

3. PREVENTION OF SMUGGLING AND TRAFFICKING: PRESENT SITUATION AND PERSPECTIVES

3. 1. THE ROLE OF NATIONAL POLITICAL ELITES IN THE FIGHT AGAINST TRANS-BORDER ORGANIZED CRIME

By the end of 2000, governments have changed at least once all over the region (with the notable exception of Montenegro, where Djukanovic's administration continues to rule without significant challenge to its authority for the eleventh year running). As practice has shown, **a change in the government usually results in several attempts to clamp down on smuggling and related corruption.** These attempts may be part of a genuine struggle to cut the smuggling channels. In most cases, however, a shift in power means that a certain smuggling channel loses its political support. Certain politicians control the economic elite in the country by providing it – not without self-interest – with a market advantage, thus eliminating the principles of fair competition. In their turn, the economic groups are held hostage by the political parties protecting them since their parasitic operations make them non-competitive in a normal market environment. And conversely, some politicians from the elite become dependent on the groups that bribed them.

The mechanism of operation of the old smuggling channels and of creation of new ones is through infiltration of the border administration with people loyal to the party, many of whom do not possess proper qualifications. On the other hand, participants in those channels themselves offer bribes to those coming to power in order to secure their protection and thus penetrate illegal business. Through people loyal to them, the ruling political elites not only use, but also control the traffic of "the competition" in the interest of particular economic agents. Dismissing a significant number of customs officers and replacing them with new ones is among the most common steps, taken by new governments after coming to power. This step, however, is always controversial, since it is often unclear whether the redundancies and new appointments were really motivated by the need to discharge disreputable officials, or by the desire to substitute them with the ones, loyal to new authorities. When the latter is the case, smuggling channels are seldom disrupted – only the people operating them change. During the 1990s, this was what happened in most of the regional countries after the change of the government.

Analyzing recent political developments in the region and their influence on smuggling and trafficking through the Balkans, **several characteristics can be identified:**

1. Involvement of international community is essential

As a rule, local governments seem incapable and/or unwilling to seriously disrupt the smuggling and trafficking operations through their countries on their own. **The first serious counter-smuggling efforts were undertaken only after the international community took a more active role in the region** (e.g. European Commission's Customs Assistance Missions, Trade and Transport Facilitation in Southeast Europe Project, Stability Pact etc.).

2. Government needs to change more than once

In most cases, for genuine and effective counter-smuggling measures to be implemented, government had to change at least twice. The governments, which came to power after the fall of the communist regimes, usually actively participated in the development of smuggling channels. When the opposition won the elections and formed a new government, it usually declared that it was starting a campaign against corruption, smuggling and organized crime. Numerous officials in the customs and tax administration were usually discharged during this campaign and substituted with new ones. However, the only result was usually that the new political elite achieved control over the smuggling channels, which continued to operate.

It is still too early to speak about the "third change principle" as a rule. So far, there have been only three cases in the region, where this has occurred: Albania, Bulgaria and Romania. In all of them outside incentive seems to have played a decisive role for governments engaging in an effort to curb smuggling and the related corruption, rather than trying to assert control over them. In Bulgaria and Romania, this incentive was Euro-Atlantic integration, while in Albania it was the country's almost complete dependence on foreign assistance after 1997.

Macedonia, despite going through the "third change" in 1998, remains an exception. The volatile security situation, which culminated in the last year's armed conflict, is used as a permanent excuse for postponing the implementation of genuine and effective counter-smuggling measures. It is true that Macedonian security forces have had practically no access to certain areas in western Macedonia for years. In the electrified atmosphere, any attempt to reassert their presence there to cut the illegal flow of arms and drugs across the borders with Kosovo and Albania, is viewed by local Albanian population as a case of military occupation. Macedonia thus seems to be trapped in the same closed circle in which insecurity and crime reinforce each other and which has troubled a large part of the former Yugoslavia during the last decade. It is very unlikely that Macedonian government will manage to cut this Gordian knot on its own.

3. Large coalition governments (consisting of five or more parties) seem to be less willing to take radical counter-smuggling steps than a one-party government

The first post-communist governments in all the countries of the region were formed or dominated by one political party (Bosnia-Herzegovina and Macedonia seemingly represent an exception, but there ethnically-defined political parties divided territorial spheres of interest among themselves and virtually established a one-party rule in their "dominions"). Therefore, it is difficult to argue whether a coalition government could prevent proliferation of smuggling and organized crime, which developed under one-party governments.

The examples of Croatia and Serbia, where large coalitions came to power in 2000, however, indicate that there is much less turbulence on the smuggling scene

if one-party government is substituted by a coalition rather than by another dominant party. **The existing criminal structures, engaged in smuggling and trafficking, find it much easier to seek out interested partners and new political patrons within a large and diverse coalition of parties.** The differences in opinion and conflicting interests also prevent the extensive purges in customs and tax administration from taking place.

In Croatia, some of the coalition partners have already made close connections with some of the HDZ-era tycoons and shadow economy groups. In Serbia, numerous "businessmen," connected with the criminal underworld, and who were previously enjoying protection of Milosevic's regime, approached the new authorities. Credible indications exist that they found quite a few new protectors, and this seems to be among the most important reasons for the almost chronic instability of Serbian government. The name of the Serbian Prime Minister Djindjic is often mentioned in connection with people, involved in the cigarette smuggling business.

Bosnia-Herzegovina also got a coalition government in 2000, dominated by a multi-ethnic Social-Democratic Party. Yet, Bosnian federal government has very limited authority. The real power rests with the governments of both entities, which are still dominated by the three nationalistic parties. Until recently, any attempt to fight smuggling and trafficking was blocked by an almost complete lack of cooperation between the two parts of the republic. This unique administrative arrangement makes Bosnia-Herzegovina distinct from all other cases and it is thus difficult to predict what the future development will be.

4. Cases apart – Montenegro and Kosovo

Two most urgent and alarming problems continue to be **Montenegro and Kosovo, where specific political circumstances prevent a consistent and genuine fight against smuggling.**

In Montenegro, President Djukanovic's rule lasts already more than a decade and he has thus been in power longer than any other Southeast European leader. Montenegro is also the only regional country which, for this reason, never passed through the obligatory post-election "reforms." So far, there has been no case in which the same regime, which facilitated the development of smuggling channels, willingly engaged in a genuine and successful effort to disband them. There are no reasons to believe that Montenegro would be the first.

In Kosovo, despite the large international presence, the rule of law has still not been sufficiently established. UNMIK's main priorities are preventing bloodshed between Kosovo's various ethnic groups, and setting up local political institutions. At this point, it is more or less clear that the newly inaugurated Kosovo parliament, government and president have little effective power to deal with lawlessness. The pattern, tried out times and again all over former Yugoslavia, of provoking ethnic tensions and causing destabilization in order to create an optimal environment for conducting illegal activities, has been repeated in Kosovo after 1999.

The most important developments, initiated by the Southeast European governments in the fight against the trans-border organized crime, are the following:

1. Since 1997, the Albanian security forces have been cooperating with Italian police and coast guard in an effort to cut the drug and cigarette smuggling, and illegal immigrant trafficking channels across the Adriatic Sea. In 1998, the Albanian government established a counter-narcotics unit, which includes 100 police officers and agents, and in 2001, a counter-trafficking task force. **In 2001, the government passed a law on prevention of illegal trafficking of narcotics** and a law on the establishment of the Inter-Ministerial Drug control committee. In November

and December 2001, the US Department of Justice's Border Patrol Tactical Unit conducted an assessment of the Albanian border police and developed proposals for improvement of its work.¹²⁵

In January 2001, the Penal Code was amended and the penalties for trafficking increased. A new definition of trafficking, which complies with the UN Protocol against Smuggling of Migrants by Land, Air or Sea (known also as one of the two Palermo Protocols – the other is the Protocol to Prevent, Suppress and Punish Trafficking in Persons), was also introduced. The Ministry of Justice analysed the legal aspects of trafficking in children and prepared amendments to the Adoption Law, aimed at protecting children. Counter-trafficking police training, in which 165 policemen participated, was also carried out. The government has appointed an Inter-Ministerial Working Group on Trafficking and a National Coordinator for Trafficking, and developed a national strategy for combating trafficking. In 2001, an anti-trafficking centre was established in Vlore with international assistance. In the same year, 150 persons were arrested on charges related to trafficking.¹²⁶ The US and the US funded NGOs in Albania have developed several projects on education of young women in an attempt to prevent them from becoming victims of trafficking. Several safe houses for victims of trafficking have also been opened.¹²⁷

In August 2002, a multi-national operation, involving Albanian, Italian, Yugoslav and Greek security forces was conducted. Special police units, equipped with naval vessels and helicopters, swept into Vlore in an attempt to arrest a large number of known smugglers and to confiscate their speed-boats. Although 12 alleged smugglers were arrested, the operation failed to achieve its goal. Over 30 smugglers managed to escape, together with their boats, and to go into hiding because the top-secret plans for the operation were leaked before the assault took place. As a consequence, the Albanian police chief was sacked.¹²⁸

2. **In Bosnia-Herzegovina, the newly established State Border Service was deployed in June 2000 at several border crossings.** Numerous crossings and check-points, however, remain severely understaffed and ill-equipped. Counter-narcotics law enforcement units, ranging in size from 2 to 11 members, have also been established.¹²⁹

A working group, established in cooperation between Ministries of Justice of Republika Srpska and Federation Bosnia-Herzegovina, and the Office of the High Representative, **is drafting a new criminal legislation.** A Joint Entity Task Force on Illegal Immigration and Organized Crime is also in the process of being established. Police raids on nightclubs and brothels increased in 2001 and many brothels were permanently closed. Following the accusations that international peacekeepers were involved in trafficking or were patronizing brothels, the code of con-

¹²⁵ U. S. Department of State. "2001 International Narcotics Control Strategy Report – Albania." *U.S. Department of State - Bureau for International Narcotics and Law Enforcement Affairs*. Washington, DC. March 2002. <<http://state.gov/g/inl/rls/nrcrpt/2001/rpt/8484pf.htm>> .

¹²⁶ U. S. Department of State. "Trafficking in Persons Report 2001." *United States of America Department of State*. July 2001, p. 79.

¹²⁷ International Organization for Migration. "Albania – Counter Trafficking," *IOM Press Briefing Notes*. 25 January 2002. <<http://www.iom.int/en/archive/PBN250102.shtml>> .

¹²⁸ Stefan Wagstyl and Paul Betts, "Smuggling Crackdown in Adriatic Falls Flat," *Financial Times*, 23 August 2002.

¹²⁹ U. S. Department of State. "2001 International Narcotics Control Strategy Report – Bosnia-Herzegovina." *U.S. Department of State - Bureau for International Narcotics and Law Enforcement Affairs*. Washington, DC. March 2002. <<http://state.gov/g/inl/rls/nrcrpt/2001/rpt/8484pf.htm>> .

duct for the UN personnel was revised in 2001 to include responsibility for any affiliation with persons, suspected of involvement in trafficking.¹³⁰

Two biggest problems in Bosnia-Herzegovina remain the notorious lack of cooperation between the institutions from both entities (despite some progress being made in this direction), and wide-spread corruption.

3. **In Bulgaria, the Narcotics Intelligence Centre**, an interagency body, inaugurated by the National Service for Combating Organized Crime (NSBOP), **has been operating since December 1999**. Bulgaria is a regional record-holder regarding the drug seizures (in the last years, up to 2,500 kilograms of drugs – predominantly heroin – were seized). Bulgaria is cooperating closely with the US Drug Enforcement Agency and with relevant agencies in the neighbouring countries.¹³¹

In June 2001, **an Inter-Ministerial Legislative Working Group in charge of drafting a comprehensive law, addressing human trafficking, was created**. A Task Force to Combat Trafficking in Person for Sexual Exploitation was established within the Ministry of Interior. A special unit within the National Service for Combating Organized Crime also deals with illegal immigrants and human trafficking. Steps were taken to improve border control and several amendments concerning trafficking were proposed for the Penal Code. Bulgarian border police cooperates and exchanges information with Romanian and Macedonian border police.¹³²

4. In November 2001, Croatian parliament passed a new law on drugs. **Fight against drug smuggling was named a priority of Croatian government**, and an interagency commission was established to supervise the government's efforts in this field. A special unit within the Office of the State Attorney, dedicated to fight against organized crime and corruption, was also established. A new law strengthened the enforcement capabilities of customs officers. Several police and border cooperation agreements have been signed with all Croatia's neighbours, and the cooperation with EU states on improving the border controls has been intensified.¹³³

A National Working Group on Trafficking was established within the Ministry of Interior, while the Ministry of Foreign Affairs appointed a National Coordinator on Trafficking. Ministry of Justice prepared new Alien Law and new Asylum Law. Numerous training sessions and seminars were organized for the police and border police officers, and a number of bilateral agreements on migration, asylum and border control were signed with the neighbouring countries.¹³⁴

5. **In Macedonia, activities of the National Anti-Drugs Committee have been severely hindered by the unstable political situation**. The government has been preparing a new action plan for fighting drug smuggling and abuse since 1999, but, again due to political situation, no concrete results have yet been achieved. The counter-narcotics department of the Ministry of Interior has nevertheless maintained an active relationship with Interpol and SECI's (the Southeast European

¹³⁰ U. S. Department of State. "Trafficking in Persons Report 2001." p. 82.

U. S. Department of State. "1999 Country Report on Human Rights Practices – Bosnia-Herzegovina." Limanowska et al. "Trafficking in Human Beings in Southeastern Europe."

¹³¹ U. S. Department of State. "2001 International Narcotics Control Strategy Report – Bulgaria." U.S. Department of State - Bureau for International Narcotics and Law Enforcement Affairs. Washington, DC. March 2002. <<http://state.gov/g/inl/rls/nrcrpt/2001/rpt/8484pf.htm>> .

¹³² Limanowska et al. "Trafficking in Human Beings in Southeastern Europe."

¹³³ U. S. Department of State. "2001 International Narcotics Control Strategy Report – Croatia." U.S. Department of State - Bureau for International Narcotics and Law Enforcement Affairs. Washington, DC. March 2002. <<http://state.gov/g/inl/rls/nrcrpt/2001/rpt/8484pf.htm>> .

¹³⁴ Limanowska et al. "Trafficking in Human Beings in Southeastern Europe."

Cooperative Initiative) Regional Crime Centre in Bucharest. **Drug seizures in the country have been high for the last few years**, and Macedonian police and border officials operate very professionally, especially in the light of the fact that the 2001 armed insurgency seriously weakened the law enforcement and border control efforts along the borders with Kosovo, Southern Serbia and Albania.¹³⁵

Macedonia still has no laws prohibiting trafficking, but the laws prohibiting slavery, kidnapping, illegal entry and smuggling of illegal immigrants were used against traffickers. In February 2001, government appointed a National Council on Trafficking and Illegal Migration, which is now working on harmonization of the Macedonian laws with the Palermo Protocols. The Macedonian police force includes a Task Force to Combat Trafficking since 2000. In 2001, the government opened a shelter for the victims of trafficking.¹³⁶

6. **The Romanian government launched a National Program for Drug Prevention in October 2001**, supervised by a number of ministers and representatives of several NGOs. A very strict narcotics law was passed in 2000, and a chemical precursor control bill was submitted to the Parliament in November 2001. An undercover drug investigation unit was established within the police. As a result of the cooperation with the EU and the USA police and border control units (exchange of information, training of Romanian police and other law enforcing agents), **drug seizures sharply increased in the last two years.**¹³⁷

In December 2001, the Law on Prevention and Fighting Human Trafficking was adopted. The law was prepared in cooperation between the Romanian government, NGOs and the UN Centre for Crime Prevention. National law enforcement was reorganized to deal with the problems of trafficking more efficiently. Border control was tightened and visas introduced for a number of counties. A shelter for the victims of trafficking was opened in Bucharest.¹³⁸

7. **In Federal Republic of Yugoslavia, one of the greatest problems is the porous border between Kosovo and Serbia**, which is to a large extent a consequence of the unclear future status of Kosovo. The internal border between Serbia and Montenegro is also a problem, since the Montenegrin government is very reluctant to cooperate with the federal authorities due to its pro-independence position.¹³⁹ The establishment of anti-drug smuggling agencies and strategies has been delayed also due to political infighting and the rivalry between various factions within the post-Milosevic government coalition. In June 2001, FRY signed and ratified the UN Convention against Trans-national Organized Crime, together with the two Palermo Protocols, and is now revising its legislation to comply with the international standards.

A temporary shelter for the victims of trafficking has been established and will operate until the permanent one is built. In April 2001, the OSCE mission in Belgrade organized a national round table on trafficking, which resulted in the

¹³⁵ U. S. Department of State. "2001 International Narcotics Control Strategy Report – Macedonia." *U.S. Department of State - Bureau for International Narcotics and Law Enforcement Affairs*. Washington, DC. March 2002. < <http://state.gov/g/inl/rls/nrcrpt/2001/rpt/8484pf.htm> > .

¹³⁶ U. S. Department of State. "Trafficking in Persons Report 2001." p. 57. Limanowska et al. "Trafficking in Human Beings in Southeastern Europe."

¹³⁷ U. S. Department of State. "2001 International Narcotics Control Strategy Report – Romania." *U.S. Department of State - Bureau for International Narcotics and Law Enforcement Affairs*. Washington, DC. March 2002. < <http://state.gov/g/inl/rls/nrcrpt/2001/rpt/8484pf.htm> > .

¹³⁸ Limanowska et al. "Trafficking in Human Beings in Southeastern Europe."

¹³⁹ U. S. Department of State. "2001 International Narcotics Control Strategy Report – Federal Republic of Yugoslavia." *U.S. Department of State - Bureau for International Narcotics and Law Enforcement Affairs*. Washington, DC. March 2002. < <http://state.gov/g/inl/rls/nrcrpt/2001/rpt/8484pf.htm> > . Limanowska et al. "Trafficking in Human Beings in Southeastern Europe."

appointment of a National Coordinator on Trafficking and of a Coordinator for the Stability Pact Task Force on Trafficking. In Montenegro, **a new anti-trafficking law is being prepared by the Inter-Agency Working Group on Legal Reform, established in March 2001. In September 2001**, a Special Task Force on Smuggling and Trafficking and a Special Task Force on Border Control were created. In Kosovo, the Regulation on the Prohibition of Trafficking in Persons in Kosovo was adopted in January 2001. In October, Trafficking and Prostitution Investigation Units were created within the UNMIK police force.¹⁴⁰

3. 2. INTERNATIONAL COOPERATION AGAINST THE TRANS-BORDER ORGANIZED CRIME

The most important development, following the recent political changes in most of the countries, is that now all the regional governments substantially cooperate with the international organizations in an effort to curb the smuggling and trafficking through the Balkans. **One of the most important developments was the deployment of the European Commission's customs assistance missions to Albania, Bosnia-Herzegovina, Croatia and Kosovo:**¹⁴¹

- As part of these missions, EU customs officers have worked together and assisted their local colleagues in an effort to improve the efficiency of regional customs administrations.
- In all the states where missions were employed, the revenue collection increased significantly.
- **In Bosnia-Herzegovina, the Customs and Fiscal Assistance Office (CAFAO)**, established in 1996, contributed to the development of customs and tax systems based on modern European standards. Bosnia-Herzegovina was gradually transformed into a single and unified customs territory, after both entities, in cooperation with CAFAO, drafted identical entity-level legislation and regulations. In 1999, CAFAO assisted the creation of Customs Enforcement Section in both parts of the country.
- **The Customs Assistance Mission in Albania (CAM-A)** was deployed in June 1997 on the request of the new Albanian government. The main goals included assistance to the Albanian customs service to restore control over the border crossings, regulate customs revenue collection, and help fight smuggling and corruption. In 1999, a sophisticated computerized tracking system, called Pre-Arrival Intelligence System, was developed and installed in Albania, intended to monitor carriers en route from the neighbouring states. Twenty-four anti-smuggling service teams have been recruited, trained and deployed, and customs legislation was revised to suit the international standards.
- **The Customs Assistance Mission in Kosovo (CAM-K)**, staffed by 10 international customs experts, is helping the 120 local customs officers from the region's customs service, established by UNMIK on 31 August 1999. Several taxation points were established along the Kosovo's administrative boundaries with Serbia and Montenegro and its international borders with Albania and Macedonia.

The Organization for Security and Cooperation in Europe (OSCE) is very active in the region, especially in the fight against trafficking of human beings:¹⁴²

¹⁴⁰ U. S. Department of State. "Trafficking in Persons Report 2001." p. 101.

¹⁴¹ The European Union. "Customs, Fight against Corruption and Organized Crime." *The EU's Relations with South Eastern Europe*. < http://europa.eu.int/comm/external_relations/see/actions/customs.pdf > .

¹⁴² Limanowska et al. "Trafficking in Human Beings in Southeastern Europe."