

Project Summary

Project Title: Specialized Bodies for Investigating Organized Crime
Leading Expert: Rada Smedovska
Time: 2007-2008
Funding: OSI-Sofia, OSI-NY
Brief Description: The project is the first ever comparative legal study which presents in detail and analyzes the institutions specialized in investigating organized crime in three countries: Britain, Italy, and South Africa. The study identifies the problems concomitant with the establishment of these structures, outlines the successful practices and the standards set. The emphasis is laid on the methods of investigation and their effectiveness, the ways of establishing optimum institutional frameworks aimed at achieving an integrated model of counteracting and combating organized crime.
Findings and Conclusions: <ul style="list-style-type: none">▪ Lack of a uniform definition of the notion of organized crime<p>The national legislation of the countries studied does not give a common definition of the notion of organized crime for the purposes of the functional mandate of the specialized bodies. In some of the countries, this is a serious flaw and a prerequisite for a liberal interpretation of powers (United Kingdom), and in others, systems of additional criteria have to be developed to be used in the conduct of investigative activities (South Africa).</p>▪ Vigorous law-making in the sphere of organized crime<p>The countries studied are characterized by an exceedingly vigorous law-making in the sphere of the fight against organized crime. The problem which some of them encounter, however, is the fragmentation of legal standards related to organized crime (Italy).</p>▪ Poor coordination between the competent institutions and overlapping powers are the principal reasons for the establishment of specialized bodies for investigating organized crime<p>The study found that specialized bodies for investigating organized crime were established for largely identical reasons. In most cases, the ineffectiveness is blamed on the existence of institutional problems leading to poor coordination between the separate competent bodies, fragmentary investigations (Italy, South Africa and the United Kingdom), overlapping powers (most pronounced in South Africa and the United Kingdom), as well as lack of the necessary exchange of information and cooperation between the separate institutions, which leads to counterproductive competition between them (a dominant factor in the United Kingdom).</p>▪ There is no uniform institutional model for combating organized crime

Each of the countries chooses a structural organization that suits it, guided by factors such as legislative and institutional arrangements, political priorities, distinctly defined public needs, public expectations etc.

In two of the countries studied (Italy and South Africa), the bodies have been established as specialized functional departments of the prosecution service and carry out specialized activities in criminal prosecution, whereas in the United Kingdom the Serious Organised Crime Agency is of a hybrid nature, assigned with both investigative and intelligence functions.

- **Broadly defined legislative mandate, in practice impeding field operations**

The legislative practice in the countries studied shows that, as a whole, the functions of the specialized bodies are broadly defined, which impedes to a great extent their operational mandate. The general formulation of the remit compels them to work out their own system of criteria, defining their specific scope of action, or leads to serious ambiguities about the practical role of the respective institution.

- **Lack of socio-political criteria to evaluate the effectiveness of the activities of the bodies for investigating organized crime**

On the whole, criteria to evaluate the effectiveness of the organized crime control bodies are lacking. The institutions' reports are preoccupied with statistical assessments and the accompanying quantity indicators. Combating organized crime, however, requires a far greater concentration on the quality aspects of the effectiveness of the specialized bodies.