperation agreements have been signed with the High Inspectorate for Declaration of Assets and with the Anti-corruption Office and Internal Control within the Council of Ministers.

5. Fighting Corruption

The fight against organized crime is regarded to be closely related to the fight against corruption; without eliminating corruption, no significant success can be achieved.

The Albanian government considers a priority the fight against corruption and has taken a series of measures to curb down corruption. The government has drawn up a special strategy for the fight against corruption, with the objective to minimize corruption in state agencies within a short time.

The dangerous proportions of corruption growth, the monopolies controlling the markets, the weak and distorted enforcement of the law, as well as delays in implementing the envisioned reforms have caused a widespread loss of public confidence in the state agencies. Various international reports, studies and polls as well as monitoring by government and non-government actors have revealed serious problems, among them

- weak enforcement of the existing anti-corruption legal frame
- weak enforcement of the administrative instruments to prevent corruption (public administration, low transparency, poor functioning of the control system, etc.)
- insufficient coordination between audit/control structures and criminal prosecution in the fight against corruption;

- lack of cooperation of the agencies that have legal obligations in the fight against corruption.

In the justice system, some of the most serious problems relate to the low transparency of criminal and civil trials, which has caused a growing lack of public confidence in the justice system. Other major issues are the lack of transparency in the procedures for the appointment of judges and prosecutors; deficiencies in the status, independence and special protection granted to judges; infrastructural deficiencies in the courts, the Prosecutor's Office, in prisons, remand custody premises, etc., the low salaries of the court administrative personnel, and the unsatisfactory degree of execution of court verdicts.

The fight against corruption aims not only at identifying and smashing corruption cases, but also at eliminating the factors and causes that promote it; tackling corruption is key to tackling successfully with organized crime, too.

6. Protection of the Collaborators of Justice

The fight against organized crime, trafficking, corruption and terrorism is related also to the adoption of measures for protecting witnesses and collaborators of justice. The Albanian government has taken a series of measures in this regard.

As it is considered a priority with a direct impact on increasing the efficiency in the fight against organized crime, witness protection program has improved in quality. The unit in charge of witness protection was upgraded to a directorate and was provided with more adequate funding. Several laws were passed and a working group has been established to revise the law in accordance with EU standards.

In the last two years, many requests for special protection have been granted; this has contributed considerably to the investigation of criminal groups, by eliminating threats and blackmail made to persons who have accepted to be placed in protection.

The revisions in the law and the improved international cooperation in the area of witness protection and collaborators of justice will increase the efficiency of the fight against organized crime in Albania.

IV. Regional Cooperation in the Fight Against Organized Crime

Albania is a member of EUROPOL, INTERPOL, SELEC (former SECI). It has operational cooperation agreements with FRONTEX and conducts joint border patrolling with the neighboring countries Montenegro and Macedonia; it carries out joint operations with Greece.

The following bilateral and multi-lateral documents have been ratified and are in force:

- Convention for Police Cooperation in South-East Europe,
- Memorandum of Understanding (MoU) for Regional Cooperation and Exchange of Information for the Identification, Seizure and Confiscation of Proceeds from Crime,
- MoU on Cooperation and Support for the Secretariat of Convention of Police Cooperation in South-East Europe,
- MoU between Western Balkan countries based on the Joint Declaration on Prospective Cooperation between Central Europe and the Western Balkans,
- MoU between 5 national Ministries of Interior for the exchange of statistical information on illegal migration (Albania, Bosnia–Herzegovina, Croatia, Macedonia, Serbia),

- MoU on establishing regional coordinating law enforcement units,
- Readmission agreements with the European Commission and neighboring countries for readmission of unauthorized residents,
- Agreement with the countries participating in the Black Sea economic cooperation effort for cooperation in the fight against crime, especially against its organized forms.

The following cooperation agreements have been signed and function with neighboring countries:

- With Slovenia against terrorism, illegal drug trafficking and organized crime
- With Hungary in the fight against terrorism, illegal drug trafficking and organized crime
- With Bulgaria:
 - On readmission of unlawful residents;
 - On cooperation in the fight against terrorism, organized crime, illegal trafficking and other criminal activities
- With Romania against terrorism, organized crime, illegal trafficking of narcotics and psychotropic substances and other illegal activities
- With Macedonia against terrorism, organized crime, illegal drug trafficking and psychotropic substances and precursors, illegal migration and other illegal activities
- With Montenegro:
 - On cross-border police cooperation;
 - On cooperation in the fight against organized crime, terrorism, illegal drug trafficking and other illegal activities.
- With Bosnia Herzegovina:
 - On cooperation in the fight against crime, especially terrorism, illegal drug trafficking and organized crime;
 - On readmission of unlawful residents.
- With Greece, between the respective Mol's, on grounds of their competences
- With Croatia on the readmission of unlawful residents.
- With Kosovo:
 - Technical Agreement on Temporary Operational Procedures;
 - MoU between the Mol of Republic of Albania and the Mol of Republic of Kosovo:
 - on readmission of persons;
 - on organization of joint services by the Albanian State Police and Kosovo police on patrolling the main routes and highways in Albania.

V. Main Report Findings

Difficulties in Fighting Organized Crime

- Lack of real perception and little awareness in general, also by specialized agencies, about the dangers and consequences resulting from organized crime.

- The immunity that a considerable number of political appointees, public officials and justice system officials enjoy.
- The protracted reform in the justice system.
- The aggravated political situation, the lack of consensus in recent years and the aggressive language (verbal incrimination) that politicians use against their opponents.
- Political pressures on the justice system.
- In effort of the Albanian state agencies against economic and financial crime, due to the limited human and logistic resources and the insufficient training of experts who conduct financial investigations. The commitment and motivation of officials and experts in detecting crimes has been also one of the weaknesses in the system.
- Deficiencies in cooperation and coordination have been one of the weak points of Albanian agencies, who prefer to work independently without promoting joint activities.
- Lack of digitalized records and lack of easy access to information by partner agencies has been identified as a weakness. The progress achieved in this area has been tangible in some of the law enforcement agencies. The creation of databases and making them available to intelligence and law enforcement agencies is a must.
- The fight against organized crime is understood only as a responsibility of the State Police, at a time when partnership between various actors is a necessary prerequisite for efficiency.
- Lack of cooperation with the public, media and NGOs, which would increase confidence in law enforcement.
- Inadequate compensation of prosecutors and judges; the insufficient number of qualified staff and even the limited capacity on properly conducting the investigation and trial practice.

Conclusion

- The administrative capacity of law enforcement agencies has been strengthened in recent years. However, reforms remain incomplete. The justice system lacks independence, transparency and accountability and has been unable to obtain tangible results in the fight against corruption and organized crime.
- Albania has made efforts to create a legal and institutional framework to fight corruption; this framework is by and large complete. Despite these efforts, corruption is widespread, and in many areas it is a serious problem. The level of corruption is particularly high in the judiciary, in the system of property restitution and compensation, and the health sector. The lack of transparency in the financing of political parties makes it possible for public officials to exert influence on the work of the institutions engaged in fighting crime and high-level corruption.
- There are gaps in the legal framework in terms of fighting corruption. The Criminal Code doesn't stipulate as crime the case of bribery of foreign public officials. Moreover, the immunity granted to a large group of public officials (MPs, ministers and judges), aiming to increase their independence, used to be an obstacle to corruption investigation. The immunity may be waived only

by a decision of the Parliament or the High Court of Justice. This procedure is complicated, takes time, prevents the efficient investigations and very rarely succeeds.

- In the fight against organized crime, Albania has established an adequate institution framework. The law enforcement agency reform as well as their adequate equipment with sources and tools contributed to the fight against organized crime groups. However, the effective implementation of new legislation and the professionalism of the new structures and systems should be further demonstrated in practice. Modern methods of investigation are not widely used. The links of Albanian organized criminal groups with international crime rings still remains a serious concern. It is necessary to further strengthen the international cooperation against organized crime, especially with the neighboring countries.
- The political stalemate is damaging the functioning of democracy in Albania and is hampering important reforms necessary for the country's progress towards EU integration and upholding the rule of law. Important acts of legislation requiring a qualified majority (three-fifths of all ballots) cannot pass in Parliament.
- Albania lacks a comprehensive—and-long-term strategy for reforms in the judicial system. There is corruption in the judiciary, the transparency and accountability in many procedures is poor and the judicial system is not efficient. Consequently, the level of public confidence in the system is also low. Court cases against powerful people are very rare and their prosecution rarely results in convictions. The public perceives this as the system's failure to prosecute high-power officials.
- The independence and the authority of the judiciary is weakened by the lack of an adequate performance evaluation system healthy evaluation systems. The system of appointments and promotion is not merit-based. There are serious obstacles in the investigation of corruption cases in the judiciary, mainly due to the fact that the law gives judges complete immunity. The unreasonable delays of judicial proceedings, as well as the high number of postponed cases still remain a concern.

Institutional Response to Organized Crime in Bulgaria

Rada Smedovska-Toneva

Recommendations on Improving the Policies Against Organized Crime

- An integrated approach is needed, involving both economic measures and a sustained policy for the prevention of organized crime.
- The fight against organized crime should involve not only policies for repression but also well-thought out and consistent preventive measures.
- Setting up specialized structures should be a secondary element in a comprehensive policy for the counteraction of organized crime.
- Imperative is an internal reform and strengthening of the investigation services.
- More active utilization of special investigation techniques in organized crime cases, such as undercover operations, controlled delivery, covert operations, etc.

Introduction

Organized crime and corruption are two of the issues that continue to dominate the Bulgarian political, institutional and media discourse. In the last ten years, every political party in power has declared its resoluteness to fight them to the end. Each year, the European Commission reports on Bulgaria criticize the lack of effective counter-measures and visible results in the fight against these high-risk social problems.

The present report describes the institutional policies for the counteraction of organized crime in Bulgaria. In contrast to its predecessors, during the last two years the current government has opted for several new methods in the combat of serious crime. We have seen the launch of a number of special projects, which brought into existence new institutions dedicated to the fight against organized crime.

Along with the establishment of these new bodies, the current Bulgarian government has invested many efforts into the development of strategic documents and action plans. For example, in November 2009 was approved the Integrated Strategy for the Prevention and Counteraction of Corruption and Organized Crime. The Strategy is presented as one of the key measures for the implementation of the indicators in the framework of the Mechanism for Cooperation and Verification of the EC. This document is meant to bring back the citizens' confidence in the rule of law and the public institutions in Bulgaria, and to improve Bulgaria's image before the European and foreign partners and

investors. The Strategy promises the radical reduction of organized crime, efficient criminal investigation and prosecution and confiscation of criminal assets. The adoption of the Action Plan for the Prevention and Counteraction of Organized Crime followed six months afterwards.

However, neither of these measures coheres with the existing organized crime legislation, nor do they take into account the gaps in it and the difficulties that law enforcement agencies face in implementing the law. The term itself „organized crime“ is not defined in the Bulgarian legislation; there is only a stipulation regarding the term „organized crime group.“ It was introduced in response to Bulgaria’s obligations as signatory to the UN Convention on Transnational Organized Crime. Yet this provision is more controversial than beneficial for the law enforcement bodies. Experts and representatives of the national institutions have been voicing their concern for years about the fact that various institutions engaged in anti-organized crime efforts differ in their understanding of „organized crime.“ The lack of conceptual clarity reflects above all the lack of effective cooperation between the institutions and the abuse of a problematic notion (when it comes to its content) for the purposes of short-term political gains.

1. Institutions in Charge of Fighting Organized Crime in Bulgaria

1. Chief Directorate „Combating Organized Crime“ (CDCOC)

In 1991, under the auspices of the Ministry of Interior (Mol) was established a specialized body in charge of fighting organized crime. Over the years it has undergone numerous transformations and has functioned under different names. With the adoption of the new Ministry of the Interior Act in May 2006, the National Service for the Combat of Organized Crime was renamed Chief Directorate „Combating Organized Crime“ (CDCOC). Two years later, when the State Agency for National Security was established, the powers of the Directorate were reduced to a minimum and the institution struggled to survive. In 2009, the current government launched another reform, seeking to restore the powers of the organization as a key player in the combat of non-conventional crime. The mandate of the Directorate received a symbolic boost with a provision in the above-mentioned act, which stipulates that its head is the deputy of the Chief Secretary of the Mol.²

The State Agency for National Security (SANS) was created at the end of 2007. This new structure was advertised as a new instrument in the fight against high-level institutional corruption and organized crime. Its introduction, however, watered down the borderline between the mandate of SANS and of CDCOC. In addition, the high social status and remuneration of the officers in SANS discouraged the police officers in CDCOC; it has led to unhealthy competition between the two institutions, lack of information exchange and has damaged the professional cooperation between them.

To remedy this situation and to respond to the continued failure to control organized crime, the government undertook another round of reforms in both of these institutions. The reform eliminated the duplication in powers; the mandate of SANS no longer includes the combat of serious crime. As a result, the main structure tasked with the fight against organized crime is the Chief Directorate „Combating Organized Crime.“

² Art. 28, para.10, line 5 of the Ministry of Interior Act (State Gazette, issue 17/24 February 2006).

At present, CDCOC is a national specialized operation and investigation structure within Mol, working for the prevention, dismantling and investigation of organized crime of local and transnational crime groups. It deals with crimes related to:

- Customs regime, monetary, crediting, financial, tax and social security systems;
- Illegal trafficking in plants containing narcotic substances, narcotic drugs, precursors and their analogues;
- Cybercrimes and computer crimes;
- Intellectual property;
- Human trafficking;
- Counterfeiting currency and document forgery;
- Illegal trafficking in explosives, firearms, chemical, biological or nuclear weapons or ammunitions, nuclear materials, nuclear devices or other sources of ionization, toxic and chemical substances and their precursors, biological agents and toxins as well as excise goods and good and technologies with possible dual use;
- High-level institutional corruption;
- Terrorist activities;
- Participation in criminal organizations or groups concluding deals or making profits by use of force or by arousing fear;
- Organization or involvement in gambling;
- Money laundering.

The other functions of CDCOC include information processing, analytical, prognostic, control, coordination and methodological activity, as well as information exchange with other organizations. Within the Directorate's powers are also under cover operations, and controlled delivery.

2. The Prosecution Service

In 2008, with a decree of the Prosecutor General a special section was created within the Supreme Prosecutor's Office of Cassation, namely, the Unit for Counteraction of Organized Crime, staffed with 8 prosecutors. The section's mandate includes supervisory and leadership functions, to ensure the legality of pre-trial investigations and proceedings in cases of crimes committed by organized crime groups abroad and, upon decision by the section's head, crimes committed in Bulgaria.

In an effort to improve performance, the section has introduced the practice of standing (permanent) teams, which are in charge of conducting the preliminary inquiries, as well as subsequently conducting the pre-trial investigations under the supervision of the prosecutors in the section.

In 2009 was signed an agreement between the Prosecutor General, the Minister of Interior and the director of SANS for the establishment of specialized inter-departmental units for the investigation of crimes committed by organized crime groups. Members of these units include prosecutors from Sofia City Prosecutor's Office, detectives, police investigators and operative officers, as well as SANS agents. Each officer is seconded to these units by his/her own department and can keep his/her position in it while on assignment. The teams are permanent and each team's members are selected by the leadership of the specialized units. To each team is assigned a prosecutor from the section „Combat of Organized Crime,“ whose task is to provide methodological assistance to the officers and to secure cooperation from the prosecutors' offices in the country.

3. The Experience of the Designated Institutions in the Combat of Organized Crime

Each of the Bulgarian governments in the last ten years has declared its priority the fight of corruption and organized crime; however, in its reports so far on the Mechanism for Cooperation and Verification, the European Commission has repeatedly criticized the lack of any visible results.

Despite the progress made in the last year on organized crime cases, the court and other bodies in the system are constantly to be under fire. The main reason is that the convictions in these cases are very few. In an effort to demonstrate some success, the responsible institutions typically make public various statistics to ward off the harsh criticism. CDCOC's annual report for 2010, for instance, shows that the Directorate has dismantled 66 large crime groups. According to the report, this is half of the total number of crime groups in the country, currently estimated at about 140. The total number of criminals is set to 605, while the anti-mafia units have investigated 838 criminals, but only 27 of them have ended up in prison. We must also note that CDCOC's report, similar to the complete reports of the Ministry of Interior, are not publicly accessible. Only select statistics are made public at special press-conferences. NGOs have been insisting for years for greater transparency in the work of both of these institutions. In addition, the performance criteria are tied to the work of the Ministry of Interior in reducing crime and not to the overall results of the criminal justice system.

The Prosecution's report shows an increase in the criminal investigations for corruption and organized crime. This indicates that the reforms in the prosecution, namely, further specialization of the prosecutors and the cooperation with SANS and the police, seem to have yielded positive results. Still, corruption and serious crime cases make a negligible share of the overall activity of the prosecution; guilty verdicts are still predominantly given for petty crimes like robbery and traffic accidents.

A growing trend in the crime investigation in the last two years is the use of special investigation devices (SID). In 2010 alone over 15,000 requests for SIDs have been granted, which is almost double the number from the previous year. On the other hand, as the Prosecution's annual report for 2010 shows, SIDs have been allowed as material evidence only in 6.3% of the court cases on organized crime. The increase in the use of SIDs correlates with the increase in indictments related to organized crime, corruption, financial crimes related to EU funding, money laundering, tax and other economic crimes, human trafficking and drugs trafficking. At the same time, judging by the types of SIDs, over 60% of them are for surveillance and wire-tapping. According to the report, SIDs have been used as special investigation techniques in only 1.5% of the cases (i.e., undercover agents, covert operations, controlled delivery).

II. Specialized Bodies for the Combat of Organized Crime

1. State Agency for National Security (SANS)

SANS was established in January 2008, bringing under one roof three separate bodies – the National Security Service, the military counterintelligence, and the financial intelligence service. The main reason for the new mega structure was the fight against high-level institutional corruption and organized crime. To the Bulgarian public and the European partners SANS was advertised as the institutional response to the lack of effectiveness in countering serious crime.

The process of setting up SANS was marred by several issues that had a negative impact upon its future work. First off, the government failed to prove the need for such a body both when it launched the idea and subsequently, during the parliamentary debates on the new Act on SANS. Second, the lack of a national security strategy at the time when this reform began further complicated the question of the strategic role of SANS and made the process of its establishment more difficult. The mandate and the powers of SANS became the victim of heavy political bickering. The lack of a clearly formulated doctrine for national security influenced negatively the development of a vision and mission for SANS regarding its operative powers and the expectations for its success. There is still confusion regarding the Agency's strategy, its mandate, its public role, the interaction with the prosecution, the Ministry of Interior, and many other aspects of the Agency's functions.

Third, the process of adopting the regulative framework on SANS. The draft law included 28 clauses³, whereas the final act consists of 135 articles;⁴ crucial is chapter 7 which contains the provisions regarding SANS personnel. More than half of the provisions deal with the officers' employment status instead of regulating the mission, goals, powers and functions of SANS, and the mechanisms for control of its activity.

In its initial set-up, the Agency appeared as a hybrid structure; it was entrusted with intelligence, investigation and police powers. However, the main issue in its mandate was the confusion between its intelligence and investigation powers. SANS was supposed to be primarily an intelligence/counterintelligence service and all other functions and the protection of information/security must be observed without infringing on its main responsibilities. The Act on SANS includes provisions granting the Agency investigative powers, albeit minimal.

Issues like this have damaged the public perception of SANS. During its first year of operation, the Agency became involved in many public scandals, which escalated to a point where the Prime Minister even threatened to disband SANS. Consequently, in the fall of 2009 the law on SANS was amended. The main changes concerned the following aspects:

- The agency is relieved of its police and investigative powers, thus defining its profile as predominantly an intelligence service and removing the duplication of the functions of CDCOC. SANS was also stripped off of its operational powers – agents under cover, covert operations and controlled delivery. The number of powers were reduced and redefined according to its new profile, which now focuses on „counterintelligence, information-analytical and prognostic activity.“ Investigating organized crime and the misuse of European funds were removed from SANS mandate.
- An internal reform within SANS reduced the bureaucratic procedures and made its management more flexible.

This reform had a revitalizing effect on SANS. In the beginning, the Agency had been assigned too many tasks in tackling organized crime and high-level institutional corruption, and the first two years of its existence revealed its inability to deal with these high-risk social problems. In this respect, relieving the Agency of its investigative and police functions was a step in the right direction. At the same time, however, organized crime cannot be entirely wiped off the Agency's

³ Decree by the Chairman of the Parliament No 750-01-308/19.09.2007 (re: proposed law on NA „Security“).

⁴ Act on SANS, State Gazette, issue 109/ 20.12.2007.

mandate, since organized crime – national and transnational – has an intrinsic impact on the country's national security. SANS could perform strategic criminal intelligence but for the purposes of the executive, not for the investigative bodies. This will allow it to expand its expertise and its current information database regarding national security (i.e., which criminal activity areas pose threat to security, how resources should be allocated, which crimes are most damaging to the country's security, future trends, etc.)

Unlike previous years, in the last two years the Agency has stayed strictly off the media radar. This also had positive effect on its work. SANS should be in the spotlight only when it presents its annual report; it must however report on real issues and not simply prepare a laundry list of statistical information. The law on SANS does not explicitly state what the annual report should include. This is a systematic error concerning not only SANS but also other public institutions, discouraging in this way the institutions' accountability and transparency. The annual reports contain mainly statistics, without any in-depth analysis; this prevents the public from assessing the Agency's effectiveness and performance level. This trend is observed in the Agency's reports for both 2009 and the first half of 2010. On the one hand, these reports show a low level of administrative culture (i.e., there is no introduction by the Agency's director, no date, etc.) On the other hand, the Agency's activities are presented as a long list of numbers and statistics, whose veracity and accuracy are hard to verify. The institution and its scope of work have remained impenetrable to the public; the perception is of formal compliance with the law rather than providing substantive information about its own accomplishments.

2. Commission for Establishing of Property Acquired from Criminal Activity (CEPACA)

The law on the confiscation of property acquired from crime was adopted in 2005. Accordingly, the specialized commission to implement the new law - CEPACA – was also set up. The Commission is a collegial body, consisting of five members including the chairman and its deputy. The chairman is appointed by the Prime Minister, the deputy as well as two members are appointed by the Parliament; the fifth member is appointed by the President. The members' mandate is five years, and each can serve up to two consecutive terms. The Commission started operating in June 2005.

Within the Commission's powers are the following:

- Initiate investigation to establish property acquired from crime;
- Deposit in court a motivated application for the imposing of injunction orders;
- Deposit in court a motivated application for the divestment in favor of the state of property acquired from criminal activity;
- Appoint directors of its regional units as well as experts, upon the formal recommendation of the unit's director.

CEPACA can also require the person under investigation to submit an official declaration for the property owned by him/her and his/her family, including real estate, movables, shares and bonds, bank accounts, etc. In case the person refuses to submit a declaration or submits false or incomplete information, until proven otherwise, all property is considered acquired from criminal activity.

The Commission has been heavily criticized on numerous occasions. The appointment of its first chairman made the headlines also because of his

unjustifiably high compensation. RiskMonitor Foundation conducted an assessment of the Commission's activity for the period 2005-2010; a recent monitoring report highlights the following conclusions:⁵

- Inadequate staffing of CEPACA: the high turnover is a serious issue for the Commission's efficiency. Significant resources are spent for training and employee orientation, without any effective policies for employee retention. One of the main reasons for the high turnover in the Commission is the discrepancy between the candidates' expectations concerning the workload and the actual amount of work they are subsequently required to complete. Furthermore, the Commission's inspectors are also required to appear in court on behalf of CEPACA, and many of them do not have such professional expertise and qualification.
- The Commission's accountability; the legal provisions in CEPACA's mandate do not specify what information should be included in the institution's annual report. What goes in is entirely at the discretion of the Commission; consequently, information in the reports has so far been misrepresented and manipulated. For instance, there is data about an injunction order where the numbers cited differ significantly from the property's real value. The reports present only the court cases decided in favor of the Commission, but there is no mention of the cases lost.
- CEPACA has been more effective in issuing injunction orders rather than in actually confiscating property. Since the Commission's establishment, it has issued injunction orders for 677 million leva, whereas the confiscated assets amount to only 8.1 million leva. So far the Commission has won over 20 court cases, while pending are more than 200.
- Lack of unified methodology for property appraisal; one of the reasons for this is that CEPACA works with external experts who tend to give higher property values than the property is actually worth.
- Lack of unified court practice regarding the cases submitted by the Commission, in particular, as concerns establishing the causal relation between the predicate offence and the acquired property.
- Lack of public oversight mechanism of CEPACA's activity. As structured, the institution is accountable to the Prime Minister, which puts at risk its independence and the transparency of its operations.

In its effort to increase the effectiveness in the fight against organized crime, the government has prepared a draft for a new law on the so-called civil asset recovery or non-conviction based asset forfeiture. The draft has been severely criticized by legal experts and NGOs. The government has also sought the opinion of the Venetian Commission on the proposed law. In the beginning of July 2011, the Bulgarian Parliament voted against the bill at first reading. Most likely, it will be submitted for a second vote after the mandatory three months waiting period.

The main criticisms of civil asset forfeiture as proposed in the new law point out the following:

- The bill does not warrant the protection of human rights. Experts are concerned that the bill as conceived allows the state to prosecute and confiscate property which has not been acquired from crime; the presumption

⁵ Civil Asset Recovery in Bulgaria (2005-2010), RiskMonitor Foundation, 2011.

is that any property whose origin cannot be documented is unlawful and acquired from crime.

- Reports of various NGOs in the country show that the proposed bill could affect between 80,000-400,000 households, which have accumulated significant but undocumented assets in the last 15 years.

3. Center for the Prevention and Combat of Corruption and Organized Crime (BORKOR)

The Center for the Prevention and Combat of Corruption and Organized Crime is the newest specialized institution. It has not yet started functioning; only its statute and management team have been made public so far. According to the statute, BORKOR will:

- Analyze, plan and develop counter-measures and propose integrated solutions for the prevention of corruption and corrupt practices, as well as organized crime, specifically in areas where the two crimes may overlap and in view of the specific activities of each public institution and administration.
- Support the state institutions and local government in the development of policies for the prevention and counteraction of corruption and organized crime, and the improvement of the cooperation and coordination between state bodies, civil society, media and the business community
- Implement the Integrated Approach to the Counteraction of Corruption and Organized Crime BORKOR (referred to as „The Integrated Model of BORKOR“), by adopting the practices and standards introduced by the Federal Republic of Germany, as well as methods and techniques specifically designed for BORKOR (referred to as expert concepts of the BORKOR Integrated Model).⁶

The Center's methodological activity is supervised by a Consultative Council, comprised of representatives of the legislative, executive and the judicial, the Bulgarian National Audit Office, and the Center's Director. The Council is chaired by the Vice-Prime Minister and Minister of Interior. The Center is managed by a Director and Deputy Director, who is appointed by the Prime Minister. In violation of its statute, currently the Center has two deputy directors.

The situation surrounding the creation of BORKOR resembles the establishment of SANS, as described above. BORKOR was set up in an election year when the government officials show unusual effort and ambition. Unlike SANS, however, BORKOR came into existence after key strategic documents had been adopted. First was approved the Integrated Strategy for Combating Corruption and Organized Crime, then the Action Plan for the Prevention and Countering of Organized Crime, a government decree for the creation of BORKOR, followed by the institution's statute. Regardless of the existence of those documents, the decision for creating the institution is still highly debatable. There has been no previous analysis justifying such a step and documenting the lack of effectiveness of the bodies already in charge of curbing corruption. It is not clear what makes BORKOR different or more efficient than those other structures. There is no evidence what defects BORKOR will remedy and what improvements it will introduce in the fight against corruption and organized crime.

The Center is just a „new kid on the block,“ which has joined the ranks of the other institutions established under external pressure, not because the current circumstances in the country demand it. This fact only comes to reveal

⁶ Art. 3 of BORKOR's Statute.

a vicious circle in the government's approach: importing outside practices in order to legitimize its own deficiencies. As mentioned, the statute of BORKOR clearly states that it will apply the Integrated Model for fighting corruption and organized crime „by using ...the standards established in the Federal Republic of Germany.“ Many experts have already argued that the „BORKOR Model“ is nowhere to be found and one can only guess what it entails.

The third risk regarding the creation of BORKOR is the political climate in which it was set up. Despite the fact that the Strategy for Combating Corruption was adopted in 2010 and the Center's statute was voted in the beginning of 2011, the launch of the Center was announced in the middle of a political crisis. The government was shaken by scandals of illegal wiretaps and the director of SANS was forced to resign. Inevitably, BORKOR was thrown into the debate on the role and the powers of the security services. Commentators were quick to observe that this new body puts in question the existence of SANS. This concern seems unfounded, though, because SANS is set up as a counter-intelligence service; it does have some powers in fighting corruption, but it also implements a number of other tasks. For the time being, there is still no clarity about BORKOR's mandate and many questions regarding its existence remain open: what will happen with the information that BORKOR is expected to analyze? Who will be the recipients of this information – the executive or the judiciary? To whom will BORKOR report and who will oversee its operations? What guarantees exist for the transparency and effectiveness of the institution? These issues are left hanging; however, the lessons learned from the case of SANS demand that answers be given as soon as possible.

4. The Special Court for Organized Crime

On July 15, 2010 was introduced the proposal for amendments in the Law on Judicial Power. The new provisions stipulated setting up a Specialized Court, a Specialized Court of Appeals, a specialized prosecution office and a Specialized Appellate Prosecution.⁷ The initiative for this new court came from the ruling majority in Parliament, and was publicized as the response to recommendations given by the EC in its annual monitoring reports on Bulgaria. The truth is, however, that these reports make no such recommendations – they only stress on the need for reforms in the pre-trial procedures and the establishment of specialized units.

The Specialized Court as conceived will handle cases of crimes against the person, offences against the rights of citizens, financial and economic crimes, crimes against property, violations of the tax and social security system, etc. In other words, the Specialized Court will handle various cases which are presumed to be committed or masterminded by organized crime groups. In cases where several charges are brought against one defendant, the Court will handle all of them even if only one of the charges falls under the Court's jurisdiction. The initial proposal for the Court provided that it should handle also cases involving members of parliament and government officials; however, this proposal was rejected during the parliamentary debates.

The Specialized Court and related institutions have not yet been set up. The court was expected to start working in August 2011, but due to technical obstacles (no office space, difficulty appointing directors of the specialized structures) its opening was postponed until the beginning of 2012.

⁷ Special amendments have been made to the Law on the Judiciary (art. 100a–100e and 107a-107b) and to the Criminal Procedure Code.

At the time of writing this report, there was no information about where the new court will be housed. Further and more significant issues arose in the process of appointing directors of the specialized bodies. The first open call for a chairperson of the court failed, as only one candidate had applied (it turned out later that he was not qualified for the position). The candidates must nominate themselves because changes in the law prohibit both persons in administrative positions and one-fifth of the members of the Supreme Judicial Council to nominate candidates. A hearing of two new candidates is coming up, for the First Instance Penal Court and for the Appellate Penal Court. Both are scheduled to take place in September, 2011. The candidate for the position of chairman of the Specialized Appellate Court withdrew his application before the second round of interviews. So far, only two appointments have been successful: for the Specialized First Instance Prosecution and the First Instance Appellate Prosecution.

The proposal for a specialized anti-organized crime court became the subject of heavy debates. Similar courts are not a regular practice around the world; usually they are established in extraordinary circumstances. There are no such circumstances in Bulgaria. Therefore, many experts suspect that the main reason for this step is not the fight against crime and the respect for legality and fair trial, but winning certain cases at any rate, with any means. They see the project as flawed from its very inception:

- The initiative was announced not by the Ministry of Justice but by the Minister of Interior, who has proven himself in the last year as one of the most fervent critics of the judicial system;
- Lack of structured debate and analysis of the reasons for the creation of this new body. No analysis is available of the statistics related to organized crime nor of the state of crime in the country;
- The amendments to Law on Judicial Power and the Penal Procedure Code confirm that reforms are conducted piecemeal.
- Proponents of the idea sometimes present the specialized court as a special tribunal, whereas such an institution is explicitly prohibited by the Bulgarian Constitution.
- The amendments to Law on Judicial Power and the Procedure Code regarding the specialized court were challenged and the case was brought to the Constitution Court. The Court's decision is pending.

III. Bulgaria's Contribution to Regional Cooperation in the Fight Against Organized Crime

Bulgaria became a member of Interpol in 1989; a National Central Interpol Unit was set up in March 1990. Since January 2007, Bulgaria has been a member of Europol. Besides information exchange, the cooperation with these two organizations involves exchange of specialized knowledge, situation reports, investigation procedures, crime prevention methods, joint trainings, consultations and investigation assistance.

Bulgaria is also a member of the Association of the Chiefs of Police in South-East Europe (SEPCA), of the Parliamentary Assembly for Black Sea Economic Cooperation, and of SELEC (former SECI center).

The Ministry of Interior has coordinated its regulatory framework with related institutions on the basis of more than 40 international cooperation agreements, including all member states and the neighboring Balkan states, to fight against terrorism and trans-border organized crime; the focus is on building up mechanisms for active cooperation on operational level.

IV. Main Report Findings

- The countermeasures directed against organized crime are conceived in terms of penal policy. The predominant discourse proposes repression of non-conventional crime, but such repression is not always successful.
- The policies for the counteraction of organized crime are often developed and approved without prior public debate.
- The institutional policy is reduced to setting up new and not well-conceived structures, putting at risk the effective counteraction of organized crime.
- Institutions put enormous efforts to report improvements in the fight against organized crime, but in reality the numbers do not indicate significant increase in the level of their effectiveness.
- Each institution follows its own performance criteria, which generates tension between them and does not present a clear picture of their actual achievements and outcomes in the process of fighting organized crime.

Institutional Response to Organized Crime in Croatia

Dalibor Dolezal

Recommendations on Improving the Policies Against Organized Crime

- Strengthening the rule of law
- Harmonization of the legal norms regarding organized crime with the countries in the region
- Strengthening the cooperation between authorities at the national level
- Strategy-driven policy making efforts
- Qualitative re-orientation of the cooperation in criminal law
- Improving the information management
- Introduction of intelligence-based risk and threat assessments
- Further strengthening of international cooperation.

Introduction

In the context of the Balkan region, the Republic of Croatia is one of the countries with high security risks in terms of organized crime and corruption. These risks are largely conditioned by three factors: the country's geopolitical position, the transition processes, and the circumstances of the disintegration of former Yugoslavia, part of which was also Croatia. Organized crime increased after appeasing the security and political situation in the Balkans and the re-establishment of the so-called „Balkan route,“⁸ which opened up transport routes linking Western Europe with Southeast Europe and the Middle East. This made Croatia a transit area for smuggling cigarettes, alcohol, weapons, drugs, vehicles, and people.

The huge profits generated by the „Balkan route“ led the criminal bosses to the establishment of criminal organizations. The main reasons for this step were obtaining control over a certain territory and the criminal activities in that territory, as well as over the revenue generated from crime. This was seen also as an opportunity to invest in legal economic activities (currency exchange bureaus, casinos, night clubs, etc.)⁹ By legalizing the „dirty money“ mostly through suspicious privatization deals and further expanding their legal businesses, the organized crime leaders eventually created for themselves a public image of „successful entrepreneurs.“

The definition of organized crime in the Croatian Penal Code¹⁰ entails the traditional view of the term „organized crime,“ which focuses on criminal groups or associations. Article 89, paragraph 23, for example, defines a criminal organization as „...a **structured group** of at least three people [which] during

⁸ Strazzari, F. (2007): „The Decade Horribilis: Organized Violence and Organized Crime along the Balkan Peripheries,“ 1991–2001. *Mediterranean Politics*, 12, 2, 185–209.

⁹ Vulinec, M. (1997): „Organized Crime In Croatia.“ *Kanagawa Law*, 31, 3, 419–432.

¹⁰ Penal Code (OG 110/97, 27/98, 50/00, 51/01, 105/04)

that period act[s] with common purpose of committing one or more crimes in order to acquire direct or indirect financial or other material benefit or in order to achieve and maintain control over certain economic or other activities, for which a prison sentence of at least four years or more can be adjudicated. A criminal organization is the foundation of the concept of organized crime.“

The Penal Code also defines the term „group“ in the above mentioned article 89, paragraph 22, which states that „a group of people is constituted, in terms of this Code, by at least three persons who are related to ongoing or occasional perpetration of criminal acts, in which each of these people give their share in the commission of these acts.“

The heyday of Croatian organized crime was during the war for independence. The following quote from V. Stoyarova¹¹ explains the connection between organized crime and the political elites in Croatia. „Promoted into war heroes, many of them continued their criminal deals after the war and to this day. When they were caught in the act, they were punished symbolically and only a few of them ended up in prison with longer sentences, because they were so deeply involved in crime that even their shields from the state and judicial authorities could not protect them and take them out of prison anymore.“

Information collected by the police and results from criminal investigations lead to the conclusion that organized crime groups in Croatia were, and still are, mainly horizontally structured, with a heterogeneous composition. Most of them cooperate with other foreign criminal groups operating on Croatian territory, and the leaders and members of these groups usually originate from countries that have emerged after the breakup of Yugoslavia.

Judging from their characteristics, organized crime groups in Croatia do not belong to the traditional „Mafia-type“ of criminal associations. Basically, they are professional criminal organizations engaged in criminal activities, not characterized by a specific hierarchical structure, subordination, planned and continuous action, concealment, etc. There are also criminal organizations of the adaptive type with a flexible organizational structure, areas of operations and specific criminal activities in which they engage. Their members are only related as personal acquaintances and have common interests in acquiring illegal material gains by the commission of one or several offences.

In 2002, a large trial of a presumed „criminal organization“ was completed, which confirmed that such organizations did not exist in Croatia. Seven of the twelve defendants were acquitted of all charges, while the other five were convicted for individual crimes. A year later, the Supreme Court confirmed the decision of the Zagreb County Court regarding the non-existence of criminal organizations, thus ending the period of the so-called „post-war organized crime.“

The first reaction of the post-Tudjman government to the growing problem of corruption and organized crime was to improve the legal framework in order to allow the existing institutions to fight organized crime more efficiently. They started by amending the existing laws and introducing some new laws, thus creating the current legal framework.¹² The first official document was the

¹¹ Stoyarova, V. (2007): Organized Crime in the Western Balkan. HUMSEC Journal, Issue 1, 91–114.

¹² Penal Code (OG 110/97, 27/98, 50/00, 51/01, 105/04, 84/05, 71/06, 110/07, 152/08, 57/11), Criminal Procedure Act (OG 110/97, 58/99, 112/99, 58/02, 152/08, 76/09, 80/11), Law on the Office for Combating Corruption and Organized Crime (OG 88/01, 12/02, 76/09, 116/10, 145/10, 57/11), Law on Prevention of Money Laundering Act (OG 69/97, 106/97, 67/01, 114/01, 87/08), Law on Liability of Legal Persons

„Special Action Programme of Measures to Combat Organized Crime,“ adopted in November of 2003, on the basis of which in September 2004 emerged the first National Plan for Combating Organized Crime.

I. The State's Response to Organized Crime

1. Ministry of Interior

The influence of warfare in 1991 and 1992 in Croatia and Bosnia and Herzegovina, as well as the disintegration of the former Eastern Bloc, contributed to the emergence and transformation of certain types of crime, which had the basic characteristics of organized crime. The situation became worse, since criminals in Croatia started working together with foreign criminal organizations who were entering the criminal markets in the country. The fight against organized crime became more difficult because of the higher level of organization and professionalism of the perpetrators, the involvement of foreign crime groups and the growing number of criminals.

Considering the situation as described and the increase of various types of organized crime, in 1992 the **Organized Crime Division** (with 20 subdivisions) was formed within the Criminal Police Sector of the Ministry of Interior. A special unit for combating drugs was set up, because of the specific characteristics and the conditions under which they needed to work. The fight against corruption and criminal acts such as money laundering as well as ecological crimes was assigned to the Economic Crime Division.

2. Reasons for Creating a Specialized Body to Fight Organized Crime

Although the reaction of the newly formed democratic authorities of the Republic of Croatia to organized crime was relatively fast, in the following war and postwar years a number of reasons led to the decision for the establishment of a new independent office to deal with the problem of organized crime in Croatia.

High level of corruption¹³: The roots of corruption in the Republic of Croatia go back to the time of the former communist Yugoslavia. Much like in other communist countries, for example the former USSR, corruption was present at all levels of the state apparatus. Only after the end of the war did the problem of corruption of civil and public servants and representatives of the ruling political party (Croatian Democratic Union) become apparent; some of the cases involved even the President of the Republic. The biggest corruption case concerned the shady privatization deals of state enterprises; the details were publicly disclosed in the operation „Maestro“¹⁴.

Selective enforcement of laws¹⁵: Although the agencies who were responsible for combating organized crime quickly recognized the scope and structure of organized crime in Croatia, the obstacle to the successful solution of this problem was the political „elite,“: it exerted pressure on the justice system in a way that prevented the initiation of proceedings against the criminals, who also

(OG 151/03, 110/07, 45/11), Law on Conflict of Interest (OG 163/03) and Witness Protection Act (OG 163/03).

¹³ Novosel, D. (2001): Specifics of the Act on the Office for Corruption and for the Suppression of Organized Crime. Croatian Annual of Criminal Law and Practice, 8, 2, 41–83.

¹⁴ www.necenzurirano.com/index.php?option=com_content&task=view&id=632&Itemid=1

¹⁵ www.index.hr/vijesti/clanak/mesic-uzroci-organiziranog-kriminala-u-samoizolaciji-i-selektivnom-provodjenju-zakona/407731.aspx

had the protection of high-ranking government and political officials.

Lack of effectiveness in fighting corruption and organized crime: With the transition from the communist regime to democracy new types of crime emerged that the available legislation, most of which reproduced statutes from the communist times, did not identify as such. In addition, more criminal acts took the form of organized crime, which made the work of the police officers more difficult (not to mention that the staff was insufficient and inadequately trained.)

II. Office for Combating Corruption and Organized Crime

1. Creation of the Office for Combating Corruption and Organized Crime

USKOK is a short name for the Office for Combating Corruption and Organized Crime, based in Zagreb. The office is specialized in the prosecution of corruption and organized crimes on the territory of Croatia. The need for such an agency came from the fact that the existing network of state prosecutors and their competence in handling corruption and organized crimes cases was not suitable and efficient. The great danger and extremely harmful effects of such forms of crime on society required a more effective solution, namely, the establishment of a specialized body to carry out both repressive functions and preventive actions. This conclusion came after the government assessed the existing measures to combat organized crime. Also, there were a lot of academic articles which contributed new knowledge regarding organized crime as well as proposals for improvement of those measures.

As a result, in the late 1990's the Croatian Government requested from the Ministry of Justice, State and Local Government to propose solutions that will provide better legal instruments to combat these types of crimes. The State Attorney's Office of Croatia proposed several options for the layout and mandate of a separate body for the detection and prosecution of organized crime and corruption. The report presented several models; the government decided to follow the „Italian model“ and started the project called „Office for Combating Corruption and Organized Crime“¹⁶.

The result of the project was the USKOK Act¹⁷, by which the Croatian Government established a specialized body for monitoring the rate and trends of organized crime and, in cooperation with similar bodies from other countries, fight against national and transnational organized crime and corruption. In 2001, USKOK was created in accordance with the USKOK Act. This Act came into force on October 19, 2001 and USKOK began work on December 3, 2001. Founding USKOK, Croatia also fulfilled its obligations undertaken by ratifying the Criminal Law Convention on Corruption¹⁸ and the United Nations Convention against Transnational Organized Crime,¹⁹ which, in accordance with Article 141 of the Croatian Constitution²⁰, became part of the Croatian internal legal order.

2. Structure of the Office for Combating Corruption and Organized Crime

USKOK is governed by a Director General (hereafter Director). For the position of the Director can be appointed the Deputy State Attorney General or the county prosecutor or his deputy, who is eligible for appointment as a Deputy

¹⁶ Novosel, 2001:45

¹⁷ Law on the Office for Combating Corruption and Organized Crime

¹⁸ OG-IT 11/00

¹⁹ OG-IT 14/02; 13/03

²⁰ OG 41/01

State Attorney General. The Director is appointed by the State Attorney General with the formal approval of the Minister of Justice and the opinion of the Board of the Croatian State Attorney's Office. S/he is appointed for a term of four years and can be reelected for a new term. The Director has all the rights and duties of a public prosecutor.

Eligible for the position of Deputy Director are a public prosecutor or deputy public prosecutor with at least eight years of experience as a judge, prosecutor, deputy public prosecutor, lawyer or police officer, specialized in organized crime cases. The candidate must pass a bar exam, and must have a strong capacity and ability to investigate the most serious and complex crimes.

The USKOK is divided into five main departments and other auxiliary services.

The **Department for Research and Documentation**²¹ is responsible for collecting data on instances of corruption and organized crime, and for establishing and maintaining a database that can serve as a source of knowledge in the proceedings for offenses under Article 21 of the USKOK Act. This department also oversees the co-operation between authorities in order to detect any cases of corruption and organized crime.

The second department is the **Department for Corruption Prevention and Public Relations**²²; it is responsible for informing the public on the dangers and damaging effects of corruption and the methods and means of its prevention. Under the authority and guidance of the Office of the Director, the department informs the public about the work of the USKOK, compiles reports and prepares analysis of the cases and causes of corruption in the public and private sectors, and may propose to the Director the adoption of new or changes to existing regulations.

The **Prosecution Department**²³ directs the work of the police and other authorities in the detection of crimes under Article 21 of the USKOK Act; it orders the collection of data on crime cases; it proposes the application of measures regarding asset forfeiture and the confiscation of proceeds of crime as stipulated by the USKOK Act and other regulations. It also performs other duties as proposed by the USKOK office.

The **Department for International Cooperation and Joint Investigations**²⁴ cooperates, in accordance with international treaties, with the competent authorities of other countries and international organizations. It determines the members of the joint investigative bodies as required by the international agreements or on the basis of the individual cases under investigation, prosecution or charges of representation in court for offenses under Article 21 of this Act in the Republic of Croatia or in other states. In the joint investigations on Croatian territory, the department supervises the application of the national regulations with respect of the sovereignty of the Republic of Croatia. The department handles the requests from other countries for joint investigations and takes the necessary actions.

In the case of particularly urgent cases, it supervises the actions of the authorities of other countries, which, under separate agreements, are allowed to conduct operations on Croatian territory, ensuring that those authorities do not violate the sanctity of the home or the rights of personal liberty and personal

²¹ Article 13 of the USKOK Act

²² Article 14 of the USKOK Act

²³ Article 15 of the USKOK Act

²⁴ Article 15a of the USKOK Act

dignity. This department also handles requests from the competent authorities of other states to provide legal aid in proceedings for offenses under Article 21 of the USKOK Act.

3. USKOK Functions

The USKOK performs the duties of the State Attorney's Office in the following criminal offenses, **under certain conditions** as regulated by the Croatian Penal Code: bankruptcy abuse, unfair competition in foreign trade operations, abuse of office when the offense is committed by a public official, illegal mediation, bribery, accepting bribes, bribery in business transactions, deprivation of liberty, abduction, coercion, human trafficking and slavery, smuggling of persons, robbery, extortion, blackmail, concealing illegally acquired money, association to commit criminal acts if those crimes are committed by a criminal organization, drug abuse, association to commit criminal acts including all crimes committed by the group or criminal organization, except for crimes against the Republic and the Croatian Armed Forces.

Also, USKOK is responsible for investigating criminal acts committed in connection with the operation of a group or criminal organization, which is punishable by imprisonment for a term exceeding three years, when a criminal offense is committed on the territory of two or more countries or a significant part of its preparation and planning is done in another country.

USKOK is also responsible for conducting criminal proceedings against the organizers of a criminal group or criminal organization, which has committed the crimes of pimping, illegal trade in gold and excise tax evasion.

USKOK has jurisdiction over the following crimes: coercion by judicial officials, preventing officials in the implementation of their official duties, attacking a police officer and the offense of revealing the identity of protected witnesses, if these acts were committed in connection with a criminal offense referred to in article 318, paragraph 1 and 2 of the Penal Code.

For all of the above mentioned cases, territorial jurisdictions over the prosecution have the county courts in Osijek, Rijeka, Split and Zagreb, unless otherwise stipulated by the USKOK Act.

III. The Police National Office for Combating Corruption and Organized Crime (PNUSKOK)

1. Creation of PNUSKOK

As previously stated, in 1992 Croatia had already created a special police department to deal with the problems of organized crime. However, because the poor functioning of the department²⁵, the Government decided to improve the policing arrangements for the new department modeled on USKOK. The main difference between these two offices is that USKOK falls under the jurisdiction of the State Attorney's Office while the police institution falls under the jurisdiction of the Ministry of Interior, more precisely under the management of the Criminal Police Directorate.

PNUSKOK monitors and studies the specific cases of corruption and organized crime, its trends and ways of execution. It also directly conducts complex criminal investigations in cases of corruption and organized crime, criminal

²⁵ <http://dalje.com/hr-hrvatska/hrvatska-dobiva-policijski-uskok/156302>

investigations carried out in two or more police precincts, investigations requiring joint international police operations and criminal processing that is carried out in several countries. The new office also investigates the most serious forms of crime in close collaboration with USKOK, other state attorney's offices and relevant government bodies.

If needed, PNUSKOK can take over the organized crime cases from the police bodies at the local or regional level, as well as to forward a specific case to a regional or local police authority. It also determines the methods and routines to detect and prevent various forms of crimes within its jurisdiction; makes a strategic assessment of the threat in cases of corruption and organized crime; proposes priorities in the fight against organized crime and participates in proposing and drafting normative acts and individual reports.

2. The Structure of PNUSKOK

Similar to USKOK, PNUSKOK has several organizational units²⁶.

The Department of Organized Crime (with regional subdivisions in Zagreb, Rijeka, Split and Osijek) collects and analyzes information in collaboration with other organizational units of the Ministry of Interior, government bodies, law enforcement bodies of other countries, international and regional organizations and initiatives, NGOs and others. It also monitors and investigates the occurrence and the conditions of crime in connection with illegal trade, human trafficking, international organized prostitution, illegal manufacturing and trafficking in firearms, counterfeit money, securities and other means of payment, smuggling of goods, vehicles, boats, art, and criminal acts with elements of violence. This department supervises the implementation of international, regional and national projects in the field of organized crime, makes threat assessments regarding organized crime and determines the priorities for tackling existing and anticipated forms of organized crime. The department is also responsible for designing training programs for police officers who work on organized crime cases.

The Department of Narcotics monitors all the cases of smuggling and the associated illicit production and sale of drugs, improves tactics and methods to detect and suppress drug trafficking.

The Department of Economic Crime and Corruption analyzes, monitors and investigates the phenomenological and etiological aspects of economic crime. Through cooperation with other units of the Ministry of Interior, it develops the most effective methods for its prevention, detection and proofing, particularly focusing on economic crime (manufacturing, services, trade), financial crime (financial services, financial transactions, trading securities), corruption, financial investigations, money laundering, cybercrime, intellectual property and gray economy as well as other duties related to the reduction of economic crime.

The Department for Criminal Intelligence Analysis with the Department of Criminal Justice Records, compiles and supports databases, system evaluation data, sources of knowledge and supervises the implementation of the criminal-intelligence cycle (planning, collection, evaluation, processing, analysis and distribution). As a single point of data entry, the department is responsible for storing, indexing and data processing, and in cooperation with other organizational units of the Ministry makes assessments and strategic recommendations for the combat of certain forms of crime at the national level.

²⁶ Regulation on Internal Organization of the Ministry of Internal Affairs, OG 17/11

The Criminal Intelligence Department collects criminal intelligence information useful for police work, as well as information needed to initiate and conduct criminal proceedings based on the strategic risk assessment of complex and organized crime. It works in cooperation with other organizational units of the Ministry, government bodies and agencies. It also directly supervises and organizes the work with informants and secret agents, in order to develop and improve the methods and tools used for information collection about individuals or criminal groups, as well as specific events that are often associated with organized crime activities. This department is also responsible for planning and conducting the training of the staff working with confidential sources, organization and maintenance of a database of sources and information, needed for planning future police work.

The Department of Special Crime Operations collects information and evidence by using special technical devices and implements operational measures and actions as part of the criminal proceedings. It also participates in the planning, preparation and implementation of the measures for special police surveillance operations.

Since its establishment, USKOK has been criticized by the public for the lack of efficiency in combating organized crime. However, the criticism was directed more towards the government authorities, since the work of USKOK was strictly regulated by the USKOK Act. One of the major obstacles to the successful work of USKOK was the inconsistency of the USKOK Act with other laws²⁷; this led to problems regarding the distribution of specific responsibilities between the various bodies, and a low number of indictments for organized crime-related offences. Another problem was the poor staffing and logistic support for the most complex cases of corruption and organized crime. The process of EU accession has brought in some improvements in terms of personnel recruitment, equipment and the operative work of USKOK; the increasing number of reported cases of corruption and organized crime provides evidence for that.

As regards the functioning of the PNUSKOK, information is scarce. One of the remnants of the communist regime is the reluctance of government agencies to provide information to the public. It is true that in the interest of the investigation the police rarely share information about ongoing cases, yet the public receives most of the information through the media and the facts are often hard to verify.

IV. The Effectiveness of the Institutions Investigating Organized Crime

In Croatia, there are three main sources of verification regarding the performance level of the government bodies engaged in the fight against organized crime. The first one is through statistics compiled by the Ministry of Justice; the second is using statistical reports issued by the Ministry of Interior, and the third way is through statistical reports of the Central Bureau of Statistics²⁸.

The Ministry of Justice distributes information regarding crime in two ways. It prepares an Annual Report with general statistical data (whose content varies from year to year) and special reports on specific topics (for example, on juvenile delinquency, economic crime and corruption). Access to some of these documents is restricted, while other documents are available on request, but are

²⁷ www.index.hr/vijesti/clanak/ministarstvo-pravosudja-priprema-izmjenju-zakona-o-uskoku/195322.aspx

²⁸ www.unodc.org/documents/southeasterneurope//Technical_Assessment_Report_Croatia-2010-06-30_final_annex_CRO.pdf

not made public. On the other hand, detailed statistics on the functioning of the judicial system for the period of 2004-2009 are available in Croatian language on the website of the Ministry of Justice. These statistics do not include distribution by the type of crime, since their purpose is to monitor the quality and quantity of each court and every judge.

Detailed statistics collected by the Central Bureau of Statistics (CBS) are available in the Annual Statistical Report of Criminal Justice, which consists of three parts (the first part covers adult criminal offenders, the second minor offenders, while the third discusses adult and juvenile offenders). These stats are organized by the type of crime (as described in the articles of the Penal Code) and relevant socioeconomic characteristics (gender, age, previous convictions, education, citizenship, nationality /ethnicity, marital status of the offenders). Since 2010, a bilingual version (Croatian and English) of the report (about 1,000 pages) is made available on the website of CBS. A summary report is prepared every year in March (previous statistical releases are available on the CBS website in Croatian and English), and a complete report is published in June.

When it comes to reporting judicial information about organized crime, CBS does not combine the specific statistical data with special reference to organized crime. However, by analyzing the annual statistical reports of CBS in the section of the report called „Criminal Justice“ it is possible to get information about convictions, penalties and similar data for certain types of offenses that indicate organized crime.

The statistical reports of the Ministry of Interior are made public and are available through their official websites.²⁹ Currently, two types of reports are available: **Summary of Safety Indicators for 2006-2009** and **Overview of the Main Indicators of Public Safety in the Republic of Croatia** for the period 2000-2009 and 2001-2010. However, due to inconsistencies and incompleteness of these statistics it is difficult to measure the performance of the police in organized crime cases. The first problem is that the report for the period 2005-2007 mentions organized crime as a separate offense; since 2008 under this label are listed specific criminal offenses that fall within the domain of organized crime. Another problem is that for the period 2005-2007 there are no data on the percentage of the imposed sentences which is actually a measure of success.

One other report that can help in getting a better picture about organized crime in Croatia is the annual report prepared by the Croatian State Attorney's Office. This office is required to submit to the Croatian Parliament a report on the status and trends of reported crime on matters concerning the protection of property interests in Croatia, legal issues in some areas and the functioning of the office itself. The annual report indicates the warning signs about the operation of the legal system, deficiencies in the legislation, internal operations of the State Attorney's Office, as well as proposals for further improvements.

V. Political Implications Regarding the Institutional Response to Organized Crime in Croatia

Many of the institutions that deal with the problem of organized crime in Croatia have been ridden by issues of corruption. With the disintegration of Yugoslavia, the „reformed“ communists who had very little knowledge about the functioning of the state bodies in different socio-political systems came to power. What was good in all this was the experience of the repressive apparatus, particularly the police, which was still working under the old „communist“ model, the only model that demonstrated success in the fight against organized crime on a global scale.

²⁹ www.mup.hr/10.aspx

Given the war conditions in Croatia, the new government had to begin cooperating with the „underground“ primarily for the acquisition of weapons needed to defend the country. However, many individuals close to the government, and some of them members of that government, used the newly acquired acquaintances to start shady dealings, which provided them with great material wealth as well as significant political power and influence.³⁰ The consequence of this was the creation of a criminal network many of whose members were senior government and political officials; the criminal groups involved have enjoyed the protection of those same officials for a long time.

Given this circumstance, the entire system for combating organized crime was much less successful than the influence gained by the criminal networks, which managed, in the meantime, to reach to the officials of the legislative and the judicial. Between 1995 and 1999, there were many newspaper articles revealing the links between criminals and politicians, but the problem was that the laws, many of which literally reproduced the old Yugoslav legislation, stood in the way of successfully fighting organized crime.

With the establishment of USKOK in early 2000, the new government began to create conditions for the efficient fight against corruption and organized crime, but the results were poor, mainly due to the indecisiveness of the coalition government in dismantling the criminal networks. Therefore, in 2003 the reformed Croatian Democratic Union, this time led by Ivo Sanader, came to power. Although his program was based primarily on the promise of destroying the criminal networks created in the past, in a very short period Ivo Sanader managed to create his own „criminal network,“ headed by him, according to the media. Moreover, according to these allegations, a very small circle of people knew about his business; even more interesting was the fact that some of his closest associates were not aware of his criminal dealings.

By placing the politically eligible people in leading positions in key management structures within the government and state-owned firms, Sanader had managed to build a parallel system through which he monitored all politically significant events, including the fight against organized crime. The public had been presented with successful actions against corruption and organized crime, but this success was negligible as only low-level criminals got to the trial bench, while the masterminds remained beyond the reach of the police and the court. However, the Croatian accession to the European Union required considerable social and political changes. Thus, more and more information about corruption and organized crime cases linked to government officials and to Sanader himself was making the headlines in the media. The result was increased pressure from the EU to resolve such cases, culminating in Sanader's sudden departure as prime minister.

With the arrival of Sanader's closest associate, Jadranka Kosor, things changed significantly. All the institutions responsible for fighting organized crime were given „a free hand“ for their operations and the first results quickly became visible, both in terms of the political process and the numbers of successful cases.³¹ Although the results revealed a high level of involvement of senior government and party officials in corruption activities, Kosor did not allow any further political pressure on the work of USKOK; she pushed for the creation of PNUSKOK in order to strengthen the fight against crime.

³⁰ Crime and its Impact on the Balkans and Affected Countries. United Nations Office on Drugs and Crime, March, 2008.

³¹ www.vecernji.hr/kolumne/premijerka-je-sazrela-kolumna-311175

We have to acknowledge that the political pressure on the institutions involved in the fight against corruption and organized crime in Croatia has been reduced but it remains to be seen with how much success. The number of reported crimes and prosecutions has increased considerably, as more and more such cases involving even army officials are being disclosed; what the outcome of the investigations will be is in the future. The pressure for speedy results could undermine the current efforts but it is unlikely that the process will stop, especially after the announcement that Croatia has signed the accession agreement with the EU and will soon join the Union.

VI. Regional Cooperation

As concerns regional cooperation, Croatia has been involved since the beginning of its independence in the work of international organizations dealing with the problem of organized crime. Cooperation with agencies like Interpol, Europol, the SELEC and ILECU³² has been of great benefit with regard to expanding the experience of the Croatian officers from the times before the war, when the „Balkan Route“ was the main link between Eastern and Western Europe. However, given the connection between criminal organizations in the region, Croatia has begun to cooperate more efficiently with those countries, especially Serbia and Bosnia and Herzegovina. The reason for this were results from investigations showing that criminal organizations in Serbia, Croatia and BIH are cooperating, and indicating that the efforts of just one country are not enough to successfully deal with all aspects of organized crime.

Therefore, Croatia has decided to improve the fight against organized crime by signing various agreements with countries in the region and beyond³³ to jointly increase the efficiency of the institutions responsible to fight organized crime at national and international level³⁴. One result of these agreements is the creation of a joint strategic document that will allow the identification of the members and leaders of organized crime in the region. Moreover, the document proposes the establishment of joint investigative teams comprising the most experienced criminal investigation officers who will collect information on criminals and crime groups, thus making the investigations more efficient³⁵.

VII. Main Report Findings

- Organized crime in Croatia has its roots in the networks of small criminal organizations dating from the times of former Yugoslavia.
- The inefficiency in combating organized crime in Croatia is mainly due to the high levels of corruption, selective enforcement of the laws, cooperation with other countries in the region (mostly because of the war times).
- The agencies responsible for the combat of organized crime were not efficient primarily because of the excessive loopholes in the legislation and the high political pressure on the institutions.

³² www.nacional.hr/clanak/71090/suradnja-policija-u-regiji

³³ [www.hrt.hr/index.php?id=48&tx_ttnews\[tt_news\]=122109&tx_ttnews\[backPid\]=38&cHash=7a04ce412e](http://www.hrt.hr/index.php?id=48&tx_ttnews[tt_news]=122109&tx_ttnews[backPid]=38&cHash=7a04ce412e)

³⁴ www.vjesnik.hr/Article.aspx?ID=502F4257-34A7-4385-B0D7-EC2598E3C0C0;

³⁵ www.balkananalysis.com/croatia/2010/12/08/regional-police-cooperation-border-security-and-the-fight-against-organized-crime-interview-with-croatian-police-director-oliver-grbic/

- The existing agencies that deal with organized crime in Croatia are more efficient now because of the political decision not to interfere in their work and because of the implementation of various laws and practices of the European Union.

Conclusion

Until two years ago, it seemed that Croatia had lost the battle with organized crime. Although Croatia had good legal ground and institutions that have had some success, corruption and organized crime had spread to all spheres of public life, including the highest political elite.³⁶ With that in mind, it was not surprising that USKOK did not have great success in solving organized crime cases. Only with the departure of Ivo Sanader, Croatia's former prime minister, did it become clear that neither USKOK nor PNUKOK were liable for this failure.

The main reason for the unsuccessful work of these institutions was the lack of political will to tackle organized crime. Even though there were some difficulties regarding the legislation, USKOK could not proceed much further because of the widespread corruption and political pressure which prevented USKOK's investigators to start the relevant actions and procedures.

Today we can say that USKOK and PNUKOK have greatly improved their work, which is a result of the decisions of the political leadership not to interfere. The cooperation between these two institutions has been strengthened by signing the formal agreement on sharing information³⁷ that is under the jurisdiction of USKOK. The result of this cooperation is a substantially higher number of corruption cases and organized crime pending before the Croatian courts³⁸.

However, it is well-known that organized crime is not a problem of just one country.³⁹ What makes the problem of organized crime in Croatia more complex is the fact that all the criminal groups in the Balkans are connected, so the efforts to suppress their activities are more difficult. Despite Croatia's cooperation with the other states in the Balkan region,⁴⁰ as well as on European level, further improvements are needed in order to support those efforts and the combat against organized crime.

The regional cooperation between crime fighting institutions can only be successful if harmonized norms and coordination frameworks between the Balkan countries are developed. One obstacle to this process is the absence of a unified definition of organized crime; consequently, each country's policy is based on its own comprehension of what organized crime is. Therefore, by harmonizing the legal norms and creating a unified legal response to organized crime, we can strengthen the cooperation between the Balkan countries in the fight against transnational organized crime groups.

³⁶ www.jutarnji.hr/template/article/article-print.jsp?id=190149;

³⁷ www.tportal.hr/vijesti/hrvatska/33214/USKOK-i-MUP-dogovorili-razmjenu-podataka.html

³⁸ www.mup.hr/UserDocImages/statistika/2011/statistika2010..pdf; p. 65.

³⁹ Paoli, L., Fijnaut, C. (2004): *Organized Crime in Europe: Concepts, Patterns and Control Policies in the European Union and Beyond*. Springer, Netherlands.

⁴⁰ www.secicenter.org/p140/Republic_of_Croatia

Policy Responses to Organized Crime in Serbia

Aleksandar Fatić

Recommendations on Improving the Policies Against Organized Crime

- Add consistency to the prosecution of all high-profile political cases, especially the cases involving major corruption at the public companies, such as those in the energy sector and in government procurement. Many such prosecutions are announced in the media, but relatively few actually occur, which generates the impression that a political selection of cases is the norm.
- Limit the use of surveillance technology in cases not directly involving organised crime and increase penalties for those in the criminal justice system who allow cases of organised crime to become sidestepped.
- Connect the National Strategy Against Corruption with the National Anti-Organised Crime Strategy, and make corruption the core issue in fighting organised crime. Corruption makes organised crime possible.
- Unite all experts in anti-organised crime policy to work for an independent body that would set the standards in policy, such as an Anti-Organised Crime Agency, following the example of the UK Serious and Organised Crime Agency (SOCA). An agency has the advantage in relation to the police structures that it can gather both police and non-police experts and set higher standards in composite policy that includes enforcement as well as other elements on an equal footing.

Introduction

The Dominant Structure of Organized Crime in Serbia: Definitional Issues vis-à-vis the Phenomenology of Serbian Organized Crime

General definitions of organized crime have undergone a comprehensive, yet inconclusive evolution. The first colloquial definitions started to be mentioned in the 1920s, in the US, and it was only in the 1990s that the concept of organized crime finally successfully migrated to Europe. These first definitions focused on a group of perpetrators working together for a more or less extended period of time, thus forming a vaguely definable „criminal organization.“⁴¹ The definitions that followed endeavoured to specify what it meant for a group of perpetrators

⁴¹ It should be noted that in the Balkans even this very basic aspect of organized crime, until very recently, used to be quite seriously misperceived. Sometimes it could be heard that „any offence that is committed in an organized way belongs to the realm of organized crime.“ This is profoundly mistaken, because even the most conventional offences, such as robberies, are often conducted with a high degree of planning preceding the execution of the offence, which does not necessarily make them „organized crime.“ Namely, organized crime is most usefully associated with activities undertaken on behalf of, or by, a „criminal organization,“ as opposed to conventional crimes, which, whatever their „operational“ description and level of seriousness, may not be plausibly attributed to a criminal organization. This, of course, is a very general view that will be developed in what follows.

to really represent a criminal organization, and in the beginning these attempts toyed with the criteria of the use or threat of violence by the group, a transnational dimension of the crimes committed (e.g. the crimes being planned, executed, or their consequences being felt in more than one country), and the motives that stood behind a typical „organized criminal activity.“⁴²

The stereotypes involved in the original definitions suggested that organized crime was different from „conventional“ crime primarily by being an entire illegitimate industry, and as any industry it was supposed to be motivated by profit and generally characterized by a criminal equivalent of the „business logic.“ According to this view, „classic crime“ would typically include irrational criminal deviance, such as street violence, while systematically organized and profit-driven criminal activity would be considered „organized crime.“⁴³ More recently it has been recognized that a criminal organization may be involved in other rackets, such as human trafficking, trade in nuclear materials, and possibly providing logistic support to terrorist groups, which is a novel and highly underexplored dimension of organized crime.⁴⁴

There is no doubt that the origins of organized crime can be traced back to crime as an alternative industry, which first sought to substitute itself for failing state structures that could not cope with social control demands, and then developed a life of its own. For example, the crisis of debt-collection in most transitional countries of Eastern Europe in the 1990s led to a flourishing of criminal debt-collection by violent means. The failure of the state to cope with the proliferation of property-related crime after the societal liberalisations in the 1980s led directly to the flourishing of protection rackets, which then grew quickly into a profitable criminal industry in most Central and Eastern European capitals throughout the 1990s.⁴⁵ Yet, developments in Serbia in 2003, with the assassination of the Serbian Prime Minister on 12 March, allegedly by an organized crime group called „the Zemun Gang“, revived a perspective familiar from other parts of the world, where criminals waged war on the security forces in an attempt to gain control of the state institutions and the avenues of factual exercise of state power. Wars with drug cartels in Latin America, where even the US Army occasionally assists the Colombian Government in armed clashes with the „drug armies“ that control parts of the country, come

⁴² A comprehensive discussion of the evolution of definitions of organized crime has been developed in the newest criminological publications in English and need not be repeated here. For useful accounts, see Michael Levi, „The Organization of Serious Crimes“, in Mike Maguire, Rod Morgan & Robert Reiner (eds), *The Oxford Handbook of Criminology*, Oxford University Press, Oxford, 2002, pp. 878–913; Mike Woodiwiss, „Transnational organized crime: The global reach of an American concept“, in Adam Edwards & Peter Gill (eds.), *Transnational Organized Crime: Perspectives on Global Security*, Routledge, London, 2003, pp. 13–27 and Woodiwiss, „Transnational Organized Crime: The Strange Career of an American Concept“, in Margaret E. Beare (ed.), *Critical Reflections on Transnational Organized Crime, Money Laundering, and Corruption*, University of Toronto Press, Toronto, 2003, pp. 3–34.

⁴³ Extremely useful work on the market-oriented dimension of organized crime is that by R.T. Naylor – e.g. „Predators, Parasites, or Free-Market Pioneers: Reflections on the Nature and Analysis of Profit-Driven Crime“, in Beare (ed.), loc. cit., pp. 35–54, and Naylor, „Follow-the-Money Methods in Crime-Control Policy“, *ibid.*, pp. 256–90.

⁴⁴ Some very preliminary analyses of the signs of this new cooperation trend between organized crime and terrorist groups are given in Aleksandar Fatić, „Security Threats in Southeastern Europe and Ways to Respond to Them“, in Fatić (ed.), *Security in Southeastern Europe*, Security Policy Group – The Management Centre, Belgrade, 2004, pp. 1–28.

⁴⁵ For a policy-perspective tied to threat assessments related to organized crime see Sappho Xenakis, „Organized Crime in the Balkans: Pitfalls of Threat Assessment“, in Fatić (ed.), loc. cit., pp. 197–212.

to mind as a familiar example. However, South-eastern Europe has less well known, yet highly consistent examples of a continued and deeply rooted style of warfare by the underworld organizations against state institutions. Sometimes, „the underworld“ acts in synergy with political elites to undermine institutions. Robert Bunker and John Sullivan call this model of organized crime group „the New War-Making Criminal Entity.“⁴⁶

Lessons from the Assassination of Serbian Prime Minister in 2003

According to police sources, Dr. Zoran Đinđić was assassinated by a criminal group called „the Zemun Gang“, led by a former Special Operations Unit Commander Milorad Luković–Legija, and including major drug traders in the region. The person accused of firing the fatal shots at the late Prime Minister is Colonel Zvezdan Jovanović, Deputy Commander of the Special Operations Unit; the general context of the group is one of a drugs-based gang that has generated enormous profits by using the alleged „favours“ that it apparently received from the previous political elites that were in power in Serbia between 2001 and 2003.

When Zvezdan Jovanović was interrogated after his arrest, he was first an extremely difficult interviewee for the police inspectors. A policeman who had trained in one of the most demanding programmes in the *JSO (Jedinica za specijalne operacije* – Special Operations Unit, in Serbian), physically extremely well prepared for the hardships of interrogation and long-term detention, he refused to speak. According to police interrogators, it was difficult even to persuade him to officially state his name and the names of his parents.⁴⁷ Gradually, Jovanović was „softened“ by the interrogators appealing to his „patriotism“ and the political motivation for his actions. They stated that they appreciated the fact that he was not an ordinary criminal, but a police officer who acted „out of conviction,“ because he had supposedly perceived the prime minister to be politically controversial. They promised him a more lenient treatment based on an old federal criminal law provision that those who committed „political crimes“ were punishable by less severe prison penalties than those for organized crime. They visited his wife, spoke with her, and told her that he was „all right“ in prison, provided security for her and secured the street where she lived. Subsequently they arranged for the wife to visit Jovanović in prison and confirm all this. Finally, they persuaded the prison governor, who was an acquaintance of Jovanović, to advise him to cooperate. As a result, Jovanović not only admitted to having assassinated the prime minister, but also led the inspectors to the sites where he had buried the rifle and provided all the details necessary for the prosecution.

There are numerous issues that remain unresolved regarding the assassination of Zoran Đinđić. Immediately after the assassination, the police declared publicly that they „knew“ who the perpetrators were, and proceeded to arrest a large part of the „Zemun Gang,“ without explaining when they had managed to complete such a comprehensive investigation, and why, if they had known about the intentions of the gang beforehand, they did not act earlier. Subsequently, an Investigation Committee was created which, to say the least, was less than

⁴⁶ Robert J. Bunker & John. R. Sullivan, „Cartel Evolution: Potentials and Consequences“, *Transnational Organized Crime*, vol. 4, no. 2, Summer 1998, pp. 55–74.

⁴⁷ I am grateful to a high-ranking police commander for confidential discussions of the events during the investigation. As these discussions were informal and not intended to be publicised in any direct form, the source must remain undisclosed, although the material itself does not represent any form of state secret.

persuasive in its composition, headed by the former Deputy Prime Minister Žarko Korać, a psychologist and leader of one of the smallest parties on the Serbian political scene. Unsurprisingly, the Committee found that there were no faults in the security system and that „the Zemun Gang“ was solely to blame for the tragedy. It should be noted that there remain unanswered questions about the real motives for the killing of Zoran Đinđić. However, the arrest and admission of Zvezdan Jovanović are simple and undoubtable facts, and it is these facts alone that will be viewed as a basis for the conclusions regarding the motives for the assassination here.

Subsequent to the Đinđić assassination, the government adopted a strongly proactive approach to addressing organized crime; specifically a Special Section of the Belgrade District Court for Organized Crime was established, alongside with the office of the Special Prosecutor for Organized Crime. Intelligence strategies have been legislated and adopted by the Serbian police, to an extent that has far transgressed the usual boundaries of fighting organized crime: these strategies are not used for any type of serious crime.

I. Policing and Prosecutorial Strategies Adopted by Serbian Authorities to Address Organized Crime

The Serbian state has adopted an intelligence-led policy position to address organized crime, judging that such policies would be best suited for the particular mixture of classic elements of organized crime and its terrorist-related facets, which have been a part of the organized crime agenda in the country since 2003. This position has been embedded in the Serbian National Anti-Organized Crime Strategy, which continues to be the subject of revisions and debates; it also became part of the new bill on criminal procedure, which allows the use of the so-called „special investigative methods“ to process a broadening array of crimes. Rather than limiting the use of wiretapping and electronic communication interception to solve complex organized crime, the government went for an inclusive approach, trying to legislate that such methods are to be used for many „standard“ crimes, if only they are serious enough (judging by the prescribed sentences). Thus, interception and intrusive intelligence-gathering are to be used in solving classic murders, aggravated robberies and abductions, none of which constitute paradigmatic cases of organized crime in Serbia.⁴⁸

The transfer from traditional, reactive policing to pro-active, intelligence-led policing has been the overwhelming trend in the Serbian Government's position vis-à-vis organized crime as arguably number one threat to national security today. This transfer was implemented gradually between 2004 and 2010, starting with the schooling of senior officers of the Crime Police Directorate at Scotland Yard in London, which was followed by intensive criminal intelligence training conducted by Swedish police teams in Belgrade, and culminated in the establishment of

⁴⁸ When discussing definitional matters, which have been accorded paramount importance here, one must bear in mind the cultural and geographic context. In Latin America, abductions are a signature mark of organized crime, as criminal groups on that continent abduct people for profit as a routine business. In the Balkans, however, there is no such tradition of abductions, and abductions are traditionally treated as standard crimes, motivated by revenge, blackmail or as a result of family feuds. Even though abductions are treated as one of the most serious crimes anywhere in Europe, the habitual and cultural context of the Serbian criminal world do not warranty that this crime be treated as organized crime, nor do they justify the use of intrusive methods to solve it, especially given that there is a fairly good record of solving abductions by using standard crime investigation methods.

criminal intelligence units attached to all the main organizational structures of the Serbian Police. Thus, there is a criminal intelligence unit within the Anti-Organized Crime Service (Služba za borbu protiv organizovanog kriminala – SBPOK), another one at the Directorate of Crime Police (in fact consisting of several major intelligence services attached to the police structures in charge of major cities, and mainly dealing with telecommunications surveillance). There is yet another, separate criminal intelligence service within the highly militarized Gandarmerie, which was created by merging several special police units some of which used to operate within the civilian intelligence service, once the Department of State Security – Resor državne bezbednosti, infamous under its acronym „RDB“, today reorganized as the Serbian Information Security Agency – Bezbednosno-informativna agencija, or (BIA). Such was the case, for example, with the notorious „red berets“ special unit, headed by Colonel Milorad Ulemek – Legija. Ulemek currently serves a 40-year prison sentence for masterminding the assassination of Prime Minister Đinđić in 2003, and his unit, which had been heavily involved in the assassination, has since been disbanded and parts of it attached to the Gandarmerie. All of these criminal intelligence services are primarily interested in telecommunications surveillance. Concerns were expressed to this author by some major telecommunications providers in Serbia that an excessive number of telephone numbers are routinely tapped by the police, which suggests an uncritical use of legally permitted „special investigative methods“ to solve a broadening array of classic crimes that have little to do with organized crime.⁴⁹

Security sector reform is one of the facets of overall institutional and legal reform that are of primary relevance to Serbia's fulfilling the institutional conditions for EU integration. However, the issue of telecommunications security vis-à-vis the role of the intelligence services has been lagging behind the general security reform during the past two years. The current regulation with regard to telecommunications security is highly unsatisfactory, and has reflected strongly in the media and public opinion, due to the fact that the internal government regulations allow the security agencies to monitor telecommunications virtually without a prosecutorial or court warrant, despite the fact that the respective law specifically requires such a warrant. Because of this dichotomy in the legal regulation and the internal rules of conduct of the security agencies, the entire security sector reform has been cast in grey light, including the suspected role of the civilian security agency (BIA) in the recent process of re-appointment of magistrates, judges and prosecutors – a process that has been found to be faulty in several major respects by the Venetian Commission and by the EU expert overseers, and is currently being re-vamped. There are four main problems in the context of transition from classic to intelligence-led policing in Serbia:

1. *Legislation* regulating the surveillance of electronic communications is not compliant with the recommendations of the Council of Europe and EU models and standards. Although the principles adopted as foundations for this legislation generally allow for a solid framework, the actual text of the law, and especially the *by-laws and technical directives* are in documented discord with the Constitution and leave much to be desired in the protection of privacy standards aspired to by the laws. This also means that scores of practical

⁴⁹ Serbia does not have a statistical overview of the use of special investigation methods, and this remains a task ahead. Judgments of the extent of the use of such methodologies are largely speculative or based on testimonies by police officials; however a cloak of secrecy continues to hide the exact figures.

issues remain unresolved at this stage, including ways of integrating the implementation of the newly adopted Law on the Protection of Personal Data within the context of telecommunications surveillance. The Centre for Security Studies has been involved in the training of security personnel, including high-ranking intelligence officers from both the civilian and military intelligence agencies, for the past eight years. It is closely familiar with the practical and policy issues involved in the long and complex process of synchronizing the intelligence-related laws both with the constitutional framework (the area that is currently particularly exposed to the public due to documented critique by legal experts), and with the actual standards of good practice in the everyday work of intelligence-led security agencies. (Since the establishment of criminal intelligence as a model of police work intended to fight organized crime in Serbia, the concept of „intelligence-led security agencies“ includes not only the civilian and military intelligence agencies per se, but also the criminal police, which has a large telecommunications-surveillance department and uses electronic intelligence (*Elint*) for the implementation of the anti-organized crime strategy.)

2. Due to problems arising from insufficient staffing, the institutions in Serbia are not yet ready to implement the EU standards and even the new legislation. Over the past several years the issues arising from the lack of technology have been successfully remedied through international aid, however, the lack of adequately trained staff, especially in the security agencies, is proving to be a major problem. Closely related is the issue of the intelligence-led agencies' culture, which has not yet risen to the level recognizable amongst the more developed countries. As an example, it is still common for the Serbian intelligence agencies to possess repressive competencies and to perform arrests, a practice that is decidedly divorced from intelligence in most EU countries and delegated exclusively to the regular police.

3. The Serbian Telecommunications Agency, „RATEL,“ which is not part of the intelligence or broader security community, is a very strange animal in the Serbian institutional landscape; it has played a very controversial role vis-à-vis telecommunications security over the past two years. In this period, RATEL has issued four different documents collectively entitled *Technical Conditions for Subsystems, Devices, Equipment and Installations for Lawfully Authorized Surveillance of Telecommunications* that clash with Serbian laws and established European standards in numerous points. For example, these „conditions“ contain a provision that all telecommunications providers must acquire equipment that allows regular day-to-day surveillance for the authorized agencies without the need to access the premises of the providers or establish plug-in connections that would be detectable and would require a previous demonstration of proof of warrant. As a result, in February 2010 it was established by the Serbian media that the civilian security agency, the BIA, had followed telephone conversations of a large number of citizens with no warrant whatsoever, using the equipment whose acquisition had been enforced by RATEL, all of which is outside the realm of the Serbian law.

4. Ethical issues in the intelligence profession are not addressed at all in the current training regimes for public servants employed by the security agencies.

The structure of the police staff has been steadily improving over the past decade, with growing numbers of university educated police officers joining the ranks. However, the institutional culture has not progressed sufficiently, with the police remaining a highly attractive ministry for political bickering. The

Minister of the Police still holds powers to order or hold operations, despite the introduction of the office of Police Director; the minister still has the authority to fire the Police Director, to order specific investigations, or to prioritize unfolding or pending investigations. This means that politics still has firm control over both police strategy and police tactics. Progress is undeniable, but the current state of reforms in the Serbian police service, especially with a view of fighting organized crime, remains far from the desired level of improvement.

The institution of witness protection has been formally introduced; however the training of police officers to staff this department has not yet been completed and the government simply has no money to provide for such an expensive program. In practice, the prosecutors usually use privileged witnesses with whom they either plea bargain or implicitly reduce their sentences in exchange for evidence against other members of the criminal group. The protection of such witnesses does not function properly, however, and several members of the Zemun klan gang, the major gang in recent Serbian history, have been savagely murdered in Serbia and in Croatia prior to their appearance in court. Generally, apart from using telecommunications surveillance very liberally, the police have not sufficiently developed other aspects of intelligence-led policing as a consolidated approach to fighting organized crime.⁵⁰

II. Judiciary Reforms and Measures Aimed at Combating Organized Crime

Immediately after the assassination of the Serbian prime minister in 2003, the Serbian government set out to establish a Special Branch of the Belgrade County Court for Organized Crime, known as „Special Court for Organized Crime.„ A military building was earmarked for the purpose, and with significant investment the court took over all cases with elements of organized crime. The definitional issues discussed earlier figure prominently in the decisions to prosecute certain cases rather than others before this court, as the procedural and penal norms are dramatically harsher than those in force when classic crimes are tried. However, the government did not stop at this. Between 2009 and 2010 it ventured to conduct a comprehensive three-pronged reform of all courts: (1) all courts were physically moved from one building to another, which created serious issues with regard to the safety of documents in organized crime trials, as well as the safety of witnesses and judicial staff; (2) all courts were abolished and set up at the same time, as the government changed the entire infrastructure and systematization, as well as jurisdiction of the courts, thus creating major problems in the assignment and management of judicial cases; and (3) all judges (and all prosecutors, at the same time) were subject to re-appointment, with 860 of them being sacked. In short, the government decided, under the banner of its determination to fight organized crime, to carry out a major overhaul of the judiciary. The re-appointment of judges and prosecutors was conducted in a way that attracted the attention of the Council of Europe and the EU, and the Judges Association of Serbia threatened international litigation. The quagmire of universal re-appointment of judges became a protracted and agonizing issue for the judiciary system.

The establishment of the Special Court for Organized Crime passed without much public debate: apart from an occasional objection by lawyers that such

⁵⁰ Aleksandar Fatić, Srđan Korać and Aleksandra Bulatović, *Etički standardi za kriminalističko-obaveštajni rad (Ethics Standards for Criminal Intelligence)*, Centre for Security Studies, Belgrade, 2010.

a move might threaten the consistency of the judicial system and that a better solution might be found in getting judges within the existing courts to specialize in cases of organized crime, the initiative passed with little opposition. The judges of the Special Court are appointed in the same manner as all other judges by the High Judicial Council, which gathers the senior representatives of the judiciary, including the Head of the Cessation Court (former Supreme Court), the Minister of Justice and representatives of the prosecution. The Council also appoints all prosecutors, so there is no difference in the appointment procedure between the regular courts and the Special Court. However, judges working for the Special Court enjoy special privileges and their salary is amended based on the complexity of the cases they try.

Even though the Serbian judicial reform had been very comprehensive and in fact poorly prepared, the courts recovered surprisingly quickly and effectively after such sweeping reforms, and the news that the judiciary had not come to a grinding halt surprised many observers. However, the problems that traditionally dog Serbian judiciary have remained: lack of independence of magistrates and judges, especially the younger ones, appointed in the latest reform, from the government. High-profile cases are both prosecuted and tried with an obvious bias, such as in the case of the infamous folk singer and widow of one of the most notorious Serbian war criminals, Svetlana Ražnatović, known regionally as „Tzetza.“ Ražnatović was accused of leading a criminal ring that stole at least 15 million Euro in taxes through the illegal sales of soccer players from her football club „Obilić.“ However, in 2011 she was allowed to plead guilty in exchange for a dramatically reduced sentence of just one year house imprisonment and a fine of 1.5 million Euro. This decision is seen as a major indication of structural corruption of the Serbian judiciary and government, as Svetlana Ražnatović and her late husband are widely known to have built their financial empires on blood money, earned through mass murders and theft on the battlefields of the former Yugoslavia in the 1991–1995 wars of Yugoslav disintegration. This is when the football club „Obilić“ came into their possession, and Svetlana Ražnatović is known from her television appearances at the time, under the rule of Slobodan Milošević's regime, to have participated in, defended, and openly spoken about the atrocities and „actions“ that her husband's men had been involved in across Bosnia and Croatia. Allowing an indicted like this to enter a plea-bargain for a fine against the backdrop of charges (themselves very selective, as they do not mention aiding and abetting the commission of war crimes) for which confiscation of the entire property and lengthy prison sentences are the norm is an insult to justice and the sense of decency amongst the Serbian public.

In 2011, Radoslav Savatijević Kene, former member of the Governing Board of the Serbian Electric Company, was arrested for participation in a criminal enterprise consisting of 14 persons, convicted for stealing 5 million Euro from the state budget by fictitious infrastructural development and falsification of documents, with Savatijević himself being directly charged for fraud leading directly to the criminal proceeds of 1 million Euro. Even though these are crimes committed through business connections rather than through violence – crimes that allow their perpetrators to re-offend or to influence witnesses even while under house arrest – Savatijević was also issued an infamous «bracelet» – a monitoring device that tracks his movements and was confined to house arrest.⁵¹ The use of house arrest in Serbia has become a way for the courts to favour

⁵¹ www.smedia.rs/vesti/vest/68888/Radosav-Savatijevic-Kene-Elektronska-narukvica-Pritvor-Kene-dobio-narukvicu.html, access 5 August 2011.

the privileged members of the business and media elite, even when they are accused of the most heinous crimes (such as Svetlana Ražnatović), or those most damaging to the economic system (such as Savatijević).

III. Serbia and the Region in the Fight Against Organized Crime

Immediately after the assassination of Zoran Đinđić, when it became clear that Serbia is among the countries most threatened by organized crime in the region, the Stability Pact formulated the Stability Pact Initiative to Fight Organized Crime (SPOC), following the London Conference on Organized Crime in late 2002, which established several priorities to be addressed in this context:

- Legislative and institutional harmonization with European standards;
- Adoption of laws which help crime-fighting agencies to work more effectively;
- Assurance that law enforcement agencies have proper technical means;
- Strengthening capacity for financial investigations;
- Implementing anti-corruption strategies;
- Building public support for action against crime; and
- Improvement of regional cooperation.⁵²

Especially the last conclusion, the need to improve regional cooperation and coordination in fighting organized crime, was followed through by Serbia's participation in several regional initiatives. It has proceeded to ratify a number of European conventions relating to organized crime, including, so far:

- Convention on Cybercrime and its Additional protocol, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems;
- Convention on Action Against Trafficking in Human Beings;
- Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and the Financing of Terrorism;
- Convention on the Prevention of Terrorism;
- Protocol Amending the European Convention on the Suppression of Terrorism;
- Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.⁵³

Serbia also signed the European Convention on the compensation of Victims of Violent Crimes and it is awaiting ratification. A number of bilateral agreements were signed, notably with Croatia and Bosnia and Herzegovina, regulating extradition of persons accused of organized crime, and the implementation of these acts has proceeded without impediments in practice. Especially Croatia and Serbia cooperate intensively in pursuing organized crime fugitives and delivering them to each other depending on jurisdictional issues, which means that the legacy of the Yugoslav wars, with criminals seeking refuge from one country in the other, has not been stamped out.

⁵² www.cespi.it/Rotta/Ascod-criminalit%C3%A0/presentazione%20SPOC.htm, accessed 25 August 2011.

⁵³ <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1696689&Site=CM>, accessed 20 August 2011.

Within the SECI Centre (now SELEC), Serbia plays an active role through its Interpol Office, which serves as the National Focal Point. Serbia's police was particularly active in activities aimed against human trafficking, perhaps the most notable of which was „Operation Tara,“ between 2008 and 2010, with the cooperation of the police forces of Serbia, Montenegro, FYR Macedonia, Slovenia, Turkey and Austria. The prosecution and the police have also been involved in activities with SECI participation, but going beyond the organizational realm of SECI in their entirety, including, most notably, a joint operation with the US DEA and the UK Serious and Organized Crime Agency (SOCA) to intercept major cocaine shipments from Latin America to Europe, operated by Serbian narcotics traffickers.

IV. Main Report Findings

- The institutional response to organized crime in Serbia is characterised by a flurry of activity and intensive legislative and policy initiatives, however it lacks a conceptual foundation in that the underlying problems of government corruption are not addressed effectively. The greatest weakness of the current government is its propensity to corruption, favouritism and partiality in the conduct of state business. All these habits are highly conducive to the flourishing of organized crime and work directly against any lasting effects of the legislative, policing and judicial reforms.
- The police has been considerably reformed, and its practical work has improved, however certain organizational issues relating to politics have not changed. The Ministry of the Interior has introduced the position of Director of Police, who is formally responsible for operations, while the Interior Minister ought to be removed from everyday policing. However, the authority of the Minister to order investigations and to set operational priorities has not been abolished, which means that the Minister remains the top commanding officer of the police. This, in itself, is a source of potential corruption in the institution. The judiciary in Serbia has gone through a major and stressful reform, and has managed to survive and continue its work without the system defaulting on the legal deadlines, at least in most cases. Public perceptions suggest that the judiciary has regained some of its lost credibility. The prosecutorial office remains the weakest link of the judicial system, because it continues to be controlled by the government both in staffing and in prioritising indictments; the results are paradoxes such as the court agreements signed with Svetlana Ražinatović, who avoided serving any prison time whatsoever for some of the most serious organized crimes tried in Serbia in the present day.
- The main problems with fighting organized crime remain associated with corruption and political parties. The government has failed to establish sufficiently competent and independent bodies to address corruption; it has for a long time boycotted the Anti-Corruption Council that it had established itself, and has continued to provide half-hearted support to the newly established Anti-Corruption Agency. Recruitment to these bodies remains a marginal concern for the government and there is a distinct lack of invited experts in the work of the Agency. The Agency's personnel has not been systematically trained in the methodologies and comparative experiences in fighting organized crime. Much of the work in this regard has been done by NGOs, including activities by the Centre for Security Studies in the period 2003-2011, which saw around 500 mid-to-senior ranking police, military, prosecutorial officers,

public servants and judges, trained in comparative criminology for organized crime. Training in criminology in Serbia is lagging behind the standard, as the very recognition of the discipline remains confused with criminalistics and criminal law; consequently the practical, comparative policy experiences are rarely captured by such training.

Conclusion

Serbia's policy responses to organized crime over the past decade have focussed on three main areas: a massive shift to intelligence-led policing and the respective tailoring of prosecutorial strategies, major and in-depth judiciary reforms with the development of specialized judiciary for organized crime, and changes to the penal system that allow the government to enter plea-bargains with senior crime figures in exchange for other benefits.

Estimates of these major policy initiatives are different: while intelligence-led policing has achieved some results and the overall shift in police culture that it initiated is generally a positive aspect of the police reform, the judiciary reform has been dogged with problems of integrity and corruption, and remains a largely unfinished business between the Serbian authorities, the EU and the Council of Europe, with major litigation looming as a potential outcome. However, the introduction of plea-bargaining in the criminal procedure for organized crime has started in such a catastrophically improper manner that it has endangered all perceptions of justice of criminal policy and has threatened the overall credibility of the consolidated anti-organized crime strategy. The use of house arrest in exchange for guilty pleas for some of the most notorious organized criminals in Serbia has fractured what little confidence the public had accumulated in the government's resolve to tackle organized crime systematically.

The entire anti-organized crime strategy suffers from problems of continuing dependence of the police, prosecution and the judiciary on political will by the government coalition, and a deepening credibility crisis arising from transparent problems of integrity in the actual implementation of the new anti-organized crime policies. While EU conditionality has to some extent helped to remedy the gravest issues arising from these systemic problems, the continuing failure by the Serbian policy community to effectively come to grips with systemic corruption and integrity issues in the design and implementation of all of the new anti-organized crime policies suggests that success in reducing the prevalence and, in fact, social dominance of organized crime remains a long-term prospect for the Serbian state.

