



CENTER FOR
THE STUDY OF
DEMOCRACY

INVESTIGATION OF MONEY LAUNDERING: AN INSTITUTIONAL APPROACH

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Organized crime, corruption and money-laundering in Bulgaria

The latest research by the Center for the Study of Democracy reveals that the **annual revenue from organized criminal activities and corruption amounts to more than BGN 4 – 5 billion per year**. This amount only includes criminal incomes from trafficking and distribution of drugs, smuggling of cigarettes and other excise goods, prostitution, corruption (related to rigging of public procurement) as well as tax and VAT fraud.¹ The above estimated amount of “dirty money” in the economy excludes revenue from other illicit activities, such as financial fraud, trafficking in cultural goods, as well as money generated by Bulgaria’s sizeable grey economy, estimated at 30% of GDP in 2009. In addition, the growing real estate market in Bulgaria made the country an attractive destination for laundering of large amounts from illicit

¹ See latest CSD publications: *Organized crime in Bulgaria: Markets and Trends* (Sofia, 2007); *Crime without Punishment* (Sofia, 2008); *Corruption in Public Procurement: Risks and Counteraction* (Sofia, 2007).

revenues from Europe and other continents². The actual size of the inflows of “dirty money” into the country is, therefore, hard to estimate, as there are difficulties in assessing the amounts coming from abroad.

Organized crime in Bulgaria is quick to adapt to the new realities, and by and large **enters the legal economy by legalizing capital accrued from criminal activities**. This process poses a significant threat to the country: while in developed democracies money-laundering is carried out through the complex financial operations or investments in the legal economy (for instance through the purchasing of real estate or luxury goods), **in Bulgaria money-laundering takes on a specific form: a 'political investment'**.

Criminal and oligarch configurations in the country launder money from illicit activities by **buying electoral votes or by sponsoring political parties**. Although this process cannot be qualified as money-laundering in a strictly legal sense, it can be

² The real estate market in Bulgaria reached BGN 22 billion in 2007.

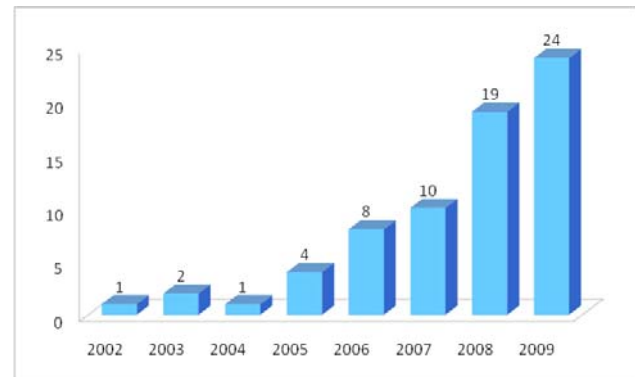
considered as such in a broader perspective. The political investment ensures access to public contracts or protection from prosecution of criminal activities.

As a result, this particular type of money-laundering corrupts the foundations of the country's democracy – its political system. The local elections in 2007 sent alarming signals that through the financing of politicians and political parties various **criminal structures gained the opportunity to influence politics, especially at the local level.** The parliamentary elections of summer 2009 reaffirmed this trend.

Combating Money-Laundering

In spite of several legislative initiatives and a growing number of money-laundering investigations in the last decade, the prosecution of this type of crime in Bulgaria remains insignificant (see Figure 1.) The complexity of the crime, the objective difficulties for its investigation, as well as the necessary international cooperation to combat such activities explain the relatively small number of prosecutions. These factors lead Bulgaria to undertake several institutional and legal measures including the adopting of a *Law on Measures against Money-Laundering and Instructions for the Law's Implementation* (1998) and *Law on Measures against Financing of Terrorist Activities* (2003). An Agency on Financial Intelligence was established in year 2001, currently transformed into a Directorate "Financial Intelligence" in the State Agency on National Security.

Figure 1. Number of prosecutorial decrees for money-laundering in the court



Source: Supreme Prosecutor's Office of Cassation

These changes reflect the **increased international attention on money-laundering** following the terrorist attacks of 11 September 2001. Various initiatives to tackle money-laundering were undertaken at EU level after year 2001. In 2005, the EC adopted the Third Directive on Combating Money-Laundering, thereby undertaking the most ambitious step thus far to tackle this problem.

Although the reasons behind Bulgaria's insignificant law-enforcement results in the field of combating money-laundering have not been an object of research, some preliminary analysis highlights the reasons for the limited success (under 0.1% of the money-laundering crimes are probably investigated). **The limited capacity of the specialized state institutions is one problem.** A few dozen specialists at the State Agency for National Security (SANS) and the General Directorate Combating Organized Crime can hardly take charge of the thousands of cases of money-laundering which should be investigated. **The non-implementation of the respective anti-money laundering (AML) laws is also quite apparent.** For instance, in the period 2007-2008 only one real estate broker has reported a suspicious transaction, even though it is estimated that in more than half of

the real estate transactions the actual value of the property is not officially declared.

Corruption in the private sector (involving banks, currency exchange bureaus, real estate brokers, car dealers among others) is another significant problem. **The lack of or non-application of internal AML rules and procedures in the private sector companies**, together with the lack of state control over compliance with such rules, undermine the effectiveness of the national AML system. The relatively large financial burden that the private sector would have to bear to develop such rules is yet another factor. Last but not least, the private sector (for instance banks and lawyers) is faced with the challenge how to attract and keep clients, who prefer to work with banks and firms which do not apply such internal rules and are therefore able to secure faster and more “discrete” deals and transactions.

Institutional Measures to Combat Money-Laundering: Manual on Investigation of Money-Laundering

One of the effective methods to overcome the above mentioned challenges in combating money-laundering is through **mainstreaming AML investigations**. The experience of some other countries can be taken into account, where criminal investigations of corruption and organized crime are always carried out in conjunction with money-laundering investigations. In Spain for instance, the compulsory investigation on money-laundering in each case of **drug-trafficking** investigation, has lead to the confiscation of EUR 82 million worth of property in 2007.³

³ Dirección General de la Policía y de la Guardia Civil (30.03.2008)

In this context, the Center for the Study of Democracy initiated the formation of an inter-agency task-force to develop a Manual for the Investigation of Money Laundering. The main purpose of this manual is to assist prosecutors and police investigators who investigate organized crime, but have not undergone a specialized training on money laundering investigation. The main idea of the manual is to explain various techniques and methods for AML investigations. The development of the manual drew on the knowledge and experience of all relevant institutions working on money-laundering, and complemented these with the expertise accumulated in the NGO and private sectors.

The philosophy behind the manual was that prosecutors and police investigators see money laundering as a very complex crime and one that is difficult to prove. In spite of the principal difficulty and complexity in investigating a crime of such type, the Bulgarian experience has shown that common and simple (even primitive) schemes of money laundering persists in the country: especially in construction, real estate, agriculture, trade, and tourism industries. The investigation of such schemes is within the capabilities of regular police officers or investigators and does not require special units.

Some specifics of the Bulgarian economy and financial markets makes the task of tracking down laundered money much easier than in developed countries. Due to the small total volume of cash flows, the country cannot absorb large sums of criminal money without this being relatively easily detected. Oftentimes, though, money laundering via or in Bulgaria involves such international transactions. These activities leave many more traces and investigation opportunities. In this sense,

http://www.mir.es/DGRIS/Notas_Prensa/Policia/2008/np033003.html

representatives of banks, tax and customs administration such as the National Revenue Agency should actively participate in investigating money laundering, alongside with the specialized institutions discussed above.

The preparation of the Manual gathered the expertise of all major institutions involved in the prevention of money laundering - Ministry of Interior, SANS, National Investigation Service, the Supreme Prosecutor's Office of Cassation and the Commission for Establishing of Property Acquired through Criminal Activity. The participants presented and commented on specific and successful cases in the Bulgarian AML experience. The Manual compiles in a single document a broad diversity of institutional practices. It starts with the operational police activities, offering a description, explanation and interpretation of the basic steps necessary in following the two flows of money: (1) from the money to the predicate crime and (2) from the predicate crime to the legalization of the money. This first part is followed by a description of the steps in the investigative activities, in order to reach the end of the investigative chain – or prosecutor's actions for pressing charges and actions for forfeiture of assets acquired through criminal activity. There are a number of clarifications of recent good practices in the investigation of money laundering further offered in the Manual, including the decisions of the Supreme Court of Cassation.

The main idea of the Manual is that successful actions against money laundering are only possible in joint operations involving several institutions. The experience described in the Manual demonstrates that the most efficient tool for investigating money laundering at present are the small teams of representatives of different institutions or sectors, the participants in which have trust in each other.

Policy Recommendations

An investigation of money laundering should accompany the work on any crime, which generates a significant amount of money. In any such crime, a simultaneous tracking of the money should be initiated.

Performance reviews of officials of the Ministry of Interior, SANS, and the National Investigation Service should include additional monitoring on frequency and methods by which investigators combine the investigation of predicate crimes with money laundering investigations.

The experience of the U.S. and of many EU Member States shows that the approach of “follow the money approach” is an effective tool for reaching the nucleus of criminal networks: providing evidence on the predicate crime, and eventually for dismantling the criminal structures. In Bulgaria, twenty years after the beginning of the transition, “follow the money approach” would be an adequate way to reach the most influential criminal figures, who have invested their criminal revenues in the legal economy. The methods for investigation of criminal money flows allow not just impacting the upper echelons of organized crime but also entire criminal structures.

Last but not least, even successful investigations against organized crime, which are still rare in Bulgaria, may not have long term impact unless the revenues from the criminal activities are removed. The proper utilization of the AML investigations remains an untapped opportunity. The carefully tailored Manual is a step towards establishing a systematic approach of training staff in various law enforcement agencies and towards development of mechanisms for cooperation between state bodies, in and outside the system of justice, security and home affairs, including the private sector.