



## Peer Review: Justice an Home Affairs

Bulgaria, 22 – 24 February 2006

Focus area: Fight against Organized Crime

### Introduction

This report is based on a one week mission including 21 meetings / briefings on topics surrounding the fight against organized crime. Numerous background papers were handed out, some in Bulgarian, some in English. The handouts usually were handed out at the end of the briefing. This way valuable time was consumed by taking notes by the expert. Two briefings were supported by a Power Point Presentation written in English, which helped significantly even if the presentation was held in Bulgarian. All briefings had to be translated, even if sometimes it was clearly recognizable, that the Bulgarian counterparts knew English at least to a certain degree. Because of the nature of the topics, translation had to be very much to the point. Sometimes this was not the case what also lead to the reduction of valuable fact finding time. The expert had to base his assessment on the information that was voluntarily provided. Nevertheless the comparison of 21 briefings is a suitable way to identify the blind spots. It really hit the expert's mind, how similar a lot of the briefings were in terms of quoting numbers, which were even presented, when there was not really a need to do so. In most of the cases, when the expert interrupted the prepared speeches and asked for more or other information, his counterparts were very reluctant to release that, sometimes even answered, that this would be classified information. The expert for example asked on different occasions for the total number of Police Officers which will be under the command of the MoI, an overview about the age of the personal, an overview about the different ranks to be able to make an assessment on staffing, organisation, development, retirement, recruitment. Eventually the information was provided, some after the expert returned to Germany sent by e-mail, some of it even delivered to Germany personally because of it being classified. As a result, this information



could not be discussed in the necessary way. This also resulted in some loss of valuable time and the chance to discuss the topic in depth. This whole procedure limited the effectiveness of the meetings.

In addition, after his return, the expert was contacted via telephone by Deputy Minister Kotzev in Germany who offered whatever support would be necessary, even to come to Germany for further discussions.

The expert had the opportunity to discuss matters with the Minister of the Interior and the General Prosecutor of Bulgaria. All other meetings / briefings were held by the heads of the respective units. This and the positions of the counterparts in the meetings clearly reflected the importance the Bulgarian side attached to the meetings. The efforts on the Bulgarian side are very much appreciated.

The expert's professional experience of 34 years in the German Police include criminal investigations against organized crime on national and international level including operational work on organized crime on national and international level was the necessary basis for his work. The Expert is certified on operational and strategic intelligence according to the Europol Standards. Because of the Expert's five year assignment to the German Embassy in Washington D.C. / USA he is in good command of the English Language. Being designated as the Coordinator of the "Conseil Européen des Syndicats de Police" (C.E.S.P.) for European Matters, he is fully aware of problems that might be faced by countries that are in the process of joining the EU.

### **Structure of the report**

The expert will address only the relevant points out of the 21 meetings. The expert included some recent media coverage connected to the topics of the Peer review. They illustrate the gap between what was presented as law enforcement standards and what problems still seem to exist, being also an indicator of the perception of the Bulgarian Public in that regard. At the end of the report, the expert will try to summarize his findings and give so recommendations, how things can be improved.



## The new General Directorate of Police

The Concentration of the Police under the Ministry of Interior (MoI) in one General Directorate of Police appears to be the right professional approach for Bulgaria that will open the opportunity to concentrate resources and efforts. It will combine about 37000 members of the NPS (2600 operational), 9500 members of the Border Police (400 operational), 2000 Members of the Gendarmerie and the National Service Counter Organized Crime. The number of Police Office per citizen seems to be sufficient considering the crime rate data that could be provided by different data bases.

## The Code of Ethics

The Implementation of the Code of Ethics seems to be a major step into the right direction. Different NGO where part of a working group, that did the Development. This code includes 100 provisions to guarantee professional and ethical police conduct. The Code of Ethics has to be signed by all employees. In addition classes are mandatory for the members of the national police and police ethics is part of the basic training. With the new MoI Law disciplinary action can be taken, when there is a violation of this provision. The Code of Ethics and the new MoI Law will be published (Internet / Government Gazette). The NPS also implemented the Anti Corruption policy of the MoI.

## MoI fighting corruption

The MoI implemented a project to fight corruption and police misbehaviour. This project is accompanied by the distribution of information leaflets to each police officer containing ten principles of ethical behaviour.

In addition there are two anonymous telephone lines (one internally in the MoI, one for the public), where complaints can be posted. The MoI also started the



webpage [noccors.mvg.bg](http://noccors.mvg.bg) to promote the program. Posters are to be shown at all police buildings throughout the country.

As a result, the MoI, with approximately 60.000 members received a total of 276 signals. As a result the following measures were taken:

- Disciplinary fining in 43 cases
- Other disciplinary action in 84 cases
- Administrative fining in 22 cases

36 cases were sent to the military court resulting in seven members of the MoI being in custody.

This program starts to take off. The number of 276 signal / 2005 seems to be quite low.

As a consequence out of this program all senior members of the National Police have to fill out a form to give a yearly report on their income situation. Those Forms will be inspected by their superior officers.

## Detention facilities

The National Police started the project „independent custody visiting in police detention facilities in Sofia“ in 2004. To include citizens in such a fact finding mission is a suitable way for further transparency and acceptance. As a result of this effort, it is agreed that most of these facilities need improvement in regard to the detentions rooms, questioning rooms, visitor rooms and the hygienically areas. The NPS recently finished assessment on 151 different detention facilities. The improvement will be achieved by following a three phase's project plan that is going to be financed as a PHARE Project. During a visit to the 9th and 6th police station the expert could get a personal impression about the situation. The findings of this peer review strongly support the need of improvement in that area.



## **Community Policing Approach**

Community policing is implemented in every district of the National Police throughout the country an approach that seems to improve the police work by issuing reports on a regular basis. This appears to be a suitable way to monitor the efforts of the National Police in regard to their approach towards their own citizens and is very much in line with European Standards.

## **The impact of the new PPC and MoI Law for the improvement of police work in reference to the fight on organized crime**

In almost all meetings the expert was told that the new PPC and MoI law are expected to have a major impact on the fight against organised crime. Much better working conditions are going to be achieved by that. The instruments of witness protection, fulltime undercover agents, controlled delivery, controlled purchase and wire tapping are going to improve significantly the chances to fight organized crime. The expert was surprised, how little training will be necessary to acquaint the law enforcement personal with these new tools. Since most of these tools could since 1997 already be used for information gathering there is indeed not so much new to them. The difference appears to be that the information be gained with the new PPC can be directly introduced to the case and so be presented as evidence in court. The new situation will facilitate the work of police but fighting organized crime with the tools of 1997 was possible before but not done in a necessary way. The expert's perception was shared by the newly appointed Prosecutor General Mr. Boris Velchev who stated during the meeting with the expert, that for him in his former position as the advisor to the president it was surprising to learn, that children in kindergarten could point out, who the major organized crime figure are whereas the Police had difficulties to identify their main targets. The Bulgarian counterparts occasionally indicated that the new PPC might be influenced by the lawyers of the criminals. One of the



major weaknesses will be that a conviction can not be based only on the testimony of an anonymous witness or undercover agent. This could turn out to be a hurdle for efficient investigations.

Parallel to efforts to improve the legal side important organisational changes are taking place. The concentration of investigative power in the position of Doznatel and the restructuring of the prosecutors' office is taking place to improve the quality of criminal investigations with the clear goal, to get more indictments and convictions of criminal elements. This effort follows former recommendations of the EU. By doing it, the number of members of the police with criminal investigative powers will be reduced from 10.000 to 2000. The nationwide coverage might turn out to become a problem, because of legal reasons; Doznatel will have to go to every crime scene. According to Deputy Minister Kotzev this issue was raised in the National Assembly. An agreement could be achieved to extend the actual situation for another year. On the basis of performance indicators to evaluate the new regulations of the PPC a final decision will be made. The process of the organisational improvements seems to be well advanced, of course accompanied by some problems, which always are going to happen in such a transition period.

### Doznatel

The NPS organisational chart shows a total of 2000 positions of Doznatel of which 1750 have been allocated. So far 1450 have been recruited, all of them externally, another 300 under recruitment. Out of these 1450 there are 50 % already trained, the other 50 % will finish their training in May 2006. The information provided said that the in the ratio external recruits/ police cadets was 60:40. The age limit to join is 40 years. Their training is taking their professional background into account. The breakdown by age provided by the Bulgarian side shows that about 90 % are indeed under 40 years of age, out of those about 55 % are under 30 of age. The recruitment so far achieved could



signal a new beginning with fresh personnel trained under the new guidelines. The Recruitment is done in an assessment process. For the remaining open positions the NPS tries to recruit personnel from the National Investigation Service (NIS- *Sledovатели*). With this recruitment NPS tries to close the existing gap between 1450 and 2000. On one hand they bring professional expertise, on the other hand the NIS was significantly reduced because of its proven ineffectiveness. This recruitment might extend existing problems into the new organisational approach and reduce the expected benefits.

The workload of expected 300.000 cases / year will translate into 150 cases / Doznatel / year. This could be a high caseload for the 2000 Doznateli, especially because so far only 1450 have been recruited.

## **Sledovатели**

As a result of the reconstruction of the judiciary system the former position of investigative magistrates (Sledovатели) of the National Investigative Service (NIS) will be condensed significantly. In the future they will be responsible for the investigation of only about 1 % of crimes, among these is threat to state security. By reducing the body of Sledovatel, personal set free can put in for a job as a judge, prosecutor, and Doznatel or leave the government position.

## **Policy for transition of existing cases / new cases**

New crime investigations will only be opened by doznateli, old cases remain, wherever they are and will be finalized there. This approach will eventually lead to the expected result of concentrating investigative capabilities to improve the standards.



## Prosecutor's Office

At the same time on the prosecutors' side there is a reform of this organisation on the way to make it more efficient. The new PPC defines a clear leading role of prosecutor's office. During the expert's meeting with the Supreme Cassation Court a certain reluctance to accept that could be noticed. Also the new role to concentrate on putting people to prison seems to raise some concerns. The prosecutors' own investigative structure will be abolished, the new role and the legal requirement of the monitoring prosecutor, which had been in place before but more as an option to supervise cases, will change the working situation. Only the military prosecutor will still have his own investigative body. The absolutely necessary close cooperation with the Doznatel is also something which has to be developed. The prosecutor will in the future be informed about investigations within 24 hrs, as soon as the proceedings start. The prosecutor then is in the driver's seat. The Prosecutors' Office has no direct access to police databases but can compensate that by cooperating closely with the Doznatel. For the investigation the Prosecutor can set up a team of investigators from different Offices – the so called Teamwork Principle. All cases now will have to be monitored, which increases the workload. Because of the increasing workload the prosecutor's office is in the process to increase the personal. At the moment there are 1291 prosecutors' plus 1056 staff in place. With the intended recruitment of about 480 former Sledovatel out of the personal of the NIS a total of 1761 prosecutors' are the goal.

Similar to the situation of Doznatel this recruitment might extend existing problems into the new organisational approach and reduce the expected benefits.

In the initial phase of the entry into force of the PPC, the monitoring mechanism set up obliges the prosecution to report on 48 indicators). There will remain the opportunity to replace a prosecutor, if his performance in an investigation is not sufficient. This monitoring principle should improve the case work. Out of 300.000 cases last year 1080 were related to organized crime (= 0.47%). Each





department has a list of cases; the cases are allocated by the head of the department according to his decision.

Even with the new PPC the Case Agent's will not be able to testify as witnesses in court. This is a pretty unique legal construction. Especially in complex organized crime investigations the testimony of the case agent has a great importance in the court hearing in other countries.

## Pretrial Proceedings

With the good intend to speed up procedures the new PPC sets certain deadlines for the investigational side which generally limits those proceedings to the maximum of two years. An Extension can only be granted by General Prosecutor. If we look at high scale investigations, this limitation could develop into a real obstacle. This perception by the expert was shared by the representatives of the prosecutors' office and the counterparts of the NSCOC.

How big the impact of the new PPC and MoI Law for the improvement of police work in reference to the fight on organized crime really will be – future reviews and statistics will tell.

## National Service Counter Organized Crime (NSCOC)

The competencies for the NSCOC are regulated under the Law on the Ministry of the Interior, Section I. Art. 89 and 90. Art.89: "The National Service Combating organized Crime" is a specialised police operative and investigating office of MI for counteraction and neutralisation of criminal activity of local and transnational criminal structures. About 600 Police Officers work for the NSCOC out of which 55 % are detectives, 15 % are Doznatel, 15 % analysts and 15 % under cover Agents. The analytical work is done by using the I 2 – Computer Program and the Europol 4 by 4 evaluation system. The NSCOC is organized as one directorate



and 28 regional units. In total 93 positions for Doznatel are allocated to the NSCOC, 20 in the Directorate (6 open = 33 %), 73 in the regions (17 under recruitment = 24 %). The ratio of 1 agent for 1 PC is sufficient. NSCOC is intensively working with informants that are registered in a national Database. In 2005 the NSCOC was able to identify 233 Organised Crime Groups with 1074 members in total. They are able to target about 10 to 15 % of these groups. Since the investigation to proof organized criminal activity often requires a lot of resources over a long period of time cases are broken up into individual crime investigations. In this context the expert was told by Deputy Minister Kotzev, that NSCOC is not investigating contract killings; this is done by the local homicide squad. The experts question, how the necessary intelligence to link those crimes to Organised Crime Groups is generated was left open.

## Cyber Crime

With the amendment to the Bulgarian Penal Code (PC) and the PPC in 2002 a new chapter 9A on Computer Crime enabled the NSCOC to tackle problems related to the use of internet. NSCOC managed to establish a close relationship / cooperation with providers enabling them to work in a preventive way and also to initiate successful investigations. Quote: "We did not let the Bulgarian Internet Space to be abused." NSCOC worked closely with the international law enforcement community in regard to "Phishing", distribution of child pornography via internet an internet fraud. They were able to develop a reliable network of informants that generates the necessary information. They are preparing the necessary legal amendments to match the recent EU decision on Data – storage.

## Counterfeited Goods

Bulgarian legislation includes provisions for the protection of intellectual property. Aside from NSCOC the Bulgarian Custom Agency is enforcing this provision with 15 mobile customs groups. Counterfeited goods come primarily



from China, Turkey and Dubai. The awareness of the presence of temporary mobile markets is in place mainly at two points – in Sofia and an open market near Dimitrovgrad. Aside from the damage to the legally registered trademarks this activity translates into decreased revenues for the Bulgarian State, unfair competition on the market and the consumers trust in quality, reliability and price of product. That is the theory. In practise the NSCOC is taking action only if the bearer of the intellectual property is filing a complaint. Then Police Action would follow. This happens not very often. NSCOC is building a database that could speed up the process to obtain a complaint and to take action. The **Ministry of Patents** I do not know exactly??(Agency.???), Ministry of Culture, Customs and the Mol will be able to use that database.

The NSCOC seems to prefer a reactive approach. They do not raid markets on a random base to take counterfeited goods of the street, which might have an impact on the criminals. The reason for this is, because they do not know where to store these goods and they expect to seize a lot of it. Nevertheless in 2005 about 372 seizures were made , 1 Million items seized and 14 tons of good. The expert was told, that the NSCOC does not perceive selling counterfeited goods a fraud. They seem not to be aware, that talking about the production, the transport and smuggling of these goods and the dissemination requires a professional structure and some illegal activities at the borders even if these goods are only transiting using Bulgaria as a crossroad to Europe. Counterfeiting of money remains a big topic in this area – more on this later.

### Drug Trafficking/ Money Laundering

Bulgaria is perceived by the NSCOC as a crossroad for narcotic trafficking - designer/synthetic Drugs going east, traditional drugs going towards Europe. Because of the demand in the Middle East there is an increase in manufacturing of synthetic drugs in Bulgaria. The monitoring program of precursor chemicals is



in place but losing its efficiency because the criminals developed the capability to produce the precursors locally out of legal chemicals. The local consumption is stable. The drug of choice beside alcohol is Marijuana, a cigarette costing 80 – 90 cent. The street market price of one gram of cocaine is 60 €, the street market price of a tablet of Methamphetamine cost 8 – 10 €, the street market price of four units of Heroin is about 15 €. There is an estimate of 20.000 Heroin Addicts. The Ministry of Health is offering eight Methadone Programs. The NSCOC and the NPS concentrate on prevention. They directly approach citizens likely to become drug consumers by taking advantage of the community policing structure. In 2005 the Police conducted 879 operations at schools all over the nation.

The NSCOC does not consider that drug tourist might be attracted to Bulgaria because of the low prices on Marijuana and Heroin. They see no drug tourists from Bulgaria going to EU to buy designer drugs and cocaine there and return to Bulgaria to sell it with a huge profit. The question is, whether they really look into that.

Even if the local market for drug consumption might be limited at the moment, Bulgaria's position as a crossroad for drug trafficking between Europe and the middle and far East requires transport and smuggling a professional structure and some illegal activities at the borders.

NSCOC has a good track record on participating in international narcotic investigations. In 2005 they supported seven of those, including four controlled deliveries. NSCOC feels it has enough resources in that area. Special training for being able to use the new provisions of the PPC started in November 2005.

The expert was surprised to learn, that the NSCOC does not have combined drugs and money laundering cases. He was told, that because in Bulgaria, most of the transactions are cash-based, money laundering in connection with drug trafficking can not be proven. EU has the wrong categories for that. Drugs might be paid for in Cash in Istanbul, transit Bulgaria and delivered to Europe. What can an investigation in Bulgaria prove? When the expert recommended following



the cash, this approach was not agreed upon. According to OLAF up to 30 - 50 % of all suspicious financial transactions are related to drug smuggling.

## Forensic Laboratory

The main capacities of the NPS for laboratory work in Bulgaria are concentrated in the RIFSC in Sofia. It hosts seven different Laboratories for different main fields of activity. 28 forensic labs throughout the country provide services nationwide, 10 with bigger capacity and special equipment. The total number of staff is about 1000, out of which 440 are experts with University Degree, 340 Junior Experts, 170 criminal Technicians, 30 Laboratory Assistants and 20 Odorologists. The 170 criminal technicians visit crime scenes all over the country, 69000 – 75000 crime scene investigations in total per year. Fingerprints are taken from every suspect and put into the AFIS System, which is open for check for the Border Guard. The total number of registered criminals In AFIS is about 260.000 +/- 3% of population of BG. The AFIS System is fully compatible with Interpol. The DNA Database is developing. All laboratories in the country prepare about 4000 technical analyses a year, most of them for court proceedings.

## Law on Forfeiture of Criminal Assets

This Law was adopted in February 2005 and appears to be very close to the proceedings in Germany. It is regulated in Art.53 of the Penal Code as a specific sanction with probable consequences. Confiscation has to be ordered by a court. In 2005 it has been done in 56 cases and even if challenged in court showed to be a stable instrument. Confiscated goods have to be stored at a customs warehouse or a police station. There seem to be a gap to the real situation. Some weeks ago a judge was arrested using a confiscated car.



## Travelling of Human Beings (THB)

THB is considered one of the biggest organized crime problems of Bulgaria. Numerous governmental Organisation and NGOs in Europe are addressing this problem. The expert was surprised to learn, that this perception was not shared by the representatives of the NSCOC. They see women from Bulgaria taking advantage of liberal regulations in the EU to make their living out of prostitution. They come from very poor regions. "The majority of women do know what kind of work they can expect; most of them have been Prostitutes in Bulgaria. They get help to get to Europe and frequently change country, because they try to avoid staying longer than three months. They start complaining, when there are problems in their host countries". This explanation is not corresponding to the seriousness of these crimes.

Since 2003 Bulgaria implemented a training program on THB. A manual instructs police officer how to deal with THB cases. The MoI installed a working group combining the respective different offices involved. This group is meeting once a month and coordinates the efforts, information and operations. The reintegration of repatriated women (a total of 125 in 2005) appears to be a problem, because their social situation in Bulgaria normally remained the same. The Ministry of Social Affairs recently implemented a program to improve the situation for poor women. The goal is to train and qualify 40000 women. Women who would testify in Bulgarian courts in a THB case would be eligible for the Witness Protection Program. NSCOC does not see a highly developed organizational structure in reference to THB. Bulgarian criminals can be found on the low and middle level, the high level will be occupied by criminals from Albania, Turkey, Ukraine and Russia. The international cooperation is increasing especially with Interpol, Europol and the Liaison Officers present in Sofia. Bulgaria is also member of the Southeast European Cooperation Initiative (SECI). NSCOC contributed to some Analytical Working Files (AWF) and some joint operations with Germany. In 2004 a total of 19 rogatory letters have been answered. In 2005 a total of 40 rogatory



letters have been answered. Recently a Special Unit out of NPS / NBP (12/6) started to work on THB.

## **Weapons**

The NPS is in charge of the licensing of weapons. They do have a modern and growing database on legal weapons, which matches European Standards for Weapon databases. For Police usually owners of licensed weapons are not the problem. None of the weapons used in the contract killings in the recent past could be identified using that data base. This clearly indicates that illegal weapons are the problem. The expert learned that according to their data 80 - 120 weapons are illegally traded out of Bulgaria each year. This number is way too low. Bulgaria's position as a crossroad for trafficking between Europe and the middle and far East makes it prone to illegal transports and smuggling by professional structures and some illegal activities at the borders. No approach was conceivable how the NSCOC identifies ORGANISED CRIME GROUPS structures and how they do the targeting.



## Witness Protection

The Law for Witness Protection has been introduced into the PPC in 1997. In 2005 a new law has been adopted that regulates the implementation of the anonymous witness and physical protection of the witness and its relatives. In 2005 in 33 cases the protection mechanisms were used. There are practical problems to provide professional witness protection in a country of the size and with the population of Bulgaria. The prosecutor's office is trying to work on that issue.

### Major Organized crime cases during the Peer Review

- a) Dismantling of currency counterfeiting site in Varna on Tuesday, the 21 first of February 2005

Major General Vanyo Tanov – Director of NSCOC - could not attend the meeting with the expert because of an ongoing operation. In total eight places were searched, some arrests made, 440.000 € in 2200 bills of 200 € were seized. It was surprising to a certain degree, that this operation required the lead of the Head of the NSCOC when at the same time the last EC Peer Review of his office was going on. This successful case could have been an excellent example to show, how they did the targeting process, how it was prepared, which tools were used over what period of time. Instead the expert never got more than the initial information which was also in the news. The expert didn't receive further information throughout the week, which he would have expected, Interesting at that point indeed was, that this successful operation to some degree contradicted Minister Petkov who stated at an earlier meeting with the expert , that Bulgaria is no longer a producing country for counterfeited money - only a transit country because in the previous years Bulgaria has been extremely successful to fight counterfeited money.





- b) Contract killing of Ivan Todorov „The Doctor“ - a major organized crime figure in Sofia on Wednesday, the 22 nd of February

The expert was in a meeting with the head of the Intelligence unit of NSCOC, when that killing in the middle of Sofia at broad daylight occurred. The expert himself had to inform him and his colleagues – they didn't get any signals. After that the expert never got any additional information on that case. He later was told, that the for the investigation on that contract killing of an organized crime figure the NSCOC was not in charge, which is indeed very surprising. How can Bulgarian Law enforcement get the whole picture on organized crime, if such a case that is closely tied to organized crime is not investigated by the Office that is fighting organized crime?

## Media Headlines covering severe problems of the MoI in the aftermath of the Peer Review

- a) Helplessness against Crime Breeds Nonsense Tuesday, February 28, 2006, The Dnevnik Daily,

The latest murder of Ivan Todorov is a heavy blow on Bulgaria's Interior Ministry (MoI), the investigators and prosecutors for one basic reason: 5 months ago the Marguin brothers and other three persons with criminal records were detained on allegations of preparing the murder of Ivan Todorov, a.k.a. the Doctor, and the prosecutor's office is almost ready with the indictment. The fact that people had been apprehended for a planned murder, whose target falls victim while they are behind bars, can mean two things. One, the Interior Ministry, busy with the witness protection programme on the Marguin case, had paid no heed to the realities outside, and had not even bothered to warn the victim about the plans of his assassination. Have they provided surveillance if not for anything else at least for the simple reason to confirm or refute the evidence against the



Marguin brothers? Any criminologist would tell you these are the basics of the trade. One is left dismayed at the answer of the Interior Minister that he could not possibly know if someone on his over 60 000 staff had warned 'anybody about anything'. The Director of the National Investigation Service speculated that judging by the moral image of the victim's lawyer, who claimed Ivan Todorov had indeed received such a warning, the former could be trusted as speaking the truth. (Certainly the Interior Ministry has worked on the case and has evidence that holds the key to this question.) Investigators rank first in the absurdity of their comments. In the first place, the head of the team investigating the Marguin brothers told the Bulgarian National Television that the fact that the brothers were behind bars at the time of the murder did not mean they had an alibi!. The Director of the National Investigation Service Anguel Alexandrov said on Sunday that 'unfortunately arrested people had at their disposal exceptionally advanced opportunities for communication', and he did not even rule out the possibility of another assassination. He pointed to former Interior Minister General Lyuben Gotzev as the next target, to which the general in question retorted laughingly that he had nothing to fear since Alexandrov was in control of the situation. The second plausible explanation stems from the first one: the murder of Ivan Todorov was such a heavy blow on the Interior Ministry on the part of the criminal world that they had no other choice but hold on to the indictment against the Marguin brothers. Any other scenario would ruin the joint efforts of police force, investigation service and prosecutor's office. Hence, the nonsense that anyone could plan a murder from the detention cell. How is it possible that the head of the National Investigation Service speak about premeditating a murder form a prison cell since the communication from the preliminary arrest without prior permission by investigator or prosecutor is not allowed! The relevant bodies involved with fighting organized crime are ready to discredit themselves and the state by acknowledging the total control of the mafia,



including over detention cells. The same flawed approach is at the base of the failure to combat organized crime during the transition period: resorting to the help of media to support indictment schemes, so as not to admit failure at any cost. That is why instead of success in cracking down on mafia network we witness comic statements delivered with ardour but placid or nonsensical in content. The nonsense will perpetuate itself because the murder of Ivan Todorov exposed the incompetence of the MoI services, the investigation and the prosecution, and now efforts will be directed towards covering the traces of this incompetence. Even if the police had failed to organize surveillance over Ivan Todorov, half an hour before his murder, the escort of the visiting Turkish President had driven along the same road, which means that there had been police patrols in the area. Even if they had been released from duty, the Bulgaria Boulevard, the road most often used by government vehicles, is always busy with police patrols. There is no other getaway for the white Audi of the murderers except the two busiest road arteries, and dozens of witnesses had seen the crime. But if you can imagine that the police can be mobilized in 5 minutes and the murderers intercepted, then it must be watching too many police movies, and not living the reality of the Bulgarian police. The absurd comments made by senior MoI officials aim to hide the most disheartening of all facts on the threshold of the country's membership of the European Union: the lack of routine work, otherwise known as professionalism, quality management and last but not least, technical backup. It is a sad fact to acknowledge, but it becomes ever more obtrusive that the Bulgarian security services are incapable of doing their job, which their seniors compensate with non-stop talking. I do not wish to think what might happen if in the courtroom both the investigation and the prosecutor's office fail to phrase a comprehensible motive for the premeditation of the murder of general Lyuben Gotzev, for instance. If the notorious protected witnesses, who are in turn defendants on other law suits, and will naturally be willing to trade their testimonies against the



Marguin brothers in exchange of pardon, yet another failure of the judicial system is looming large before our eyes.

b) Police Files Available for Free Download in Bulgaria, Tue 7 March 2006

Politics Sensitive police material including investigation reports, interrogation transcripts and videos are available for free download in Bulgaria, media alerted. Using the peer-to-peer file sharing program DC++, reporters from Monitor daily newspaper have downloaded about 260 police files over the past two days. Among the music files in the shared directory of a user named nAMnePCa, who was logged on the DC.data.bg server, reporters found hundreds of files from various police investigations. Apart from violating police confidentiality, the free access to such files violates the rights of citizens who were interrogated. One such person - 42-year-old Milena S. was shocked to find out that the transcript from her whole interrogation in 2004 dealing with her work in a massage salon was available for free download. "I am shocked," she said for the paper, "How could this be online?" The woman claims that this period from her life is long forgotten, and that she would sue the people who shared this information. The user, on whose computer all the files were found, claims that he has no idea how it all got there. Various police heads have vowed to probe the matter further. An official statement from the Ministry of Interior briefly alerted the media Monday evening that it was investigating a case of unclassified information leak.

### General Recommendations

- a) Since this peer review suffered from translation, EC should consider using their own interpreters to ensure the best and most reliable results
- b) Earlier the expert mentioned the problem of project – shopping and as a result of this the existing patchwork of solutions. To make this patchwork works, the EC should look for continuity on their side. Indicators to monitor the progress have to be identified and implemented. The evaluation of the progress could be audited for example by Europol / OLAF or some neutral monitor.

### Recommendations for NPS

- a) The NPS has to build up to full strength, open positions should be closed as soon as possible.
- b) The recruitment and promotion process should be made more transparent. A more democratic process inside the NPS will help to train a police as a defendant for (their) the democratic rights of the citizens. In comparison to the vast majority of EU – countries there is no participation of unions in that field. They could be the necessary safeguards to ensure, what the Code of Ethic for Officials of the Ministry of the Interior with Police Functions states: „The police institution is open to every Bulgarian citizen, who conforms to the requirements provided by the laws and by-laws, and no discrimination in the selection of applicants is allowed.“ Following these recommendations could very much limit nepotism and encourages young Bulgarian to join the police and serve their country.
- c) For the remaining open positions the NPS tries to recruit personnel from the NIS to close the existing gap of 550 (2000- 1450). On the one hand this may bring professional expertise, on the other hand the NIS was significantly reduced because of its proven ineffectiveness. This recruitment might extend existing problems into the new organisational approach and reduce the expected benefits. The filling of the open



positions for doznatel with former sledovatel should be closely linked to objective performance indicators.

- d) Taking disciplinary action against the violation of the ethical code is a good step. But the police officer should have a stronger position to challenge such decisions and get it proved by a neutral institution.
- e) The already implemented reporting system for officers of the NPS about their income is a very good beginning to create transparency and counter corruption. These documents should not stay within the NPS. Random checks should be made by the office of MoI that is in charge of counter corruption effort. In addition it should become mandatory for each member of the NPS. The expert also recommends making public, what a policeman can earn. So citizen can have an idea, whether a policeman's lifestyle corresponds to the average income of his rank.
- f) The expert learned that the NPS is in charge for different kinds of licensing. Among these are the licensing of private security companies and weapons. It should be closely checked, whether the licensing process is vulnerable for corrupt practises.
- g) In this context the policy of giving out blue lights also needs close scrutiny. The expert got the impression that in Sofia there are a lot of cars on the street that use the blue light. For a normal citizen the blue light is a sign for state authority. Because of that it has to be limited to state authority. As the expert learned Minister Petkov mentioned in his early days as a Minister that he would address this problem, because he knows it is a highly visible (to the public) issue.



## Recommendations for the NSCOC

- a) The above mentioned recommendations for the NPS do have an even higher importance for the NSCOC as the office in charge of fighting organized crime.
- b) Looking at the organizational chart of the Directorate of NSCOC, this office seems to be understaffed, even if all open positions will hopefully be filled soon. More positions should be allocated.
- c) The NSCOC should develop an approach of actively generating, initiating and conducting investigations.
- d) Even if Bulgaria in some crime areas might be developing more into a transit country, smuggling requires professional structures (Organised crime groups ) to cross the Bulgarian borders. The concentration of different police services into one police directorate was a good step for the improvement of law enforcement work in the border region. Customs should be invited to join this effort.
- e) The Responsibilities at the border should be streamlined and more personnel – if necessary has to be allocated.
- f) Possible drug tourism should be evaluated.
- g) The approach to investigate singular crimes committed by members of an organised crime group rather than running an investigation against this organised crime group can not be accepted. This can only be the ultima ratio, when everything already failed. The targeting process for organised crime groups in that respect should see some professional adjustments.
- h) Organised crime groups do commit a variety of different crimes. If NSCOC looks just at the crimes, it will miss the complete picture. A fragmented investigative approach is undermining the effort to make successful cases and should be avoided.
- i) The NSCOC should be involved if not the lead office in the investigation of contract killings



- j) The NSCOC should link much closer investigative efforts on drug smuggling and money laundering.
- k) Prisons and detention facilities have to be free of "illegal" use of mobile phones. Bulgarian Authorities should consider using existing technical scanning devices to detect these phones to deny criminals this kind of illegal communication.
- l) The possible availability of police files in the internet, that indicates a leak (corruption) or technical problems with the police is absolute unacceptable. This undermines international police cooperation and has to be addressed with priority in Bulgarian's own interest.





**Recommendation in reference to the new PPC**

- a) The reduction of police officers with investigative powers from 10.000 to 2000 could be a too ambitious idea and as a possible consequence hurt the idea to provide justice. The result of the evaluation during one year of the actual situation should be closely monitored.
- b) In regard to the regulation on the length of the investigative process (max. 2 years) it should to be closely monitored, whether this might derail complex organized crime investigations and so might provide a kind of "amnesty effect".
- c) So far the distribution of criminal cases (who is getting what investigation) is done by senior persecutors. This system should be changed to a more random approach that prevents any influence on the allocation process of cases.
- d) Criminal Investigators are not allowed to be witnesses in court. In most other European countries they can be used as witnesses and have proven to be the key for successful cases especially in the area of international organized crime cases. The existing regulations should be reviewed.
- e) The storage policy of seized assets should be revised - the weak points that led to the mentioned case should be identified and necessary action be taken



## Conclusions

The Expert was surprised to learn, that even the Minister of the Interior referred in his opening remarks of the peer review to the CMR of the 25th of October 2005 as a wake up call. Since the start of the accession process it should have been crystal clear, that BG had to meet certain standards especially in the judicial and law enforcement area. In a lot of areas projects were presented to be in a preparatory stage, just implemented, in the process of change, which gives a reduced basis for an assessment about their benefits to fight organized crime. For example the new structure of the national police, which expresses the will to concentrate law enforcement efforts, looks modern and efficient. But will this support the fight against organized crime? In the process to match European Standard to fight organized crime, obviously a lot of European best practise projects have been implemented or are in the process to be implemented, like the implementation of the witness protection program in 2005. Its effectiveness still has to be proven. Just selecting the best projects does not guarantee that the so achieved patchwork of solutions will work in a reliable manner. For example: The idea of a database for the licensing of legal weapons is a valid approach to control the legal weapon market. Illegal weapons are the problem for weapon trading and contract killings. None of the weapons used in the contract killings of the past had a match with the database. The expert was even more surprised that in the meeting with Prosecutor General his Deputy Prosecutor General Mr. Manchev in context with the actual contract killing in Sofia argued about the total number of contract killings. The EC side uses the number of 173 contract killings (incl. attempts) from 1992 – 2005. Quoting a study from 1999 – 2005, Mr Manchev claimed that only 95 contract killings occurred. This discussion about the number of contract killings is not important at all. The mere fact of having these killings for years is the problem, the destabilizing of the moral of the society including the police is the even bigger problem that has to be addressed and can only be addressed and solved by Bulgaria. The working attitude, the dedication to the job defines the success on



fighting organized crime. The NSCOC seems to have the attitude to be reactive instead of being proactive. In a lot of discussions the expert's counterparts said, that they would wait for signals. Especially in the field of fighting organized crime, even victims do not give signals, because they are afraid of the consequences. Waiting for signals just is not good enough to be successful. Throughout the meetings with the NSCOC the expert expected much more enthusiasm and dedication to the new approaches to fight organized crime provided by the PPC and new MoI Law. Sometimes counterparts appeared not to be convinced. Quote „The EC wanted us to do“- or even had objection towards the EU position. But NSCOC also showed that they can work with modern law enforcement tools. They were able to identify a large number of organised crime groups and an even larger number of members of organised crime groups. This gathered intelligence must lead to a transparent and solid targeting process which can be evaluated and adjusted. This really was not the case yet in Bulgaria according to the expert. Just having identified the numbers will not do the job. The Expert expected his counterparts to convince him, that they are developing into the right direction and will be an asset to the EU law enforcement community. The meeting on Cyber crime and at the forensic laboratory went much better and did prove that a different approach is possible. The improving record of NSCOC in reference to the support and cooperation of the international law enforcement community is encouraging.

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