

# **CORRUPTION AND ILLEGAL TRAFFICKING: MONITORING AND PREVENTION**

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

*Second, revised and amended edition*

#### **CSD REPORTS:**

1. Bulgaria's Participation in EU Structural Funds, 1999.  
ISBN 954-477-051-8
2. Social Policy Aspects of Bulgaria's EU Accession, Sofia, 1999.  
ISBN 954-477-053-4
3. Preparing for Bulgaria's EU Accession Negotiations. Sofia, 1999.  
ISBN 954-477-057-7
4. The Role of Political Parties in Accession to the EU. Sofia, 1999.  
ISBN 954-477-055-0
5. Bulgaria's Capital Markets in the Context of EU Accession: A Status Report. Sofia, 1999.  
ISBN 954-477-059-3
6. Corruption and Trafficking: Monitoring and Prevention, Sofia, 2000.  
ISBN 954-477-078-X
7. Corruption and Trafficking: Monitoring and Prevention, Sofia, 2000.  
ISBN 954-477-077-1
8. Establishing Corporate Governance in an Emerging Market: Bulgaria, Sofia, 2000.  
ISBN 954-477-083-6
- 9. Corruption and Illegal Trafficking: Monitoring and Prevention,  
Second, revised and amended edition, Sofia, 2000.**  
ISBN 954-477-087-9

#### **Editorial Board:**

Boyko Todorov  
Ognian Shentov  
Alexander Stoyanov

ISBN 954-477-087-9

© **Center for the Study of Democracy**  
**All rights reserved.**

1 Lazar Stanev Str., 1113 Sofia  
phone: (+359 2) 971 3000, fax: (+359 2) 971 2233  
www.csd.bg, csd@online.bg

# CONTENTS

- INTRODUCTION .....5
- 1. CORRUPTION AND ILLEGAL TRAFFICKING IN BULGARIA .....7
  - 1.1. DEFINITION AND GENERAL CHARACTERISTICS OF ILLEGAL TRAFFICKING .....7
  - 1.2. CORRUPTION AND ILLEGAL TRAFFICKING: PARALLEL CLASSIFICATION .....11
  - 1.3. ORIGIN AND DEVELOPMENT OF SMUGGLING CHANNELS IN BULGARIA .....12
  - 1.4. THE ROLE OF CUSTOMS .....15
- 2. FORMS AND SCHEMES OF TRANSBORDER CRIME (ILLEGAL TRAFFICKING) .....20
  - 2.1. ILLEGAL TRAFFICKING IN GOODS .....20
  - 2.2. MASS TRAFFICKING ("THE SUITCASE TRADE") .....26
  - 2.3. TRAFFICKING IN DRUGS, PEOPLE, AND OBJECTS OF HISTORICAL VALUE .....29
- 3. MONITORING OF ILLEGAL TRAFFICKING .....35
  - 3.1. METHODS OF MEASURING THE SHADOW ECONOMY .....35
  - 3.2. METHODS OF MEASURING ILLEGAL TRAFFICKING .....37
  - 3.3. MECHANISM FOR ASSESSING SMUGGLING BY SAMPLE METHODS .....40
  - 3.4. ASSESSMENT OF ILLEGAL TRAFFICKING THROUGH EXPERT SURVEYS  
(AN ATTEMPT TO ESTIMATE THE VOLUME OF "UNREGULATED PAYMENTS") .....43
  - 3.5. DEVELOPMENT OF INSTITUTIONAL FORMS OF COUNTERACTING  
ILLEGAL TRAFFICKING AND CORRUPTION .....46
  - 3.6. CREATING A SPECIALIZED SMUGGLING INDEX .....48
- 4. MEASURES CURBING ILLEGAL TRAFFICKING  
AND TRAFFICKING-RELATED CORRUPTION .....50
  - 4.1. LEGAL METHODS OF COUNTERACTION .....50
  - 4.2. ORGANIZATIONAL AND STRUCTURAL REFORM .....52
  - 4.3. ORGANIZATIONAL AND METHODOLOGICAL REFORMS .....53
  - 4.4. CUSTOMS REFORM .....53
  - 4.5. MEASURES IN THE CONTEXT OF LEGAL AND INSTITUTIONAL REFORM .....56
  - 4.6. REINFORCING INTERNATIONAL COOPERATION .....57
  - 4.7. THE ROLE OF CIVIL SOCIETY .....59
- CONCLUSION .....60
- NOTES .....62

## **Acknowledgements**

The Center for the Study of Democracy would like to thank the following persons for their valuable contribution and suggestions:

**Mr. Angel Donchev**, Deputy Director of Customs Agency;

**Mr. Bozhidar Chergov**, Head of Inspectorate Department, Customs Agency;

**Mr. Boyan Stankov**, Professor of Criminology, Varna Free University;

**Mr. Dimitar Bachvarov**, Director of Economic Policy Directorate, Council of Ministers;

**Mr. Ivaylo Angelov**, Former Head of Customs and Currency Violations Department, Customs Agency (till February 2000);

**Mr. Plamen Minev**, Deputy Minister of Finance and Director of Customs Agency;

**Dr. Roumen Nenkov**, Chairman of Second Division, Criminal College of the Supreme Court of Cassation.

## 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.

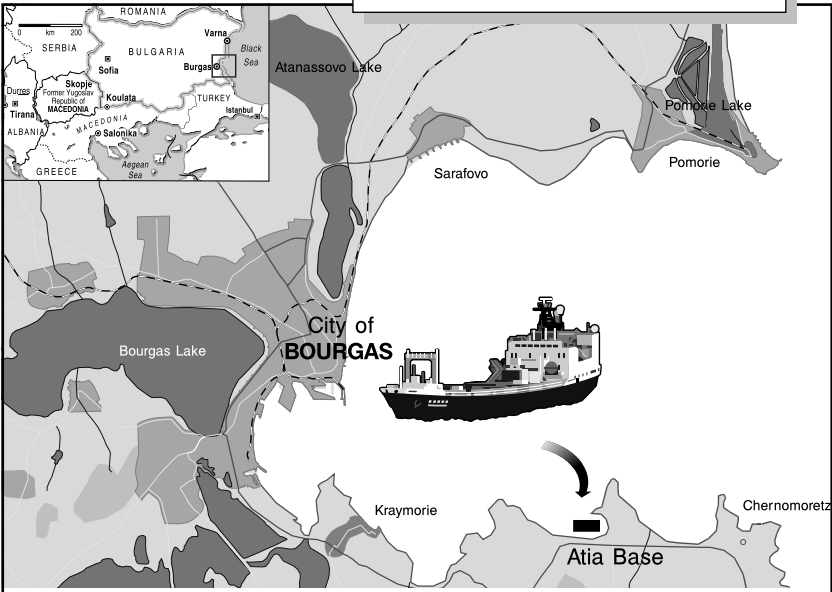
The emerging configuration in the illegal trafficking business was thus given a great opportunity during the years of the embargo on Yugoslavia in connection with the conflict in Bosnia and Herzegovina. Prof. Lyuben Berov's government (1993-1995) failed to undertake the necessary measures to put a stop 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.

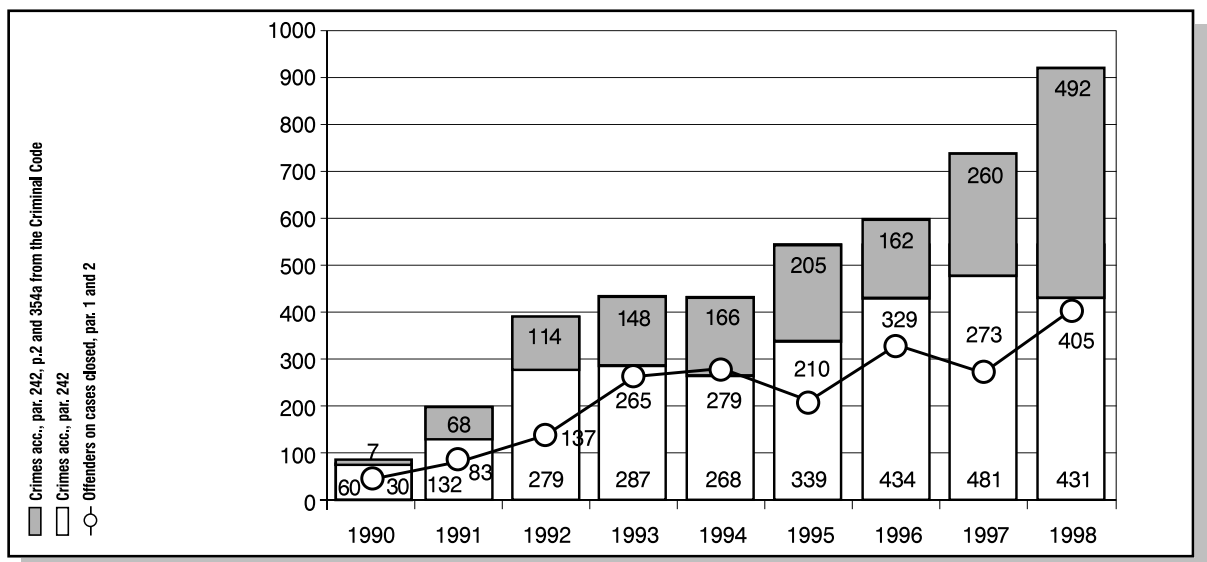
The measures undertaken against organized crime in the 1990s have relegated them to the background. However, these semi-legal business organizations still have free financial resources and local structures through which they carry on their respective activity. The Bulgarian political elite does not have 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).



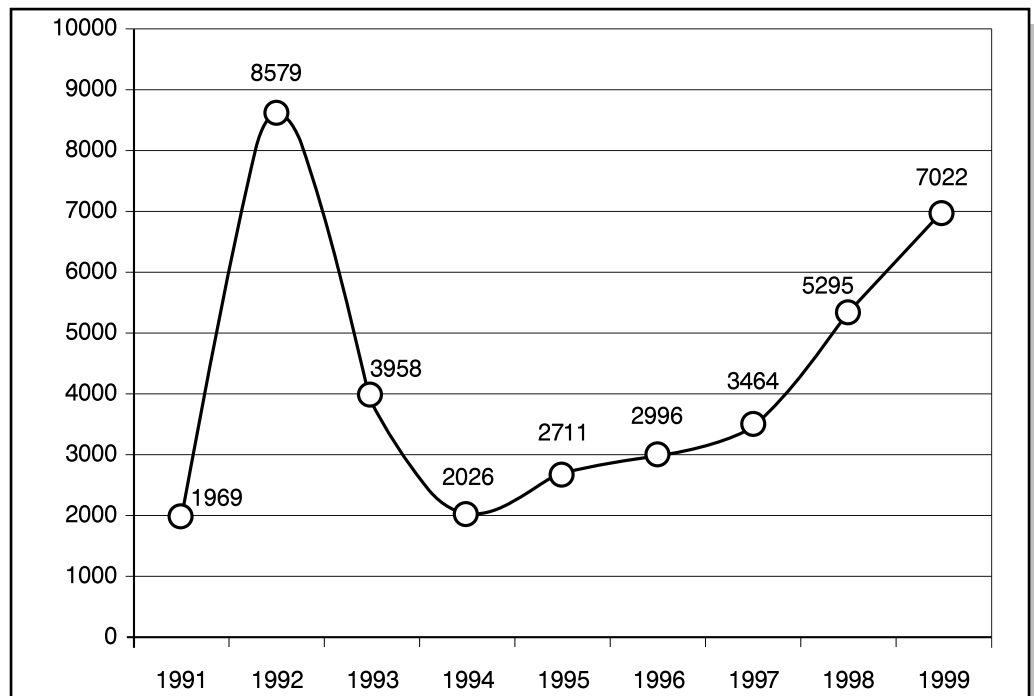
An indication of the scope of corruption is found in the disciplinary measures taken by the customs authorities themselves with respect to customs officers violating the regulations. According to information from the Customs Agency, a total of 154 employees were discharged between October 1997 and October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