

Law Program

2008 Highlights

In 2008 the Law Program of the Center for the Study of Democracy continued focusing on current issues in the area of legal and institutional, as well as judicial reform in the country. The Law Program activity highlights included:

- Continuing research on the costs of crime with a view to improving penal policies and penalty execution systems in the European Union and the Member States, as well as reducing crime;
- Exploring the relevance and feasibility of adopting pan-European indicators of public confidence in the criminal justice system;
- Studying the legislation, policies, and measures adopted in EU Member States with regard to victims of crime;
- Providing expert assistance to build the capacity of the ombudsman institution at the national and local levels;
- Monitoring racism and xenophobia in the country, as well as the policies and measures for their prevention and counteraction;
- Building the capacity of civil society to implement monitoring in the field of justice and home affairs.

I. Criminal Justice and Crime Prevention

1. Assessing the Costs of Reducing and Preventing Crime

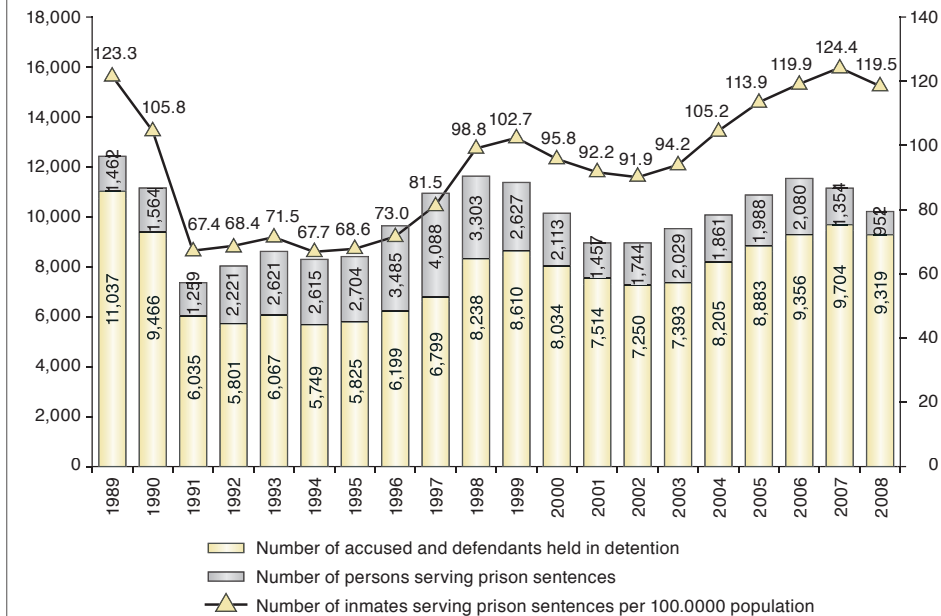
In 2008 the Law Program of the Center for the Study of Democracy **continued its work on the analysis and assessment of the costs of reducing and preventing crime.** This activity is part of an international initiative implemented in partnership with nine academic institutions and non-governmental organizations from Italy, Spain, Portugal, Germany, Latvia, Cyprus, Hungary, and Turkey. The main goal is to propose measures to reduce crime, based on an assessment of direct and indirect costs of crime, as well as

effective crime prevention and reduction strategies, including strategies against terrorism and drug-related crimes.

In the course of their work the experts of the Law Program conducted an in-depth analysis of the legal framework of penitentiary institutions in Bulgaria. The results of the study were summarized in the reports *The Penitentiary System in Bulgaria and Drug-Related Crimes and Drug Use in Prisons* presented at the first seminar on the topic held in November 2007 in Barcelona, Spain.

The study of the legal framework was followed up by an analysis of conditions in detention facilities in the context of international standards in this area.

Figure 1. Persons Serving Prison Sentences or Held in Preliminary Detention in Bulgarian Prisons (1989 – 2008)



The research findings and conclusions were outlined in a **report on the level of compliance of the Bulgarian penitentiary system with European and international standards** presented at the second project seminar held in late May 2008 in Ankara, Turkey. The report considered a number of issues, such as overcrowding in Bulgarian prisons, poor living conditions in detention facilities, problems related to the education, healthcare, and employment of inmates, etc. The analysis was based on current data provided by the Ministry of Justice and other state institutions engaged in the execution of prison sentences, while also taking into account the opinions and conclusions of various Bulgarian and international institutions and organizations conducting prison monitoring in this country.

The Law Program experts have also started preparing **an analysis of how**

the state of the penitentiary system is perceived by those working within it. This research involves a series of interviews and discussions with representatives of the prison administration and others working in this area (psychologists, doctors, teachers, etc.) and aims to explore the problems in Bulgarian prisons as perceived by the persons immediately involved in their operation. The initial draft of the questionnaire for the planned interviews and focus groups, together with the results of the pilot survey, were presented at the third seminar on the topic held in Bremen, Germany, in November 2008.

2. Indicators of Public Confidence in Justice

In March 2008 the Law Program started work on the project *Scientific Indicators of Confidence in Justice: Tools for Policy*



Dr. Maria Yordanova, Law Program Director (right) and Prof. Mike Hough from King's College London at the working meeting in Leuven

Assessment (JUSTIS). The aim of this project, carried out in partnership with universities and NGOs from Great Britain, Italy, France, Hungary, Lithuania, and Finland, is to **propose to the institutions of the EU and the Member States new indicators for the assessment of public confidence in justice** that can be used in policy development, implementation, and evaluation in the field of criminal justice.

In accordance with the workplan and in order to ensure the successful completion of project activities, a Steering Committee and a Management Board were established at the working meeting that took place in Leuven, Belgium, on March 17 and 18, 2008. An External Expert Group was set up to guarantee the quality of the results achieved.

The CSD Law Program **coordinates the activities related to the analysis of existing indicators of public confidence in justice**. The research has four tasks:

- Review of the importance of public confidence as a tool for policy assessment;
- Review of the key European and North American research on confidence in justice and fear of crime;
- Analysis of current indicators of public confidence – national efforts;
- Analysis of current indicators of public confidence – supra-national efforts

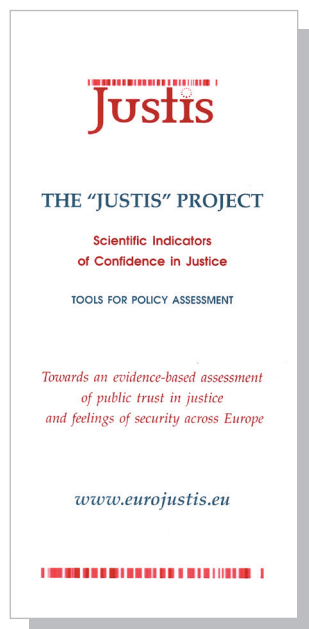
The Law Program developed a questionnaire to collect the information needed for the purposes of the analysis, with the help of which each of the project partners surveyed the situation in their own country. The purpose of the questionnaire was to gather information about the awareness, perceptions, and attitudes of key informants from the respective target groups (academics, criminal justice managers and officials from the government institutions concerned) in the partner countries

to the use, within the criminal justice system, of indicators of confidence in justice. Information was thus obtained about the perceived importance of public confidence as a policy assessment tool among the representatives of the institutions and organizations concerned, about the need for indicators to measure public confidence in criminal justice, and about the contribution of the existing indicators, where such are in use, to the development of national policies in the area of crime prevention and reduction.

The survey on Bulgaria was also conducted by Law Program experts, with the questionnaire sent out to representatives of the executive and the judiciary, academics, and experts with non-governmental organizations working in the area of judicial reform. Individual meetings were conducted with some of them in order to obtain as detailed and up-to-date information as possible. The survey results, along with the information obtained by the partner organizations, were summarized by the Law Program experts in several reports examining the importance of indicators of public confidence in justice, the existing indicators at the national and supra-national levels, opinions and views on the topic published in scholarly literature, etc.

Work on the project website (www.eurojustis.eu) was completed in April and it now provides additional information about the project activities carried out and the results achieved.

With the help of the Law Program experts, the official project brochure was translated into the Bulgarian language. Copies were disseminated among the concerned institutions and organizations in the country.



Why is the JUSTIS Project important?

Europe needs reliable and scientifically validated indicators of public trust in justice. There is a clear rationale for this. After a period of relative stability, EU Member States face rapid changes in their economies, population levels, migration and immigration. These changes are likely to have a clear impact, amongst other things, on European crime levels and social stability. Maintaining commitment to the rule of law will be a growing challenge in a changing and increasingly culturally diverse world. Member States have a growing need for social indicators to improve crime policy and its assessment. Common sense indicators based on readily available statistics – such as crime trends – have been used extensively. Much less attention has been paid to crucial but hard-to-measure indicators about public confidence in justice and about public levels of insecurity. Without such indicators, there is a risk

that crime policies may become over-focused on short-term objectives of crime control, at the expense of equally important longer-term objectives relating to trust in justice.

What are the goals of the JUSTIS Project?

The JUSTIS project aims to develop and pilot new survey-based indicators of public confidence in justice – a term used here to embrace issues relating to fairness, trust and insecurity. It will assemble contextual data for interpreting the indicators – on the assumption that there are close relationships between public perceptions of justice and the substantive quality of justice as reflected in the workings of the justice process. It will develop tools for presenting and interpreting the indicators in ways that are intuitive and accessible. The JUSTIS project will also aim to build some consensus across Member States about the importance of assessing crime policy against objective criteria of public confidence and trust.

At the second project meeting held in Helsinki, Finland in October 2008, the partner organizations reviewed the work accomplished and the problems and difficulties encountered under the four main research tasks coordinated by the CSD Law Program, while plans were drawn up for the remaining tasks.

3. Protection of Victims of Crime

Since June 2008 the CSD Law Program has started work on a study on EU Member States' legislation, national policies, practices and approaches concerning victims of crime. To this end, a team was formed composed of experts from the 27 EU Member States who were assigned the task of developing an analysis of the legislation and practices in the area of crime victim protection in their respective countries.

For the successful completion of the study, the Law Program's experts prepared detailed instructions in the form of a research questionnaire provided to the individual experts in the EU Member States. The questionnaire comprises 56 questions falling into 5 main groups:

- Fundamentals of domestic notions of victims of crime;
- Practical aspects of the legislation of the Member States concerning victims of crime;
- Information on financial programmes and mechanisms for victim assistance in the different Member States;
- State authorities responsible for the protection of victims' interests and their cooperation with non-governmental victim support organizations and relevant bodies from other Member States;
- Non-governmental organizations active in the field of victim support.

Meanwhile, the Law Program's team also developed and disseminated a questionnaire for state institutions and NGOs in the EU Member States concerned with assistance to crime victims.

The work done and the results achieved were presented at the experts' meeting on victims organized by the European Commission in Brussels on November 17, 2008.

4. Reinforcing Criminal Justice in Border Districts

Work on reinforcing criminal justice in border districts continued in 2008. After the publication in 2007 of the CSD report Reinforcing Criminal Justice in Border Districts the Law Program's experts continued to monitor the undertaking and implementation of measures fulfilling the recommendations set forth in the report.

Two main sets can be distinguished among the report's recommendations: first, legislative amendments proposed to the National Assembly and the institutions having legislative initiative; and second, organizational and technical measures referring to: the Supreme Judicial Council, the Supreme Prosecutor's Office of Cassation, the Ministry of Interior and the General Border Police Directorate, the Ministry of Finance and the Customs Agency, the National Institute of Justice, the Ministry of Justice, and the Council for Criminological Studies with the Ministry of Justice.

The recommendations were officially sent to all institutions concerned; these were subsequently asked for feedback on any steps taken or planned in connection with the implementation of the recommendations. The feedback received from the institutions (the Supreme Court of Cassation, the Customs Agency, the Ministry of Interior, the National Institute of Justice, the Committee on Legal Issues with the National Assembly, the Inspectorate with the Supreme Judicial Council, the Union of Judges in Bulgaria, the Supreme Prosecutor's Office of Cassation, judges, prosecutors, police and customs officers, as well as independent experts) indicated that there was agreement on the part of the authorities concerned on most of the recommendations, and that some initial steps towards their implementation had already been taken.



The results of the monitoring of the implementation of the proposals and recommendations were summarized and published in April 2008 in CSD Brief No 14, entitled "Criminal Justice and Law Enforcement along Bulgaria's Borders: the Impact of EU Accession". The publication contains an overview of the recommendations outlined in the report and of the response to those of the relevant state institutions, as well as extensive analysis of the specific measures undertaken in implementing each of the recommendations.

5. Monitoring in the Area of Justice and Home Affairs

Since the beginning of 2008 the Center for the Study of Democracy has undertaken a series of initiatives aimed at building the capacity of Bulgarian civic organizations to conduct monitoring in the area of justice and home affairs.

As part of this series of initiatives, a large number of non-governmental organizations working in the area of justice and home affairs were identified and an electronic database was created with information about their activity. For this purpose, the experts of the Law

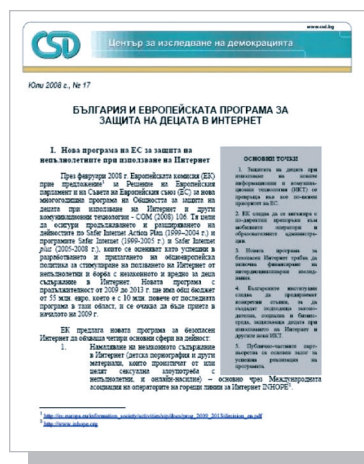


The participants invited included MPs, representatives of state institutions, NGOs, and experts actively engaged in this particular area.

Program developed a system of criteria for identifying the organizations working in this field, as well as an assessment form which was also used to identify them. The electronic database is dynamic in nature and is subject to regular updating and supplementing with new organizations. This has marked the beginning of the process of building up a network of civic organizations concerned with justice and home affairs issues.

On July 16, 2008, the Law Program conducted the **first of a series of workshops** with the participation of the organizations from the network. The event was organized jointly with the Public Consultations Council of the Bulgarian National Assembly's European Affairs Committee and was devoted to safer Internet use and the protection of children using the Internet.

The seminar participants were familiarized with the CSD's position on safer Internet use as published in CSD Brief No 17: Bulgaria and the Multiannual Community Programme on Protecting



Children Using the Internet. The publication outlines the achievements of the public-private partnerships in Bulgaria under the two previous EU programs on Internet safety, as well as the recommendations drawn up by experts from the CSD and the Applied Research and Communication Fund with regard to the position of the Republic of Bulgaria on the program proposed by the European Commission, and the

legislative and practical measures that the country could implement with a view to further reinforcing Internet safety and counteracting Internet crimes and violations.

Information on the efforts to build the capacity of civic organizations to conduct monitoring in the area of justice and home affairs was also posted on the special website dedicated to this topic and developed by the Law Program. The website entitled "Justice and Home Affairs" also features relevant news and documents related to European and national policies in the field of justice and home affairs, as well as educational materials and other information provided by the organizations from the network.



In November 2008 the Law Program also produced and disseminated the **first issue of the Justice and Home Affairs electronic newsletter series**. The newsletters are intended to keep network member organizations and state institutions up-to-date regarding the NGO activities in the field. They feature relevant news and documents related to European and national policies in the area of justice and home

affairs, as well as information about the current activities of the organizations participating in the network.

II. Good Governance and Human Rights Protection

In continuation of the CSD's longstanding efforts to establish and reinforce the ombudsman institution on the national and local level in Bulgaria, in late 2008 the Law Program commenced work on the analysis of the legal framework of local public mediators' activities and on recommendations for its improvement. The objective of the analysis is to facilitate the interaction between local public mediators and the Ombudsman of the Republic of Bulgaria. In the course of their research, the Law Program's experts reviewed existing legislative and regulatory acts concerned with local public mediators, met with acting local mediators, and studied the various approaches to regulating the activity of these institutions adopted in the municipalities which have elected their own local mediators. The study results are to be presented in early 2009.

III. Monitoring of Racism and Xenophobia and the Measures for their Prevention

In 2008, the Center for the Study of Democracy, as the National Focal Point for Bulgaria of the EU Fundamental Rights Agency, prepared and submitted to the Agency the **third consecutive national data collection report on racism and xenophobia** in the country and the measures for their prevention and counteraction, as well as three bulletins containing current information on various related issues.

The Law Program's experts studied the role of the non-governmental sector in

providing support to victims of racial and ethnic discrimination in Bulgaria. The study included an analysis of the measures taken by the government to empower NGOs providing assistance to victims of discrimination, as well as a detailed overview of the activity of these organizations.

The Law Program team also provided expert assistance to the Agency in developing the Bulgarian version of its questionnaire for the pilot victimization survey on the experience and attitudes of emigrants and other minorities regarding discrimination in the European Union.

IV. Cooperation with International and National Institutions and Organizations

In 2008 the Law Program continued expanding and intensifying its cooperation with international and national institutions and organizations. In

September 2008 **Dr. Maria Yordanova, Director of the Law Program**, was elected member of the Board of Advisors of one of the most influential international legal organizations – the **International Law Development Organization (IDLO)**. The Law Program continued its active participation on behalf of the Center for the Study of Democracy in the work of the Public Consultations Council with the European Affairs Committee of the National Assembly, the Public Council with the Minister of Justice, and the Civic Consultative Council with the Anticorruption Committee of the National Assembly. Since the autumn of 2008, Law Program representatives have also been sitting on the Civic Expert Council with the Professional Ethics and Prevention of Corruption Committee of the Supreme Judicial Council.

The Law Program's experts contributed towards **strengthening the existing cooperation and establishing partnerships** in the area of justice and home affairs with state institutions such as the



From left to right: Dr. Maria Yordanova, Director of the CSD Law Program, Mr. Georgi Pirinski, Speaker of the National Assembly, Ambassador Robert Gelbard, Senior Advisor on Foreign Policy to Democratic Presidential Candidate Senator Barack Obama and former Presidential Envoy to the Balkans

Ministry of Justice (opinion on a draft law on conflict of interest; participation in the work on the concept of a new law on regulatory acts, etc), the Inspectorate with the Supreme Judicial Council, The Supreme Prosecutor's Office of Cassation, the Supreme Administrative Court, etc.

As part of its longstanding successful cooperation with the Bulgarian Parliament, on October 15, 2008, CSD and the National Assembly organized an open discussion entitled "The

National Assembly – a Guarantee for a Responsible State".

Participants in the discussion included MPs, the Ombudsman of the Republic of Bulgaria, members of the Constitutional Court and the Supreme Judicial Council, academics, NGO representatives, and journalists. Among the topics under discussion were the role of civil society in a parliamentary republic, the role of parliament in maintaining the rule of law, etc.