

CENTER FOR THE STUDY OF DEMOCRACY

The Economy of Crime

Discussion Topics

November, 2002
Sofia

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The flourishing of the economic crime in Bulgaria during the years of transition is a consequence of a number of national and international factors. Among the latter are international terrorism, the expansion of cross-border organized crime, new dimensions of the international corruption in the context of the globalization of the economy, the destabilizing processes in the Western Balkans and the imposition of embargo regimes, the appearance of regional contraband channels and others. The national factors are the crisis of the reforming judicial system and the destabilization of the law-enforcement agencies, which created an unfavorable legal and institutional environment for the developing business sector and made the differentiation between the public and the private sphere problematic.

The following factors characterize the process of criminalization of the economy:

- creation of favorable conditions for systemic corruption during the process of divestiture;
- regulatory vacuum in a number of economic areas;
- shortage of investment capital and legitimate business structures which should become the main participants in the privatization;
- toleration of a large gray economy and the use of liberalization of the import-export mechanisms for large scale contraband operations;
- bureaucratic and legal obstacles facing the national entrepreneurs and the foreign investors in a number of countries from Eastern Europe.

In the years of transition in Bulgaria, a number of criminal schemes appeared marked by features typical for transition societies, but also by a certain Bulgarian specific in the development of the economy of crime:

The appearance of organized contraband channels

They were created by organized crime, supported by corrupt civil servants and politicians, during the first half of the nineties in violation of the embargo against the ex-Yugoslavia. The revenues from the illegal trade with petrol, cigarettes, sugar, and other commodities contributed to the

illegal accumulation of capital and for the creation of a regional criminal infrastructure with the participation of Bulgarian criminal groups. The contraband channels across Bulgaria continue to function and according to the experts of *Coalition 2000* generate around 1 billion USD of “dirty money” annually.

Large scale financial fraud

The draining of banks and the so called “financial pyramids” in the middle of the nineties became among the most serious financial crimes involving corruption. Through this mechanism the savings of thousands of Bulgarians were misappropriated without any consequences for the so called “credit millionaires.”

Corrupt privatization

The unequal position of the participants in the process privatization, predominant use of non-transparent methods of privatization and the absence of post-privatization control enabled organized crime groups to take possession of an enormous state property at very low prices. A typical example at the end of the nineties were the sell-offs of state assets to manager-employee companies, as well as the method of negotiations with potential buyers, which facilitated corruption agreements and distribution of bribes at the different bureaucratic levels, engaged in the deal. As a result of such privatization, the economy suffered significant losses.

The “parasite” economy

This is another typical for Bulgaria corruption scheme, where the profit-making activities of the state enterprises (the supply of raw materials and machines, sale of the finished product, etc) are captured by private companies, while the liabilities remain at the expense of the state budget. In practice this means draining of the budget in “private hands” in violation of the existing legislation. Usually the “parasite” economy leads to a complete ruining of the state enterprise, forced bankruptcies and consequently to privatization of those enterprises at a minimal price.

Corrupt financing of political parties and election campaigns (anonymous donations in exchange for immunity)

The long absence of modern legislation regulating the financial resources of the parties and the continued existence in the new law of the possibility for anonymous donations to the parties and their election campaigns, created and continue to facilitate the way of “dirty money” into politics and the ensuing “untouchability” of organized crime and the grey economy. Such collaboration destroys the trust in the democratic institutions and creates a vicious model of symbiosis between politics and business, which is reproduced at the various social levels.

Along with those transition-type criminal schemes more traditional corruption mechanisms should be added – such as the abuse of licensing and permits, violations related to public procurement, the corrupt practices in management of state property, bribery in the provision of public services and others.

From the second half of the nineties, **organized crime has undertaken the following steps towards its integration into the Bulgarian business and politics:**

- through privatization, control of imports and exports, racketeering, establishing monopolies in a number of the most profitable economic sectors, etc.
- redistribution of the profit from economic activity (import and export of raw materials and commodities, wholesale of agricultural and industrial production, financial institutions, tourism, etc.).
- control over the “black economy” (revenues from petty crime, car theft, drug trafficking and drug distribution, prostitution, human trafficking, counterfeiting of money and securities, etc.).
- venturing into new methods for financial crime (cyber crime, credit card fraud, etc.)
- creation of durable corruption networks through redistribution of “dirty money” among the lobbies of the organized crime in government structures.

Those methods sketch the outline the economy of crime as a **quasi-economic system, which combines legal with illegal and criminal methods and forms of business, and which is to a great extent protected from law enforcement.**

The new economy of crime in Bulgaria comprises the gray sector, the contraband of commodities, drug trafficking, trafficking of people and weapons, as well as the related corruption. It spans all the “shades of gray” - the complete cycle of illegal and criminal financial-economic transactions – starting with the grey and black import (contraband), through corrupt mechanisms for redistribution of the dirty money, gray commerce and the economic activity, to the money laundering and the reintegration of capital in the legal economy.

The threats posed by this quasi-economic activity is increased because of the fact that the society and the state in one way or another tolerate the economy of crime as it is deemed different from “traditional” criminal activity. State institutions and law enforcement continue to show certain tolerance to the big players in the shadow and the criminal business. A number of laws are not enforced making it necessary to introduce new regulations although their effectiveness remains questionable as well.

The inefficiency the judicial system has an especially destructive effect on the efforts for counteracting the economy of crime, which is only partly due to imperfect legislation. In practice, not only that organized crime remains unpunished, but the judiciary is used to eliminate competitors through corruption.

The absence of adequate measures against the economy of crime has a number of **negative impacts:**

- Deepening of the socio-economic problems of the transition by the draining of public resources.
- Undermining the transition to a market economy by destroying fair competition, the potential for free private initiative and consequently pushing honest businesses players out the market.

- Participation in international corruption and criminal networks through which the country was “integrated” in the regional criminal infrastructure, emerged under the impact of the events in the Western Balkans.
- Creation of a negative image of the country among foreign business and political partners, which creates obstacles for the integration of the country in the European Union and NATO.
- State capture with the resulting risk for the stability of democratic institutions.
- The impact of dirty money in politics is especially negative through the financing of political parties and of election campaigns. In this way, covert schemes of financial dependence are set up, which restrict the autonomy of the political sphere on the one hand and create prerequisites for amplifying the impact of the organized crime on the other hand.

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The boom of the activities of the Bulgarian organized crime, conducted in close cooperation with corrupt politicians and state employees has been closely monitored by civil society and the state institutions for more than a decade. Yet, **the economic crime and the measures for curbing it still have to be reconsidered.**

The current approach to economic crime is outdated because of the following:

- Criminality is considered as a problem which is separate from the other problems of transition;
- An adequate doctrine for making economic crime a priority issue in the framework of the newly defined national security is absent;
- Institutional coordination in curbing the trans-border crime is inadequate;

- Focusing on the technique of crime rather than assessing its impact and its place in the system of illegal and criminal transactions;
- The economic cost of crime is not evaluated (nor are the inefficient efforts of law enforcement and judiciary against it);
- Corruption is dealt with separately as not linked with organized crime and the economic crimes;
- Lack of systematic threat assessment which would prioritize various risks;
- Regulating against new types of crime is lagging behind its occurrence which impedes the law enforcement and the judiciary to countering it efficiently.

The **trans-border crime** has been particularly underestimated. The revenues from illegal import-export operations are the most important source of income for the organized crime and the corrupt state employees. This sector of economic crime, in addition to the trafficking in drugs, people and arms, also represents the most substantial link between the Bulgarian criminal groups and their partners abroad.

Such criminal integration not only has extremely dangerous socio-economic consequences, but is also a problem of **national security** due to the fact that the **contraband and trafficking channels create corruption chains**, which provide for the unimpeded transfer of illegal goods. Therefore, they can be used for the most dangerous forms of trafficking and could also be used to “export” terrorism. It has been proved that the terrorist and extremist groups often use the drug trade to finance their operations.

The challenges posed by the economic crime and the terrorism, which do not recognize state borders, prove the inadequacy of the traditional separation of external and internal or international and national security. In the beginning of 21st century, we can no longer ignore the obvious fact that in a state like Bulgaria the “national security” is not threatened by an outside enemy (with the exception of the potential threat from terrorist groups). At the same time, the security of the citizens is constantly

jeopardized by the activity of organized and unorganized criminals, and the economic rights and interests of the individuals become victims of the secret operations for redistribution of public wealth.

In other words, the state institutions, the civil society and the international mechanisms for cooperation have to rethink the new threats and the necessary answers starting with the search for new definitions for identifying these phenomena. The example of the term “national security” is indicative because it reflects to a great extent the ideas of the total state control of the social life and of interstate and cold war confrontation. In the same time it is necessary to introduce new notions, reflecting the new configuration of security such as “security sector”, “security forces” etc. This is not an issue of terminology nuances, but of considering the challenges and searching for answers in the sphere of security.

Redefining the national security should be based not only on the **specialized state institutions’** point of view, but also on the interests of **the civil society** and on the priorities of the **international community** in its efforts to counteract trans-border crime and terrorism. This is one of the arguments in favor of a closer cooperation between the institutions and the society and towards the integration of the expert community in countering the crime and corruption.

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The fight against economic crime should become a priority in the future activities of the state and the civil society. This abstract slogan should turn into real, concrete and efficient measures for preventing the organized crime from participation in the legal economy.

In addition, a system of measures aimed at preventing and sanctioning corrupt practices in a combination with bonuses for the honest state employees should be created. Further toleration of corrupt officials, particularly in the law-enforcement institutions, would negate the efforts of the administration. In this sense, anti-corruption always starts with “cleaning up one’s own act”. The toughening of sanctions against bribery, which have been recently undertaken are necessary but insufficient step towards increasing the risk for such practices. The adoption and the efficient implementation of a law on asset forfeiture, suggested by the

Ministry of Interior, would demonstrate the willingness of the authorities to counter economic crime. A positive signal is that 90% of the Bulgarians support the adoption of such law.

Being effective against the new challenges to the security and reforms in the country is preconditioned by the departure from the traditional state-oriented thinking. **A new type of public-private partnership is also necessary to secure public support for the measures against organized crime and corruption.**

In addition, law enforcement agencies responsible for border controls - which are considered the “first line of defense” in a number of democratic countries and which contribute importantly to curbing the contraband and trafficking - are in fact excluded from the scope of national security. Similar anomalies slow down the creation of the necessary cohesion in countering organized crime.

Another institutional problem is the present fragmentation of specialized law enforcement services. The political debate about their future status and functions should focus on making them part of a renewed concept of the national security, with a stress on counteracting organized criminal groups, trans-border crime and particularly terrorism, in addition to the traditional threats.

The success of the fight against the economy of crime requires the following measures:

- Improving the legal environment for business, which would guarantee equality of all actors; ensuring free competition as a leading principle of the market economy; and increasing the risks for non-market instruments in business, corruption in particular. A very important priority in this direction is the improvement of the legislation, specifically commercial law, including insolvency, as well as the tax, customs, bank and financial legislation.
- Adoption and implementation of a law on asset forfeiture.
- Undertaking political and regulatory reforms aimed at guaranteeing the independence of government from influence and transparency in

the financing of political parties. A new law on lobbying is necessary.

- Extending the powers and increasing the efficiency of the work of the Financial Intelligence Bureau, the Customs Agency, the tax authorities, the National Audit Office and the other control agencies in their fight against corruption and criminality. A particular attention has to be paid to the creation of a system for comparing the import data and the collection of customs duties, which would restrict the size of the contraband and the different customs violations.
- A reform in the security sector overcoming inadequate inter-agency cooperation coordination by improving the information sharing. This reform is necessary with respect to the new global threats such as the terrorism, human trafficking, and trafficking of drugs and arms.
- Broadening the partnership between the state and the civil society in countering corruption, in particular with the law-enforcement institutions, and implementation of a civil monitoring of the fight against organized crime and of the measures against the new economic crime in particular. Independent control to restrict the abuse with EU funds would be also very important.
- A more efficient and focused international cooperation in countering new economic crime. Bulgaria has to exert more efforts to accelerate the regional cooperation to counteract trans-border crime. In order to achieve this, additional personnel as well as financial and technical resources should be provided.