

Law Program

In 2011, the Law Program's efforts were focused on four main topics: public confidence in justice; information technologies in the judiciary; penitentiary system reform; and monitoring of racism and xenophobia.

2011 Highlights

- **Public confidence in justice.** The Law Program published a policy brief and brochure on the use of indicators measuring public confidence in criminal justice as a policy assessment tool. The level of public trust in the police and the courts and the need of introducing public confidence indicators were discussed at a conference hosted by CSD.
- **Information technologies in the judiciary.** A compendium of best practices *E-Tools for Criminal Case Management within Selected EU Member States*, published by the Law Program as a multilingual CD, was presented at a series of training seminars for judges, prosecutors and police officers.
- **Penitentiary system reform.** A study *Penitentiary Policy and System in the Republic of Bulgaria*, was published, offering in-depth analysis of the conditions in Bulgarian prisons and the situation of inmates. During the public presentation of the book, its conclusions and recommendations received support from the Minister of Justice, the Ombudsman and senior judges and prosecutors.
- **Monitoring of racism and xenophobia.** CSD joined the Rights, Equality and Diversity (RED) Network – an independent research network composed of 17 research institutes and civil society organizations in EU Member States. The Law Program is responsible for monitoring racism and xenophobia in Bulgaria and for inputting relevant data into the RED Network early warning system and atlas.

I. Measuring public confidence in justice

For the last three years CSD has been actively involved in an international initiative aimed to promote the use of public confidence indicators as a tool for policy assessment in the field of criminal justice. The initiative, called Euro-Justis (www.eurojustis.eu), brought together universities and non-governmental organizations from seven EU Member

States in an effort to create standardized system of scientific survey indicators that can be used to measure confidence in criminal justice and to support the development of more inclusionary criminal justice policies designed to secure commitment to the rule of law and thus compliance with the law.

CSD coordinated the process of examining the need for such indicators and contributed to the development of the

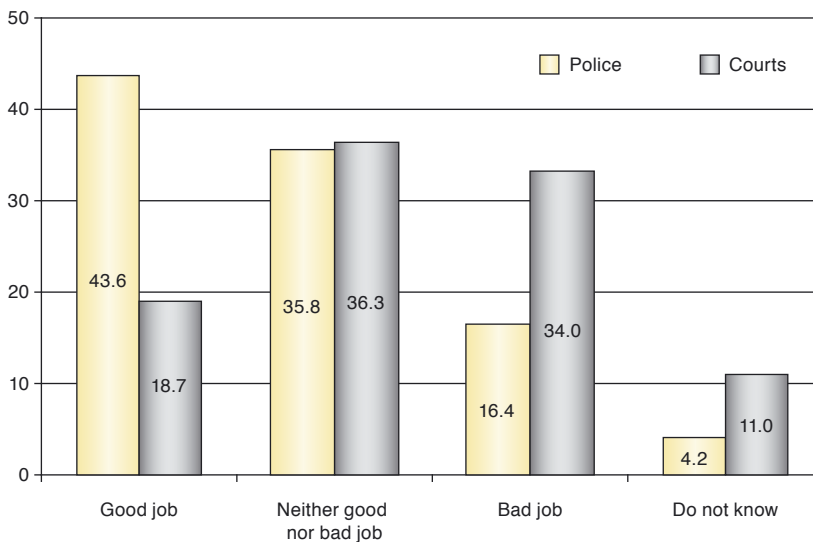
indicators, their practical trial through the 'cognitive interview' method, and the collection of country-level contextual data to appreciate nationally specific issues when interpreting the survey results. Since Bulgaria was chosen among the four countries to field and validate the developed indicators on national level, CSD implemented a national representative survey, which not only tested the indicators but also helped to produce the first of its kind comparative study of the public confidence in the criminal justice system.

The results of the cognitive interviews and the national pilot survey were summarized in two publications prepared in cooperation with sociologists from the Economic Program and Vitosha Research: a policy brief *Public Trust in the Criminal Justice System – an Instrument for Penal Policy Assessment* and a brochure

Crime and Punishment: Studying Justice System for Shaping Criminal Policy.

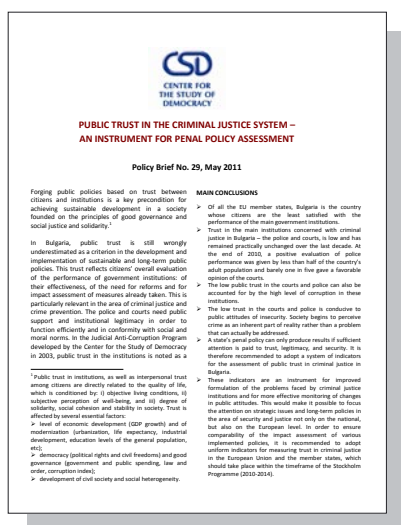
The policy brief *Public Trust in the Criminal Justice System – an Instrument for Penal Policy Assessment* (No 29 of the CSD Policy Brief series) summarizes the main findings of the research and examines the reasons for the low public trust in the police and the courts in Bulgaria. The analysis concludes that the public trust in the main institutions concerned with criminal justice – the police and courts, is low and has remained unchanged over the last decade. This situation can be accounted for by the high level of corruption in these institutions and is also conducive to public attitudes of insecurity. As long as the state's penal policy can produce results if sufficient attention is paid to trust, legitimacy, and security, it is recommended to adopt a system of indica-

Figure 1. Assessments of court/police performance in Bulgaria (%)



Source: EUROJUSTIS Pilot Survey

tors for the assessment of public trust in criminal justice.



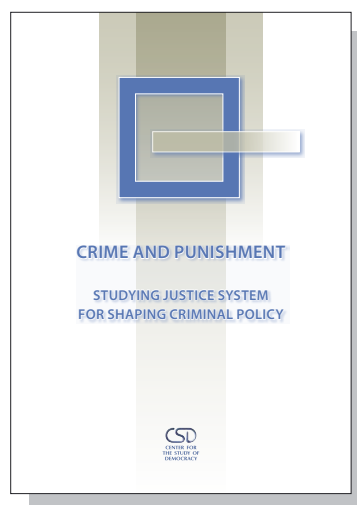
A more comprehensive and in-depth analysis of the cognitive interviews and the national pilot survey was included in the brochure *Crime and Punishment: Studying Justice System for Shaping Criminal Policy*. The first part of the book gives the conceptual framework of measuring public trust in the criminal justice system and explains the advantages of developing confidence-based penal policies, while the second part provides analysis of the public attitudes towards the criminal justice system (in particular the police and the courts) in Bulgaria. The book also offers an overview of the different surveys of public confidence implemented in Bulgaria so far and the methodology used to implement the pilot survey in Bulgaria.

The results of the work under the Euro-Justis initiative were officially presented at two high-level international events held in London, UK.

- At an academic conference (Foundling Museum, London, 12 May 2011), Euro-Justis partners and other pro-

minent experts discussed the findings of the pilot surveys and debated on penal populism.

- The third and final international Euro-Justis conference (Natural History Museum, London, 13 May 2011) presented the work carried out so far and other activities related to issues of trust in justice and legitimacy of the criminal justice system. Invitees to the conference were mainly policy-makers, practitioners, NGOs, think-tanks and researchers, including academic criminologists, and postgraduate students.



On national level the results were presented at a public discussion *Public Trust in the Criminal Justice System – an Instrument for Penal Policy Assessment*, organised by CSD on 11 May 2011. In her opening remarks the Law Program Director Dr. Maria Yordanova noted that the development and application of a system of indicators measuring the trust in the criminal justice responds to one of the priorities of the EU's Stockholm Programme for development in the area of security and justice for 2010 – 2014. She underlined the worrying trend that Bulgarians had the lowest levels of trust in both the state institutions and the



Dr. Maria Yordanova (left) and Dr. Todor Galev during their presentation at the discussion Public Trust in the Criminal Justice System – an Instrument for Penal Policy Assessment

system of criminal justice among all EU countries. Dr. Todor Galev, Senior Analyst at the Economic Program, presented the survey results and explained the main factors forming the public trust, noting that the extremely low rate of trust determines a situation of uncertainty and provokes fear of crime. Mr. Dimitar Markov, Senior Analyst at the Law Program, outlined several factors that affect negatively the public attitudes, namely, the lack of demonstration of cooperation among the institutions, the criticism which the criminal justice system receives by the country's European partners, and the failure of the judiciary and the police to deal with internal corruption.

II. Building capacity of the judiciary

The development of an effective, accountable and transparent judicial system has

been a priority of the Law Program for more than a decade. After publishing several studies and strategic policy documents on judicial reform, last year the efforts of the Law Program focused on building the case management capacity of judiciary through the introduction of information technologies and performance indicators. Building upon its extensive experience both in the field of legal regulation of information technologies and in the area of judicial reform, CSD joined efforts with Adam Mickiewicz University (Poznan, Poland), Droit au Droit Association (Brussels, Belgium), and the European Public Law Organization (an international organization based in Athens, Greece) to foster the transfer of best practices in the application of e-tools for case management.

The initiative, officially launched in the end of 2010, started with a comparative analysis of current practices of justice

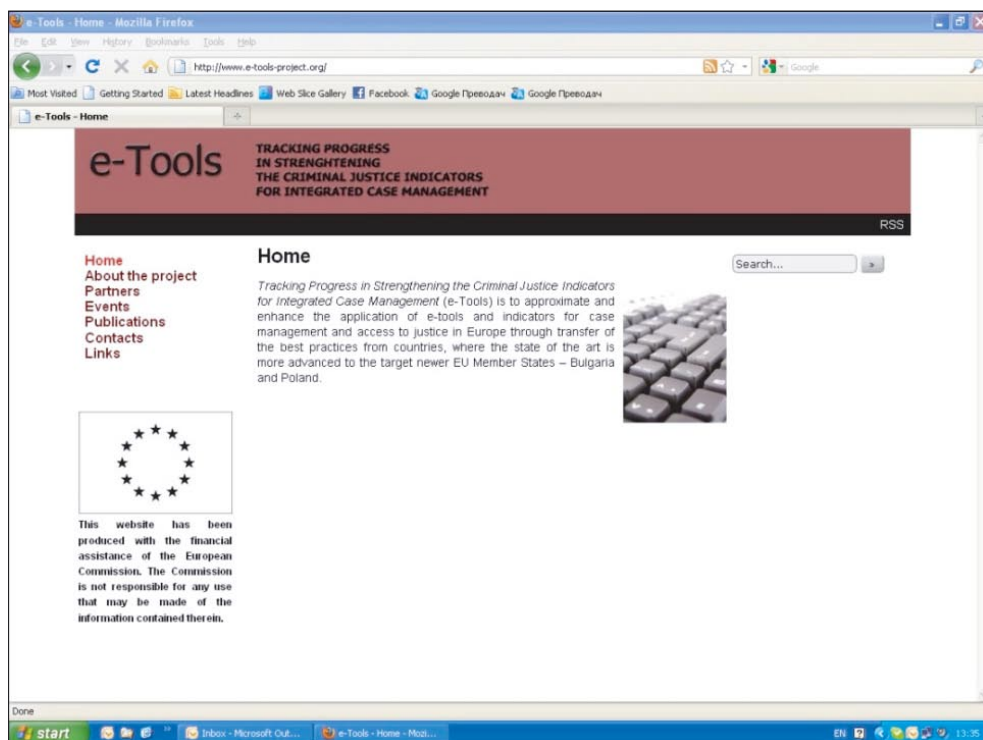
recordkeeping (paper and electronic) in selected European countries. The study included review of publicly available data, surveys and oral interviews with representatives of bar associations and managers from courts and prosecutor's offices, feedback from workshops and seminars, expert assessments, etc.

In the course of the work the partner organizations met in Poznan, Poland, to review the results achieved so far and discuss the upcoming activities and outputs. The meeting, held on 27 June and hosted by the Law Faculty of Adam Mickiewicz University, focused mainly on the progress of the research and the most effective strategies for the dissemination of results.

The results of the research were summarized in a compendium of best practices entitled *E-Tools for Criminal Case Management within Selected EU Member*



States. The collection, published as a multilingual CD, provides comparative analysis of current practice of justice recordkeeping and the electronic tools for measuring the performance of the judicial systems in several European countries (Finland, Belgium, Greece, Italy, Spain, England and Wales, and Germany) as well as an overview of the use of information and communica-



tion technologies in the judiciaries of Bulgaria and Poland.

To promote the advantages of the use of e-tools for efficient case management, the Law Program organised a targeted information campaign among the Bulgarian judicial and law enforcement authorities. Copies of the compendium were sent to a number of courts and public prosecutor's offices and other relevant institutions such as the Ministry of Justice, the Ministry of the Interior, and the Supreme Judicial Council. In addition, the Law Program organised three training seminars (one in Gotse Delchev on 17 November and two in Sofia on 25 and 30 November) bringing together judges, prosecutors and police officials to discuss the use of information technologies for case management.

To improve dissemination and ensure greater accessibility of the results, the Law Program developed a special thematic website (www.e-tools-project.org), which was officially launched in March 2011. The website offers information about the partner organizations, reports from meetings and public events, downloadable electronic versions of relevant publications and useful links to other resources on the topic.

III. Criminal law reform

Prevention of and fight against crime

The legal side of the prevention of and fight against crime is a traditional topic of the Law Program. After recently working on issues such as cybercrime, rights of crime victims, and criminal prosecution of drug-related crime, this year the Law Program focused its work on three other topics: organised crime, trafficking in children, and defendants' rights in criminal proceedings.

- In the area of organised crime the Law Program was involved in the work on the Bulgarian organised crime threat assessment (BOCTA), an initiative coordinated by the European Program. The Law Program's task was to do an analysis of the Bulgarian penal legislation, in particular the *Criminal Code* and the *Criminal Procedure Code*, and to identify weaknesses that affect the fight against organised crime and recommend solutions for their overcoming. The research methodology combined legal analysis of the existing legislative framework, literature review and interviews with representatives of all relevant institutions involved in the fight against organised crime. The results of the research were summarized in a report assessing the legal framework against organised crime in Bulgaria. The report, identified a number of weaknesses in the current legislation, including deviations from the internationally recognized standards and contradictory, unclear and inadequate provisions, which prevent the effective investigation and prosecution of cases of organised crime. The study recommended a number of concrete measures for legislative reforms aimed at improving the legal framework and creating a favorable legal environment for preventing and fighting organised crime.
- In the area of trafficking in children the Law Program team provided assistance to the Sociological Program by drafting a study on the legal and institutional framework for assisting and reintegrating trafficked children in Bulgaria. It provides an overview of the relevant laws and regulations, the applicable procedures for the provision of assistance to trafficked children, policy strategies and programs against

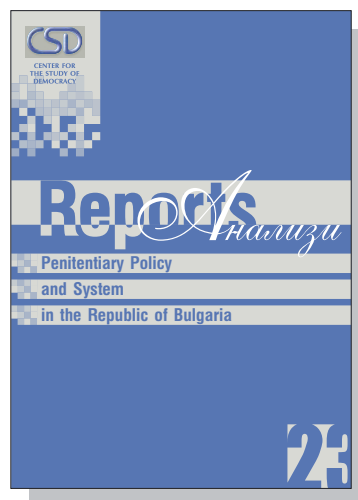
human trafficking, and governmental institutions and non-governmental organizations active in this field. The Law Program Research Fellow Ms. Miriana Ilcheva presented the report at an international workshop on child trafficking organised by CSD in Sofia on 12-13 December. The main findings and conclusions of the study will serve as the basis for developing a comparative study on the legal and institutional framework against trafficking in children in several EU Member States.

- In the area of defendants' rights the Law Program developed a country report on the right of defense in criminal proceedings in Bulgaria. It gives an overview of the Bulgarian judicial system and criminal procedure and explains in detail the roles and responsibilities of the public prosecutor, the defendant and the counsel for the defense in the course of the pre-trial proceedings and during the trial. The Law Program Director Dr. Maria Yordanova presented the main findings and conclusions of the research at the international conference *The Principle of Equality of Arms in the Context of the Pre-trial: the Defense Counsels Independent Investigations*, organised by the University of Salento and held in Lecce, Italy, on 20 June 2011. The report will be published in the law journal *Diritto Pubblico Comparato ed Europeo (DPCM)*.

Reform of the penitentiary system

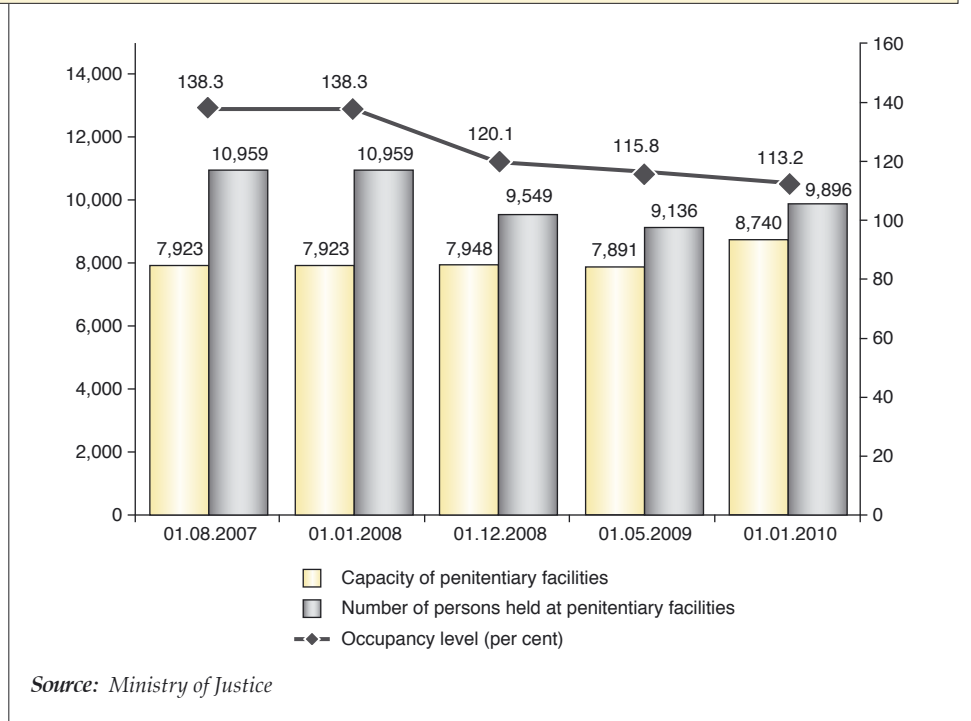
The Law Program continued to study the Bulgarian penitentiary system and the situation of inmates in Bulgarian prisons within the framework of a joint initiative of several research institutes from different European countries to assess the costs for crime repression and evaluate the role of prisons to prevent re-offending. The outcomes

of this initiative encouraged the Law Program to expand the scope of the research for Bulgaria and to produce a comprehensive study on the situation in Bulgarian prisons. The resulting report, entitled *Penitentiary Policy and System in the Republic of Bulgaria*, was published in April 2011. The book gives an overview of the Bulgarian penitentiary system and describes the existing problems in specific areas such as living conditions, employment, healthcare, social work, security and safety, etc. Special attention is paid to the situation of drug-addicted prisoners and the consumption of drugs in the prisons. The publication outlines several major problems of the prison system, including poor material conditions, overcrowded facilities, high level of unemployment, poor medical services, security deficiencies, shortage of financial and human resources, etc. All these problems affect the ability of the penitentiary system to effectively realizing its main purpose to re-educate offenders and prevent re-offending.



Examining the situation of drug users in prison the study concludes that the increasing share of inmates using drugs combined with the lack of adequate

Figure 2. Occupancy level of penitentiary facilities for the 2007 – 2010 period



medical treatment and post-release re-integration mechanisms makes drug consumption one of the most serious problems in the penitentiary system.

Based on the research results the report formulates a set of recommendations for policy, legislative and practical measures to improve the situation in Bulgarian prisons. To generate support for the implementation of these recommendations, the Law Program presented the study at a high-profile public discussion *Judicial Reform and the Execution of Penalties in the Republic of Bulgaria*, held in Sofia on 5 April. The event brought together officials from the Ministry of Justice, the Ombudsman of the Republic of Bulgaria, the Inspectorate with the Supreme Judicial Council, judges, pros-

ecutors and representatives of non-governmental organizations working in the field of execution of penalties to discuss the findings of the report and the suggested reform measures. The Minister of Justice Ms. Margarita Popova underlined that the penitentiary system is still not reformed and that the main conclusions and references from the report would become part of the future work of the Ministry of Justice. The Ombudsman Mr. Konstantin Penchev pointed out the necessity of independent monitoring over the Bulgarian penitentiary system done with the active participation of civil society organizations. The Chair of the Supreme Court of Cassation Professor Lazar Gruev underlined the importance of the publication for focusing the public



The Minister of Justice Ms. Margarita Popova (right) and the Law Program Director Dr. Maria Yordanova during the presentation of the report Penitentiary Policy and System in the Republic of Bulgaria

attention on the problems in the area of execution of penalties.

With its developed extensive expertise in the field of penitentiary system reforms, in 2011 the Law Program joined an international initiative aimed to reduce the phenomenon of radicalization in prisons by improving the dialogue with and between inmates with different religious background. Members of the Law Program team took part in three international workshops on religious radicalization in prisons (Istanbul, Turkey, 12.2.2011; Tirana, Albania, 8-10.7.2011; and Belgrade, Serbia, 21-21.11.2011) and contributed to the research by collecting and summarizing information about the legal framework of prisons in Bulgaria, the legal status of minorities, the ethnic and religious composition of the population, the major religions represented in the country, the profile of the prison

population, and the situation of imprisoned members of ethnic and religious minorities.

IV. Monitoring racism and xenophobia

Following up on its five-year experience in operating the Bulgarian National Focal Point of the EU Fundamental Rights Agency's Racism and Xenophobia Network (RAXEN), in 2011 CSD joined another anti-discrimination network called the Rights, Equality and Diversity (RED) Network. The RED Network is an independent research network composed of 17 research institutes and civil society organizations in EU Member States. It aims at critically recording and fighting stereotypes, which are the causes of racist and discriminatory attitudes, speech, actions and violent incidents.

The RED Network was officially launched at an international meeting on 9-10 May in Athens, Greece. During the meeting, where CSD was represented by Ms. Maria Doichinova, Program Assistant at the Law Program, the participants discussed the future work of the network, in particular the criteria for selecting which incidents to report, the appropriate ways of presenting the information and the most effective strategies to reach the relevant target groups.

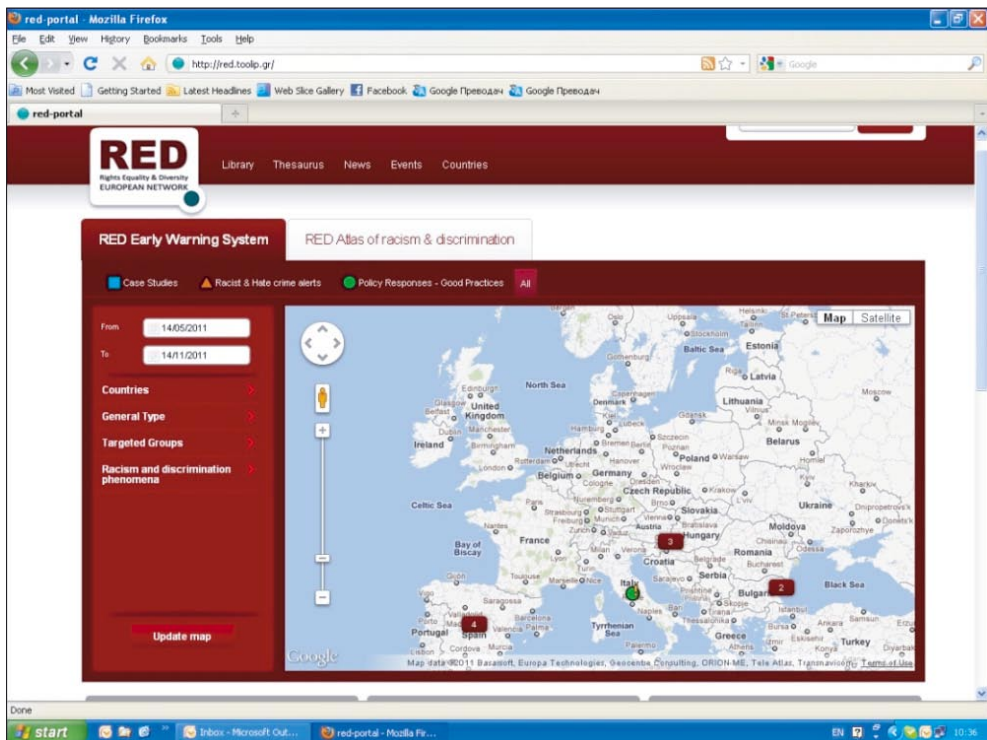
The RED Network's main outputs are the web portal and early-warning system (map-based and providing straight forward information to expert and other users) and the RED Atlas of racism and discrimination in EU.

The Law Program team is responsible for monitoring the situation in Bulgaria and inputting relevant data into the early warning system and the atlas. By the end of the year the several major incidents were reported and a couple of reports were uploaded in the web portal's library.

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In 2011, the Law Program continued to expand its international network of partners by searching for new counterparts and further developing the established partnerships.

In January and February the Law Program Senior Analyst Mr. Dimitar



The interface of the RED Early Warning System and the RED Atlas of racism & discrimination

Markov participated in a study visit to the United States where he met with representatives of governmental institutions working in the area of transparency and accountability, including US Department of Treasury, US Department of Justice, Government Accountability Office, Office of Government Ethics, Federal Election Commission, etc. During the visit useful contacts were established with US non-governmental organizations active in the field of good governance and anti-corruption such as Public Citizen's Congress Watch, Government Accountability Project, Citizens for Responsibility and Ethics in Washington (CREW), Center for Public Integrity, Transparency International USA, Citizens Against Government Waste (CAGW), etc.

On 16 June 2011, CSD joined the United Nations Convention against Corruption (UNCAC) Coalition – an international network of civil society organizations in over 100 countries, committed to promoting the ratification, implementation and monitoring of the UN Convention

against Corruption (UNCAC). The Coalition acts to facilitate the exchange of information among members and to support national civil society efforts to promote the UNCAC. With the adoption of an UNCAC review mechanism that started operation in July 2010, the Coalition works towards securing an effective, transparent and participatory monitoring mechanism for the Convention.

The Law Program Director Dr. Maria Yordanova represented CSD at the international training event on strengthening civil society capacity on the UNCAC and its review mechanism, organised by the United Nations Office on Drugs and Crime (UNODC) and the UNCAC Coalition on 2-4 February 2011 in Laxenburg, Austria. As a follow up, on 23 March the Law Program held a national training seminar to acquaint Bulgarian civil society organizations with the review methodology, the self-assessment and expert assessment opportunities, and the OMNIBUS software used for conducting the review.