

CORRUPTION AND ILLEGAL TRAFFICKING: MONITORING AND PREVENTION

**Assessment Methodologies
and Models of Counteracting
Transborder Crime**

Second, revised and amended edition

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INTRODUCTION

The present analytical report is the outcome of the efforts of non-governmental organizations and state institutions, as well as independent experts and journalists within the framework of the *Coalition 2000* process. Launched in 1997, this initiative strives to help restrict and curb corrupt practices in our society. *Coalition 2000* forms an intrinsic part of the efforts to further the institutional and legal reforms in Bulgaria and to foster democratic civic culture in the context of Bulgaria's accession to the European Union.

The *Coalition 2000* process includes regular monitoring of public perceptions and attitudes to corruption. The results of the monitoring indicate that transborder crime and the associated corruption of public officials are serious public concerns in this country. According to Bulgarian public opinion, corruption in customs is the most alarming example of this type of unlawful practice in the public sector and in public life. The threat posed by this type of crime finds further confirmation in expert estimates that a large portion of the shadow economy in this country is connected to the smuggling of goods and the proceeds from such unlawful activities.

The great public threat posed by the interlacing of the interests of transborder crime perpetrators and corrupt public officials created the need to analyze the phenomenon and to identify adequate monitoring and counteraction measures. The significance of this problem was also highlighted in the *Coalition 2000 Annual Corruption Assessment Report*, 1999, which referred to the "thriving flagrant trade in consumer goods which have been illegally imported" (p. 19).

This publication summarizes the findings of the research and discussions of a special expert group with the **Center for the Study of Democracy**, acting as a Secretariat for *Coalition 2000*. The advanced opinions and suggestions represent the positions of the authors, including **Dr. Vesselin Minchev, Economic Institute of the Bulgarian Academy of Science; Mr. Georgi Boyadzhiev, Head of Department at the Special Investigation Service; Mr. Ivailo Angelov, Consultant; Mr. Yovo Nikolov, Special Correspondent, Kapital weekly; Mr. Krassimir Dobrev, Editor, Sega weekly; Dr. Petkan Iliev, Associate Professor, University of National and World Economy, Sofia; Dr. Tihomir Bezlov and Dr. Emil Tzenkov, Senior Research Fellow at the Center for the Study of Democracy**. The report examines the processes underlying illegal trafficking and the related corruption in Bulgaria, identifies their typical manifestations and the practical assessment, prevention, and control strategies and methodologies. The emphasis is on the combined impact of trafficking and corruption in the context of the current criminological situation in the country and the increasing transborder nature of crime. The problem has been deliberately set in a national context, seemingly isolated from global crime.

This publication is part of the efforts of *Coalition 2000* experts to help curb corrupt practices, which implies intercepting the smuggling channels and thus severing the links between transborder crime and the shadow economy.

Statistical data provided by the Customs Agency have been used in this second updated edition of the paper. A number of recommendations by Agency experts have also been taken into account.

1. CORRUPTION AND ILLEGAL TRAFFICKING IN BULGARIA

1.1. DEFINITION AND GENERAL CHARACTERISTICS OF ILLEGAL TRAFFICKING

The present study is primarily concerned with instances of illegal trafficking that take place with the knowledge and assistance of public officials whose prerogatives include the prevention of smuggling, i.e. it emphasizes on the combination of smuggling and corrupt practices, and the intertwined interests of traffickers and corrupt public officials. Such a focus is warranted by the threat posed by a criminal alliance of this kind, as well as by the fact that "smuggling channels" in Bulgaria generally function on the basis of this principle.

"Corruption" is as used most frequently a synonym of bribery, but implies a broader meaning than the strict legal definition of bribery [1]. In this particular case bribery is not necessarily of an international character but is part of cross-border crime insofar as it is associated with the effected illegal trafficking [2]. It is important to note that the corrupt practices of public officials are typically accompanied by other crimes serving to facilitate and cover up the illegal trafficking.

The term "illegal trafficking" denotes any import or export of goods in violation of local legislation. It is perpetrated in order to avoid payment of customs duties, taxes, and fees and to gain financial and business benefits while circumventing customs, tax, police and other forms of control, as well as the procedures required by registration, licensing, and permit regimes, various import and export limitations, etc. Smuggling also involves goods subject to import or export bans.

The term "contraband" originates from the Italian "contra-bando" where "contra" stands for "against" and "bando" for "government decree". It denotes the illegal transport across state borders of goods, valuables, and other items, i.e. their transport violates the provisions of customs legislation. In English this practice is typically referred to by the terms "smuggling" and "illegal trafficking". The latter, however, is of broader scope, since it also includes the illegal trafficking in people.

Smuggling is inevitably an illegal activity and, in view of the specifics of the activity, it is of transborder character, violating the legislation of more than one country. Naturally, in the presence of law enforcement authorities - border police, customs authorities, road inspection, etc. - such activities have to proceed covertly. This means that the perpetrators strive, as far as possible, to cover up the criminal nature of their activity using the legal forms of export/import. This also applies to criminal activities taking place with the knowledge and/or assistance of public officials.

Illegal trafficking is carried out by means of various illegal forms, methods, and stratagems. It is punishable under the criminal laws of all countries and the various legislations provide for either criminal or administrative liability. In Bulgaria the various forms of criminal acts involved in smuggling are defined in Article 242 of the Criminal Code. Customs fraud is regulated in Article 234 of the Law on Customs. Part of the schemes resorted to in smuggling are also used in customs fraud. In legal terms smuggling is treated as a crime and an administrative violation subject to criminal or administrative liability as provided for by the Criminal Code

and the Law on Customs, respectively (State Gazette, 15, 1998).* [3]

As regards the term "smuggling channel", it is largely provisional and designates an organization created for smuggling of goods and valuables for an extended period of time for the purpose of avoiding customs control and payment of customs duties and other government fees and taxes. The development and functioning of smuggling channels typically involves the intertwining of the networks for illegal import, export, and transit of goods, and the corruption networks. This is where law enforcement authorities come under great pressure. With transit smuggling channels goods are being transported across the state leaving its territory. Certain persons, including states officials, are often paid for the transit of the goods across the country. The transit of the goods intended for smuggling into third countries takes place either openly or covertly, with the actual itinerary not always coinciding with the initially declared final destination of the goods.

Smugglers create well-functioning systems for collection, processing and analysis of information; they employ the services of marketing research companies, lawyers from reputable legal offices, specialists from leading consulting companies. They have at their disposal sophisticated systems and means of communication and state-of-the-art technology. Their activity has excellent technical support and the numerous existing international connections are difficult to intercept. They have their own means of transport, real estate, and storage facilities. The extensive resources and facilities allow them to elude the control of government authorities. In order to instill fear and secure the obedience of their respective partners in crime, traffickers use armed groups who take violent punitive action against offenders. They are frequently recruited from the ranks of crime. Traffickers enlist the cooperation of former and present officials from business companies, as well as public officials - tax officials, customs officers, police and special agents, etc.

Corruption and illegal trafficking are intrinsically connected. When something is to be transported out of, or into, the country in order to avoid payment of customs duties and other government fees and taxes, it very often requires the assistance of border and other officials from various government agencies - passport control, immigration, customs, etc. Corruption is particularly common in the case of trafficking in goods. It is hard to believe, for instance, that a truckload of goods can pass unnoticed through border control or that some vehicle loaded with goods, but otherwise declared empty, can freely cross the border.

Trafficking-related corruption is found at every level of public administration. The claims that corruption only implicates the rank and file of administration while top management levels are supposedly "immune" against it are incorrect. The series of disclosures concerning corruption and personal gains on the part of senior public officials, the striking rise in their standard of living, and the information about funds and property they have acquired in this country and abroad all suggest that corruption exists even in the higher ranks of public officials.

Illegal trafficking is characterized by many of the elements of organized crime. Observations on the planning, preparation and execution of such crimes, the sale of illegally imported goods in the country, the pooling of revenues from criminal activity, the corrupting of officials and the high degree of conspiracy in these acts suggest the existence of established criminal structures in the country engaged in illegal trafficking. These structures have clearly differentiated hierarchical levels, with relations of subordination and authority being controlled through

* Further in the text, smuggling will be used in its popular meaning of illegal transit across borders of goods as well as corresponding fraud.

effective sanctions/punitive action.

The quest for fast and easy profit, the distribution and conquest of new territories and market shares, the rise in trans-border trade, the trend and the policies to reduce existing barriers in international trade, and the wish to avoid artificially created limitations of political or economic nature constitute major reasons for the trafficking in goods. In addition to avoiding payment of customs duties and other government fees and taxes, trafficking is also associated with evasion of limitations or bans on the import and export of certain goods, and taking advantage of the great price differences between goods produced in different countries. It involves violations of administrative and criminal law provisions, serious crimes, and the use of false and forged documents.

The illegal trafficking of goods has inflicted considerable damage to this country's economy. It is often accompanied by trafficking in banned or controlled substances and items; criminal acts; competition between the organized smuggling groups, and between traffickers and lawful importers. Moreover, in order to stay in the market, lawful importers are forced to resort to violations of the established foreign-trade regulations.

Illegal trafficking has a destructive effect not only on economy, but also on institutions and law and order in a given country. The huge resources accumulated in this manner allow engaging in covert financing and refinancing of various types of legal and illegal undertakings. This is largely due to the fact that the revenues from illegal trafficking are not included in official government statistics; they are never declared and thus are never registered with the relevant authorities. They can readily be spent for any purpose or activity. Practice shows that too often proceeds from illegal trafficking serve to finance political parties, trade unions and other organizations. Illegal import adversely affects domestic production and harms sectors of strategic importance to the country. Illegal trafficking in its various forms is in fact one of the means companies employ to enter a given market. It is also used to monopolize certain economic sectors - for instance the trade in alcohol, cigarettes, grain, sugar, video and audio equipment.

The goods most frequently subject to illicit trafficking are those with high import tax rates (cigarettes, alcohol, motor vehicles), goods subject to national bans and restrictions such as arms, narcotic substances and precursors, pornographic materials, subsidized goods, protected animal species and plants, goods and technologies of civil and military use, works of art and objects of cultural and historical value, strategic raw materials, forged goods and products violating intellectual property rights, goods subject to international control, nuclear and radioactive materials, hazardous and toxic substances and wastes, hi-tech products, etc.

Illegal trafficking can be carried out at any time and anywhere along the border, with the actual places of occurrence falling in two main zones - points where customs control is executed (ports, airports, border checkpoints, free trade zones, and others) and points outside customs control - a remote location along the coastline, a minor port or airport [4].

Illegal trafficking is of an international character, involving violation of customs regulations with the transfer or transportation of goods from one country to another across their borders. Depending on the nature of smuggled goods, as well as on the initial and the end buyer (destination), citizens of different states are engaged as perpetrators. In a number of cases the citizenship of the person used for the illegal trafficking is of great significance insofar as there are visa restrictions on the movement of persons and goods in certain regions of the world - for

instance, the Schengen Agreement. Illegal trafficking with a final destination in a Schengen country usually involves nationals of these countries, or persons frequently traveling to these countries. This is one of the reasons for the limited involvement of Bulgarian citizens in the illegal export and transfer of goods for the countries signatories to the Schengen Agreement. This conclusion is particularly relevant as regards transit illegal trafficking in narcotic substances, nuclear and radioactive materials, motor vehicles, goods of civil and military use, etc.

There is an obvious correlation between a democratic system, good governance, no or limited corruption in public administration, on one hand, and low levels of illegal trafficking, on the other. Conversely, the more corrupt and/or ineffective the law-enforcement and other control authorities, are the greater the risk of illegal trafficking. In other words, the corruption of public officials is a fundamental precondition for the perpetration of a large part of smuggling operations.

A key factor for increasing or reducing illegal trafficking is the adequacy of customs control in the detection, detainment, and seizure of illegally imported or exported goods. The reasons for illegal trafficking are largely related to corruption and the hierarchical pressure on the officials exercising control, the lack of coordination among the various agencies, the lack of established and effectively functioning information systems and information dissemination networks, inefficient internal control mechanisms, and inadequate resources and facilities. When traffickers realize that control is weak, that corruption is rampant among customs officers, and that they run a low risk of being intercepted and punished, the situation in the state is considered favorable to engaging in illegal trafficking.

Illegal trafficking has become a major problem, especially to societies in developing and transition countries. Particularly favorable conditions for increasing the volume of smuggling operations occur in the process of post-communist reforms. The reasons are diverse: domestic, political and economic, institutional, and cultural.

The disintegration of the former Soviet bloc and its economic organization (COMECON) destroyed the mechanisms of exchange in Eastern Europe. The national industry lost its traditional partners and markets. At the same time, West-European states remained largely closed to most of the post-communist countries. Owing to the drastic contraction of external markets, part of the output of the most developed sectors in these countries became subject to illicit export. The subsequent economic crisis and the decline in industry and agriculture further intensified the disproportion between supply and demand on the domestic markets, which also stimulated illicit trade and smuggling. On the other hand, the disruption of law-enforcement and control mechanisms inherited from communism and the ensuing temporary legal and institutional chaos, combined with trade liberalization and the opening up of the post-communist states to the world made it possible and relatively easy to execute an increasing volume of illegal trafficking from and to these countries. Speaking in most general terms, the rampant corruption among public officials became a prerequisite and indispensable component of smuggling operations in the transition period.

1.2. CORRUPTION AND ILLEGAL TRAFFICKING: PARALLEL CLASSIFICATION

All forms of illegal trafficking that occurring with the awareness and assistance of officials involve the commission of a crime - bribery or misuse of public office. In the cases of mass smuggling, and especially in the trafficking in fast-moving consumer goods, there are simultaneous violations of the Law on Customs and the

Criminal Code.

The specific forms of corruption can be reduced to several more general types of criminal interaction between traffickers and public officials:

- Corrupting the customs administration in order to speed up a certain activity, incl. the processing of documents, and thus allow a business person or organization to conclude a given transaction in the fastest possible way.
- Corrupting officials in order to cover up violations of customs laws and internal regulations.
- Participation of border and customs administration in the setting up and operation of smuggling channels across the border.

There exist certain enduring and recurrent schemes of combining the interests of traffickers and corrupt officials. Moreover, the linking and interaction of interests follow a definite logic.

TABLE 1.1.
Corruption and trafficking: a parallel classification

Type of trafficking	Forms of corruption
Small-scale trafficking ("Suitcase trade")	Administrative corruption
Smuggling channels	Corruption networks
Trafficking sponsored at the political level	"Grand" corruption

There is a connection between the level of organization of illegal trafficking and the officials involved in corruption.

The so-called "suitcase trade", which is of a mass character, typically involves one, and occasionally more than one, family member. They establish contact with individual representatives of customs authorities and other control agencies, effecting a corruption deal [bribery]. Regardless of the actual role of the public official - whether passive or active under the Criminal Code definition - the smuggler pays a certain "fee" to the official authorizing the illegal transfer of the goods.

The use of smuggling channels involves a more complex chain of corruption deals, including the redistribution of the bribe received. This chain implicates officials from different agencies, who supply railway tanks, transport corridors, terminals for the loading and unloading of fuel. All too often the paradox occurs, wherein certain public officials illicitly work for the owners of the smuggling channels, which have been "privatized" by semi-criminal and criminal groups. A stable system is thus formed of a dual loyalty of key officials: legitimate, to the state; and covert and illicit, to the group that bribed them.

The third, and most dangerous, form of interaction between traffickers and public officials is the illicit transfer of goods, which benefits the political elite of the country and is thus protected by a political "umbrella". Those instances involve the so-called "grand corruption". Owing to the importance of this type of criminal relationship, we will deal in greater detail with the origin of smuggling channels in the country, as well as with the links between traffickers and the political elite.

1.3. ORIGIN AND DEVELOPMENT OF SMUGGLING CHANNELS IN BULGARIA

Initially, the smuggling channels were set up by the communist state and were controlled by the former State Security - the secret service of the communist regime. Regretfully, proof of this criminal activity no longer exists. What we are left with are accounts of anonymous participants in the smuggling channels and some indirect evidence. The latter include the accusations by western states of smuggling of arms, drugs, medications, and excise goods.

It is an established fact, that a special department was created in the late 1970s within the state monopolistic arms export organization, which was designated as "covert transit". Its chief area of activity was the smuggling of arms to third countries. The operative management was effected by a group of officials from the then Second Chief Directorate of State Security in charge of counterintelligence. In addition to arms smuggling, the channels were used for the illicit transfer of people - mainly persons prosecuted in their countries of origin for communist or terrorist activity - and even for trafficking in objects of historical value.

The illicit trafficking in the period under consideration involve citizens or emigrants of Palestinian, Syrian, Kurd, Turkish, Iranian, or Albanian origin. Most of them had contacts with Islamic, extremist or communist groups in their own countries and abroad, which helped them set up viable channels across the state borders of several countries - both to the Near East and Asia, and to Western Europe. A number of companies were established abroad in order to facilitate and regulate payments. One of the functions of these companies, which also served to covertly import equipment and technologies obtained illegally from western corporations, was to evade the COCOM (Coordinating Committee for Multilateral Export Controls) restrictions. Entire sectors of Bulgaria's economy used to develop on the basis of "smuggled technologies".

In the period 1987-1989 certain individuals were granted control over part of these channels and vast authority to dispose with the undercover companies. This turned them into their heirs apparently allowing them to appropriate funds into personal accounts. According to data of the Ministry of the Interior, in early 1991 Bulgaria owned more than 250 companies in Germany, Italy, France, Austria, England, India, etc. Those were limited liability and public liability companies, in which about USD 160 million were invested. Data from 1989 indicate that their turnover exceeded USD 1.1 billion. In addition, the export of Bulgarian products by companies based abroad amounted to another USD 600 million. The fate of these companies remains unclear.

Following the collapse of the totalitarian system and the subsequent transformation of the State Security structures in the period 1990-1993, thousands of police officers were made redundant or left the Ministry of the Interior, taking with them a large part of the archive files on agents, connections, and mechanisms for evading border control.

At the same time, the ensuing vacuum in the exercise of control functions by the state, as well as the economic recession, especially in 1989-1991, created favorable conditions for illegal trafficking in goods intended to meet the domestic demand for a wide range of products. While until November 10, 1989 the State Security was mostly engaged in trafficking to other countries and transiting of drugs and banned goods, after that date the same smuggling channels came to be used for the illicit import of anything that could be sold in Bulgaria. Evading payment of customs and excise duties and fees, certain circles of former police agents and party activists earned illegal profit and accumulated huge financial resources.

In the early 1990s former Secret Service staff members, representatives of the Bulgarian Communist Party nomenklatura, as well as members of new economic and political elite, took advantage of the then raging legal and institutional chaos in the country not only to plunder the state-owned enterprises and banks, but likewise, to freely exploit the connections and potential of the smuggling channels. Huge quantities of cigarettes, alcohol, sugar, fuel, etc., were imported to Bulgaria without bringing in any state revenues. The inherited connections of the former Bulgarian Secret services with some terrorist organizations in the Near East, Turkey, and Africa were transformed into private smuggling channels that operated to the benefit of different groups serving particular political parties. There are dozens of examples, including the scandalous disclosure of illegal trafficking operations at the Atia naval base nearby the city of Bourgas.

It was at the same time that the smuggling channels became part of the Bulgarian shadow economy. The links between the traffickers and semi-legal economic agents on the one hand, and the downright criminal structures, on the other, were also established by former secret service agents, while the sale of illegally trafficked goods was carried out with the help of shadow economic groups. The acts of corruption perpetrated under this collaboration often transcended their typical cycle: power - bribery - authorization - cover-up. At times they followed a pattern characteristic of organized crime: threat - extortion - murder. Although they have their own distinctive characteristics, quite often, though not systematically, the primordial reason for these criminal acts could be traced back to the financial interrelations between criminal structures and public officials established in connection with the operation of the smuggling channels.

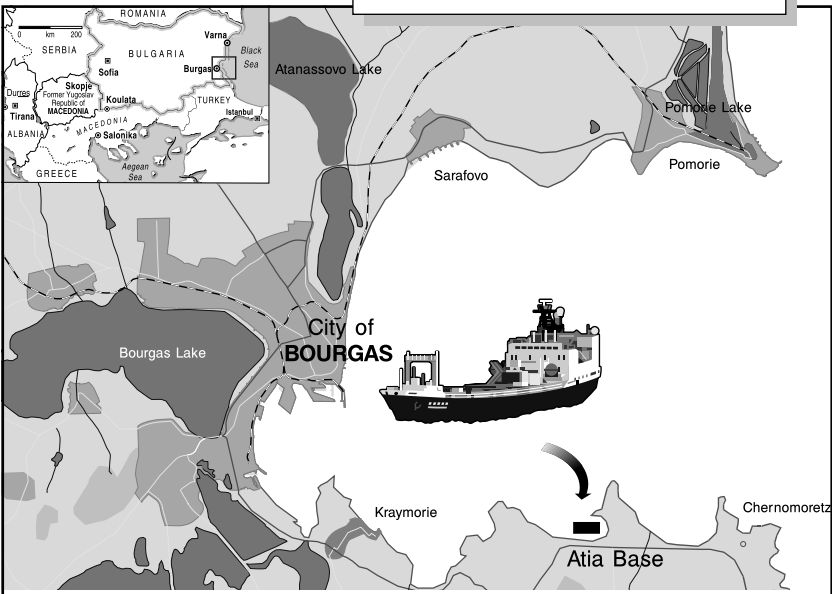
The emerging configuration in the illegal trafficking business was thus given a great opportunity during the years of the embargo on Yugoslavia in connection with the conflict in Bosnia and Herzegovina. Prof. Lyuben Berov's government (1993-1995) failed to undertake the necessary measures to put a stop to the illicit profiting by certain circles. The violation of the oil embargo once again took place under the control of individual secret service agents using the schemes of the former State Security.

A public secret at that time were the convoys of tanker trucks escorted by police cars to the border, the trains passing secretly through the customs at Dragoman, the tankers traveling to the Serb port of Prahovo. By Council of Ministers data reported by the then Vice Premier Alexander Bozhkov at a cabinet meeting on May 13, 1999, 400 large transactions with various goods destined for Yugoslavia were uncovered during the first embargo on Yugoslavia and found to have deprived the state treasury of over USD 250 million in revenues. Losses amounting to hundreds of millions of dollars were incurred as a result of dozens of cases of illegal fuel trafficking. Undoubtedly, such large-scale trafficking would have been impossible without the involvement of state agencies and people in the highest ranks of power [5].

The free transit of the shipments through the territory of Bulgaria was ensured by acting and former secret service agents. In order to conclude their transactions, the undercover groups, which had up to then occupied the lower levels in the structure of the shadow economy, began resorting to the established mechanisms for embargo violations. While in the early 1990s the former agents received the smuggling channels as a legacy from the party-state, the shadow economic groups later privatized them by overbidding each other [6].

Simultaneously with the organized crime race for shipment of oil and nitric fertilizers to Yugoslavia, the traditional arms trafficking channels were also revived.

CHART. 1.1. The "Atia Case"



In 1993, a smuggling channel for cigarettes worth millions of US dollars was exposed at the Atia naval base located close to the city of Bourgas on the Black Sea. The Greek ship Vati loaded 4,500 master boxes from the port of Bourgas to Novorosiysk, crossed the gulf of Bourgas, and unloaded its cargo at the military base onto five trucks, which re-entered Bulgaria and disappeared. This instance of smuggling alone caused losses of nearly USD 1m customs and excise duties. It was later found that the channel had been in operation for two years and had been used to unload 10 tankers with fuel. The smuggling scheme was set up by a Syrian national of Kurd origin and former State Security agent until 1989, owner of a company registered in 1988 in Munich. The commander of the military base was also among the allegedly involved. Then Prime Minister Prof. Lyuben Berov stated that the Greek ship had most probably entered the military base in exchange of "a few million" paid to the right person. The case has still not been heard in Court. It was a classic example of a privatized smuggling channel involving officials from the public administration and the Ministry of Defense.

Arms shipments to Bosnia from Russia, Ukraine, and other former Soviet republics were passing through Bulgaria. The notorious "Albanian deal" provides evidence that the Bulgarian Secret Services was also implicated.

In recent years, in addition to traditional excise goods such as tobacco and alcohol, the smuggling channels came to be used for other highly marketable goods, such as sugar and ethyl alcohol, for example. In mid-1998, the Ministry of Interior uncovered the mechanisms for the import of sugar for several Bulgarian plants. The affair gained public notoriety under the name of Bartex, after the Multigroup-owned company dealing in sugar. The losses incurred from the port of Bourgas channel, which operated for more than five years, have been estimated at BGL 52 billion [7].

The embargo regime illustrates how the international community, represented by the UN Security Council, can in fact contribute to creating favorable conditions for illegal trafficking. Another instance of the dubious impact of international anti-trafficking measures concerns the Bulgarian manufacture of compact disks since 1989. It is well known that the production capacities in this country exceeded 90 million compact discs, which could not be sold on the domestic market. On

the other hand, the quality of Bulgarian CDs was very good, which made them a sought-after commodity abroad. As a result, during the 1990s the illegal trafficking in Bulgarian compact discs became one of the most lucrative illegal businesses. Subsequently, yielding to international pressure, Bulgaria adopted the most restrictive legislation in Europe regarding the protection of intellectual property rights. This brought about a drastic shrinking of CD production in the country. It was only to be expected that the reduced supply would generate a demand that would stimulate other forms of illegal trafficking. In recent years there are signals that, from a CD manufacturer and exporter, Bulgaria has come to serve as a depot for CDs manufactured in other countries and exported through Bulgaria. A vicious circle is thus created - the measures against smuggling have given rise to new forms of illegal trafficking [8].

No doubt the most delicate issue is the possible implication of the country's political leadership in the operation of smuggling channels. In the period under consideration (1989-2000) there have been two interim and six regular cabinets in office. The period was marked by disclosures of smuggling channels for raw materials, alcohol, cigarettes, foods, and other types of fast-moving consumer goods. The ethyl alcohol smuggling channel through the port of Bourgas, for instance, detected as early as 1995, was registered during a customs audit in 1997,

yet continued to function until the end of 1998. In that time Bulgaria had 3 regular, and 2 interim governments.

With every shift in power a certain smuggling channel appears to lose its political support. Through the existing illegal routes certain politicians control the country's economic elite, by providing it - not without self-interest - with a market advantage and 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 uncompetitive 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 the proper qualifications. On the other hand, the participants in those channels themselves offer bribes to those coming to power in order to secure their protection and thus perpetrate their 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. Since most governments up to the parliamentary elections of April 1997 were dominated by BSP*, in that period customs administration turnover remained low. After the coming to power of UDF**, 377 customs officers were discharged on grounds of "staff redundancy" and all 16 regional customs directors were replaced.

It is difficult to say to what extent these redundancies and new appointments were motivated by the need to discharge disreputable officials. In any case, an attempt to crack down on the operating smuggling channels controlled by the former State Security was made as early as 1997. That is when the functions of the National Security Service, which succeeded the Second Directorate of State Security, were assigned to the National Border Police Service. With the amended law establishing the structure of the Ministry of Interior, the Border Police was assigned police functions. The status of the new border police, placed under direct vertical control from Sofia, caused doubts as to the sincerity of intentions "at the top" to curb the smuggling channels. All remaining Ministry of Interior services on

a regional level are also subordinated to the regional directors of internal affairs, which allows better coordination and mutual control among the various agencies.

The fact that the National Assembly has been delaying the adoption of a law on the financing of political parties for ten years, the non-transparency of the process of raising and spending funds for election campaigns and for the maintenance of party structures sustain the suspicions of implication of each government in unlawful means of financing political structures. It is hardly possible for the huge structures

of big parties such as BSP and UDF to be supported by membership fees alone. It has become a practice for those in power to infiltrate the entire customs administration since contributions to party structures from illegal trafficking are hardest to prove.

* Bulgarian Socialist Party (former Communist Party)

** Union of Democratic Forces

The "Albanian Deal"

The so-called Albanian deal involved two officials from the Ministry of Defense and one official from the Ministry of the Interior. It was effected with the assistance of the Macedonian Intelligence Services and a colonel from Albania, and concerned 100 mortar guns and 10,000 mines. The investigation of the scandal found that the arms had been transferred to the Serb army in Bosnia and Herzegovina. It was a classic case of a smuggling channel assisted by government officials involving the Secret Services of three states and used to derive personal gain. The six trucks loaded with arms had crossed unimpeded the borders of Bulgaria, Macedonia and Serbia convoyed by the respective police authorities. The state sustained losses amounting to millions of dollars but there have as yet been no convictions under this affair.

While closing hundreds of deals violating the embargo against Yugoslavia, and by buying the legacy of the previous state-organized smuggling channels, Bulgarian organized crime developed a number of corruption mechanisms.

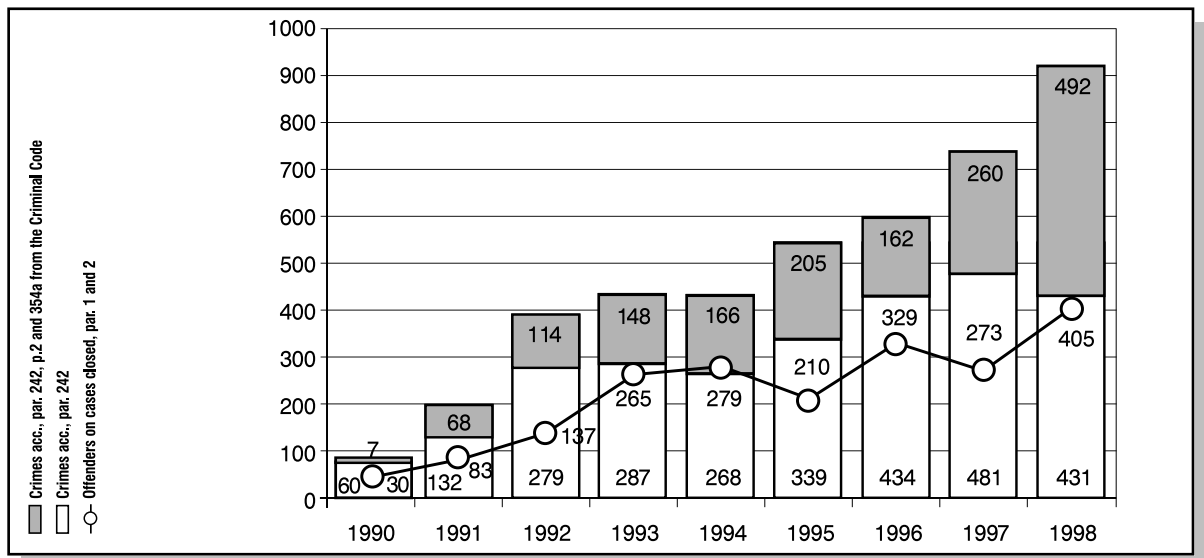
The measures undertaken against organized crime in the 1990s have relegated them to the background. However, these semi-legal business organizations still have free financial resources and local structures through which they carry on their respective activity. The Bulgarian political elite does not have any available funds and is thus tempted to use power for economic gain. There are a number of indications that some politicians have become intermediaries between organized crime and public administration as regards violation of border controls.

While in 1990-1993 the former Communist nomenklatura transformed its political power into economic power by setting up parallel companies and draining the resources of state-owned companies, subsequently political corruption acquired a commission-based nature - some politicians began receiving a percentage from the illicit transactions. It is hardly surprising that up to now no ruling party has publicly accused people from its own ranks of building up illegal trafficking channels. By contrast, whenever one political party steps down from power its successors immediately bring accusations and evidence of involvement in illegal trafficking. So far, however, the politicians implicated in illegal trafficking have managed to elude the system of justice.

1.4. THE ROLE OF CUSTOMS

In this context the role of customs can be analyzed in terms of the activities and measures undertaken to intercept illegal trafficking. It can also be viewed as an institution ridden by corrupt practices that in the past ten years have become a precondition for the illegal transfer of goods. In other words, customs constitutes both an obstacle to trans-border crime, and - through the illicit activity of isolated former staff members or groups of customs officers - a critical factor for the successful execution of smuggling operations.

CHART 1.2. Violations of the customs regime related to smuggling [9]



The analysis of the crimes violating customs regulations and involving illegal trafficking in goods (including drug trafficking) from 1990 to mid-1999, based on the total number of completed pre-trial investigations, reveals a definite rising tendency, both of the crime rate and the number of perpetrators (Figure 1.1).

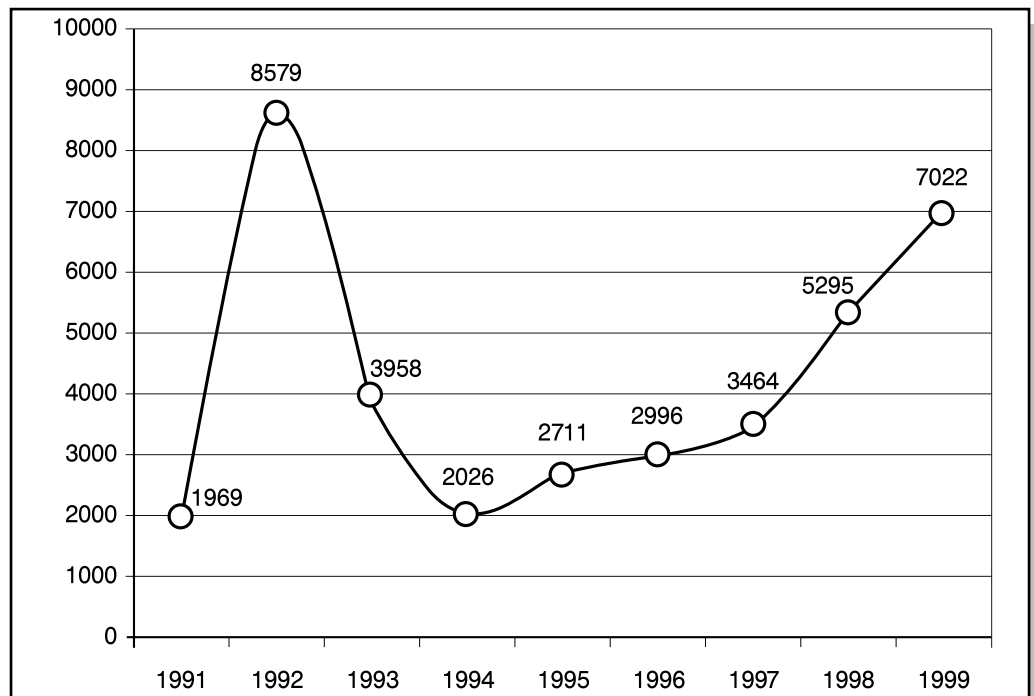
An indication of the scope of corruption is found in the disciplinary measures taken by the customs authorities themselves with respect to customs officers violating the regulations. According to information from the Customs Agency, a total of 154 employees were discharged between October 1997 and October 1999 for committing various violations.

The common about all these instances is the suspected participation in illegal trafficking and defrauding of the state. One hundred and two customs officers were fired on account of proven grave offences against the customs legislation in force. The most typical offences included:

- Admission and clearing of an "integral administrative document" (IAD) with underreported taxable value of the goods;
- Admission and clearing of IAD with improper tariff classification of goods;
- Admission and clearing of IAD failing to declare certain goods listed in the shipping documents.

As evident from the examples cited, those declaring the goods clearly strive to pay smaller customs duties, taxes and fees. The above indicates to the existence of corruption. Many of the signals received are never proven and the Customs Agency is thus unable to operate efficiently.

CHART 1.3. Administrative customs and currency violations [10]



Fifty-two customs officers were discharged on the ground of "incapacity to efficiently perform their official duties" based on performance evaluations made by the management. Typically, the violations registered involved non-fulfillment of official duties, as well as serious violations of customs legislation committed after the prescribed disciplinary liability deadline.

The criminal and administrative practice to date fails to give an adequate idea of the rate of corrupt practices in customs. One attempt to shed some light was

made by Mr. Emil Dimitrov, then auditor with the Ministry of Finance, who published a 90-page customs audit report. The document disclosed the findings of an audit launched on February 10, 1998 and covering the period January 1, 1996 - May 30, 1998. It also contained findings concerning the period 1990-1998.

According to Mr. Dimitrov's report, "the checks carried out at customs established that large quantities of oil, methanol, fuel, TV sets and home appliances, cigarettes and spirits, spare parts, alcohol, sugar, rice, other foodstuffs, medications, construction materials, etc., had been imported. As a result of improper or incomplete documents accepted by the customs administration the revenues due had not been collected for 2, 3, 4 or even 5 years."

The audit revealed a number of deficiencies in the way customs control had been exercised:

- TIR carnets processed only partially;
- authorization of re-exportation after the deadline;
- shipping lists processed only partially and entire missing stubs;
- incorrectly calculated customs duties (up to 39 times lower than the proper amount);
- lacking physical inspection in the event of extension of the temporary import time limits;
- huge amounts of uncollected customs duties, some of them classified as non-collectable;
- missing customs declarations or declarations not secured with appropriate collateral;
- failure to undertake prompt action to ensure the forcible collection of customs duties;
- numerous customs manifests processed only partially by natural or legal persons that had imported cars and spare parts without paying customs duties. Some customs directors and deputy directors had extended the statutory re-exportation time limit of 30 days and allowed re-exportation to take place up to three years later;
- clearance of goods in transit by fixing the collateral according to the type of vehicle rather than on the basis of the actual taxable value;
- instances of extremely improbable prices of some of the goods cleared, etc.

The audit report stated that all eleven regional customs audits in 1997 and 1998 registered violations. In addition, the report of the rapporteurs of the Committee on Honoring the Obligations under the European Convention on Human Rights of the Council of Europe, Messrs. Atkinson and Gjellerod cites the conclusions of auditor Emil Dimitrov that "customs fraud based on the corruption of officials and the forgery of customs documents amounted to USD 560 million in 1997 and 700 million in 1998". [11]

Mr. Dimitrov's audit report, however, was not endorsed by the leadership of the Ministry of Finance and the Minister ordered the Sofia branch of State Financial Control to conduct a "super-audit" of customs. The latter disproved some of Mr. Dimitrov's findings. Mr. Dimitrov, in turn, rightly retorted that according to the legislation in force his findings could only be refuted in Court. Later Emil Dimitrov was subjected to strong pressure and resigned from the Ministry of Finance.

At the same time the public prosecution instituted a preliminary inquiry procedure in connection with the audit report. In December 1999, Sofia City Prosecution Office ruled against instituting pre-trial proceedings against former or current heads of customs on the ground of "lack of evidence of the commission of a crime". [12]

2. FORMS AND SCHEMES OF TRANSBORDER CRIME (ILLEGAL TRAFFICKING)

2.1. ILLEGAL TRAFFICKING IN GOODS

The lack of consumer goods production in a given country or the manufacturing of goods of poor quality and little commercial appeal is a major incentive for traffickers. It is also the main reason why in the past ten years large quantities of domestic appliances, electrical and electronic equipment have been illicitly imported to Bulgaria.

Illegal trafficking mainly involves goods that tend to undergo transformation, or are completely consumed, when used. Such are fuels and lubricants, alcoholic and non-alcoholic beverages, tobacco products, foodstuffs, raw materials for the production of goods, etc. In other words, once those goods are made available in the market and sold, they are difficult to identify, and since they subsequently disappear they cannot be tracked down should it be established that they were imported illegally. Machines and equipment tend to be smuggled less often because they carry specific technical characteristics and markings that can later be checked - identification numbers, unique technical solutions, specific materials of which they are made. These characteristics are harder, though not impossible, to alter. Illegal trafficking in machines and equipment is particularly profitable since machines are usually very expensive and cost millions of dollars. This type of smuggling in turn leads to the smuggling of the necessary supplies and spare parts.

In Bulgaria, as in other countries, a characteristic feature of illegal imports is that they tend to vary with the seasons of the year. Thus, for instance, in the months before the summer and during the summer season there is smuggling of sportswear and summer apparel, non-alcoholic and low alcohol content beverages, fruit and vegetables, perfumes and cosmetics. In the fall and winter there is a rise in the illegal import of domestic appliances, gifts and children's toys, which are particularly in demand before the Christmas holidays. Illegal trafficking is clearly related to the increased or reduced consumption of goods in the country in a given season.

Illegal trafficking in goods also involves the import of various types of goods that are subsequently used for criminal purposes. The illegal import of special types of paper and inks is related to the printing of counterfeit currency, false excise strip stamps, counterfeit documents of companies, organizations, and state institutions. In such cases the declared commercial description and tariffs classification are deliberately changed in order to conceal the actual purpose of the merchandise imported.

Very common is the illegal import of low-quality products and merchandise after the expiration date. Such goods are subject to a number of limitations and bans. When imported illegally, the identification and labeling of the merchandise are usually changed, the dates of manufacture and expiry are forged, the packaging and the documentation accompanying the merchandise are changed. This largely applies to foods and cosmetics, as well as merchandise whose technical characteristics, chemical composition, and physical structure do not conform to

national standards. In the European countries it is consumer organizations that monitor the market for low-quality and harmful products - for instance, shampoo that causes hair to fall out or lotion that causes allergic reactions.

In their wish to make fast profit, unscrupulous foodstuff wholesalers would buy old stock abroad at a discount and import products after the expiry date or foods that have already gone bad. The documents accompanying the shipments are altered or falsified, or the certificates of origin and quality are forged. There have been instances of imported bunt infected wheat, Australian beef with hormones, etc. If such products are not imported illegally, their poor quality may be established, they may be seized and destroyed, or their sale or import may be banned.

The illegal trafficking in counterfeit merchandise is flourishing: anything likely to bring in a good profit is subject to forgery. The incidents of thefts of trademarks and of exposed counterfeiting of brand names are increasing. As a rule the products with false brand names are considerably cheaper than the originals. Sometimes, however, they are sold at even higher prices. Subject to counterfeiting are not only luxury products, but goods for mass consumption, as well. The losses incurred do not only concern this country but likewise the owners of the genuine brands and the manufacturers. Particularly dangerous is the counterfeiting and distribution of products such as patent drugs, vehicle components, alcoholic beverages, and others.

The most commonly counterfeited and illegally copied products in this country are of Turkish, Polish, Chinese, and Arabic origin. The counterfeit products are usually manufactured by companies that do not respect the proper technological and other standards, and the quality of the merchandise is considerably lower than that of the originals. It is worth noting that in the past 3-4 years trademark owners have begun monitoring the market more closely for illegal copies on sale. New laws were adopted in this country and there has been a tendency towards stricter control in that respect. If the illegally copied products have been legitimately imported it is possible to prosecute the importers and distributors or to trace the itinerary of the merchandise back to the manufacturer. That is why importers resort to illegal trafficking and it becomes impossible to trace the goods and to establish their manufacturer and distributors.

Several types of fraud schemes can be identified in the sphere of the illegal trafficking in goods:

Fraud related to the reported quantity (Fraud by smuggling)

With this type of fraud smaller quantities of goods are declared resulting in the payment of lower import taxes and duties. The way it works is simple and effective. If, for instance, a truck is carrying 1,000 boxes of merchandise but only 800 are declared at customs, no customs duties and fees are paid on the remaining 200 boxes. Unless a physical inspection of the cargo is carried out before clearing the vehicle from customs, the merchandise is unloaded inside the country and becomes very difficult to track down.

Another form of illegal import is to declare only the number of parcels (boxes) in a truck without specifying the content and quantity of the merchandise contained in each parcel. The mechanism is the following: declaring only one unit where two or more units of merchandise are imported. The merchandise is formally cleared and the due import taxes and fees are paid. This is also a way of justifying the underreported taxable value of the merchandise and of importing

double or triple the quantity declared all while making the import appear legitimate. Considerable quantities of merchandise have thus been imported to Bulgaria for which no import taxes and other fees have in fact been paid.

Fraud involving inaccurate description of the merchandise

This is a widespread form of illegal trafficking in which the information provided is inaccurate or misleading as to the physical description of the goods, which in turn allows improper classification and unlawful gain. The fraud consists in deliberately citing a tariff number different from the actual one and taking advantage of the difference in rates. It is enough to deliberately classify the merchandise incorrectly or to inaccurately determine the tariff position in order to defraud customs or circumvent existing bans. The "error" may be related to the different import tax rate. The rate may be the same for two tariff positions and tariff numbers but the "mistaken" tariff position allows evading a ban on the import or export of certain goods; declaring and importing goods at a reduced or zero rate; importing or exporting at lower value; exceeding the limits under a certain quota, as well as avoiding other forms of control - hygienic, sanitary, veterinary, standardization.

The deliberate citing of an incorrect tariff number is often accompanied by wrong, inaccurate or incomplete physical description of the merchandise in the declaration. The incorrect description creates preconditions for unlawful gain by taking advantage of lower import tax rates, as well as for successful evasion of certain limitations or import and export bans.

Efficient forms of control of such fraud are the physical examination and subsequent control. The former establishes whether the merchandise actually found in the respective vehicle or container corresponds to what had been declared and to the tariff number and commercial description given in the declaration. The same check is carried out under subsequent control, which takes place at the wholesaler's storage facility. Naturally, subsequent control ought to be carried out before the merchandise is introduced in the retail network. It can also establish discrepancies in the sales documentation. (For instance, a wholesaler who had imported chicken liver in fact never sold and never recorded any liver sales but had instead been selling chicken legs.) Another efficient form of control is taking samples of the merchandise for analysis and comparing the results with the data from the declaration.

Fraud related to the value reported (valuation fraud)

With this type of fraud the violations concern the declared value of the merchandise imported, exported, or transited through the country and consist in under- or overstating the value of the goods.

By declaring a value lower than the price actually paid or payable it is possible to fully or partially avoid payment of, or provision of guarantees on, the import taxes and other fees due.

This type of fraud necessitates a certain tampering or forgery of the documents presented at customs and concerning the taxable value. Those are the invoices and trade contracts, especially the part concerning the size and form of payment for the merchandise, as well as other documents showing costs that have to be taken into account in order to correctly determine the taxable value.

There is a violation whenever the importer deliberately omits to include and

declare all taxable elements or fails to report them correctly. The importer may deliberately omit to declare costs incurred for insurance or for the transportation of the goods to an entry border checkpoint, as well as over- or underreport those costs. He may also deliberately omit to declare commissions and fees paid to intermediaries involved in the sale, as well as packaging costs, royalties and licensing fees, costs of processing and lading operations abroad. Another option available to traffickers is not to declare part of a subsequent resale, under which proceeds will accrue to the seller of the merchandise abroad, as well as other indirect payments that should be included when determining the taxable value of the merchandise.

With fraud involving **underreporting of the value** there is also the practice of interchanging the goods listed on the invoice wherein the total invoiced amount remains the same, but the price of the goods subject to higher import tax rates is understated, while the price of the goods with lower or zero rates is overstated.

The importer may also divide the payment of the delivery into several installments and only declare the advance payment or the final installment as taxable amounts.

Another form of fraud is to present a false invoice at customs. The value indicated in the false invoice does not correspond to the real one. Double invoicing makes it possible to declare a lower taxable value and conceal the actual price of the merchandise. The false invoice may be fabricated by the seller, supplier, importer, agent, broker, or other persons. Particularly dangerous are the cases when the broker or the person representing the company to the customs authorities prepares a false invoice and underreports the taxable value in the declaration on behalf of the company in order to appropriate the funds that have been provided for the payment of the import taxes and fees due.

A common practice with false invoices, and more specifically those with understated value, is to take advantage of the different currency exchange rates and declare the price in a currency likely to create the impression of high value in absolute terms.

The underreported value can also be used for the purpose of providing less security (bank guarantees, cash deposits) in the case of transit of goods from a customs office of departure to a receiving customs office, since the amount of collateral required depends on the sum of import tax and other fees due.

The **overstating of the value** creates conditions for unlawful VAT recovery and for obtaining higher compensations. Overstating the value in import and export of goods is one of the most efficient money laundering methods. Through the false invoices the unlawful funds (dirty money) are effectively integrated back into the economy. Overstating the invoice value in the case of import serves to justify the sums deposited later in a local bank, and in the case of export, the amounts received from abroad.

One efficient method of counteracting value-related fraud is post clearance control checking the accuracy and truthfulness of the data contained in the customs declaration. The customs administration has the power to exercise such control, to check the documentation concerning the import and export of the merchandise, to request further information from the persons involved in the international transaction or from any other persons or companies concerned. It should be noted that the control is selective and subsequent checks are only carried out when customs authorities have sufficient grounds to question the accuracy of the value declared or have sufficient information about violations committed in con-

nection with the taxable value. Such checks concerning the value of the merchandise, including those carried out under international cooperation arrangements, have established drastic cases of underreporting of the value in order to avoid payment of customs duties and other fees due.

Fraud related to the origin of the merchandise (origin-preference fraud)

In fraud schemes related to the preferential origin of goods the rules and requirements concerning the origin of goods laid down in bilateral or multilateral agreements are knowingly infringed. This form of fraud is also resorted to in order to pay lower customs duties and taxes, to circumvent certain bans and restrictions or existing trade sanctions and embargoes. Importers deliberately fail to disclose the true origin of the merchandise in order to unlawfully take advantage of favorable import status granting reduced or zero rates.

The way of determining that the merchandise originates from a given country, has been fully manufactured in that country, or has undergone substantial, and economically motivated, transformation in that country, is by presenting documents certifying the origin of the goods. Those are the documents that are typically counterfeited or substituted in order to defraud customs. One such document is the certificate of origin. In the cases when such a certificate is not required, the origin is determined through a written declaration by the exporter, carrier, or other person on the invoice, contract, or shipping document. It is no secret that a large part of these declarations are not authentic and are actually written on the territory of the country, even in places in immediate proximity to the customs offices.

In cases of fraud the certificate of origin may not be authentic or may not be issued by the proper authorities and either genuine or counterfeit forms are used with forged signatures and stamps. There are also practices of using duplicate certificate numbers, providing tampered duplicates at a later stage, or presenting certificates that in fact do not concern the merchandise declared at customs even though they have been issued by the competent authorities in the respective country of origin. Concealing the origin of the goods can be done successfully in third countries as well, by substituting the documentation or through the so-called "mixture" of goods in the invoices. The packaging, marking, and labeling of the merchandise may also be altered.

The certificates of origin can also be counterfeited with respect to their validity, by changing the date of issue of the certificate (of a certificate that has expired) in order to have it accepted by the customs authorities. Typically, the substitution or counterfeiting of the documents certifying the origin of the merchandise takes place during transportation, in the neutral zones of border checkpoints, or inside the country.

An efficient form of checking the authenticity of origin-certifying documents is post clearance control, through which it is possible to establish whether the documents are legitimate and whether the importer is entitled to the respective tariff preferences. Under such checks Bulgarian customs authorities make an inquiry with the beneficiary country and request confirmation of the authenticity of the origin certifying documents. In the case of serious doubts as to the authenticity of the documents and the accuracy of the information concerning the origin of the merchandise, customs authorities should more often resort to the possibility to postpone the granting of preferential status and require security on the payable customs duties until completion of the inquiry. Such subsequent inquiries

have established numerous instances of fraud and unlawful preferential treatment of importers.

Fraud related to the transiting of goods (transit fraud)

Such schemes are aimed at diverting the goods from customs control and supervision so that they can remain in the country without payment of customs duties and fees. The documentation ascertaining the completion of the transit is counterfeited by false stamps and documents certifying that the merchandise has arrived from the customs office of departure to the receiving customs office in unaltered condition and the transit operation has been concluded.

Fraud involving import and export authorizations

This type of illegal trafficking makes use of counterfeited documents. The aim is to circumvent certain bans or restrictions, for instance related to veterinary or phytosanitary control, as well as limitations on the transfer of strategic commodities, arms, nuclear, chemical and biologically active substances, works of art, objects of cultural value and archaeological artifacts, etc.

Fraud involving falsely declared quality and quantity

The aim is to circumvent existing preventive measures or bans. Such fraud schemes involve discrepancies in the description of the merchandise, the packaging, weight and measures, etc.

Fraud related to the intended use and end consumer

In this case the goods are not used for the initially declared purpose and the end consumer is changed in order to benefit from preferential - reduced or zero - rates or to circumvent existing bans.

Fraud related to tax and duty refunds

In this case the merchandise allegedly intended for export never leaves the country (fictitious export) or else the merchandise is exported at a deliberately overstated value.

Fraud involving "ghost" companies

In this type of fraud goods are imported and exported on behalf of non-existent companies and organizations. Such companies may or may not be registered in Court. If they are registered, then the names and addresses used are inaccurate or untrue. The detection of those using such companies is very difficult. Ghost companies are also used for the purpose of customs duty and tax evasion or non-payment, especially under drug trafficking and money laundering schemes.

Outright smuggling

Such are the cases when the respective vehicle is let through the border checkpoint without any record in customs documentation (unregistered transfer of

goods), i.e., this is outright smuggling without customs clearance of the merchandise carried.

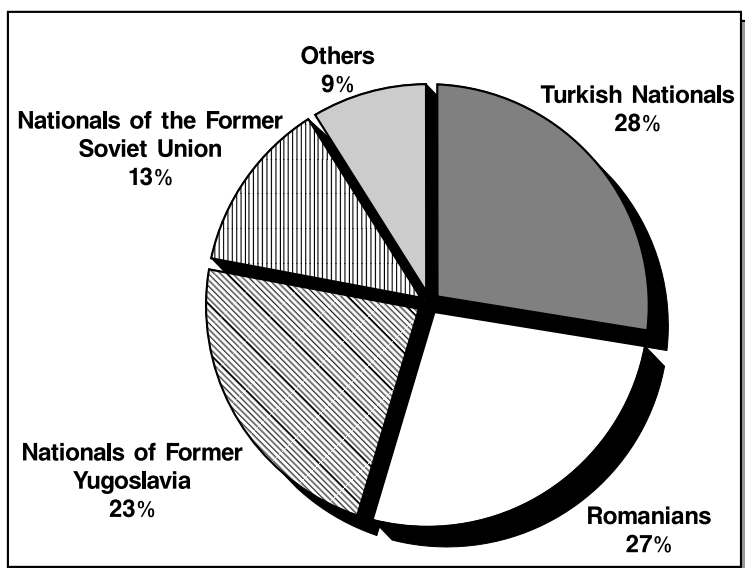
2.2. MASS TRAFFICKING ("THE SUITCASE TRADE")

Mass trafficking is a specific form of the illegal trafficking in goods. It is exemplified by the so-called "suitcase trade". The significance of the latter is often underestimated. It should be noted, however, that the volume of the suitcase trade constitutes a considerable part of the illegal export and import of goods to and from Bulgaria.

The phenomenon is unduly underestimated. Since 1989 there has been one single systematic survey conducted on these issues, moreover in the context of transit migration. This is the analysis of the International Organization for Migration of 1993 (Transit Migration in Bulgaria, IOM, 1994).

It is possible to estimate the scope of the phenomenon, its implications, and "networks" it creates, on the basis of indirect indicators and expert estimates.

CHART 1.4. "Suitcase traders"



According to data of 1993, the so-called "suitcase traders" constitute 14 % of the transit migrants. They probably number about 100,000 people - largely citizens of CIS or neighboring states, on average passing through the country 5 times a year. More specifically, about 40% are nationals of CIS States (mainly Russia) or former Yugoslavia. This "business" is typically conducted by Romanians, Georgians, etc., as well as by Polish, Hungarian and Czech nationals. Suitcase traders from Nigeria and other African countries use Sofia (and the flights of Balkan Airlines) and the capitals of other Balkan states as interim stops on their way to and from Russia. They typically do not spend more than one night in Bulgaria (in 46% of the cases) and most travel by bus (60 %). In contrast to other transit migrants, they are very well informed - apparently from existing informal networks - about conditions in Bulgaria. This is also the youngest group of transit visitors: 86.7 % are aged under 35, 53.4 % are single, and two thirds are male.

One of the indicators that can be used for this purpose is the number of "exits" from the country. Such information is supplied by the National Statistical Institute (NSI). In 1996 and 1997 more than 3 million exits were registered per year. The predominant trips were of Bulgarian citizens to neighboring countries: to the former Yugoslavia - about one third of all departures; Turkey - 17%; Romania - 15%, etc. In nine out of ten cases "tourism" was the reason cited for the trip. This information suggests the potential scope of suitcase trade.

Suitcase traders repeatedly cross the state borders in both directions, often several times in a single day. Upon each crossing they transfer merchandise for which no customs duties and other fees are paid. Additional profit is earned from the price differences of the smuggled goods on both sides of the border. **Suitcase trade is typically of organized nature** and is mainly carried out across the borders with Serbia, Macedonia, and Turkey. The goods most typically exported and imported are gasoline, household consumer goods, foodstuffs and beverages, fruits and vegetables, etc. It may also involve goods subject to import and export bans.

Expert evaluations indicate that the volume of "suitcase" trade with Turkey varies, with its value booming to USD 800-900 m annually in the early 90s. The import of Turkish goods through this method exceeds 20 times the Bulgarian "suitcase"

exports (the Bulgarian goods exported in this way are primarily meat and meat products, cigarettes, alcohol, etc.). The bazaar in Dimitrovgrad functions as the main marketplace for the smuggled goods.

The turnover of the "suitcase" trade with Macedonia and Yugoslavia is smaller, the total annual figures hardly exceeding DEM 100 m. In general, the goods of Bulgarian origin prevail in these regions, in other words the exports are larger (their volume even doubled during the embargo years). (Data provided by National Statistical Institute.)

In 1998, the National Assembly ratified a free trade agreement between Bulgaria and Turkey, which shrank the suitcase trade between the two countries. The phenomenon has not been completely eliminated since the agreement enables Bulgaria to protect over 3,500 goods the tariffs for which were not abolished on January 1, 1999 but will be gradually removed until 2002 (oil products, paper, textiles, clothing, shoes, refrigerators, ferrous metals, etc.). These products form roughly 35 per cent of the Bulgarian exports to Turkey. The protection list of Turkish products is far shorter: it contains 350 goods only, i.e. 10 per cent of the Turkish exports to Bulgaria.

This practice will hardly discontinue soon since the Turkish Government has recently embarked on a series of measures aimed at reviving the suitcase trade. According to Turkish statistical data, its total volume in 1996 was USD 8.8 bn., while the turnover dropped to USD 5.8 bn. in 1997. The year 1998 saw a further slump of 20 per cent. At the same time the official Turkish information shows that nearly 50% of the Turkish customs revenues derive from suitcase trade.

At the same time, as of December 31, 1997, only 34,212 Bulgarian citizens stated they lived abroad. The most numerous group was in Germany - about 9,000; the former Soviet Union - 3,500; France - 2,900; Austria - 2,700; Czech Republic - 2,300, etc. Assuming that one third of more than 2.3 million tourist trips abroad in 1996 and 3 million private trips in 1997 ("tourism"/"visits") were used for suitcase trade purposes, this makes an average of 1 million trips a year. Assuming further that each "suitcase trader" makes 5 trips a year on average - this means 200,000 people. Notwithstanding that these are but rough estimates, there is reason to claim that between one fourth and one third of 900,000 people engaged in the private sector are in fact involved with the so-called suitcase trade. This makes it the largest sector of the Bulgarian economy in terms of the number of people engaged. The negative connotation of the conclusion that "minor", i.e. small-scale, smuggling currently constitutes the biggest sector of the Bulgarian economy need not be demoralizing. A proper definition would be helpful in addressing the problem.

In macroeconomic terms a number of small and medium-sized enterprises in this country depend on suitcase trade. Analysts even refer to "suitcase SMEs". Their activity largely remains outside the official economy. Up to now measures to counteract suitcase trade have tended to be of a mildly dissuasive, rather than coercive nature (such violations are subject to fines).

Suitcase trade is a multi-faceted international problem. Many foreign nationals are engaged in this "business" on the territory of Bulgaria. In this sense, suitcase trade can be considered in the context of transit migration. It is indeed a form of transit migration.

Since beginning of the 1990s some 5 million persons have been crossing the country in transit each year. In 1993, for example, Turkish and Romanian nationals were the most numerous - more than half of all transit passengers. The Turkish

nationals who crossed Bulgaria in transit numbered 1,372,578; Romanians - 1,366,971; nationals from the former Yugoslav republics - 1,153,143; nationals of the former Soviet Union - 661,021, etc. Most of them were either gastarbeiters in the West or suitcase traders. The transit immigrants initially intend to remain in the country for a short period of time while seeking opportunities to move on to Western Europe. According to the IOM study, such were the intentions of at least half of these people. One should not disregard the fact that nearly 13 % of the transit migrants plan to remain in Bulgaria for 1 year. In fact, no less than 500,000 people would consider an extended stay in this country. This raises the question of their financial support. About 40 % expect to live on their savings, 20 % would support themselves by getting a job, 18 % rely on fellow countrymen already residing in Bulgaria, etc. According to various rough estimates, the number of foreign nationals residing illegally in Bulgaria varies between 30-50,000 (IOM, 1994), which constitutes 3 % of those employed in this country. They find opportunities in the shadow economy. The Bulgarian administration responded to the potential threat of immigrant pressure in the labor market by adopting a Program for Counteracting Illegal Migration and the Illegal Residence of Foreign Nationals in the Republic of Bulgaria (Decision of the Council of Ministers No. 57 of February 19, 1998).

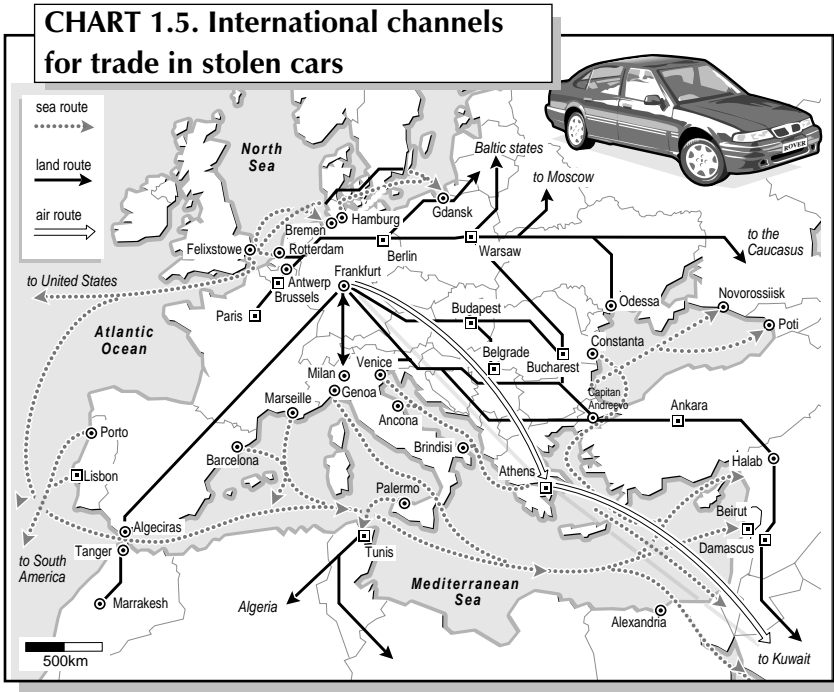
Suitcase traders - both foreign nationals in transit and Bulgarian citizens - serve a great part of the newly emerging sector of small and medium-sized enterprises in Bulgaria and other Central and East-European countries. In this sense, SMEs greatly depend on the scope of transit migration and the "suitcase trade". What is more, they entail an increase in transit and seasonal migration, which has a clearly positive effect of "detering" permanent emigration.

As indicated by information from the Agency for Small and Medium-Sized Enterprises, in 1997 micro-enterprises in the sphere of retail trade with up to 10 employees constituted more than half of all SMEs operating in this country. At least half of these are maintained by suitcase traders. Part of them are owned by Chinese, Syrian, Armenian and other foreign nationals residing in Bulgaria on a temporary or permanent basis.

In line with the established classifications of the industrial economy, SMEs in Bulgaria may be classified either in terms of their dependence on transit migration and the suitcase trade, or their relations with large enterprises. By rough estimates, "suitcase SMEs" number about 50,000. These enterprises accept the prices imposed by big companies, but remain independent outside their networks. Paradoxical as it may seem, in their contacts with large businesses (whether state-owned or privatized), SMEs could be defined as either "tolerated" or "dominant", i.e. they set the prices at the entry and exit points of the big state-owned enterprises. Both categories of SMEs build up informal networks. In the case of the so called suitcase enterprises this is not necessarily a negative feature. The other type of enterprises set the pattern of the spontaneous privatization (privatization through decapitalization).

Illegal trafficking in motor vehicles

Even though it is not a form of suitcase trade, the illegal import of cars is part of mass trafficking and was particularly widespread in the early and mid-1990s. With this type of trafficking, forged documents are presented to the customs authorities. The trafficking and fraud are carried out by individuals with the involvement of companies. Both new and used cars are being imported. Typical violations include payment of lower customs duties for new and used cars through incorrect



calculation or deliberate change of data about the vehicle, as well as the import and export of stolen cars with forged documents. Trafficking is associated with a number of fraud schemes - insurance fraud, changes in the documentation concerning the initial and subsequent police registrations, undervalued amount on the invoice and non-inclusion of transport costs, unlawful use of duty-free import status granted to people with disabilities and immigrants. Documents certifying disability are counterfeited, the actual capacity and power of the engine are concealed in order to avoid payment of excise duty, etc.

The traffic in stolen cars is exceptionally lucrative. The profit from the sale of a single luxury vehicle may reach up to tens of thousands of levs. Car thefts and smuggling are in the hands of internationally

organized gangs, many along ethnic lines. Stolen car traffickers typically strive at any cost to obtain from the state authorities in the country of destination such documents that would impart legitimacy to the import. The goal is to legitimize the alterations done on the car - changed vehicle identification numbers, new color, changed dates of the initial and subsequent police and other registrations.

One of the major channels for the export of stolen cars from Europe to Africa and Asia runs through Bulgaria. Some towns in this country have been turned into stolen car depots. In the ports the cars are loaded onto ships and transferred to Asia and Africa where their traces are lost. Some of the stolen cars remain in Bulgaria and are sold at prices lower than their actual value.

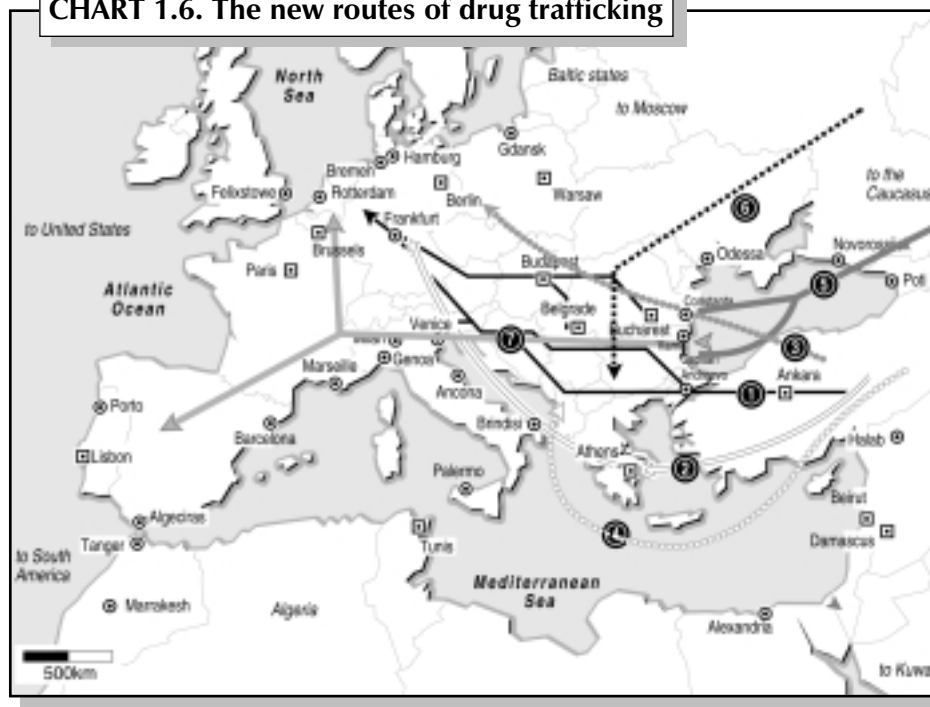
Illegally trafficked cars are typically taken to garages where they are repainted and the identification numbers on the engine and chassis are changed. There is some information that stolen cars are being disassembled and imported in the form of spare parts. Changed vehicle identification numbers, false licenses, and identification stickers are all used in car trafficking.

2.3. TRAFFICKING IN DRUGS, PEOPLE, AND OBJECTS OF HISTORICAL VALUE

Drug trafficking through Bulgaria

With the rise in trade and the free movement of people there is also increased risk of greater quantities of heroin and other drugs passing through Bulgaria. The "Balkan route" is one of the major circuits for the transfer of heroin from South-Western Asia, through Turkey and the Balkan countries, to Western Europe. Heroin is transferred in all kinds of ways and in quantities ranging from small parcels for personal use to huge commercial shipments. Cars, trucks, and buses are the vehicles most typically used to transport the drugs. Great quantities of drugs are still transported in refrigerator trucks and trucks carrying perishable goods. There are indications that persons of Italian, Colombian, Albanian, and

CHART 1.6. The new routes of drug trafficking



- 1. From Turkey, via Bulgaria, Macedonia, Romania, Yugoslavia and Albania
- 2. From Turkey, to Yugoslavia and Albania via Greece
- 3. From Turkey, with ships to Romania and further to Central and Eastern Europe
- 4. From Turkey and Pakistan to Albania
- 5. From the former Soviet republics in Asia to the ports of Bulgaria and Romania via Black Sea
- 6. To Western Europe via Russia, Ukraine, Moldova, Romania, Bulgaria
- 7. From the cocaine-producing states in Latin America to Spain and the Netherlands via the ports of Bulgaria

Bulgarian nationality are developing nontraditional channels for the transit of cocaine produced by the Latin American cartels.

Since Albania continues to be the drug center of the Balkans, the traffic in heroin, cocaine, and hashish is carried out with the active involvement of persons connected with the Albanian mafia. However, it also involves Bulgarians, Turks, and persons of other nationalities.

Indirect indication of the scope of drug trafficking is found in the number of shipments intercepted by the competent authorities. In the first half of 2000, for instance, more than one ton of drugs were seized along the

Bulgarian borders and 60 offenders, mainly male, were detained. The amount of heroin was over 800 kg, while the quantity of hashish and marijuana was more than 200 kg. The drugs seized include 20 kg of amphetamines, over 6,000 ecstasy and captagon pills, over 3,000 liters of acetic anhydrite and phenyl acetic acid. The drugs were mainly detected at the Kapitan Andreevo checkpoint, as well as the checkpoints in Malko Turnovo, Kalotina, Zlatarevo, Gyueshevo, Sofia Airport, Vidin, and Rousse.

The seizure of isolated shipments, the detection of the transport channels and the persons involved in them, as well as the analysis of the information collected will assist customs and police authorities in exposing and preventing part of the drug traffic through the country. Hardly anyone expects, however, that in the near future the narcotic drug highway coming from Asia and crossing Bulgaria will be completely cut off.

The evolution of the domestic drug market is also of interest. There has been a tendency, as observed throughout the world, for the drugs to overtake the peripheral regions of the country. According to expert estimates and surveys conducted, 50-70,000 people smoke ganja. Since the mid-1990s the number of cannabis fields discovered has been doubling each year (Table 1.3). The largest cannabis fields were found in the regions of Blagoevgrad, Petrich, Varna,

TABLE 1.2. Quantities of drugs and precursors seized in 1999 [15]

Drugs	Detected cases	Quantity detected
Heroin	14	261,6 k2
Cocaine	5	13,1 k2
Marihuana	3	0,019 k2
Opium	1	0,016 k2
Morphine	1	0,030 k2
Ecstasy	2	992 pills
Ephedrine	2	21 760 pills
Acetic anhidrite	2	2213 litres
TOTAL	30	

Pazardzhik, Plovdiv and Kyustendil. There are already channels for the export of cannabis mostly to Greece and Cyprus. Due to more intense police activity in Southwest Bulgaria, the cultivation of marijuana is gradually shifting towards Northern Bulgaria. Last year vast cannabis cultivation fields were discovered in the regions of Vratza and Rousse.

Around 10,000 Bulgarians are heroin-dependent, and 40-50,000 people use pharmaceutical drugs having a similar effect (e.g. Diazepam).

TABLE 1.3. Uncovered cannabis fields in Bulgaria [16]

Year	Cultivation area
1994	9 decares
1995	120 decares
1997	200 decares
1998	501 decares

Due to the low purchasing power of the potential clients, the estimated value of the Bulgarian drug market does not exceed DEM 200-300 m. For this reason the black market is virtually inundated with poor quality drugs. According to the National Drug Addiction Center, nearly 95 % of the heroin ingredients are not genuine. The expensive drugs, such as cocaine, sold at the price of DEM 120 per gram, are most popular among the members of the underground groups, who are characterized by a high rate of addiction.

The number of drug users has been continually increasing. While in 1972 they only numbered 190, by some estimates, the number of regular drug users currently exceeds 50,000. The chief reason for this negative tendency is the lack of social immunity: the state tends to treat drugs as a medical, rather than a social and economic, problem.

Illegal trafficking in people

Illegal trafficking in people has been growing and includes the transfer of illegal immigrants, women to be engaged in prostitution, labor force to work under inhuman conditions, trafficking in children, illegal adoptions at exorbitant prices. The illegal flows are under the control of organized crime. Trafficking in people involves officials from passport control services who accept forged identification documents. Special means of counterfeiting documents are used such as: casts of seals of regional and national police services, which are used for the authentication of international passports (dry and ink seals), documents for permanent residence in the country, international passports (blank forms) without photographs and names, stamps of tourist agencies and hotels in different cities, company seals, forged visas. The persons involved in trafficking in people often have double citizenship (e.g. Bulgarian and Turkish) and use different names. Involved in the traffic are companies providing visa services and tourist agencies. Traffickers use networks of trusted hotel owners and people renting private lodgings.

The clandestine leading of people across the border is done by traffickers that are often repeat offenders who continue to engage in this type of activity. The crossing of the border by land is typically done in groups led by a guide who is familiar with the area to be traversed. He is connected to a center of operations in one of the large cities where the grouping of the potential migrants is carried

out. Candidate migrants usually have a meeting point - a railway station, restaurant, or private house. Then they are met close to the border, boarded on a means of transportation and finally placed in the charge of the guides. The channels for the trafficking in people are controlled by organized crime and the organizers inside the country as a rule get a share of the proceeds.

The trafficking in people is very often done in secret compartments of buses and trucks. Typically the "shipments" are accompanied by the organizers of the channel or other trusted individuals by car. They escort the "shipment" to the border checkpoint and wait until the vehicle crosses the border. The clandestine migrants are often accompanied by their children, have little baggage and carry no money or identification papers with them. Young women who have been kidnapped and forced to engage in prostitution also cross the border illegally.

Besides drug trafficking, the trafficking in people is the other major area of activity of the criminal elements. The clandestine leading of people across the borders of the Balkan states is a lucrative and thriving business. In addition to local citizens wishing to live and work in Western Europe and USA, illegal migrants also include foreign nationals, typically of Asian or African origin, or coming from the countries neighboring to Bulgaria. Part of the traffic is connected to prostitution in the West. According to the data of the UN International Organization for Migration based in Vienna, approximately 10,000 white female "slaves" are illegally led out of Eastern Europe each year.

By various estimates, between 20 - 40,000 people tried to cross the border illegally during the past decade. Adding those intercepted along the external border, the total figure doubles. The information from the Border Police indicates that 22,733 border offenders were caught in 1999 alone, which was 4,500 more as compared to the previous year. Romanians proved most active in that respect in 1999 (2,933 offenders), followed by citizens of Turkish, Moldavian, and other origin (Table 1.4).

TABLE 1.4. Most frequent border offenders in 1999 by nationality [17]

Romanians	2933
Turks	2561
Moldavians	912
Afghans	305
Macedonians	270
Yugoslavians	248
Ukrainians	226
Chinese	192
Albanians	173

Since November 10, 1989, there have emerged several major channels for trafficking in people from and via Bulgaria:

- 1. Migrant traffic.** During the period 1989-1992, over 300,000 ethnic Bulgarian Turks emigrated to Turkey [18]. After the restrictions imposed by the Turkish government, the illicit trafficking in people to Turkey continued to grow for a number of reasons: (i) the existence of separated families, including children who had been left in Bulgaria, and (ii) economic reasons - seeking a means of subsistence.

According to expert estimates, some USD 30-50 million circulate in the illicit emigration market, which comprises the issuing of false and authentic visas.

2. **Criminal traffic.** This largely concerns people involved in pick pocketing and theft during the high tourist season, for the most part in Greece. This traffic also includes the illegal transfer of pregnant women to Greece so that they can give birth abroad and sell the newborns under conditions agreed in advance, with the selling price ranging between DEM 10-15,000. One of the most profitable forms of traffic is that of women and young girls sold for prostitution. The smuggling of goods from neighboring countries is also connected with the criminal traffic in people.
3. **Trafficking Bulgarian nationals to work in neighboring states.** Women make up the bulk of the traffic, while men are illegally hired mostly as seasonal workers. By some estimates the number of Bulgarian nationals illegally residing in these countries ranges between 50-89,000 people.
4. **International trafficking in "third world" emigrants.** In these cases Bulgaria is used as an interim stop while Istanbul is the base. The illicit passage from the Middle East to Western Europe via Turkey and Bulgaria costs up to DEM 15,000, with migrants paying separately for each stage of the journey. The illegal network also comprises interim stops in Bulgaria in order to obtain documents for the illegal transfer abroad. One such clandestine camp for migrants of Kurd origin was exposed near the city of Assenovgrad. The Bulgarian participants in such traffic only act as intermediaries.

TRANSBORDER PROSTITUTION

Given that there are 90 brothels operating in Sofia alone, the number of prostituting women and girls in the country as a whole is roughly estimated at about 12-15,000. The monthly profit from this business approximates DEM 50 m.

Some of the prostitutes are transferred to Turkey, Greece, Macedonia, Poland and the Czech Republic, mostly through companies for the recruitment of escorts and of women wishing to work abroad. There are about three hundred such companies in this country, but none of them has been granted a license to recruit escorts or dancers. A survey made by the Animus Association Foundation revealed that 94 % of the ads offering work abroad actually sought attractive single women aged up to 25 years of age. "White female slaves" are exported from Bulgaria via two main routes:

- 1) Southern channel: to Cyprus and Italy via Turkey and Greece, and
- 2) Western channel: to Western Europe via Romania.

Unofficial data suggest that at present there are some 10,000 Bulgarian women prostitutes abroad. [19]

Trafficking in objects of historical value

Objects that are part of the country's cultural and historical heritage are commonly sold off at trifling prices abroad. Unique works of art and objects of cultural value are illicitly taken out of the country. One of the reasons for this is the lack of clear-cut regulations and another one is the shrinking legitimate domestic market in objects of cultural and historical value. The true market for these objects is found in the West and illegal trafficking is resorted to for transfer.

By rough estimates, some 3,500 people are actively engaged in treasure hunting in this country and their number continues to increase. They lavishly invest in human and technical resources and tend to engage in systematic excavations, con-

stantly expanding the scope of their activity. Furthermore, in the course of the search and as a result of failure to observe basic archaeological requirements, priceless findings are being destroyed.

There is a comprehensive system covering the entire process from the finding of a particular artifact to its sale abroad. In Bulgaria, there are specialized criminal groups dealing in antiquities. They buy antique objects and export them through illicit channels to Western Europe, Japan, and USA. Invaluable icons, paintings, and church artifacts are taken out of the country. By rough estimates, the objects recuperated from illegal export attempts constitute 10-15% of those actually taken out. This means that at least 300,000 cultural artifacts have left the country in the past decade.

3. MONITORING OF ILLEGAL TRAFFICKING

The attempted systematization, analysis and description of the typical trafficking schemes, channels, and practices in the chapters above logically leads up to the present situation and the possibilities of assessing the developments.

Discretion and non-transparency are inherent characteristics of both illegal trafficking in general and the acts of corruption. The very fact that trafficking in general, and trafficking accompanied by corruption in particular, is an illegal and covert activity means that it cannot be measured with the traditional methods of socio-economic statistics.

What may serve as the basis for estimating the scope of smuggling are the studies of the shadow economy, which has been subject to serious empirical and theoretical research.

On the other hand, a considerable part of this parallel economy in Bulgaria is sustained through, and because of, the various trafficking mechanisms. In this sense, the assessment of the proportions of the shadow economy also outlines the framework of the study of illegal trafficking.

3.1. METHODS OF MEASURING THE SHADOW ECONOMY

International assessments of the share of the shadow economy in the countries of Eastern Europe constitute an important point of reference when considering the national dimensions of this type of economy (See Table 3.1.).

A somewhat different assessment of the size of the shadow economy in this country has been made by the National Statistical Institute (National Accounts Department). By the estimates of the Institute, in 1998 the shadow economy amounted to 22% of GDP. However, a number of experts monitoring different sectors of this economy believe the international comparative studies are closer to the actual share of the shadow economy.

Converting the percentages into real figures gives a better idea of the losses sustained by the national economy in the past years. According to international estimates, in 1994-95 the shadow economy constituted between 32-35% of the country's GDP, which amounted to **USD 3.6-3.9 billion**. On the other hand, according to the considerably lower NSI estimate, in 1998 the shadow economy was worth **USD 2.24 billion**.

Assessing the scope of illegal trafficking calls for a detailed analysis. It should above all be established to what extent these 2.24 billion are directly or indirectly related to smuggling practices. No doubt in the shadow economy there are a number of activities that are not immediately connected with illegal trafficking, such as the hiring of workers, the trade in Bulgarian goods, various services, etc.

TABLE 3.1. Size of the gray economy (per cent of GDP)

Physical Input (Electricity) Method Using Values from; Johnson, Shleifer (1997) and values in "/ */" from Lacko (1999)							
		Average 1989-1990		Average 1990-1993		Average 1994-1995	
Former Soviet Union states							
1	Azerbaijan	21.9	(-)	33.8	(41.0)	59.3	(49.1)
2	Belarus	15.4	(-)	14.0	(31.7)	19.1	(45.4)
3	Estonia	19.9	(19.5)	23.9	(35.9)	18.5	(37.0)
4	Georgia	24.9	(-)	43.6	(50.8)	63.0	(62.1)
5	Kazakhstan	17.0	(13.0)	22.2	(29.8)	34.2	(38.2)
6	Kyrgyzstan	-	(13.9)	-	(27.1)	-	(35.7)
7	Latvia	12.8	(18.4)	24.3	(32.2)	34.8	(43.4)
8	Lithuania	11.3	(19.0)	26.0	(38.1)	25.2	(47.0)
9	Moldavia	18.1	(-)	29.1	(-)	37.7	(-)
10	Russia	14.7	(-)	27.0	(36.9)	41.0	(39.2)
11	Ukraine	16.3	(-)	28.4	(37.5)	47.3	(53.7)
12	Uzbekistan	11.4	(13.9)	10.3	(23.3)	8.0	(29.5)
Average: former Soviet Union states		16.7	(16.2)	25.7	(34.9)	35.3	(43.6)
CENTRAL AND EASTERN EUROPE							
1	Bulgaria	24.0	(26.1)	26.3	(32.7)	32.7	(35.0)
2	Croatia	22.8	(-)	23.5	(39.0)	28.5	(39.0)
3	Czech Republic	6.4	(23.0)	13.4	(28.7)	14.5	23.2
4	Hungary	27.5	(25.1)	30.7	-30.9	28.4	(30.5)
5	Macedonia	-	(-)	-	-40.4	(-)	(46.5)
6	Poland	17.7	-27.2	20.3	-31.8	13.9	(25.9)
7	Romania	18.0	-20.9	16.0	-29.0	18.3	(31.3)
8	Slovakia	6.9	-23.0	14.2	-30.6	10.2	(30.2)
9	Slovenia	-	-26.8	-	-28.5	-	(24.0)
Average: Central and Eastern Europe		17.6	(17.6)	20.6	(32.4)	20.9	(31.6)

Source: *Shadow Economies: Size, Causes, and Consequences, Journal of Economic Literature, March, 2000*

In order to identify the share of smuggling in the shadow economy, it is necessary to combine different methods of evaluation. The instruments used could provisionally be divided into two basic kinds [20]:

- **Direct methods**, using sample surveys of the economic agents presumably involved in undeclared economic activity. On this basis, it is possible to establish the scope of the activities connected directly to smuggling. For example, measuring what part of the value of the product originates from smuggled raw materials and semi-finished products.

- **Indirect methods**, using official information about the structure and dynamics of economic parameters for the purpose of assessing the size and share of the shadow economy output. It is also possible to explore existing correlation between smuggling and the other sectors of this economy. One such example is the analysis of market segments comparing Bulgarian statistics with international statistics on a bilateral and multilateral statistical basis (see item 3.2. below).

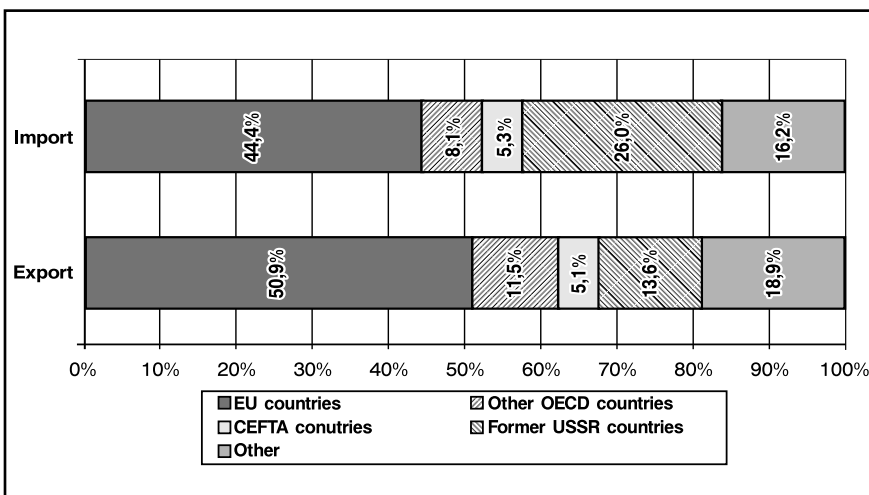
3.2. METHODS OF MEASURING ILLEGAL TRAFFICKING

The so-called "mirror statistics" method is used to identify possible differences in the reporting of foreign trade between partner countries. The method is suitable for the analysis of the merchandise trade between EU countries (EU as a whole and individual EU member countries) and the economies in transition [21]. It compares foreign trade information from partner countries collected for on common international database (i.e., according to a uniform methodology). In our case, the information about Bulgarian exports to the EU (or one of its member states) provided by Bulgaria is compared with the information about European imports provided by the EU. Similarly, the Bulgarian information about EU imports is compared to the European information about exports to Bulgaria [22].

The review of the aggregate information from the different sources shows a serious discrepancy between the information from COMEXT and COMTRADE-HS. The divergence observed between COMEXT and the IMF database and COMTRADE-STIC is smaller.

According to EU information (COMEXT-EEC Special Trade), **Bulgarian exports** in 1998 amounted to USD 2,510 m, and **imports**, to USD 2,730 m (Figure 3.2.).

CHART 2.1. Structure of the import and export of Bulgaria by countries in 1998



A comparison between NSI data about **Bulgarian export** to the European Union (EU) with Eurostat data about EU import from Bulgaria indicates a difference of **USD 375 million**, i.e., that is the amount of import to the EU that was never reported as export in Bulgaria. In turn, when comparing NSI data about **Bulgarian import** from the EU with the respective Eurostat data about EU export to Bulgaria, the resulting difference is even greater - **USD 483 million**, i.e., goods to that amount were not reported as imports in Bulgaria.

In sum, the difference established by mirror statistics as regards Bulgarian export in 1998 is of 15 %, while in the case of import, it is at the level of 18%. The significant differences between Bulgarian and European foreign trade statistics date back to 1994 (which is consistent with some of the conclusions drawn in Chapter One above). In the period 1994-1998, the observed differences compared to European records maintained levels of 15-20%.

In a tentative estimate, setting the **total difference of USD 858 million** against GDP in 1998 could give a general idea of the size of the shadow economy generated by merchandise trade with the EU and of the scope of illegal trafficking, as well as the various forms of semi-legal import and export.

It should be noted, however, that the data used in the present analysis are the result of the first attempt to date in this country in the sphere of mirror statistics (a method also referred to by statisticians as "the mirror exercise"). A close examination of the categories used in comparing Bulgarian and European statistical records reveals notable differences [23]. A typical example is the **import of cars**, where the widest gap occurs between the Bulgarian and European data. While the European export registers the value of the vehicle (used cars are subject to a detailed appraisal model), the Bulgarian import records only include the year the car was made and the power of the engine* (cf. 2.2. above). Such examples are also to be found with household appliances and audio-visual equipment.**

The analysis should also take into account the level of concentration of the **merchandise trade between Bulgaria and the EU by member country and product category**. By Eurostat data - COMEXT EEC Special Trade (i.e. based on the records of EU import from Bulgaria), in 1998 **63% of Bulgaria's export to the EU was intended for three countries**: Italy - 25%, Germany - 22%, and Greece - 16%. Italy has been the preferred market for Bulgarian goods since 1995 (the year of enforcement of the Accession Agreement). The same applies to import - 61% of Bulgarian imports from the EU originated in the same three countries - 29% came from Germany, and Italy and Greece accounted for 16% each.

Another important characteristic is the **concentration by product category**. It also appears to be significant [24].

The greatest divergences in absolute terms between the Bulgarian and West-European records of Bulgarian export are observed precisely with respect to Bulgaria's chief trade partners. As regards Germany the difference amounted to USD 113m in 1998, and with Italy it was USD 72m. Substantial divergences are also observed between the records of exports to France, Belgium, Luxembourg, Holland, Austria, etc. In percentage terms, in 1998, as well as in 1997, the biggest differences occurred with respect to Bulgarian exports to Ireland (234%), Austria (30%), the Netherlands, etc. High rates are also observed under export to Germany and Italy.

Regarding Bulgarian import records in 1998, significant differences are observed with the reported imports from Greece - USD 150 m. The discrepancy between reported imports from Germany was also significant - USD 108 m,

* When the state is not concerned with the price at which a vehicle was purchased that means the money paid for this vehicle remain abroad. In some countries of Latin America this is referred to as "legalization of the smuggling of second-hand cars". In Eastern Europe there is no other country that failed to compel one of the big car makers to invest in the production of cars through a restrictive import policy. According to Eurostat data, in terms of value second-hand cars make up the biggest share in Bulgarian import. It is important to note that this kind of used car import policy is creating an enormous shadow sector for spare parts. There is reason to claim that the present import regime also sustains the trafficking in stolen cars, with which Bulgaria has become notorious.

** It is not the purpose of the present analysis to discuss national priority and national policy issues. The substantial differences, however, between the Bulgarian import and export recording instruments and the European ones logically bring up the question of the ability of the state, for instance, to protect its exporters, should they be threatened by anti-dumping procedures (the export of metals and chemicals being the most typical example). Measurement imprecision further raises doubts about such macroeconomic indicators as the trade deficit, which are of key importance in determining the situation of the country. The differences amounting to nearly one billion dollars, moreover with Western Europe alone, in fact challenge the creditability of all evaluations of the country's development.

Austria - USD 64 m, Italy - USD 61 m, etc. In percentages, the discrepancy was largest with the reported Bulgarian imports from Greece (34%), Austria (31%), the Netherlands (27%). The level also remained high as regards Germany, the largest EU exporter to Bulgaria.

What do these differences mean? The detected difference of USD 113m between the records of Bulgarian exports to Germany means that in 1998 goods to that amount were reported as import from Bulgaria to Germany, but are absent from the foreign trade records supplied by Bulgaria. Similarly, regarding export to Italy and Austria, where the differences in absolute figures amounted to USD 100m, goods to this amount were reported as imports from Bulgaria in both of these countries, but they are not to be found in any Bulgarian records.

With import, the systematically occurring differences with Greece throughout the period under consideration (1993-1998) reached record high rates - 52% and 44% - in 1994 and 1995 respectively. The USD 150m difference observed in 1998 means that in that year goods to that amount were reported as exports to Bulgaria in Greece, whereas such information is absent from the Bulgarian records. Those differences were largely made up by goods under three tariff categories (HS 2-digit): 84 (Nuclear reactors, boilers and machinery), with USD 20m; 61 (Apparel and clothing accessories), USD 13m; 87 (Vehicles), USD 10m. Various possible explanations may be advanced in this context but without analysis on the importing company level there can hardly be any conclusive answers.

In Germany, the 1998 records indicate that vehicles worth over USD 40m were exported to Bulgaria, whereas Bulgarian import statistics have not made any record of them. Assuming that those were used cars at an average price of up to USD 2,000, in fact 20,000 vehicles were reported as export to Bulgaria in Germany in the course of that year but failed to show up in the Bulgarian records. Concerning the import of domestic appliances and apparel the difference accrues mainly under the trade with Italy and Greece (a total of USD 70 m under these two categories), and in the case of the import of alcohol, it is most important between the respective records of imports from the United Kingdom (USD 11m). The problem with the reporting of alcohol import from the UK is a long-standing one. Between 1993-1998, alcohol worth between USD 11 m (1998) and USD 21m (1993) was reported as export to Bulgaria without the corresponding records in Bulgaria.

In the case of at least three of the tariff categories displaying the greatest differences (87, 85 and 61), the so-called suitcase trade accounts for a large part of the import. It certainly predominates in apparel import (61).

An interesting possibility to be explored further is that the observed differences might be generated by the Bulgarians illegally residing and working in Greece. By data of the Greek Ministry of Labor, they number between 50,000 and 80,000. In the opinion of experts, they send both money and merchandise to their friends and family in Bulgaria using informal networks and channels. This applies not only to cash but also to the very same categories of products: **household appliances** (code 84), **apparel** (61), etc.* The difference in the reported Bulgarian imports from Germany and Austria accumulates mainly under the **vehicles** category (87).

The differences concerning raw materials are also of particular interest. The data show that about 56% of the differences in the import records concern raw materials. Thus, according to experts on the shadow economy, the number of

* They are motivated to declare the goods leaving the country because they will thus be entitled to VAT refund.

Bulgarian manufacturing companies which start up in the shadow economy - thus with opportunities to add value only unlawfully - is not insignificant.

Concerning the export of Bulgaria to the EU countries, the accumulating differences in the information provided to Eurostat come from different sources. In the export of apparel (62) more than half of the difference comes from the Bulgarian export to Germany, and under category 61 (another type of clothing), the difference accrues from export to Greece. The differences in the export of ferrous metals (72) and fertilizers (31) come mainly from Bulgarian export to Italy, while the differences in the export of copper come from the export to Germany.

The great discrepancies in apparel and clothing accessories records (categories 61 and 62), which together represent almost 50% of the export difference, could be due to purely methodological problems in reporting the export of articles made to order for Western companies. The next "items": ferrous (72) and non-ferrous (74 - copper) metallurgy, together account for about 17% of the difference accumulated in 1998.

As evident from the summary of the findings of the comparative analysis of Bulgarian and West-European statistics, the shadow zones of illegal import/export emerge quite clearly. Only a comparison using mirror statistics can begin to reveal the scale of smuggling channels for emblematic luxury items such as domestic appliances, household electronics, car spare parts, alcohol, cigarettes, and other goods.

In conclusion, the method of mirror statistics could be a very efficient instrument in counteracting smuggling. If the specialized agencies start making more active use of the opportunities provided by modern technologies and focus the control efforts wherever there appear conspicuous discrepancies, the pressure on the traditional smuggling channels would increase.

There is a substantial potential in multi-level research projects - from identifying the specific companies that are the possible source of the discrepancies observed (and provoking official audits) to facilitating electronic data exchange between customs administrations in the EU and the accession countries.

3.3. MECHANISM FOR ASSESSING SMUGGLING BY SAMPLE SURVEY METHODS

(ILLUSTRATED BY AN ANALYSIS OF THE CIGARETTE AND ALCOHOL MARKETS IN BULGARIA)

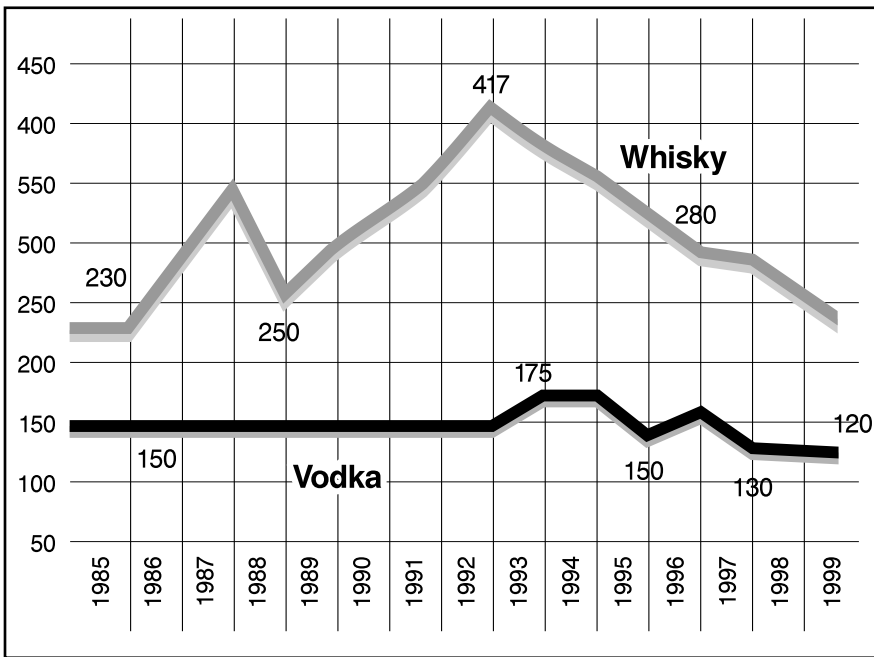
This method allows the combined use of **sample surveys used in marketing research* of consumer market segments and official data, or customs statistics in this case.**

Such an approach is in fact readily applicable because of the available extensive marketing research done since the early 1990s on virtually every market of mass consumer goods. By now certain stable year-long trends have been established and there is reliable information about the size and structure of the major markets in this country. The comparison between the declared value of the goods in official customs statistics and the results of marketing studies provides a good basis for determining the size and structure (brands, packaging sizes, etc.) of the smuggled goods market. As illustration, we shall consider two of the most controversial markets - those of **cigarettes and alcohol.**

* In the present analysis "marketing research" refers to surveys based on representative samples, regardless of whether they are end-consumer or outlet samples.

There is every reason to claim that the **imported alcohol market** constitutes the most positive example in terms of curbing smuggling and transborder crime. A look at the facts shows that in the period 1989-1998 the quantities of imported vodka ranged about 1.3-1.4m liters, and those of the various brands of whisky varied between 2.2 - 2.5m liters a year (see the chart below). A relatively stable imported alcohol market can generally be said to exist in this country*, estimated at about 50-60m levs**.

CHART 3.1 Vodka and whisky consumption in Bulgaria (thousands of cases)



While in 1998 almost the entire import of high-quality spirits was done illegally or semi-legally, **by mid-2000, by data from importers, the illegal import had dropped to 20-30 %, depending on the brand** (See Figure 3.1.).

The analysis reveals three major preconditions that have helped bring about this change. First, the amendments to the Law on Excise Duties of December 1998. Thereafter excise duty on spirits was determined on the basis of alcohol content, while it used to be based on the declared value. Thus excise duty no longer depended on the declared import price and this rendered pointless the value-related fraudulent schemes (there is still the possibility to report false quantities.)

Under the new situation the correlation between profit and risk to the importer drastically shifted in favor of legal activity. There was no longer any need for bribery in order to avoid payment of, or to reduce customs duties.

The second precondition was the wish of the leading importers, mainly the major transnational companies, to conduct legal business in this country. By early 2000 almost all of the major producers of distilled spirits had established their own offices in Bulgaria or had designated official importers. The first ones to start working "in the open" were the representatives of Jim Beam Brands - Intco Brands Ltd. Seagrams designated Asko as their official importer and distributor in early 1999. In July 1999, United Distillers & Vintners (UDV) also opened their branch office with Makkar being their official distributor. As of November 1999, Allied Domecq started importing independently and in the end of the year registered its own distribution company, Allied Domecq Agencies. Grants and Bacardi also appointed authorized importers.

The third precondition is the improved work of customs authorities, which managed to enhance control at the major points of entry for the import of distilled spirits.

The proposed approach comparing data from marketing research with official statistics highlights the positive changes. A comparison between the operative cus-

* Experts attribute the large quantities in 1992-1995 to the fact that in that period Bulgaria was used as a re-exportation base to neighboring Balkan states.

** These figures concern the total sales to end consumers.

toms statistics and the available surveys indicates that the legally imported quantities of alcohol in 1998 amounted to 4.1m levs, or about 6-8% of the estimated market. In 1999, however, there occurred a drastic change. That year alcohol worth BGN 12.3m had been declared at customs by October, which is four times the value recorded in 1998, without any significant changes in consumption rates. This tendency was maintained in 2000. The legal imports of alcohol doubled in the first five months of the year, reaching BGN 9.4 m. By contrast, in the same period in 1999 declared imports amounted to BGN 5.8 m.*

The positive tendencies in the import of high-quality brands of alcohol should not be overestimated and do not mean that all of the problems are resolved. In the opinion of both experts and importers, lately there has been a certain reorientation towards "parallel imports", typically of a semi-legal nature**. What is

TABLE 3.2 Breakdown of the losses in government revenues and importers' losses caused by the parallel import of spirits

Imported spirits 1999 r.	Exports to Bulgaria reported by producers		30% parallel import	Government revenue losses because of unpaid customs duties	Government revenue losses because of unpaid VAT	Government revenue losses because of unpaid profit tax	Government revenue losses because of unpaid tax on profit from advertising activity	TOTAL government revenue losses	Importers' losses
	(thousands of 9L cases)	(bottles)							
Whisky	242,5	2910000	873000	1257120	1047600	654750	32737,5	2992207,5	2182500
Vodka	125	1500000	450000	315000	189000	67500	16875	588375	225000
Gin	13,5	162000	48600	37422	46170	29160	1822,5	114574,5	97200
Brandy	16	192000	57600	79662	48080	17280	2160	147182	57600
Liqueur	11,3	135600	40680	157430	48816	24408	1525,5	232179,5	81360
Mastika	15	180000	54000	37800	27000	8100		72900	27000
Tekila	4,8	57600	17280	39225	19008	5184		63417	17280
Total	428,1	5137200	541160	1923659	1425674	806382	55120,5	4210835,5	2687940

Notes:

1. The estimates of the exports to Bulgaria are based on studies by independent international expert companies - IWSR and Canadean Ltd.
2. In general, parallel importers import at lower invoice value than authorized importers and the resulting government revenue losses from unpaid customs duties amount to BGN 1.45 per bottle of whisky, BGN 0.70/bottle of vodka, and on average BGN 1.70/bottle of the other spirits.
3. After import taxes, VAT losses along the entire distribution chain amount to more than BGN 1.20 per bottle of whisky, BGN 0.60/bottle of vodka, and on average BGN 0.90/bottle of the other alcoholic beverages.
4. Average rate of net profit of authorised importers: BGN 2.50/bottle of whisky, BGN 2/bottle of gin and liqueur, BGN 0.50/bottle of vodka and anisette, BGN 1/bottle of the other products.

* The largest volumes are typically registered in the second half of the year.

** There is continuing importation of counterfeit products of the major brands. Bulgaria has the "advantage" of proximity to the countries with the most active makers of counterfeit products - Turkey and the Middle East countries.

declared in this case is the type of beverage, rather than the brand. In addition, the invoice value tends to be underestimated and under fixed customs and excise duty rates the state is losing the VAT due. In the estimates of the largest distilled spirits importer - UDV - under the market situation in 1999 and the presumed 30% illegal imports, the national budget has lost BGN 4.210 m from unpaid VAT, excise and customs duties, profit tax, and tax on advertising activity, while the losses of authorized importers amount to BGN 2.687 m (See table)

The comparative examination of marketing research data and customs statistics indicates that with **imported cigarettes** the game is still played by the old rules and in some respects the situation has become even worse. According to the most conservative estimates, the annual sales volumes in Bulgaria are about BGN 260m. [25] The analysis of the data suggests that 85% of the cigarette sales volumes in this country come from Bulgarian-made cigarettes. The imported cigarette sales therefore amount to 15% or BGN 40 m a year*. This logically raises the question as to what part of these cigarettes have been imported legally. The answer is that in 1998 the value of the legally imported cigarettes was approximately BGN 5.5m, meaning only 14.1% of the imported cigarettes have been registered with the relevant authorities. A comparison with the 1999 figures shows that the duties paid by October 1999 had dropped by about 35% compared to 1998.

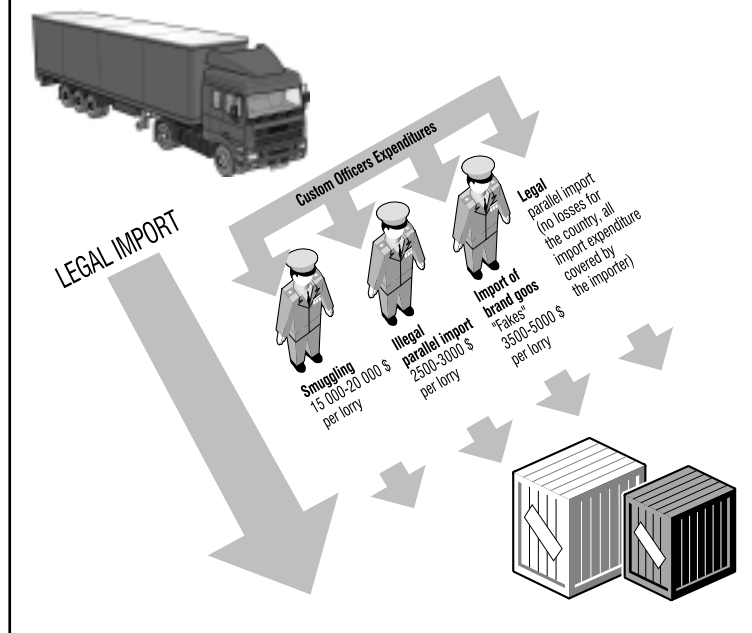
3.4. ASSESSMENT OF ILLEGAL TRAFFICKING THROUGH EXPERT SURVEYS (AN ATTEMPT TO ESTIMATE THE VOLUME OF "UNREGULATED PAYMENTS")

Owing to the size of the country and the purchasing power of the population, the major consumer goods markets are assessed as very modest in terms of value. The entire consumption in Bulgaria could be compared to the consumption in a mid-sized West-European city. It is for this reason that the participants in the various Bulgarian markets of consumer goods are quite familiar with their own market niches, the potential of the various products, the competition, but likewise with the major channels for illegal or semi-legal supply of goods. In this sense, using expert estimates to determine the size and structure of smuggling and the various forms of illegal importation proved extremely effective. Such an approach, unlike quantitative methods, involves a high risk of subjective distortion, yet allows almost complete coverage of the markets in this country. Importers' intimate knowledge of the sales structure and volumes by chief imported goods in this country is reason to try and obtain an additional estimate, which is of highest relevance to the subject of the present analysis, namely - an estimate of the proportions of bribery by product category. Here are some of the figures obtained in a pilot survey based on expert estimates.

Citrus fruit imports (oranges, tangerines, lemons, grapefruit) largely originate in Greece, Turkey, and Syria. Customs clearance takes place at the customs offices in Bourgas, Sliven, Nova Zagora, Varna, Shumen, Dobrich, Plovdiv, Dimitrovgrad, Kapitan Andreevo, Kulata, Blagoevgrad, Doupnitsa, Pernik, Sofia, Rousse, Razgrad, Gorna Oryahovitsa, Pleven. Bananas are shipped from countries such as Panama, Columbia, Costa Rica, Equador, Mexico, and Italy. Customs clearance takes place at the customs offices in Sofia, Samokov, Petrich, Bourgas, and Plovdiv. The main violations in the import of fruits and vegetables involve misreporting of quantities, understating the value, and concealing the true origin of the goods. As a result, in the course of one year there accumulate **unregulated payments to the amount of**

* It should be noted that in terms of actual consumption rates, imported cigarettes account for about 5-6% of consumption in this country. In other words, unlike alcohol, the fight against the smuggling of cigarettes is very complicated owing to the smaller volumes involved.

CHART 3.2 Types of smuggling schemes and parallel import



about **BGN 1.5 m.** Hiding the actual quantities shipped is done by understating the number of boxes in the declaration. Understating the value involves providing a false invoice, and concealing the actual origin is done by presenting a false certificate.

Meat and offal imports (beef, pork, chicken, turkey) originate in Argentina, Australia, Belgium, Denmark, Germany, Italy, the Netherlands, Norway, UK, Spain, Austria, France, Hungary, Lithuania, Ukraine, Moldova, Poland, Greece, Canada, and USA. The import typically involves offshore companies in Cyprus where the invoices are tampered with in order to declare a lower value at customs. The imports largely pass through customs offices in the territory of Sofia, Varna, Plovdiv, Rousse, Petrich, Pernik. Meat imports display the whole range of illegal trafficking and fraud schemes. Concealing the actual quantities shipped by understating the actual gross and net weight of the goods; understating

the taxable value; providing an incorrect description and wrong tariff numbers for the purpose of avoiding payment of the proper customs duties and taking advantage of a lower rate. Preference rates are used unlawfully by stating untrue origin of the goods. A common fraud scheme involves declaring offal at customs while actually shipping other products. This facilitates the declaration of lower taxable value, evasion of specific customs duties, unlawful use of preference rates based on false certificates of origin. These unlawful practices entail losses of due import taxes and other fees and **in a year generate unregulated payments amounting to about BGN 1.5 m.**

Raw coffee beans imports originate in Indonesia, USA, Italy, Vietnam, Costa Rica, Cameroon, Ethiopia, and for the most part pass through Greece and Cyprus, using offshore companies based in Cyprus. Roasted coffee beans are imported from Poland, Germany, Belgium, and Italy. Raw coffee beans imports are mainly cleared at the customs offices in Kulata, Pernik, Sofia, Varna. The main problems with coffee imports, involve clearance of understated value. As a result of the unlawful practices in the course of a year there accumulate **unregulated payments to the amount of about BGN 2 m.**

Rice imports originate in Turkey, Greece, Spain, Argentina, China, and Egypt, with customs clearance largely taking place at the customs offices in Bourgas, Sliven, Varna, Pazardzhik, Sofia. Violations mainly involve understated value and origin-related fraud for the purpose of securing application of more favorable rates. As a result of the unlawful practices in the course of a year there accumulate **unregulated payments to the amount of about half a million BGN.**

Chocolate and confectionery imports mainly originate in Turkey, as well as Germany, France, Netherlands, Italy, Austria, Greece, Hungary, Poland, and Belgium. Customs clearance mainly takes place at the offices in Bourgas, Plovdiv, Kapitan Andreevo, Sofia. The violations chiefly involve understated value on the invoices, understated weight and number of boxes. As a result of the unlawful practices in the course of a year there accumulate **unregulated payments to the amount of about BGN 1.5 m.**

Perfume, cosmetics, toiletries, and detergent imports mainly originate in France, Belgium, Greece, Turkey, Germany, Italy, UK, Austria, the Czech Republic, USA, Slovenia, Poland, and the Netherlands. Customs clearance mainly takes place at the offices in Sofia, Pernik, Bourgas, Varna, Plovdiv, Gabrovo. The violations typically involve understated value and unreported quantities, as a result of which the **unregulated payments in one year amount to approximately BGN 3m.**

Domestic appliances and electrical equipment imports originate in Greece, Italy, Poland, Korea, Germany, Sweden, Lithuania, Hungary, Bellarus, UK, Slovenia, France, Turkey. Refrigerators, freezers, washing machines, and dishwashers are predominantly imported from Italy, while smaller appliances come from Singapore and China through Austria. Radio and cassette players, TV sets, and hi-fi systems originate in USA, Japan, China, Malaysia, Germany, Turkey, Hungary, Slovakia. Characteristically, products from Poland, the Czech Republic, and China pass through Austria, while products made in Thailand and China pass through Germany, Slovakia, Greece, and certain Arab countries. Imports are mainly cleared at offices in Sofia, Plovdiv, Rousse, Shoumen, Varna. The typical violations concern understated value, misreported origin and quantities. **The unregulated payments amount to about BGN 2.5 m per year.**

Computer equipment imports mainly originate in countries such as USA, Japan, UK, Germany, and Austria. It is interesting to note that the products originating in Singapore, Japan, and Taiwan pass through Germany and Austria. Customs clearance mainly takes place in Sofia and Plovdiv. The most frequent violations involve understating the value and concealing the actual quantities imported. As a result of the unlawful practices in the course of a year there accumulate **unregulated payments to the amount of about BGN 1 m.**

Oil product and liquid fuel imports originate in countries such as Russia, Ukraine, Romania, Greece, and Turkey. Customs clearance mainly takes place at the customs offices in Sofia, Varna, Bourgas, Petrich, and others. The main violations involve value understatement, improper description, misreporting the actual weight, as well as counterfeiting of payment documents, presenting inaccurate quality and analysis certificates, and fraud schemes of evading payment of the due customs duties and other fees by concluding fictitious contracts with ghost companies. According to some sources, the annual imports of such products amount to about 230,000 metric tons at the approximate value of BGN 54m. As a result of the unlawful practices in the course of a year there accumulate **unregulated payments to the amount of about BGN 10 m.**

Cigarettes typically arrive in this country from Switzerland, USA, Cuba, Austria, UK, Germany, Spain, the Netherlands, Belgium, Macedonia, Turkey, Greece, and Cyprus, with customs clearance concentrated in the offices in Svilengrad, Kulata, Sofia, Varna, Bourgas, Plovdiv, and Kalotina. Cigarette import often involves the most flagrant forms of illegal trafficking, with entire shipments smuggled into the country, document authentication with false customs seals, use of ghost companies, fictitious export, etc. **With cigarettes the unregulated payments amount to about BGN 8 m.**

Spirits are typically imported into the country from the EU, USA, and Canada, with clearance taking place at the customs offices in Bourgas, Varna, Sofia, Kulata. The violations involve mainly understating the invoice amount and Cyprus-based offshore companies are used for the purpose. As a result of the unlawful practices **unregulated payments to the amount of approximately BGN 3.2 m accumulate over one year.**

3.5. DEVELOPMENT OF INSTITUTIONAL FORMS OF COUNTERACTING ILLEGAL TRAFFICKING AND CORRUPTION

In themselves the above outlined methods of assessing trafficking are measurement instruments. If they are to become effective means of counteracting trafficking they need to be combined with the typical law-enforcement methods used by the government. Furthermore, the analysis of smuggling practices has established that the competent authorities tend to concentrate their efforts largely on an operational level. According to a number of experts, at present the state institutions do not make use of the modern methods of social and economic statistics.

It was established in the meetings with representatives of various government institutions engaged in the fight against illegal trafficking and transborder crime that there was a conspicuous lack of comparative analysis of the information collected by the various agencies. Data and analyses offered by private organizations and individuals are often completely ignored.

In the process of their research the authors of the present analysis found that all too often the response of the institutions in charge to signals and indications of transborder crimes had been slow. This is an additional argument in favor of the establishment of an integrated institution to coordinate and aid the institutions already in place in the fight against this type of crime. Such an idea has also been advanced by foreign experts in this area.

There are different approaches to institutionalizing and making effective use of the proposed smuggling assessment mechanisms. The creation of a research center within the frames of the Ministry of Finance or the Ministry of the Interior, or with the Council of Ministers, could be an appropriate first step. This center would collect and analyze data collected from various sources such as customs and tax administration, international comparative studies, NSI statistics, and marketing research by private organizations. It is important to stress that this department should not deal with confidential information from secret sources and criminal investigations. Such a condition is also imposed by the indispensable transparency and public access to an institution of this kind, which should regularly publish its findings.

The chief task of this institution should be the assessment and monitoring of the smuggling channels and their markets. Through the above outlined methods of mirror statistics, sample surveys, and expert estimates, it is possible to identify the most seriously affected sectors of the Bulgarian market. This would in turn facilitate the formulation of the main objectives in counteracting smuggling practices.

Below is an outline of two possible practical approaches to disrupting the trafficking mechanisms:

■ *Institutional control and pressure on a macro-level*

This approach implies control and pressure exerted by government institutions over representatives of organizations suspected of committing violations.

In illustration could be provided by the market of imported cigarettes. A closer look at the ten-year evolution of this market will find that despite the significant volumes in some years the representatives of the big tobacco companies in Bulgaria have not demonstrated any concern with possibilities to curb smuggling. What is more, throughout these years the tobacco companies have been among the biggest advertisers in Bulgaria. How is such spending justified? The recent public debate on the implication in international smuggling of the largest transna-

tional corporations partly answers this question*. Experts believe that through their advertising campaigns some corporations deliberately promote the sale of cigarettes that they have in fact already sold to Bulgarian smugglers. And this is hardly surprising - should these corporations pay the lawful customs duties and taxes their brands would become unaffordable to the Bulgarian consumers.

Let us recall that the situation used to be very similar with respect to the international corporations importing high-quality brands of alcohol to this country, but as already mentioned, since 1999 they have reviewed their policy, to the apparent benefit of both sides.

In another example, while in the case of high-quality imported alcohol the problem seems to have been almost fully addressed, with "low end" distilled spirits the legalization process is only just beginning. A comparison between the figures from mirror statistics and customs data easily establishes the considerable discrepancy between the customs duties actually paid and the quantities of imported ethyl alcohol necessary to meet the enormous consumption of cheap distilled spirits. The next step would be the identification of the respective companies and the quantities of alcohol using the potential of modern information technologies. A key function of the proposed institution should therefore be to devise appropriate forms of pressuring the companies that intentionally or unintentionally assist smuggling in this country.

■ ***Control (pressure) over wholesale trade.***

In the event of considerable discrepancies between the data from operative customs statistics and those from marketing research, there should be express inspections of the warehouses from which the respective products are distributed. With the information accumulated in the course of almost ten years of trade statistics and marketing research it is possible to determine with a great degree of accuracy the specifics seasonal fluctuations of Bulgarian consumption. In the opinion of experts, the warehouses at which goods from particular product categories are stored rarely number more than 50 for the whole country. In other words, the express inspections referred to above could be carried out in a single day. The information obtained from such inspections ought to provoke subsequent checks at the customs offices through which such goods may have been cleared.

To sum up, the proposed mechanism for assessment of smuggling by product category and specific brands could serve as an effective instrument for curbing and preventing smuggling and could further the process of market legalization.

■ ***Control and pressure over the retail trade in smuggled goods***

Control agencies should have the authority to carry out checks in the retail network. It is important to introduce a consistent system in conducting such checks. By way of example in this respect we can cite the sale of imported distilled spirits (cf. 3.2.). According to marketing research data, about 70-90% of the sales of luxury goods are concentrated in the four largest cities in this country (Sofia, Plovdiv, Varna, and Bourgas). By importers' estimates, there are about 3,000 outlets selling this type of alcohol (it is possible to draw up a relatively precise distribution map for each category of luxury or mass consumer goods). There are several possibilities for maximizing efficiency under the

* Financial Times, August 23, 2000; Newsweek, July 31, 2000; Wall Street Journal, July 21, 2000.

available financial and human resources. One approach is to only launch checks of the brands of alcohol for which customs duties have not been paid*. Those could be monthly sample-based inspections. For instance randomly checking 10% of the stores each month, clearly stating what brands of alcohol and cigarettes are subject to inspection.

Few shop owners are likely to choose the risk of selling the brands already declared as illegally imported. In this way, the "illegal brands" would be cut off from retail distribution and in the longer run, in view of the fiercely competitive imported alcohol market, this would prove fatal for the bulk smugglers. Once the paid customs duties on one of the brands monitored reach levels corresponding to its average sales volumes, a procedure would be initiated for removing the respective brand from the supervised list. A sample of greater size (e.g. 20 - 30 % and more) for brands characterized by more flagrant violations, and a smaller one (2 - 5%) for brands with minor violations, could be used as part of the proposed impersonal technology.

The purpose of such a technology is to encourage traders to pay the lawful customs duties and taxes on the respective goods. Another advantage of this approach is that the large-scale smugglers cannot influence specific officials conducting the inquiries. The method is impersonal and automatic and thus relatively invulnerable.

3.6. CREATING A SPECIALIZED SMUGGLING INDEX

It is widely believed that the fight against trafficking and corruption should only be conducted using different types of classified information and sources. The methods presented in this study do not exclude the use of such instruments. On the contrary, the combined application of "covert" and "open" methods creates new opportunities for prevention and interception of transborder crime. But if an anti-smuggling institution is to operate efficiently, its activity needs to be subject to public scrutiny and objective evaluation. Otherwise this activity would be susceptible to covert agreements between smugglers, state officials and politicians. The experience of the Western democracies shows that the lack of information about institutions charged with such functions often gives rise to popular suspicions and undermines public trust in them.

In this sense, it would be worthwhile to create an authoritative Smuggling Index that is to register any changes in the scope and the structure of this type of crimes. It should be published on a regular basis (for example twice a year). Such an index could be created on the basis of the estimated losses of the state from unpaid taxes and excise duties. It may comprise a certain number of smuggled product categories (selected according to their total value) and compare the customs duties and taxes paid and their market share in terms of value; it could also monitor goods that account for the biggest differences between Bulgarian statistics and the statistics of the OECD countries.

The above outlined methods of mirror statistics and sample surveys provide a good basis for further discussion. The development of such an index may also draw on the experience of the "victimization survey" conducted within the Early Warning System project of the UN Development Program, as well as the

* Such a step would require certain changes in the regulatory framework of the operation of customs authorities. According to the major importers, the obligation to declare the brand of the product would greatly facilitate the fight against semi-legal import (the "parallel importers").

Corruption Indexes of *Coalition 2000*.^{*} The parameters of the Corruption Monitoring System of *Coalition 2000*, for instance, were set as a result of public discussion and input from state institutions, NGOs, and research institutes.

^{*} See www.online.bg/coalition2000

4. MEASURES CURBING ILLEGAL TRAFFICKING AND TRAFFICKING-RELATED CORRUPTION

The reasons for the rise in transborder crime in Bulgaria over the period of consideration are complex: domestic and international, socio-economic and political. Some are directly attributable to the inadequate operation of the authorities concerned and consist in:

- Poor efficiency of the police and customs administrations and widespread corrupt practices related to illegal trafficking;
- Slow judiciary proceeding due to the over-complicated evidence related provisions, as well as to the frequent, and not always motivated, staff changes;
- Increased control of the judiciary by the executive branch and political protectionism;
- Lack of coordination among the various state agencies in the fight against corruption and illegal trafficking; lack of an established information system and exchange of information among the various agencies, etc.

The measures to curb illegal trafficking and the related criminal acts of corruption call for the establishment of a more effective legal and institutional framework, the introduction of a standardized information system within the individual agencies and among them, enhancing interaction among them, fostering transparency and public access to information about the measures undertaken to prevent and sanction these crimes, improving international cooperation in this area, involving non-governmental organizations in the monitoring of, and control over, this form of crime.

4.1. LEGAL METHODS OF COUNTERACTION

The two established methods of combating crime in general, and trafficking and corruption in particular, are coercion and persuasion. It should be noted, however, that they are not universal and can hardly bring about a conclusive settlement of the problem. A number of other methods also exist, involving state institutions, non-governmental organizations and movements, the public, international organizations, etc. The use of a wide range of methods and forms to combat these crimes is necessitated by the fact that they are conditioned by social, political, and economic, rather than only regulatory, factors. This is why the task of bringing corruption and trafficking down to acceptable and controllable proportions is not a simple one.

From a purely legal point of view, the coercive approach consists in punishing a person who has committed a crime or administrative violation. This approach may be discussed from several perspectives.

The first one is the need to improve the relevant provisions of the Criminal Code and of administrative, tax, and customs legislation by broadening the regulatory framework related to corruption and trafficking in order to prevent their spread and the resulting greater public threat.

The analysis of the legislative regulation of the counteraction of corruption and trafficking in Bulgaria, as well as international experience, suggest that the excessive criminalization of trafficking and corruption (mainly bribery) and excessive sanctions alone cannot and do not lead to the desired decrease in the number of committed crimes or infractions. This is why, both on a theoretical and on a purely practical level, it is still debatable whether the acts should be criminalized or whether administrative penalties should be imposed.

Coercion with respect to the infringements under consideration consists in the application of coercive administrative measures or in imposing punishments for a committed crime or for a committed administrative infraction.

Which of these approaches should have priority depends on the specific assessment of the situation in the country. Excessive criminal repression as a result of criminalization of most acts and greater sanctions are hardly the most appropriate approach in this specific case, despite the existence of such a trend in recent years. One recommendation is to increase sanctions for public officials in the customs administration or for persons who systematically engage in the traffic of goods across the Bulgarian borders, while increasing the cumulatively imposed fine.

In the fight against corruption and trafficking, the application of a differentiated approach in determining the type and size of sanctions depending on the official position of the offender would lead to better results. The argument in favor of this view is that large-scale smuggling and the corruption associated with it are carried out under the "umbrella" of high-ranking government officials or politicians belonging to different lobbies.

Administrative sanctions should be applied more widely since the proceedings proving the infraction and the imposition of administrative penalties are simplified. In trafficking and corruption, fines and barring a person from the right to perform a given job or activity could be much more effective in less serious cases than the punishments provided for in the Criminal Code. This also applies to property sanctions, imposed under an administrative procedure.

The coercive approach to combating corruption and trafficking also consists in the confiscation of the objects as well as any funds that have served for the perpetration of the offense. [26]

The effective enforcement of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime ratified by the National Assembly on April 1, 1993 (SG, No. 31 of 1993) and of the Law on Measures against Money Laundering, passed by the National Assembly in 1998, would be an strong contribution to the fight against corruption and trafficking. The main purpose of this law is to prevent and detect the actions of natural and legal persons aimed at laundering money derived through, or in connection with a crime. [27]

The other basic approach to combating corruption and trafficking is persuasion. It is associated with the preventive function of law. The very criminalization of an act or declaring it an administrative infraction is essentially of a preventive character. It consists in the fact that the awareness of a crime or infraction and the related liability motivate citizens to abstain from a certain type of behavior in order to avoid sanctions.

Regardless of the public importance and spread of trafficking and corruption, as well as the high degree of public threat of those acts, persuasion can be applied successfully in adopting legal norms providing for incentives and legal norms with

a favorable effect on the offender.

The application of the method of persuasion can acquire a multiplying effect not only in combating corruption and trafficking, but also with a number of other related crimes, such as misuse of office, documentary fraud, and certain crimes against the administration of justice.

Beyond its formal legal implications, the method of persuasion can be applied with the use of traditional forms: involvement of the general public, non-governmental organizations, the media. Awareness campaigns targeted at children and young people are of particular importance.

4.2. ORGANIZATIONAL AND STRUCTURAL REFORM

The other forms of counteraction can be organizational, organizational-methodological or structural and include different incentive measures. This implies enhancing the efficiency of the special units whose activity is directly related to combating smuggling and corruption, in order to ensure more timely exposure of violations and crimes and prompt steps to draw up the documents certifying the offenses, shortened deadlines for investigation and the enforcement of due sanctions, the timely interception and prevention of infringements.

With the adoption of the Tax Procedure Code (State Gazette, issue 103/1999, in force as of January 1, 2000) a solid, if somewhat overdue, legal framework was created. This has helped solidify the fundamentals of statehood and has created conditions for a better organized and effectively functioning tax administration as a guarantee against corruption and smuggling.

The considerably increased procedural powers with respect to the imposition of administrative penalties and the enforcement of coercive administrative measures are a serious guarantee in combating corruption and trafficking.

With the amendments to the Law on Collection of Government Receivables (SG, No.26/1996), introduced by the Tax Procedure Code (TPC), a State Receivables Collection Agency was established with the Ministry of Finance. Its powers are regulated by Articles 85-90, as well as by the Rules of Organization of the Agency approved by the Council of Ministers, and include possibilities to sell seized and forfeited goods on behalf of the government.

At the same time, it is becoming increasingly necessary to reduce the tariff rates, the existing quantity restrictions and licensing regimes, as well as other potential motives for committing violations.

The overall activity of the General Tax Administration Directorate (GTAD) is regulated by the TPC and the Rules of Organization. An Internal Control Department has been set up with the Customs Agency, with subdivisions at five Tax Directorates in Sofia, Plovdiv, Varna, Bourgas and Veliko Turnovo. The organizational structure of internal control is fully established down to the level of regional tax administrations. Representatives of internal control work in some territorial tax directorates although they are on the payroll of the regional tax directorates. The main functions of GTD internal control are defined in Article 241 of the Tax Procedure Code and the Rules of Organization. The main functions of the tax control officers are to ascertain the integrity of tax administration officials, to investigate signals and complaints, and to conduct regular (planned, routine) inspections and preventive activities. Such structures with special powers also exist in other state agencies whose activity is related to counteracting corruption and smuggling.

It should be noted, however, that when structural units with control functions are subordinate to the directors of the respective agency or department, their effectiveness is reduced, and there is increased likelihood of violation of the principles of objectivity and independence.

The following measures would have a positive impact:

1. Creating a uniform information system and database allowing checks of the documents accompanying the goods.
2. Introducing a system for the provision of prompt information to the competent authorities about pending criminal or administrative proceedings against a specific person, including information on any previous offenses, sanctions for administrative infractions, or any coercive administrative measures imposed.
3. Creating an effective system for inquiries about the property and financial status of officials who are suspected of committing or of having committed acts associated with trafficking and corruption.
4. Broader application of the system of incentives for customs officials and persons signaling customs or currency violations, as provided for by Article 14 of the Law on Customs.

4.3. ORGANIZATIONAL AND METHODOLOGICAL REFORMS

The organizational and methodological development activities of the special agencies (customs administration, border police, finance and tax administration, the Financial Intelligence Unit, State Receivables Collection Agency, magistrate authorities) - should be aimed at:

- a) quality staff recruitment, training, and retraining;
- b) development of methodologies to expose the different kinds of crimes;
- c) studying the mechanisms of committing different violations, summarizing the findings and presenting the analyses to the Regional Customs Departments.

4.4. CUSTOMS REFORM

The Bulgarian customs reform is of particular importance for the successful curbing of transborder crime. It is carried out in the areas of the statutory framework, work organization, internal control, and international cooperation.

The legal framework of customs activity can be said to have been improved in the late 90s.

The enacting of the Customs Code (SG, No. 15, 1998) necessitated certain amendments to the Law on Banks. The heads of the Customs Agency and of the Regional Customs Departments were authorized to receive the necessary information about persons guilty of a violation officially established by the customs administration.

Another level of secondary customs legislation (instructions, ordinances, etc.) is currently being developed and enforced. The Internal Control Instructions and the Code of Ethics of the Bulgarian Customs Administration will have a direct bearing on the fight against corruption and other unlawful actions of customs officers. They will be jointly elaborated with experienced customs officers and experts from

the customs administrations of EU countries and from Euro-Customs.

An Ordinance of the Council of Ministers of the Republic of Bulgaria of 1999 and the Law on State Property make annual property status declarations mandatory for all customs officers.

In accordance with the provisions of Article 7, paragraph II of the Law on State Property and Article 10, paragraph 2 of the Customs Code, customs officers are required to file declarations in accordance with the restrictions provided for by these acts concerning civil servants and customs officers in particular.

Measures to crack down on trafficking-related corruption are also taken in the sphere of internal control. Special structural units for internal inquiries and control of any corrupt activities involving customs and tax officials have been set up within the system of the Ministry of Finance and more specifically, with the Customs Agency (CA) and the GTAD.

An Inspectorate Division, directly subordinate to the head of the Customs Agency, has been set up with CA with its own subdivisions down to the level of Regional Customs Departments. [28]

As for the Bulgarian Customs Administration, internal control is mainly carried out by officials from the Inspectorate Division with CA, directly subordinated to the Deputy Minister of Finance and the head of the Customs Agency. Its activity includes conducting all kinds of checks and inquiries at customs offices (comprehensive, express, thematic, etc.), as well as checks on reported violations and complaints from citizens and companies.

The Customs Administration has started a project "Combating Corruption" supported by the EU's Phare program and implemented in cooperation with the customs administrations of France and the UK. As part of the project, a structure of the internal control bodies compliant with the practice and standards in the EU will be discussed and put forward.

With regard to work organization, measures have been taken to restrict corruption and other unlawful acts by customs officials, as well as to tighten work discipline, notably:

- introducing a two-tier (and in some cases three-tier) method of control over the process of customs clearance of goods;
- regular rotation of customs officers;
- withdrawing personal customs seals and transfer to a different position, unrelated to customs control, of customs officers against whom preliminary proceedings have been instituted under the procedure of Chapter Twelve of the Code of Criminal Procedure until the pronouncement of the respective authorities;
- special rules have been established for the safekeeping of personal customs seals;
- cash in excess of BGN 100 and/or foreign currency carried by customs employees' workplace and during office hours must be declared.

The following measures were introduced as of January 2000:

- personal ID cards visibly displayed on the uniforms of customs officers;
- special mail boxes will be placed on the premises of customs, customs offices, and checkpoints for signals and complaints by passengers, carriers, shipping agents, company representatives, etc.;

- a telephone hotline for signals and complaints about violations by customs officials was opened with the Inspectorate Division (the number is 359-2 981 55 38).

Due to the early stage of the reform, it is still difficult to determine how these measures will reflect on the practical activity of customs. An indispensable condition for an objective evaluation is to enlist the participation of non-governmental anti-corruption and human rights organizations, as well as to make it accessible to the public.

The reform includes measures to improve the interaction with other state institutions. In order to maximize the efficiency of the fight against corruption and other unlawful actions of customs officers there is constant exchange between the Customs Agency (above all the Inspectorate Division and Customs and Currency Violations Department) and other state agencies concerned (courts, prosecution offices, investigation services, Ministry of the Interior, tax administration, etc.). This interaction includes regular contacts with the agencies of the judiciary and the executive branch, exchange of information and joint inspections with the respective authorities. The information obtained from the inquiries concerning offenses and violations (excluding disciplinary ones) is passed on to the relevant Prosecution Office (e.g. jointly conducted inspections concerning smuggled imports of sugar, ethyl alcohol, etc.).

The continued implementation of the reform would require the introduction of modern operation standards and norms for customs officers: simplifying and facilitating a number of customs procedures, limiting the role of the subjective factor, guaranteeing greater transparency of customs activity, etc.

A radical overhaul of the systems of collecting, processing using information would be of great importance in improving the work of customs. There should be continued efforts along the following lines:

- Establishment of special investigation and intelligence structures in the customs offices, improving the work of these structures, creating conditions for their better functioning through the establishment of new methods of work, improving the facilities and introducing new specialized technical equipment.
- Creating new information databases about customs violations and offenses and ensuring constant exchange of information between the different agencies directly involved in the fight against customs violations and offenses.
- Enhancing the coordination between the customs offices, improving the infrastructure and communications.
- Encouraging the exchange of information among customs administrations and improving international cooperation.
- Using the existing legal framework for exchange of information among customs administrations at international level.
- The Republic of Bulgaria needs to accede to the Convention on mutual administrative assistance with a view to the prevention, investigation and repression of Customs offences of 9 June 1977 (Nairobi Convention).

4.5. MEASURES IN THE CONTEXT OF LEGAL AND INSTITUTIONAL REFORM

The recommended measures are part of the legal and institutional reform for the creation of modern management structures and mechanisms in the context of the country's European integration efforts. The Anti-Corruption Action Plan of *Coalition 2000*, endorsed in 1998, contains general guidelines for the reform of the judicial system, which directly affect the problem under consideration. [29] In particular, the following could be considered:

- Reform of the substantive criminal law by reformulating provisions concerning the misuse of office and fraud, including consumer fraud; introducing a broader definition of the concept of gain in the crime of bribery; criminalization of the act of requesting unlawful gain (which has already been initiated); criminalization of arrangements preceding acts of corruption involving two or more persons; sanctioning legal persons allowing criminal practices in their activity.
- Decriminalization of the crime of incitement to accept bribery under certain conditions, as well as in cases when the aim is to expose corrupt senior civil servants, magistrates and other public officials.
- Legislative regulation of the sanction of confiscation of property acquired as a result of corruption, including property transferred to third parties in order to be retained.

The legal regulation of the financing of political parties and the transparency of their financial activity would be of great importance to reducing political corruption and cutting off any smuggling channels associated with it. The creation of an adequate legal framework in this crucial sphere would also reflect favorably on the establishment of democratic institutions in the country by differentiating the state and party spheres, creating conditions for the development of legal sources of funding and control over the finances of parties and politicians, etc. [30]

Another positive step would be the adoption of the draft law on the Ombudsman institution (the title of the draft is *People's Defender and Civic Mediators*) developed by the Center for the Study of Democracy.* The introduction of the Ombudsman institution on a national and local level would help enhance government transparency and would further the efforts to curb trafficking-related corruption in Bulgaria. (*cf. The Ombudsman Institution - Concept and Draft Law for Bulgaria, Foreign Legislation, Center for the Study of Democracy, Sofia 2000*).

It is also necessary to further develop the public administration reform and clearly define the role of the state and its institutions, including control mechanisms and institutions for combating corruption (the Audit Office, State Financial Control, the tax administration, national services within the structure of the Ministry of the Interior, etc.). A primary concern should be for the special internal control bodies in the public administration, whose immediate tasks are to combat corruption and smuggling, to be either completely independent or have double subordination, to be structured within a uniform system and subordinate to an independent body such as, an *agency with broad administrative powers and jurisdiction*.

An important prerequisite for the continued success of the reform in the public sector is the adoption of a modern law on the access to public information, which would overcome departmental isolation and would contribute towards greater openness and transparency in the public sector. This requires an accurate

* For further information see www.csd.bg

definition of "state secret" and the creation of a regime of transparency and publicly available information about the activity of state institutions.

The continued judicial reform reflects directly on the infractions and crimes considered in the present analysis. The measures to speed up the administration of justice and increase its efficiency and transparency could help overcome its present sluggishness. In particular, the continued harmonization of legislation with the standards of anti-corruption conventions would be of great importance. (In 1999, the Republic of Bulgaria signed three conventions regulating the fight against corruption: the Criminal Law Convention on Corruption of the Council of Europe, the Civil Law Convention on Corruption of the Council of Europe and the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the OECD. The first convention has been signed and the latter two ratified by Bulgaria. In implementing the obligations under the OECD convention, a Law on the Amendment to the Criminal Code was adopted by the National Assembly on January 15, 1999. It introduced the concept of *foreign public official* and established bribery of a foreign public official in international commercial transactions as a criminal offence. In this case the same sanctions apply as in active bribery of a Bulgarian public official.)

4.6. REINFORCING INTERNATIONAL COOPERATION

The very nature of the combined occurrence of corruption and trafficking presupposes international cooperation as the only possibility to achieve tangible and sustainable results. And that is due to the fact that smuggling is invariably a crime affecting at least two states.

Bulgaria is a party to a number of international instruments related to trafficking and corruption. According to Article 5 of the Bulgarian Constitution these instruments take priority over domestic legislation. [31] At the same time, by virtue of the European Convention on Mutual Assistance in Criminal Matters and the provisions of Chapter 22, Sections Two and Three of the Code of Criminal Procedure, Bulgaria is actively participating in the international cooperation for legal assistance in criminal cases at the request of third countries.

Within two years - 1998 and 1999 - Bulgaria responded to 28 requests for legal assistance, including 13 from Ukraine, two from Cyprus, five from Russia and one each from Turkey, the UK, Poland, Latvia, Norway, Spain and Romania. Eight of those requests concerned the trafficking of narcotic substances. All other requests concerned various goods (the requests with "unlisted" subject being assigned to this group). In accordance with the provisions of the Law on the Judiciary, the requests for legal assistance are handled by the Specialized Investigation Service.

According to the Law on Measures against Money Laundering, the Ministry of Finance is obliged to inform the concerned authorities abroad about "initial offenses and related money laundering crimes to which the Bulgarian Criminal Code does not apply". This information is provided by the Ministry of Justice; the Financial Intelligence Unit with the Ministry of Finance being informed in writing in these cases (Article 21, paragraph 2 of the Implementation Regulations of the Law on Measures against Money Laundering).

The activity of the National Central Bureau of Interpol at the Ministry of Interior, is another form of international cooperation through which inquiries are made and information requested about the registration of persons against whom preliminary proceedings have been instituted in Bulgaria.

Such inquiries about foreign citizens addressed to Bulgaria are also handled by the Bulgarian special agencies and the Courts.

Cooperation through Interpol is particularly important. It allows far speedier exchange of information than with a request for legal assistance where the procedure is more complicated. In addition, certain agencies and institutions not part of the judiciary can also receive information from Interpol.

A specific form of cooperation among the special bodies in charge of combating crime, including the fight against trafficking and corruption, is the Working Group on Law Enforcement set up with the Ministry of Interior. It has been functioning for two years with the participation of representatives of the US Administration, the Bulgarian Ministry of Interior, the Prosecution Office, judges, the Investigation Office, the customs administration and the Financial Intelligence Unit.

On a practical level, direct contacts between the investigation services and, above all, between the Specialized Investigation Service and the liaison officers accredited with the respective embassies in Sofia, are especially useful.

Substantial opportunities exist for the development of regional cooperation. International projects can be developed within the framework of the Stability Pact for South Eastern Europe, and specifically within the framework of the Pact's Third Working Table, concerned with issues of security, corruption and cooperation in the sphere of justice and home affairs. In February 2000, Bulgaria, together with six other countries in South-Eastern Europe, signed an agreement for the fight against corruption within the context of cooperation under the Stability Pact.

Multilateral efforts to check transborder crime are part of another official document: the Good Neighbor Charter signed in Bucharest in early February 2000 as part of the Southeast European Cooperation Initiative (SECI). An Agreement on Cooperation to Prevent and Combat Trans-Border Crime was also signed within the frames of SECI in 1999. It provides for different forms of cooperation between the law enforcement authorities of the countries in the region: exchange of specialized information, cooperation in mastering modern technology and methods, effective coordination, etc. [32]

Bulgaria is party to a number of bilateral instruments on legal assistance, as well as to a number of bilateral agreements on combating corruption and trafficking. [33]

In June 1999' the Customs Agency joined (through its Inspectorate Division) the Joint Program of the Council of Europe and the European Commission Octopus II.

Contacts have been established and information is being exchanged with the customs administrations of neighboring countries, as well as with the EU member states.

The main task facing all Bulgarian institutions committed to counteracting trafficking and corruption is to make full use of existing international mechanisms and forums for the addressing of the most urgent problems in this sphere. Making the national efforts to counter the problems with transborder crime in Bulgaria part of the international fight against this phenomenon is the obvious goal of the various lines of cooperation with other countries, international organizations and special agencies.

4.7. THE ROLE OF CIVIL SOCIETY

Civil society organizations have two major functions in counteracting the combined workings of illegal trafficking and corruption: monitoring and control. Such functions are no doubt exercised by the relevant public institutions and NGOs by no means aim to depreciate these efforts. However, fully objective monitoring and control can hardly be expected from intra-institutional mechanisms. The biggest advantage of civic monitoring and control over the institutional supervisory functions lies in the independence of the NGO sector. Bulgarian politicians have to wake up to the truth that civic control does not have an alternative and no reforms in government could compensate for its absence.

In the sphere of monitoring this cooperation can take the form of a formal agreement between state institutions (e.g. the Customs Agency) and NGOs for conducting regular sample studies to determine the origin of different types of goods. The next step would be to combine the results of sample studies and stock inspections according to a statistical principle defined in advance. The idea is to conduct checks in areas where sample statistics show the greatest discrepancy between the import of certain types of goods and their availability on stock. (See 2.4.)

In the sphere of control it is necessary to involve representatives of NGOs, and specifically of human rights organizations, in monitoring signals of violations when crossing state borders (it is the Customs Agency that now deals with these signals).

The next step would be to ensure the assistance of the respective authorities in establishing independent civic control by introducing the institution of the Civic Observer, opening public telephone hotlines and offices for filing complaints, and carrying out checks of possible violations in the area in immediate proximity to the border or within the scope of customs inspections.

With the assistance of civic organizations the entire information collected by various surveys and polls, as well as through the processed complaints, needs to be made available in a web site and/or in periodic publications (newsletters). This would contribute towards greater transparency and public access to information about the work of the competent authorities and would thus help enlist public support for the measures taken to curb trafficking and corruption.

CONCLUSION

Illegal trafficking, which all too often occurs with the complicity of public officials, inflicts heavy losses on the national economy and harms public interests. The foremost negative implication of these criminal activities is the loss of government revenues, and the resulting greater budget deficit. The government thus has to seek ways of increasing revenues, which in turn not only leads to a heavier tax burden but also tends to impede investments. And this ultimately poses a threat to the economic reforms of the transition.

Tolerating the combined impact of illegal trafficking and corruption poses a threat to national security and the development of market economy. The money accumulated through smuggling circulates in a vicious circle and pushes the economy in a criminal or semi-criminal direction. Thus the criminal structures, rather than honest entrepreneurs, become more competitive and predominant.

As a result the investment environment becomes unacceptable to foreign businesses, who are faced with unfair competition and lack of market rules. Confronted with the illegal import of their own products into the Bulgarian market, major Western companies have left Bulgaria.

Furthermore, illegal trafficking underlines domestic production through cheap imports, impedes the creation of a proper development environment for small and medium-sized business.

Last but not least, the existence of smuggling channels under the control of certain groups vested with power impedes the stabilization of democratic institutions, the regulations of political parties financing, the reform of state structures, and the establishment of democratic government standards.

All of this calls for prompt and resolute measures by the authorities to destroy the criminal alliance of trafficking and corruption and drastically curb smuggling operations in this country. Some of these measures are already in place and others are about to be introduced. The efforts to enhance law enforcement in this sphere are part of international counteraction of trafficking in merchandise, drugs and human beings. Moreover, the reform of the control and law-enforcement authorities and the interception of the smuggling channels in this country constitute preconditions for Bulgaria's integration in the European and Euro-Atlantic structures.

An important pre-condition, which has frequently been neglected, for the successful fight against corruption and smuggling is the need to enhance the role of civil society and to conduct long-term public monitoring and control over the risk zones in this sphere. Without civic participation, the general public in this country and abroad would be deprived of an independent evaluation of the processes and tendencies in counteracting the combined corruption/trafficking phenomenon in Bulgaria.

The methodologies for assessing and monitoring smuggling , outlined above, as well as the proposed comprehensive measures to prevent transborder crime and the associated corruption of public officials, constitute an integral part of the efforts to reinforce the rule of law in Bulgaria.

NOTES

1. The Dictionary of Bulgarian Language (4th ed., 1995) gives the following definition to this concept: social decay, depravity, and bribery. This definition matches the meaning of the Latin word *corruptio*, which means spoiling, outworn or bad condition, or (figuratively) deceitfulness, impairment, bribery. Corruption is a negative phenomenon, which finds its most straightforward manifestation in bribery. Corruption and bribery are alike, though not identical. Corruption is a wider concept, which also includes bribery. For that reason a bribe would have all features of corruption and any bribe constitutes corruption but the reverse is not true. Both corruption and bribery result in obtaining illicit benefits, but in the case of bribery those benefits are tangible or financial items only. Corruption might involve one or more persons aiming to obtain personal benefit through the use of an official position, whilst bribery always involves at least two persons who enter in a *sui generis* deal. A bribe is a crime driven by self-interest whereas corruption is multi-faceted and is much more detrimental to society. A bribe is always a legal phenomenon. Corruption is a social phenomenon, which might turn into a legal one by way of exception.

The common understanding of the concept of corruption covers the misappropriation of property entrusted to someone, smuggling, illicit trafficking, etc. There is even a term "corrupt criminality" a concept, which has been in use for some time though it is devoid of any scientific or legal value. Corruption is equally typical of civil servants and public figures: in both cases the person concerned receives advantages that are either prohibited by law or socially unjust or immoral. Corruption is also typical of all levels of public governance. Thus it is at least inaccurate to connect it exclusively or primarily with the lower levels of public authorities. Quite the contrary, in Bulgaria and in other countries, regardless of their specific stage or degree of economic development (fully-fledged market economy, transition from a totalitarian to market economy, or totalitarian economy), corruption - in its most flagrant forms, largest dimensions and most unambiguous disrespect of any legal and moral values - is emblematic of the highest levels of political power.

2. According to Michael Johnston, transborder corruption is manifested in a wide range of forms: from suspicions political donations and financing of election campaigns to improperly stringent bank secrecy, offshore banking operations or the establishment of free-zones in which capitals of dubious origin are accepted, etc. (see Michael Johnston. Cross-border corruption: points of vulnerability and challenges for reform, in: Corruption and Integrity Improvement Initiatives in Developing Countries, UNDP/OECD Development Center, p.15). In the present study attention will be focused mainly on corruption linked to economic smuggling.
3. In strictly legal terms, smuggling qualifies both as a crime and as an administrative offence. While in the first case criminal liability is envisaged under the Criminal Code, in the second case administrative liability is sought in accordance with the Law on Customs (State Gazette, issue 26, 1968). As far as the crime is concerned, its elements are provided in par. 242 of the Criminal Code. The objective elements comprise the transfer of goods through the country's border without the knowledge and authorization of the customs authorities. The goods could be fairly different and criminal liability in each particular case depends on their type and quantity. In all cases of smuggling the object in question is confiscated regardless of whose property it is. If the object is missing or has been alienated, the offender is liable to pay an amount equivalent to its retail price. The vehicle used to transport or carry such goods is also subject to confiscation irrespective of its intended use and of whether it is owned by the perpetrator or by a third party. It is also important to ascertain whether the vehicle of transportation or transfer has been used to commit the crime of "smuggling". An exception to the general rule is made when the value of the vehicle clear-

ly fails to match the seriousness of the crime of "smuggling".

It is worth noting that smuggling is one of the rare examples in the Criminal Code of the Republic of Bulgaria where a penalty is provided for an attempted smuggling "in particularly great dimensions" representing a "particularly severe case" or where the perpetrator is a customs official. Likewise, criminal liability lies against the perpetrator if the crime is not completed for reasons beyond his or her control. The attempt is punishable in the cases explicitly laid down in the Code and is connected with the type of goods (narcotic drugs) or their quantity (a particularly grave case), or the job description of the perpetrator (a customs officer). Smuggling would only exist if committed by a person able to understand the nature and the consequences of their acts and intended to achieve the criminal result, i.e. direct intent is required. In any other case, there would be no crime.

It is well-established case-law that if an act involves narcotic drugs the value and the quantity of the drugs are not of the essence in order to qualify that act as smuggling. Value and quantity in this case are of secondary importance. The crime of smuggling may be committed by any Bulgarian or foreign person. It suffices for the goods to be transported or carried across the border of Republic of Bulgaria without the authorization of the customs.

Where the smuggling represents a case of minor importance, the sanction envisaged is fine imposable in administrative proceedings. In such cases, the act qualifies as one of "minor importance" within the meaning of s. 93, point 9 of the Criminal Code, which reads: "A case of minor importance is any case where the crime committed, in view of the lack or insignificance of the harmful consequences or in view of other extenuating circumstances, reveals a lower degree of threat to the society by comparison to the ordinary crimes of the respective type".

Where there are no harmful consequences or these are clearly insignificant, the person has not been sentenced before, has not been confronted with an administrative penalty and has committed no other such act, the authority imposing the administrative sanction - i.e. the customs authority - is competent to assess whether the case is one of minor importance (see Interpretative Decision No. 53 of 11 April 1986, General Assembly of Criminal Colleges at the Supreme Court).

By virtue of the amendments to the Code of Criminal Procedure in effect from January 1, 2000, the investigation of the crime of smuggling and of the administrative offences involving smuggling falls entirely within the competence of the customs administration. This legislative solution has vested the customs administration with the entire responsibility to control the compliance with the legislative requirements for the transfer of goods across the border and to investigate the offences committed in this context. Thus, the indispensable legislative, organizational and structural prerequisites have been put in place to improve the efficiency of that administration.

4. It should be emphasized that customs control is always selective. The customs administration of every country is endowed with operational independence guaranteed by the existing regulatory framework. In other words, the examination and control of exported and imported goods are based on expedience. It is objectively impossible to carry out full physical control of all goods crossing the border of a country. The Bulgarian Law on Customs proclaims the right of the customs administration to judge if a customs check should be conducted or not and if the consignment crossing the border corresponds to the documents produced to the customs administration.
5. Those practices were at odds with the country joining the official import embargo. The Council of Ministers and other Bulgarian institutions passed the following legislative documents in respect of Bulgaria's commitment to that international effort:
 - (a) Regulation No. 90 of 7 May 1993 on fulfillment by the Republic of Bulgaria of Resolution No. 820 of the United Nations Security Council of 17 April 1993 (State Gazette, issue 41 of 1993);
 - (b) Regulation No. 241 of 30 November 1992 on fulfillment by the Republic of Bulgaria of Resolution No. 782 of the UN Security Council of 16 November 1992 (State Gazette, issue 99 of 1992); - Decree No. 16 of 24 July 1991 on imposing embargo

on the supplies of arms, munitions and military equipment for the Federal Republic of Yugoslavia (State Gazette, issue 62 of 1991);

(c) Regulation No. 94 of 5 June 1992 on fulfillment by the Republic of Bulgaria of Resolution No. 757 of the UN Security Council of 30 May 1992 (State Gazette, issue 47 of 1992);

- Regulation No. 125 of 7 July 1992 amending and supplementing Regulation No. 94 of 1992 on fulfillment by the Republic of Bulgaria of Resolution No. 757 of the UN Security Council of 30 May 1992; - Regulation No. 164 of 25 August 1992 amending and supplementing Regulation 94 of 1992 on fulfillment by the Republic of Bulgaria of Resolution No. 757 of the UN Security Council of 30 May 1992 (published, State Gazette, issue 47 of 1992, amended and supplemented, State Gazette, issue 58 of 1992);
- Ordinance No. 3 on the customs clearance of goods in accordance with the Rules of control of the UN Sanctions Committee adopted on 26 April 1993 (issued by the Ministry of Finance, State Gazette, issue 53 of 22 June 1993).
- Memorandum of Understanding between the Government of the Republic of Bulgaria and WEU on assistance in the implementation of the sanctions along the Danube.

6. In 1995, the notorious criminal boss Ivo Karamanski, in a scandalous interview for the Bulgarian media, directly accused some economic structures of having privatized the border services: i.e. also give bribes of USD 100 000 but my fuel tanks could well stay at the border for a whole month, while those of other groupings immediately cross the border check points. Through the hundreds of deals violating the embargo against Yugoslavia Bulgarian organized crime developed matchless mechanisms of corruption, while taking over the heritage of the previous State-organized smuggling channels. Of course, all this inflicts enormous damage on Bulgaria's economy.

7. According to data announced by Ministry of the Interior, some 240,000 tons of sugar were imported through the illicit import channel via the port of Bourgas. The sugar was sold on the domestic market. According to Ministry of the Interior, again, that channel had been monitored by senior officers from the Secret Services and even by deputy ministers in the BSP Government. Two officers from the Regional Unit of the National Security Service and 16 customs officers from the customs office in Bourgas were also accused of involvement in the case. Though no direct evidence of bribery was submitted, the channel had been clearly monitored by the Secret Services for two years and no measures whatsoever had been taken to cut it off. That proof of the patronizing attitude of the controlling authorities vis-a-vis certain illicit practices intensified the suspicions about corruption mechanisms operating both horizontally and vertically within the State power.

At the beginning of 1999, a channel for the import of spirit through several customs offices was detected. It had also been in operation for a number of years. Officially, from 1994 to 1998 not even a single ton of ethyl alcohol had been imported in the country with fully paid customs dues and the vast majority of the Bulgarian producers of alcoholic beverages used mainly smuggled spirit. The fact that an entire industry in the country had worked with smuggled raw materials could only be attributed to the involvement of the customs administration in that illicit traffic.

8. It should be recalled that the introduction of restrictive regimes (quotas) for the export of a particular group of goods has the additional effect of restricting the free turnover thereby inciting the export of these goods in violation of the existing rules. This necessarily entails corruption of the officials authorizing the respective quotas for the different companies and of the customs officers keeping track of the quantity and quality of exports within the limits of a quota.
9. Data provided by the Specialized Investigation Service.
10. Data provided by the Specialized Investigation Service.
11. See Report Committee on the Honoring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee). Rapporteurs: Mr. David Atkinson, United Kingdom, European Democratic Group and Mr. Henning Gjellerod, Denmark,

Socialist Group, p. 19.

12. The writ signed by Mr. V. Mikhailov, Prosecutor at Sofia City Prosecution Office, disproved some of the findings, which had been announced in Mr. Dimitrov's audit file.
14. In the view of Dr Alessandro Politi, Advisor to the Italian Minister of Defense, the geography of organized crime and drug trafficking is marked by the following key elements:
 - (d) three gravitation centers of crime, i.e. Italy, Russia and Turkey;
 - (e) 10 regional support centers: Albania, Croatia, Bulgaria, Yugoslavia, Macedonia, Greece, Romania, Slovenia, the Dniester region, Ukraine;
 - (f) two states facing the risk to experience a failure (Yugoslavia and Russia), six other states having gone through different stages of such failures (Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Slovenia);
 - (g) two islands forming "gray zones" with varying degrees of control exercised by organized crime (Cyprus and Sicily); - two large producers of narcotic drugs (Morocco and Russia) and three smaller producers (Albania, Lebanon and the former Yugoslavia);
 - (h) two large drug trafficking routes: the Balkan corridor and Russia;
 - (i) two large territories penetrated by the drugs (Russia and Turkey);
 - (j) one large corridor for illicit people trafficking by sea (Montenegro/Albania - Italy) and four land corridors (Sarajevo - Croatia - Slovenia - Italy/ Austria; Istanbul - Ukraine - Poland - Germany; Istanbul - Romania - Hungary - Slovakia - the Czech Republic; Istanbul - Greece - Macedonia - Italy/ Austria);
 - (k) one large regional financial offshore center (Cyprus).

The main narcotic drugs are cannabis, heroin and ATS, with an ever-rising share of cocaine. (Alessandro Politi, Organized Crime and Regional Cooperation in South-East Europe, paper prepared for the Conference on Regional Cooperation and Reconstruction in South-East Europe, Rome, 29-30 October 1999, pp. 16-17).
15. Data provided by the General Customs Directorate and by the Sector of Drug Trafficking at the National Service for Combating Organized Crime.
16. Data provided by the Sector of Drug Trafficking at the National Service for Combating Organized Crime.
17. Data provided by the Border Police.
18. This figure forms only a part of the total number of people who left the country after the removal of the previous restrictions on traveling and work abroad. According to some estimates, Bulgaria's population has decreased by 8-9 percent in the course of the 90s. The country has been left by nearly 700 000 Bulgarians, many of them young people.
19. Novinar Newspaper, 12 April 2000.
20. Koumanova A., Dimitrova R., The Hidden Economy Through Expert Eyes, *Statistika Journal*, No. 2, 1998, pp. 64-75.
21. For details see Koumanova A., Manolov V. The Concept of Hidden Economy - Basic Statistical Approaches. *Statistika Journal*, No. 2, 1996, pp. 51-62; Koumanova A., Antonova Y. Hidden Economy, *Statistika Journal*, No. 1, 1997, pp. 68-74; Koumanova A. The Hidden Economy and Some Methods for Its Measurement and Assessment, *Statistika Journal*, No. 2, 1997, pp. 67-80.
22. ACE-PHARE P95-2030-R; Mintchev V. Les échanges de biens industriels entre la Bulgarie et l'Union Européenne 1990-1995, *Revue d'etudes comparatives Est-Ouest (RECEO)*, 1999, No 4.
23. One such factor, as rightfully noted by Custom Agency experts is the different methodology used to register imports and exports. Efforts are directed in this respect to standardize

the scope of the methodology to that of the EU and primarily to standardize the scope of the import and export registration. Serious difficulties exist in the registration of the so called "economic regimes" (especially regarding goods processing), an issue that has not found an all-inclusive solution even in the EU countries. For instance, goods processed in a EU country as regular export are imported in Bulgaria as "Processed" and the product is re-exported to third countries without being registered as import in Bulgaria.

Another factor leading to misinterpretation of the data about goods exported from EU countries and imported to Bulgaria is the alteration of the delivery destination. Such thing happens quite often, especially in cases of smuggling, to make the identification of the final recipient more difficult. That is why goods registered to be imported from those countries to Bulgaria in the course of their route - i.e. at cargo harbors or in transit countries - get a new destination and never enter Bulgaria. Or, when entering the Bulgarian customs, territory goods are processed as temporarily imported and get re-exported to other countries. In such cases, the goods have not been processed as regular import in the country but in the country of export where they are registered to be imported to Bulgaria. Another possible cause for such discrepancies could be the fact that part of the goods were processed at Duty Free Zones and until they were processed as regular import they would not be included in the Bulgarian import statistics. The processing in a Duty Free Zone could be done in the timeframe of the next year and the import would not be included in the same year as the export from the respective country.

The declaration of higher purchase amount in the country of export is another factor. This allows illegal VAT reimbursement or, in case of agricultural produce import, payment of higher subsidies.

An important factor leading to data misinterpretation, as stated above, is the different scope of import data registration. In regard to this we should note that in 1998, the year when the analysis of this research was made, individuals importing goods were not required to submit a Unified Administrative Document (UAD), the main source that provides foreign trade statistics.

Taking into consideration the above mechanisms, the difference between the data about goods export from Bulgaria to the EU and the data about the import from Bulgaria, to the EU could be expected to be the reverse - i.e. the export data from Bulgaria to be larger than the import data in the EU countries. A possible cause for the discrepancy could be the re-export of goods registered as temporarily imported from Bulgaria but which have not been registered as regular export in Bulgaria. It should also be noted that a substantial part of this difference is probably due to the above mentioned factors and their impact on the import registration in the EU countries and also the provision of lower customs price by the importers in the EU (the so-called under invoicing).

24. Combined techniques also exist as part of direct methods that cover marketing assessments of specific markets and official sources of information. Here are few examples of the above mentioned research.

The indirect methods include:

- (a) Balancing resources and consumption. This method is based on the disparity between income and expenses. It is linked to three ways of measuring the GDP: production, end use and income. The first focuses on the production flows, the second is linked to the cash flows in the economy based on expenditures, and the third considers them based on incomes. This traditional method of balancing the GDP has not been developed especially for the assessment of the hidden economy. It is disputable whether the differences between the three approaches are due to some kind of bad reporting and to what extent this phenomenon may be described as "hidden" activity. It is recommended therefore before applying this method to use other ways to assess the shadow economy. Although not universal for all countries in transition, the method is applied in the Czech Republic, Bulgaria and some other states.
- (b) Monetary approach to account the movement of banknotes and commodity circu-

lation in the country and, respectively, the level of inflation. This approach uses methods, based on indexes in the sphere of money circulation. They are among the most widespread ones and aim to capture the traces left by shadow economic activity in the sphere of monetary circulation. The general assumption here is that activities within the shadow economy are determined by the use of cash. On the other hand, the amount of cash needed for the production and turnover of the GDP tends to be stable in the short and medium terms (especially with regard to economies functioning normally). The comparison between real money supply and the one needed for the turnover of the GDP is linked to the fact that the difference between them is accounted for by the shadow economy and may be used as an index for its intensity.

- (c) Method based on discrepancy between real and official employment, assuming that the official employment rate differs (is smaller) than the real one in the national economy. The resulting difference is due to the functioning of the shadow economy, which is characterized by undeclared jobs. A different state with a similar economic structure or a specific year in which the hidden sector is considered not to have existed (or to have had a lower relative share) is used as the basis for comparing the share of employed people. The theoretical objections to this method and the difficulties of calculation restrict its use.

A modified version of this method is the so-called Italian method where employment assessments are compared based on data provided in questionnaires measuring production activity and additional sources of information about employment and, more specifically, from manpower monitoring and censuses. This method takes into account both of the deliberate provision of lower data about the registered production units and the assessment of general labor expenditure in the national economy, thereby calculating the value added produced in unregistered economic units. The additional assessment for correcting the lowered reported data from small enterprises is made on the basis of the so-called method of Franz. The Italian method is used in Poland, Romania, Lithuania, Macedonia and Slovenia.

- (d) The Hungarian method is based on the fact that the reported wage and remuneration figures are lowered in order to avoid paying social security contributions (a considerable burden in many countries in transition). Because of this the first step is to correct the officially reported figures even by state-owned companies. The second step is to assess the value added of private companies and sole traders (engaged in the same activity) by using the corrected figures from the official reports and information from the business register about the number of private companies and small enterprises in the household sector which are often left uncorrected. The main focus here is on value added, rather than on production, the assumption being that remuneration in the private sector is 3.5 times higher than in the public sector. Assessments show that more than one third of the incomes of the Bulgarians are not declared. No wonder that the Prime Minister pointed out that 728,000 working Bulgarians are not paying social security contributions, and another 300,000 who work in the private sector pay social security only on the minimum wage. These and similar methods are used in Bulgaria and Poland.
- (e) Method assessing the household production. Assessments of the production of households for their own consumption were made even in the balance of the national economy, i.e. this is nothing new for our domestic statistics. This method assesses only the part that is being sold. The main sources of information are the monitored household budgets, the balances of agricultural products and price statistics. A large part of the production of households is either used by them or sold between households. Part of the production may be bought for intermediate consumption or, if it is an object - sold to tourists and be regarded as export. To some extent this method is applied by almost all countries in transition, and on a larger scale in Romania, Poland, Estonia and Lithuania.
- (f) Method based on household expenses. Using monitored household budgets with regard to expenses for buying goods and services, rather than resources, is another

method for measuring unregistered activities. The information provided by household budgets is somewhat distorted, even National Statistics Institute specialists admit citing the wrong methodology used for collecting information in the country as the main reason. Until now only 3,000 households provided information about their monthly incomes and expenses.

They were paid 2,500 old leva a month to record them on a daily basis. In practice, only the poorest households recorded these figures in the household budget books. Starting this year, the number of monitored households will be doubled to 6,000, but if the figures are to be reliable the monitored households must replicate the panel of households in the census. The most obvious and widespread type of informal activity is the rise in the number of small shops. An attempt has been made to use household budgets to determine the proportion between purchases in big (including state-run) stores and private shops in order to assess the scale of their activity, assuming a comparable level of prices and surcharge in both kinds of shops. Presumably, big stores sell mainly local products, whereas small shops sell mainly imported goods. This approach is primarily used to assess retail trade.

- (g) Method of polling, also known as the method of expert assessments. Its aim is to collect full information about the different aspects of the studied phenomenon: reasons for its appearance, sources and scope, spread among economic agents, methods of assessment, ways to counter it, etc. Regardless of the fact that these observations are not representative, polls enable comparisons of the assessments of the hidden economy, depending on the opinions of the polled experts and the estimates obtained using other methods.
 - (h) Method of mirror statistics. It is linked to the control of import and export registration, i.e. a comparison of goods exported according to Bulgarian documents to Russia, for example, with the Russian import documents, and vice versa. Although promising, this method requires close cooperation between the customs authorities. In addition to comparing information on the basis of national statistics, the daily exchange of information and entry into registers enables the Bulgarian customs officers and those in neighboring countries to directly compare information about vehicles carrying risk goods crossing the border. This kind of customs mirror statistics is already used between Bulgaria and Romania. It was revealed that between 1995 and 1997 about 100 vehicles transporting cigarettes or other excise goods were not registered in any of the two countries. The main kinds of customs frauds discovered this way are linked to: (1) fictitious export of goods from Bulgaria. For example, a truck with cigarettes figures as being exported from Bulgaria, but has not been recorded in all the necessary registers. At the same time, it is not registered anywhere in Romania, meaning that the goods have remained in Bulgaria. The company uses a tax credit, no excise duty is paid on export goods and huge sums are saved of which the budget is deprived; (2) documentary fraud when trucks carrying excise goods (e.g. cigarettes) are recorded in the Bulgarian outgoing registers. In Romania these trucks are recorded as carrying toilet paper, electric light bulbs, or something of the kind (see Item 2.2. for more details).
 - (i) Monitoring of the press. Rather than measuring the size of the shadow economy, this method helps to describe the phenomenon and includes information provided by journalistic investigations of the problem, especially regarding the drug business, prostitution, illegal immigration, etc.
 - (j) Monitoring of city bazaars and wholesale markets. This method covers a the part of the shadow economy, which is linked to the sectors of trade and agriculture. So far official statistics have been unable to account for the entire production in agriculture, for which the inadequate register of farmers is also to blame. The monitoring of town and country markets can therefore to a certain extent also provide an answer as to the size of the hidden part of the above-mentioned sectors.
25. The trend of extending the scope of application of administrative penalties and coercive administrative measures is well visible in a number of laws: the Customs Code (SG, No. 15 of 02/06/1998), the Law on Control of Narcotic Drugs and Precursors (SG, No. 30 of

- 04/02/1999, in force since 09/03/1999), the Law on Measures against Money Laundering (LMML) (SG No. 85 of 07/24/1998), the Law on Foreign Exchange (SG, No. 83 of 09/21/1999, in force since January 1, 2000), the Tax Procedure Code (SG, No. 103 of 11/30/1999, in force from 01/01/2000), etc.
26. The law also referred to a number of public institutions and individuals (Article 3, paragraphs 2 and 3), which were obliged to take measures to identify persons, collect, store and disclose information about operations and transactions. The Implementing Regulations of the LMML (SG No. 119 of 10/14/1998) stipulate the establishment of a special body - the Financial Intelligence Unit - as a special Ministry of Finance team for keeping, studying, processing and disclosing information, received from persons under Paragraph 3 of the LMML. The Implementing Regulation of the LMML creates criteria for identifying suspicious operations, or deals and clients, established by the Minister of Finance.
 27. At GCD level, the Inspectorate Division consists of two departments: "Disciplinary Proceedings" and "Internal Control of Customs Activities". The officials have no disciplinary powers. A written proposal is made in each concrete case to the GCD chief. During the last two years the Inspectorate Division has conducted over 70 checks in customs departments and considered dozens of complaints by citizens and companies, which received an answer within the legally established term. During the same period disciplinary sanctions (including "dismissal".) were imposed on more than 80 customs officials and large sums were collected for the national budget.
 28. See Clean Future, Anti-Corruption Action Plan, S., 1998, pp. 24-29
 29. Ibidem, S., 1999, p. 11
 30. See International Acts for Combating Corruption, S., 1999
 31. See Agreement on Cooperation to Prevent and Combat Trans-Border Crime, p. 3 Bulgaria is also a party to a number of other multilateral agreements:
 - Black Sea region: the Ministry of the Interior, National Border Police Service and National Service for Combating Organized Crime perform their obligations within the context of the Agreement between the governments of the participant countries in Black Sea Economic Cooperation in the struggle against crime and especially against its organized forms, signed on October 2, 1998 in Kerkira, Greece, and primarily maintain constant contact and, if necessary, exchange information with the border security and control services of the countries in the Black Sea region.
 - Agreement on cooperation between the government of Bulgaria, the government of Romania and the government of Turkey in the fight against terrorism, organized crime, traffic of drugs and psychotropic substances, money laundering, arms traffic, trafficking in people and other grave crimes, signed in Antalia on 04/16/1998. Section III, Article 23 of the Agreement provides for the creation of a Supreme Committee made up of experts of the three countries, which establishes subcommittees in the areas envisaged in the Agreement and coordinates their activity. Such subcommittees are envisaged in articles 11 and 12 (discovering false identity papers in border crossings and other crimes in the border zone, as well as the exchange of operative information between the ministries' intelligence divisions.) - Protocol on increased tripartite cooperation in the fight against crime and cross-border crime in particular, signed by the foreign ministers of Bulgaria, Greece and Romania on September 8, 1998. In accordance with Article 3 of this Protocol, a Joint Commission responsible for its application has been established. In this connection, Bulgaria proposed the inclusion of a National Border Police Service representative in the Joint Commission for the purpose of coordinating the activity of border authorities in the struggle against cross-border crime. The National Border Police Service (NBPS) has established direct contacts with representatives of the police detection services of Romania, Greece and Turkey, and exchanges information in specific cases (false IDs, smuggling of vehicles, trafficking in people, arms and materials hazardous to the public, involving citizens of the mentioned countries.
 32. At present, the Republic of Bulgaria has signed inter-governmental agreements on readmis-

sion with 20 states (Poland, Switzerland, Germany, Slovakia, Greece, France, Spain, Portugal, Denmark, the Czech Republic, Sweden, Slovenia, Austria, Italy, Finland, the Benelux countries, Hungary and Norway). Framework projects for signing readmission agreements with another 9 countries have been exchanged: Croatia, UK, Ireland, Latvia, Estonia, Ukraine, Romania, Russia and Georgia.

The practical implementation of readmission agreements is largely implemented by the bodies of the National Border Police Service (NBPS). NBPS cooperates with similar structures in the neighboring countries and member states, including the area of illegal migration, on the basis of bilateral and multilateral agreements.

Republic of Greece

Cooperation is carried out on the basis of an Agreement between the Governments dating from 1995:

1. Meetings of the Central Joint Bulgarian-Greek Border Commission (CBGBC) are held every year on an exchange basis to discuss issues of security and control of the state border. The 61st regular CBGBC meeting was held in Sofia in June 1999.
2. Meetings of the joint sector border commissions are held regularly. Border commissioners also work actively.
3. A Protocol on cooperation and exchange of information in the sphere of police detection has been signed between representatives of the Ministry of Public Order in Seres and the District Border Service in Petrich.
4. A Cooperation Program signed by representatives of the border security and control bodies of the two countries is being implemented.
5. Constant and effective contact is maintained with the respective bodies (consular service, military attache, police attache) at the Greek embassy in Sofia.

Romania

Cooperation between the two border services is carried out on the basis of a Convention between the Governments (of 1973):

1. Meetings of the heads of the two border services are held every two years on an exchange basis; the last meeting was held in Sofia from 14 to 18 July, 1999. (Since July 1, 1999, after the reform of the old structure, a new border security and control structure is functioning in Romania: the Chief Border Police Inspectorate with the Romanian Interior Ministry.)
2. The joint sector border commissions and border commissioners' work actively.
3. A Protocol on cooperation and interaction in the area of police detection for struggle against trans-border crime has been signed (Giurgiu, 03/10/1999).

Republic of Turkey

Cooperation is carried out on the basis of an Agreement between the Governments (of 1967):

1. The joint sector border commissions meet regularly and border commissioners work actively.
2. No Central Joint Bulgarian-Turkish Border Commission has been set up.

FR Yugoslavia

Cooperation is carried out on the basis of an Agreement between the Governments (of 1965, amended in 1982):

1. Meetings of the Central Joint Bulgarian-Yugoslav Border Commission are held every two years on an exchange basis. The last meeting was held in Sofia in 1998.

2. The joint sector border commissions did not meet during the hostilities. The border commissioners held meetings only in extremely important cases and extraordinary circumstances.

Republic of Macedonia

1. Since Macedonia became a separate subject of international law, cooperation has been carried out only at the level of sector border commissions and border commissioners.
2. An agreement between the two governments is needed for fully-fledged cooperation between the border security and control bodies of the two countries.

Bilateral government agreements with countries in the region (Georgia and Russia):

- In accordance with signed agreements, cooperation with the Federal Border Service of the Russian Federation and the Border Troops of Georgia increases particularly in respect of border control and countering illegal migration. - The Budapest group (Budapest process), the International Center for the development of migration policy - Austria - Bulgaria through its special bodies takes an active part with its representatives in international conferences organized by the Center.
33. The establishment of a Fund to stimulate customs officers to fight against corruption was announced within the framework of cooperation between the Bulgarian and French customs. It will be funded along by the PHARE program and by revenues from customs checks