

ORGANISED CRIME AND THE BALKAN POLITICAL CONTEXT

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Stoycho P. Stoychev, *editor*
Jana Arsovska, *author*
Iva Pushkarova, *author*
Dalibor Dolezal, *author*
Charis Papacharalambous, *author*
Alina Han, *author*
Nemanja Nenadic, *author*

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RiskMonitor Foundation
29 Tzar Osvoboditel Blvd., 1000 Sofia, Bulgaria
e-mail: riskmonitor@riskmonitor.bg
<http://www.riskmonitor.bg/>

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Notes on Contributors

Alina Han is an attorney at law, member of the Bucharest Bar and National Romanian Bar Association. Formerly served as an expert on foreign affairs and spokesperson for the People's Advocate Institution (Ombudsman). Graduate of University of Bucharest, author of the report "Romania Facing and Combatting Organised Crime", part of the Project "Balkan Organised Crime Through the Lens of Legislation".

Charis Papacharalambous has a PhD in Criminal Law and Law Theory (Goethe University/ Frankfurt am Main, Germany). Lawyer, since November 2009. Assistant Professor at the Department of Law of the University of Cyprus. Prior activities: Senior Investigator at the Human Rights Protection Sector of the Greek Ombudsman (since 2003); Legal Adviser in the Office of the Minister of Justice (1998-2001). Author of three books and many articles on penal law; main fields of scientific investigation: objective imputation; responsibility theories; complicity; organised crime. He has participated in various fora on criminal law issues (UN, EU, Council of Europe); currently also a member of the BENOC initiative.

Dalibor Dolezal, PhD is a lecturer on criminology, specialist in criminal careers and criminal lifestyle at the University of Zagreb, member of BENOC and ESC.

Iva Pushkarova, PhD is a lecturer on international criminal law at Sofia University. Comparative law and case law researcher specialising in organised crime and human trafficking. Former consultant with the World Bank Group on legal reforms in Bulgaria, Croatia and Russia, member of BENOC.'

Jana Arsovska recently joined the Sociology Department at John Jay College of Criminal Justice where she currently teaches courses on international criminal justice. Dr. Arsovska has a PhD in Criminology from the Catholic University of Leuven in Belgium. In her dissertation, she studied the role of cultural codes in the evolution of ethnic Albanian organised crime groups. Arsovska has acted as a consultant for several organisations, including the World Bank and UN.

Nemanja Nenadic is a lawyer from Belgrade, Serbia. Since 2001, he has been affiliated with Transparency International and currently is programme director of Transparency Serbia. He worked on numerous anti-corruption projects of TI and other organisations, including legislation drafting, monitoring, research, education and campaigns. His main areas of expertise are political party financing, public procurement, free access to information and anti-corruption strategies in general.

Stoycho P. Stoychev works in the field of comparative political research and social science research methods. He has carried out a number of research projects in co-operation with NGOs and academic institutions. In 2007 he was responsible for the Corruption in Public Procurement Programme of Transparency International Bulgaria. He joined RiskMonitor in December 2009 as a political research fellow.

ORGANISED CRIME AND THE BALKAN POLITICAL CONTEXT

Introduction

Stoycho P. Stoychev



In order to best explain the dynamics of organised crime in the Balkans, it is essential to clarify the interaction in the region between organised crime and the political environment. Understanding this interaction is also important to strengthen the region's democratic political and social capacity to respond to organised crime. The present volume provides a general overview of key developments in six countries in the Balkans in this very interaction.

Within the region, the countries studied are clustered into three main groups. The first brings together Bulgaria and Romania, where the Soviet influence and political, economic, and military involvement were clearly distinct, as well as Albania. In these countries, the primary forms of organised crime developed in the last decade of

each of the regimes, with the active participation of the communist elites and the repressive apparatus. The lack of active lustration mechanisms allowed these forms of crime to evolve and penetrate the political and economic processes of already unstable transition regimes. Moreover, institutional weakness in Bulgaria and inter-institutional clashes in Romania provided organised crime with unimpeded access to political parties and privatisation, and in turn, to state and economic institutions. In the second decade of the transition, high-level political corruption emerged as a key tool for the transformation of violent forms of organised crime into shadow-economy structures closely linked to political actors and actually moderating the political process. In these countries, the first institutional and legislative steps against organised crime and political corruption emerged mainly as a result of external pressure from the European Union.

The second cluster is represented by the two former Yugoslav republics. During the 1980s, the “black market” was the only apparent form of organised crime. It was under the patronage of the Yugoslav regime, both as a means of personal gain for the elite and as a tool of the secret service agencies. During the civil war and the UN embargo, this rudimentary form of organised crime evolved and quickly grew to dangerous proportions. In the case of Croatia, it was even used by the state to acquire military supplies. After the civil war, many of the members of criminal groups who had been involved in the conflict were seen as heroes, which in effect made them immune to prosecution. The criminal groups acquired even more financial resources through privatisation. Political rigidity and radicalisation did not allow for effective counteraction of organised crime. It is only in recent years that political normalisation and foreign pressure have made it possible for some initial preventive measures to be implemented against organised crime.

The Greek case is in a separate category because the country did not experience communist rule. Despite some years under an authoritarian regime, Greece managed to build a relatively well-functioning democracy, albeit not without the extensive support of the West, primarily of the European Union. The early accession of the country into the EU facilitated economic development and irreversible democratisation. Organised crime remained an alien factor for the state and took violent forms in certain periods, including attacks against police stations. Nevertheless, some forms of organised crime in the country, such as trafficking and money laundering, along with relatively widespread corruption, managed to withstand the resistance of the state.

The common features across the countries in the region, with the exception of Greece, include a political transition from totalitarian and authoritarian rule marked by institutional weakness and political inadequacy. In these countries, political transition provided fertile ground for the development and evolution of organised crime. Organised crime groups took advantage of privatisation and formed the shadow economy, which penetrated state structures and still puts a question mark over the sustainability of the democratic regimes in the region. The UN embargo against Yugoslavia in itself benefited organised crime not only in Yugoslavia, but also across the region, helping its consolidation and internationalisation. However, external pressure stemming from the requirements for EU assistance and accession remains the main factor pushing local governments to fight organised crime.

However, there is no commonly accepted concept of organised crime across the region. In the individual countries it has been interpreted and conceptualised differently, which hampers not only the development of a common analytical

framework, but also of a common and consistent EU policy in the field. This major shortcoming became apparent when the reforms in Bulgaria and Romania proved to be superficial and ineffective. The individual country reports show that there is neither systematic public influence, nor significant pressure on the government to deal with this threat. On the contrary, in some countries there is even public approval of organised crime groups and their members.

These circumstances make the region specific. The concept of organised crime widely accepted in the West is not fully applicable to the Balkans. For, in these juvenile democratic societies, organised crime, a market economy, and capitalist development are essentially related. This is a major premise for the coalescence of crime and state. It makes it possible for the elites emanating from old totalitarian and authoritarian regimes to achieve political legitimisation and embezzle economic resources through semi-legal networks, hindering democratic development. This means that organised crime is not a structure alien to the states in the region. On the contrary, it was created and developed with the co-operation of state agencies and representatives of the old regimes as part of the logic of the transition. This makes it hard to fight organised crime with the conventional means of foreign pressure. Even EU conditionality proved this uncomfortable fact. This means that internal pressure and social change are needed for an efficient solution to this societal challenge. This is a step that must be taken before it is too late. Organised crime already has occupied a powerful place in state structures and foremost in the economy, transforming its illegal capital through laundered investments and so cementing its influence.

Apart from the lack of a common concept of organised crime, a number of methodological difficulties hinder a profound comparative analysis of organised crime across countries in the region. There is an increasingly evident need for reliable indicators adequate to measure the phenomenon. Although case studies provide indispensable insights into the dynamics and development of organised crime, explaining its genesis and growth, efficient counteraction requires systemised and comparable quantitative indicators. Another major concern in this respect is reliability of data. It shows that EU pressure is a major factor for improvement, although this pressure may turn out to be a major stimulus for governments in the region to provide biased official statistics. Therefore, the community of experts and academics should devote considerable effort to providing alternative data, as well as to facilitate expert discussions seeking a common methodological approach.

Organised Crime and the Balkan Political Context: the Case of Albania

*Jana Arsovska, PhD¹. John Jay College of Criminal Justice,
the City University of New York (CUNY)*

Introduction

This paper analyses the relationship between developments in organised crime in Albania and reforms in the country's governance. It studies the political aspects of organised crime and its dependence on the political processes in Albania. Having emerged from a turbulent post-communist transition, Albania has achieved significant progress in economic and social development, made possible by noteworthy improvements in governance (World Bank 2010; CAPRO 2006; EC 2005). The period between 2003 and 2005 is often regarded as the first step towards Albania's improved performance in rule of law. However, the more noticeable changes in this sector appeared after 2005 when the current Government announced its programme of 'zero tolerance against crime', particularly against organised crime. In recent years, Albania has won much praise from international actors (e.g. NATO, EU, the UN) for its efforts to control organised crime.



For example, the draft report prepared by Norwegian rapporteur Sverre Myrli, a member of the NATO² special commission, submitted for ratification by the Parliamentary Assembly of NATO on 25 May 2007, said that: *Albania has demonstrated its commitment and impressive progress in implementing significant reforms which are crucial in showing its ability to achieve NATO standards*'. A Situation Report on Organised and Economic Crime in South Eastern Europe conducted by CARPO Regional Project (2006: 71) similarly states:

It is quite fair to emphasise that the recent dismantling and the arrest of several persons with a high criminal profile and members of different organised crime groups have dealt a serious blow to the organised crime world in Albania. Since November 2005, there has been no week without news on arrests of criminals, traffickers, organised groups and even of corrupt police officers. This has indicated

¹ During the past eight years, numerous people have contributed towards this research project. Among others, the author would like to thank Arben Tabaku, Teuta Starova, Ardian Visha, Olsjan Cela, Evis Sulko, Cela Jaeld, Elizabeta Nikoloska, Clelia Rontoyanni, Stef Janssens, Laurent Sartorius, Patsi Sorensen, and Andre Ness, for their contributions.

² Draft Report of the Sub-Committee on the Future Security and Defence Capabilities, on The three Adriatic Aspirants: Capabilities and Preparation [038 DSCFC 07 E] by Sverre MYRLI (Norway), Rapporteur. Presented at the the meeting of the Defence and Security Committee, Madeira, 27 May 2007.

the determination and strong will of the new Albanian Government to tackle all types of organised crime, thereby strengthening the reputation of the Ministry of Interior and the Albanian State Police.

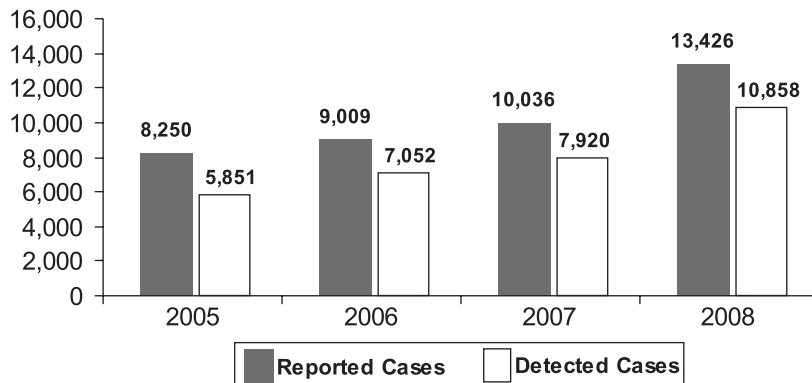
The contrast between Albania's near-descent into state failure twice in the 1990s and today's situation, when 'crime, theft, and disorder' were mentioned as the tenth most cited problem in doing business by firms active in the country (World Bank 2010), suggests an achievement in this regard. This study investigates some key factors that have contributed to the supposedly improved governance outcomes in Albania over the past decades, particularly with regard to organised crime. A holistic view is taken in analysing the relevant factors (incentives of political and institutional actors; demand for change; external factors; institutional capacity issues; 'culture conflict'). The paper takes a chronological approach and analyses the structure of government and anti-crime policies from communist times until today. It also critically examines the extent to which the apparent improvements are real and sustainable, and the extent to which they are just superficial efforts on behalf of manipulative political leaders. Finally, some remaining challenges for Albania's further development are discussed.

Methodology and Methodological Challenges

It is extremely difficult to measure a country's performance in the area of law and order and to capture accurately the dynamic relationship between organised crime and politics. Many would argue that measuring 'organised crime'³ and assessing the effectiveness of law enforcement agencies in dealing with crime is an irksome topic beyond objective measure. The reason for this ambiguity lies in the problems of doing reliable empirical research on this topic; organised crime is difficult to conceptualise and investigate. One of the possible indicators 'measuring' Albania's improved performance in the fight against organised crime is certainly the number of cases reported to the Albanian State Police versus those detected⁴ by it. Overall the crime detection rate from 2005 to 2008 has gradually increased in Albania, mainly because new methodologies and procedures of standardised crime reporting were introduced in 2008 in Albania (Figure 1).

³ There is no doubt that organised crime is a concept difficult to define and conceptualise. Organised crime does not simply mean crime that is organised. In reality many types of crime require organisation, but are not labeled as organised crime. The literature sets out almost as many conceptualisations and definitions as there are people with an interest in the subject. For example, German criminologist Klaus von Lampe made an impressive collection of more than 100 definitions of organised crime. By introducing the Palermo Convention, the UN tried to provide a universal definition of organised crime. Unfortunately, the painstaking process gave rise to a broad definition of organised crime – the result of the political process of developing one unique instrument to be applied in 192 different political and legal structures. In this paper, due to limited space, I do not wish to enter into the definitional debate on organised crime; thus I will use the UN definition since the UN Convention has been ratified by Albania, too. Art. 2 of the Convention states: (a) 'Organised criminal' group shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established pursuant to this Convention, in order to obtain, directly, or indirectly, a financial or other material benefit.

⁴ Perpetrators known to the police.



Source: Albanian State Police (2009)

Figure 1. Reported and detected cases in Albania

Albanian police appear to have been particularly effective in fighting organised crime, particularly drug trafficking. During 2008, about 70 criminal groups were identified in Albania and 329 suspects were processed – more than in previous years.⁵ The fact that every year there is a significant increase in the number of cases detected that are related to organised crime, along with an increase in suspects arrested, shows – at least superficially – Albania’s improved performance in the area of law and order.

However, reliance on police sources has a number of disadvantages and it cannot be accepted unconditionally. Government documents often politicise the facts and tend to present the numbers in ways that fit their political or personal interests. Researchers investigating organised crime-related matters suffer from their reliance on the unsubstantiated accounts of informers and the ideological preconceptions of law enforcement agencies. There is also no guarantee that official agencies concentrate on the most relevant crime problems nor that they are bias-free. For example, although the increased detection rate can be considered a significant ‘improvement indicator’ there are a number of questions that immediately come to mind. What is the number of effective prosecutions in Albania compared to effective detections? Are major criminals allowed to leave prison easily? Are the people who are prosecuted and charged often members of opposition parties? Are entire criminal networks properly investigated and dismantled or are only peripheral actors and minor players arrested? How does this affect the crime statistics presented to the international community? Overall, police data can be easily manipulated and should not be accepted at face value.

Since this paper deals with a complex topic, diversified methods such as multiple triangulation—the application of several research methodologies in the study of the same phenomenon—have been used. The purpose of triangulation is to obtain confirmation of findings through convergence of different perspectives. This research is based, first of all, on an extensive analysis of official police data from Albania provided by the State Police. The conclusions drawn are also based on confidential intelligence reports from Western European countries, internal reports provided by EU liaison officers, and data provided by international police agencies,

⁵ During the first 11 months of 2008, the Albanian police carried out 35 operations, which resulted in 40 criminal groups being actually dismantled in Albania. There were 198 suspects linked to these groups, of which 158 were arrested (Albanian State Police 2009).

such as Interpol, evaluating the progress of the Albanian government with regard to the rule of law in the past 15 years.

Moreover, data collected by the EU Police Assistance Mission in Albania (PAMECA) also has been analysed. The report also relies on statistics and information collected by NGOs, such as Payoke and IOM Tirana, that work with victims of human trafficking. Law enforcement officials from the Albanian Ministry of Interior, the Prosecution office in Tirana and the Albanian State Police have been interviewed, as well foreign officials (liaison officers, ambassadors, prosecutors and police officials) who work in Albania and who have broad knowledge about Albanian organised crime. More than 200 police and court files on Albanian criminals operating in Western European contexts have been reviewed in the period 2003-2009.⁶ Some conclusions are also based on important public surveys such as the World Value Survey.

During 2006-2007, together with a team of local researchers⁷, the main author conducted a cross-national survey on the meaning of violence and crime in an ethnic Albanian context with ethnic Albanian respondents from Albania, Macedonia and Kosovo (N=864). Cluster sampling; structured questionnaire; and, extensive face-to-face interviews were used. The key demographic variables for the selection of the sample were: country, sub-culture (Gheg/Tosk), area (rural/urban), age, gender, socio-economic status and education. The results contributed towards a better understanding of the relation between culture, social change, politics and crime in Albania. Finally, journalistic sources also have been consulted, although they often tend towards the sensational.

All of these sources have serious limitations because of the nature of the topic under discussion. One of the main problems is the confidentiality of the intelligence reports provided to the researcher, and also the inability of the researcher to openly cite official sources. There is also a very limited number of scientific publications on the topic in order to further corroborate the evidence. Thus further research on the topic is encouraged.

Political Leadership in Albania: A Chronological Overview

This paper is structured around six time periods that have left a lasting imprint on Albania's economy, society, and governance profile. Each of these periods had a slightly different impact on the development of organised crime networks in Albania.

STAGE 1 (1944-1990): Albania was ruled by the most repressive communist regime in Europe, which from the mid-1970s, in pursuit of economic autarky, almost completely isolated the country from the outside world. Albania's Communist leader, Enver Hoxha (1944-1985), proclaimed firm adherence to anti-revisionist Marxist-Leninism for decades. This legacy of repression and isolation not only held back the country's economic development, putting it at a relative disadvantage at the start of the 1990s transition process, but also left a lasting imprint on Albanians' political culture and attitudes.

STAGE 2 (1991): The collapse of the communist regime in 1991 brought numerous

⁶ The investigated police files from Belgium, Netherlands, Germany and other countries, involve Albanian nationals, or Albanian-speaking criminal groups, involved mainly but not exclusively in drug trafficking, human trafficking and smuggling, prostitution, extortion, organised theft and cigarette smuggling.

⁷ Partners in this research were the Albanian Institute for Social Research 'Albanian View-point' and the Kosovo Law Centre. Help was also provided by the Open Society Institute Struga-Macedonia. The project was funded by GDN: CERGE-EI.

changes to the Western Balkan region. During the 1990s, Albania seems to have experienced a socio-political and cultural shock as a result of rapid social change. First, the Albanian government, influenced by the democratic West, agreed to allow opposition parties (multi-party democracy). This happened right after communism collapsed in Eastern Europe, and the Albanian population had taken to the streets in demonstrations. The governing Party of Labour (later renamed the Socialist Party, SP), led by Ramiz Alia, won the election in March 1991 after promising the privatisation of state lands.

STAGE 3 (1992-1997): The Democratic Party (DP), led by Sali Berisha – and supported by Sunni leaders due to its anti-communist stance – won the election in March 1992. The DP emerged as the leading political force of the anti-communist movement. Sali Berisha became Albania's first post-communist President (1992–1997) and has been the country's Prime Minister since 2005. The DP authored the reforms that transformed Albania into a market economy, but the party lost power amid the chaos that followed the collapse of the pyramid schemes.

STAGE 4 (1997): March 1997 saw the collapse of several pyramid savings schemes, in which perhaps two-thirds of the population had invested money, with an estimated loss of 1 billion USD (European Observatory 1999: 4). The failed pyramid savings scheme resulted in the looting of more than 550 000 small arms, 839 million rounds of ammunition, and 16 million explosive devices from army stockpiles (Khakee and Florquin 2003). These weapons became available on the black market and many ended up in the hands of the Kosovo Liberation Army (KLA), a militant group fighting for the independence of Kosovo (Zaborskiy 2007; Quin *et al.* 2003; Khakee and Florquin 2003; Arsovska and Kostakos 2008;).⁸

STAGE 5 (1998-2005): In the wake of the pyramid savings scheme disaster, the SP came to power in July 1997, and Fatos Nano, moderate communist, became Prime Minister. The SP was founded in 1991 as the successor to Albania's Party of Labour, the former ruling communist party. It retains barely any vestiges of communist ideology, but instead is committed to a market economy and pluralist democracy (World Bank 2010). According to evaluations by the European Commission (2005) from 2002 onwards, Albania has made progress in the fight against organised crime and terrorism. The legislative framework for the fight against organised crime improved after Albania's adoption of the so-called 'anti-mafia package' in September 2004, consisting of a law on fighting organised crime, a law against the financing of terrorism and a law on protection of witnesses and those who co-operate with the authorities. These laws provide a legal definition of a criminal organisation and of trafficking in human beings. The package also provides for the use of special investigative means, tackling corruption and abuse of office, and for rewards for co-operating with the authorities.

STAGE 6 (2005-present): The DP returned to office in 2005 as the main party in a centre-right coalition and is now the main party in Albania's first right-left coalition, with the Socialist Movement for Integration (SMI). Having survived the DP's ouster from office in the elections that followed the crisis of 1997, Sali Berisha managed to maintain the party's unity, and gradually restore his and his party's tarnished credibility to make the party electable once again in 2005. Since 2005, the main

⁸ According to analyst Zaborskiy (2007), in the late 1990s, the border towns of Bajram Curri and Tropoje in north Albania served as the main 'illegal arms bazaars' for local traders and KLA sympathisers. Investigated police records indicate that a lot of weapons were smuggled from north Albania to Kosovo, but also to Macedonia. Recent cases from Macedonia illustrate that weapons continue to be smuggled via the *porous* mountain regions between Albania, Kosovo and Macedonia.

priority of the government has been the fight against organised crime, when the 'zero tolerance policy' against organised crime was introduced in the country. In terms of judicial reform, a new Serious Crime Court was established and several acts and amendments to the new anti-mafia law were adopted.

Organised Crime during Communism

STAGE 1 (1944-1991): Because Albania had been isolated for almost 50 years, not much is known about the organised crime situation in the country during the times of communism. The topic of organised crime gained precedence in Europe only after the mid-1990s. Internal police reports, nevertheless, indicate that organised crime, in its various forms, existed in Albania prior to the fall of communism. According to a confidential intelligence report provided by a liaison officer from a West European country, living and working in Albania, some organised crime activities were tolerated by the communist state, to make it possible to: (1) earn extra money for the state, (2) supply the consumer needs left unfulfilled by the official economy, and (3) to destabilise capitalist societies. The shadow economy also empowered a criminal class on which common people often depended (UNODC 2008: 48-9).⁹

A key part of the absolutist communist governance was the internal security police. Relations between the Albanian secret police, the *Sigurimi*, and organised crime are not well-documented but this does not mean they did not exist (Leman and Janssens 2006; CSD 2004; CEOOR 2005). A confidential intelligence report from a Western European country shows that even in the 1960s, the Albanian communist state made secret arrangements with some Italian criminal organisations, enabling them to smuggle cigarettes on its own territory.

For example, the intelligence report indicates that in 1966, the Albanian communist state provided Italian criminals with escape routes via the Adriatic Sea. Italian Mafiosi were also allowed to make use of Albanian airports where they stored smuggled cigarettes. This agreement was signed between the *Sigurimi* and the Italian criminal organisations and it was approved by the dictator Enver Hoxha. On the basis of this agreement a special unit was created in Albania – '101K'. The unit was composed of officials of the Albanian border police. The report indicates that official sources show that in one year the Italian mafia paid USD \$22 million to the Albanian state. Part of this went to the budget of the Albanian Ministry of Interior.¹⁰ Overall, organised crime should not be considered a new phenomenon; however, its magnitude, size and diversity have changed considerably over the past 15 years.

⁹ A confidential intelligence report provided to the researcher by a EU liaison officer working in Albania, also discusses the illegal cultivation of papaver somniferum (opium poppy) and the distribution of food, minerals, etc. in Albania, which benefited a criminal elite. It describes different forms and levels of organised crime that existed in Albania during communist times, but are not as common today.

¹⁰ The father of Rama Luan (Minister of Interior of Albania in the period 2002-2003 and a member of the SP), Rama Mersin, was commandant of the '101K' body. The agreement between the Italian mobsters and the Albanian state was allegedly negotiated by two important agents of the Albanian *Sigurimi*. They are now living in Switzerland and were granted political asylum. According to the report, this trade stopped in 1991. This case is taken from a confidential intelligence report prepared in 2008 by a liaison officer from a Western European country, who wishes to remain anonymous. These are his findings after many years of working and living in Albania. The findings have not been corroborated since there is a lack of publicly available information on the organised crime situation in Albania during communism.

Post-Communist Crime Boom (STAGES 2&3: 1991-1997)

Rapid Crime Increase

The period right after the fall of communism was marked by exceptionally high levels of violent crime, extreme poverty and high levels of corruption. Many Albanians were put out of work when hundreds of state-run factories closed down; paying no money, criminal figures started to take over agriculture companies previously owned by the state; a disorganised and highly corrupt privatisation process began; violent groups started to create small armies around them for protection and to impose their influence on Albanian citizens; rivalries between criminal gangs and individuals were an everyday phenomenon; extortion, kidnappings and corruption were common realities for ordinary Albanians. In general, the deteriorating domestic situation in Albania in the 1990s resulted in the development of smuggling channels and a massive exodus of refugees to Greece, Italy and other countries in Western Europe. While Albanians started to leave Albania, many Albanians from the Diaspora with strong patriotic feelings—among them many ‘patriotic bandits’—started to return to Albania. They returned either because they were nostalgic or to establish alliances with local criminals and politicians (Arsovska 2009).¹¹

In Albania, the number of homicides doubled, and armed robberies tripled, between 1990 and 1991. In 1997 alone, the Albanian police reported 1542 murders. Comparing murder rates within the Balkan region, the UN Mission in Kosovo reported that in the late 1990s, Albania experienced the highest murder rate (12.2 in 100 000 people). In 2002, the World Health Organisation (WHO) listed Albania as fifth in the world in murders committed by youths (28 per 100 000). The situation was particularly striking when it came to murders committed using firearms (UNODC 2008: 84). According to the International Crisis Group (2000) the increase in violent crime is linked to various disturbing social phenomena such as revenge killings (Mortimer and Toader 2005; Oakes 1997; UK 2004; Gendercide Watch 2002; Jolis 1997). The police, for the period from 1998 to 2004, reported 1994 murders, of which 8.5 per cent were blood feuds. In the period from 1992 to 1996, 9.5 per cent of all murders were blood feuds.¹²

There have been also many ‘hidden crimes’ linked to violence against women and children. For a long time there were no statistics on domestic violence in Albania, but many experts considered domestic violence to be a very serious human rights problem in Albania (Arsovska 2006; Amnesty International 2006; Baban 2004; Minnesota Advocates for Human Rights 1996; UNICEF 2000).

Certainly, one of the main problems in Albania has been the ongoing rise of organised crime and corruption (Barron 2000; Bennetto 2002; Cilluffo and Salmoiraghi 1999; Xhudo 1996). The term ‘organised crime’, however, was not present in the Albanian vocabulary until the mid-1990s (Hysi 2005: 541). Only after the fall of communism did Albania start to become aware of several new forms of crime, such as smuggling of people and commodities. Despite the fact that these activities were flourishing in the country, they were not considered to be a manifestation of organised crime. Neither state bodies nor the public were prepared for these new forms of crime; hence, they were not acknowledged officially by politicians and state representatives. As Vasilika Hysi (2005: 541) *explains* ‘In most cases, entrepreneurial illicit activities were

¹¹ Based on investigated court cases from Belgium (e.g. L.G. case involving 22 Albanian nationals), interviews with CEOOR’s senior analyst Stef Janssens, and A.N.’s intelligence reports.

¹² Based on Albanian State Police Statistics. The official statistics was provided by Arben Tabaku, Senior Analyst at PAMECA, and Ardian Visha, a former Director of Foreign Affairs at the Prosecution Office in Tirana.

not even identified as offences and in the rare cases in which an investigation was started, they were hardly ever classified as “organised crime”.

Why Did Crime Rates Go Up?

A. Weak state, socio-cultural confusion and lack of democratic heritage

According to the findings of research based on interviews with 864 ethnic Albanians, among several other macro-level opportunity factors, the expansion of Western norms in the Albanian territories has caused a sort of ‘culture conflict’ and anomie within society (Arsovska and Verduyn 2008; World Value Survey 2002). This is because Albania itself has no heritage of democratic norms. Albania lacked pre-communist experience with democratic institutions, which is considered to have eased Central and East European countries’ post-communist transition to democracy and a market economy.

In criminology, social disorganisation and ‘culture conflict’ explanations have been frequently applied to elucidate and explain various forms of conflict such as crime, war, race relations, and more (Sutherland 1939; Sellin 1938). Thorsten Sellin (1938) sought first to clarify the relations between social and legal norms, which, in his view, came into conflict because of rapid urbanisation. For Sellin (1938), law embodies the normative structure of the dominant cultural/ethnic group. The conflict of conduct norms arises either as a result of a process of group differentiation within a cultural system, or as a result of contact between norms drawn from different cultural systems. If the legal norms of one group are extended over areas formerly not cognizant of them, such extension might cause confusion and violation of these norms by persons living in the subjected area (Sellin 1938). The findings of the survey research reported here suggest that while traditional values have been severely weakened in Albania, new ones have not yet taken their place, and thus for years Albanian society was lost in a system of multiple loyalties (tradition, communist values, Western values, religious values). Also, initially the top-down approach of the West did not effectively touch the masses or the political leaders in Albania.

For example, according to a study by the World Bank (2010), Albania’s democratic transition did not follow a clear path in the 1990s, but veered toward an authoritarian leadership model. During his tenure as President (1992–1997), Sali Berisha used his powers under the provisional constitution to push through a radical reform programme, including the privatisation of state property. As President, Berisha displayed some authoritarian tendencies, not only in his treatment of political opponents and critics from the press, but also in the manner in which he approved reforms without debate in Parliament, where his DP had a majority until mid-1997. A presidential system appealed to Berisha, as it suited his style of leadership (World Bank 2010).

B. Economic decline and locked opportunities

The collapse of the communist regime was followed by lawlessness and widespread outbursts of destruction of public property. The extensive damage to the country’s infrastructure, from irrigation systems to schools and hospitals, contributed to the economic decline observed in 1991 and dampened public service delivery for many years. Though Albania’s economy showed impressive growth during 1992-97, poverty remained widespread and income-generation opportunities scant, especially in the mountainous areas (World Bank 2010). Overall, Albania remained the poorest country in Europe during the 1990s and there were very limited opportunities for economic growth.

One possible explanation, rooted in conventional criminological theory, is that materialistic values, emerging from the Western value system ('media effect'), in combination with weak social and state institutions, have turned many ethnic Albanians towards criminal innovation (Arsovska *et.al* 2007; 2010).¹³ According to distinguished American sociologist Robert K. Merton (1938), compulsive conformity to values concerning material success goals ('American Dream'), promotes dysfunctional changes in non-economic institutions, and therefore leads to higher crime rates. The weak economy could not offer people, particularly younger individuals, legitimate opportunities to earn money quickly, and the dysfunctional society and weak cultural emphasis on non-monetary success goals could not limit or satiate their human appetites. Thus, although further research is required, initial findings indicate that socio-political confusion and rapid social change were some of the key factors explaining the increased crime rates in Albania.

C. Ambivalence towards organised crime

As the research results indicate, the general 'disrespect' for some democratic values – due to unawareness or lack of democratic heritage – and the deteriorating economic situation in Albania have further strengthened criminal-political ties. When the multi-party system was introduced in Albania, the Albanian Diaspora started financing the Democratic Party (DP) – the first opposition party. The DP was in need of money, so the party welcomed the financial contributions from the Diaspora. However, there was also money that came from some Albanian criminals who were living abroad. According to a report published by the CEOOR (2005) in the Belgian Federal Prosecution Service's Albanian case L.G. (human smuggling and trafficking), one of the defendants was a former officer in President Berisha's national guard. He had a diplomatic passport when he lived in Brussels. After his conviction in the Albanian smuggling case in Dendermonde, he continued his criminal activities from prison. In this case, funds transferred in the name of the same defendant to Berisha's DP were also discovered. One of the many Albanian smuggling victims used to be a gunrunner for the KLA.¹⁴

The political-criminal inter-relations left a legacy of institutional ambivalence towards illicit activities in Albania. Further, during the UN embargo on Yugoslavia (1992-1995), the Albanian state set up a firm called 'SHQIPONIJA' ('The Eagle'). The firm was the property of the Democratic Party, and Shehu Tritan, who was also the vice minister of foreign affairs, was the firm's director. Intelligence source indicate that he allegedly developed a monopoly in the transport of oil and violated the UN embargo for about three years. Under pressure from the international community, 'SHQIPONIJA' was closed down. Its financial statements were never found.¹⁵

Moreover, criminal clans from Berat in North Albania engaged in numerous criminal activities in the 1990s. According to intelligence reports, the ability to get involved in

¹³ These conclusions are based on interviews with 864 ethnic Albanians (2006-2007), the World Value Survey (1998, 2002) as well as on the findings arrived at during an expert workshop organised by KU Leuven and the Belgian Federal Police on ethnic Albanian organised crime, where 40 experts, both scholars and practitioners, met in October 2008 to discuss the issues. Representatives from Albania's prosecution office, Europol and INTERPOL were also present (Sartorious and Arsovska 2008, 'Ethnic Albanian Organised Crime: A Real or Perceived Threat', Brussels, 2-3 October 2008).

¹⁴ This case is based on investigated court cases from Belgium and interviews with Stef Janssens, senior analyst on human trafficking at CEOOR Belgium and associate researcher at KU Leuven.

¹⁵ Case provided by A.N., EU liaison officer, working in Tirana, Albania. A.N. conducted extensive (confidential) study on the links between political leaders and organised crime in Albania for his country's Ministry of Interior and Ministry of Foreign Affairs. The report is confidential and the author wishes to remain anonymous.

organised crime in Berat had a political aspect: between February 1993 and June 1996, Musaraj Agron, a DP supporter, became the Minister of Interior of Albania, under the regime of Sali Berisha. Musaraj Agron came from Berat. He allegedly provided criminal clans from Berat with immunity for their operations.¹⁶ Furthermore, an anonymous author¹⁷ from the University of Bradford, at the behest of the Centro Gino Germani in Rome, reported the following in November 1996:

As soon as he came to office, Berisha ensured that the native Gheg clans or fares from the northern part of the country to which he belonged were given control of all the country's key posts in the ministries, the police and the secret police (SHIK), whose principal objective was to neutralise the political opposition represented by the Socialist Party. The state arms company, Meico, was sold off in 1994 to the largest privately-owned Albanian company, Vefa Holdings, whose controversial chairman, Vehbi Allmucaj, was a close personal friend of Defence Minister Safet Zhulali. Allmucaj was the single largest donor to Berisha's Democratic Party in the May 1996 parliamentary elections, which took place against a background of considerable electoral bribery.

This type of clientelism was not only typical of the DP. The Socialist Party too was supportive of some notorious criminal figures in Albania who ensured that the party won votes during elections. The notorious gang leader Zani led dozens of armed bandits in Vlore during the March 1997 uprising. He was suspected of having killed at least four people and kidnapped six. Unofficially, Zani was also linked to a number of drug trafficking offences. On September 28 1997, Zani was finally arrested. In July 1998, Prosecutor General Arben Rakipi reported that he did not have enough evidence to launch legal proceedings against Zani. Rakipi added that eyewitness testimony alone was insufficient to start a trial, thus, he was legally obliged to release Zani, which he did on September 28 1998. After much uncertainty, Zani's trial started on October 12 1998. On March 22 1999, the Tirana district court made a final ruling. The head of the jury, Martin Deda, declared defendant Zani guilty only of illegal possession of weapons and his sentence was equated with the time that he had spent in custody. Zani was found not guilty of all other charges. The charges of four murders and rape were thrown out for lack of proof. As for the charge 'creation of a group', it was 'proven' groundless (Arsovska 2009).

Soon after his release, Zani was involved in a major shooting incident in Vlore, in which three people died. The media has argued that the Zani's gang was so powerful because of the support of Fatos Nano and the SP. The opposition in Albania, particularly the DP and Sali Berisha, reported on numerous occasions that Zani Caushi was one of the main supporters of the Socialist Party that in 1997 carried out an armed takeover of political power. According to the DP, Fatos Nano could not easily have eliminated Zani, the man who brought votes to the Socialist Party, because he helped him get into power.

Thus accommodations between Albanian authorities and organised crime have fostered the development of politics that is not transparent and that is permeated by crime. Further, the general public often believed that certain types of crime were beneficial for their own personal survival as well as for the creation/development of their states. In personal interviews in 2006 and 2007, Tirana's prosecutor Ardian

¹⁶ Now Musaraj Agron is known to be a wealthy businessman in Albania, who has a construction business and owns a TV station and casinos in Albania. He has never been charged or prosecuted for the above-mentioned allegations.

¹⁷ The author whose paper (Drug Trafficking in Albania) was also cited by the Ethnobarometer Working Paper One wishes to remain anonymous.

Visha noted that during the 1990s, human smuggling was never perceived as a serious offence in Albania. It benefited the Albanian people and the Albanian state since a lot of the money coming back to Albania was from the emigrant communities living abroad. Citizens from Shkoder who were interviewed indicated that the oil smuggling business via the Shkoder Lake to Montenegro was a very profitable business for ordinary people, too. Anecdotal evidence indicates that the value of smuggled oil sometimes reached more than USD1 million a day. Also, the arms trade in Bajram Curri and Tropoje was often justified for political reasons: helping the Kosovars gain their independence and to fight a militarily superior force (Zaborskiy 2007; Hajdinjak 2002).¹⁸ It appears as if, during the 1990s, organised crime was often perceived as an 'institution' fostering social mobility, capital accumulation, economic prosperity and nation building, not as a serious threat (Arsovska and Kostakos 2010; Hysi 2005).

D. Police and Military Reforms

Another aspect of Albania's transition that had a lasting impact on governance was the partial retreat of the state from core functions, including law enforcement, economic regulation, and strategic infrastructure development. During the period 1991-1997, public spending on these functions declined and they were not priorities in government policy. According to the World Bank (2010), this manifested itself in a number of failures of governance: (i) high levels of corruption in public service delivery; (ii) the large-scale illegal occupation of land and construction; and (iii) the resurgence of blood feuds as a dispute settlement mechanism.

Moreover, the abolition of the Albanian secret service *Sigurimi* in 1991 left many agents unemployed, some of whom became (or continued to be) involved in organised crime (Leman and Janssens 2006; CSD 2004; Hajdinjak 2002). Reports from EU governmental agencies note that these agents had good connections with Italian organised crime groups and with secret security services from other neighbouring countries although, for obvious reasons, these links are not well documented (Leman and Janssens 2006, 2007; CEOOR 2005, 2007; CSD 2004; UNODC 2008). The importance of social networks, working environment, practical 'know-how' and immediate opportunity can explain the high involvement of security and police agents in organised crime.¹⁹ At the time (1992-1995), the UN sanctions imposed on neighbouring Yugoslavia offered an immediate opportunity for making money: organising smuggling channels to supply Yugoslavia with oil. Oil smuggling was initially organised by the Serbian State Security Service (SDB), but many 'ordinary' citizens also became involved in the business (Anastasijevic 2006; Hajdinjak 2002).

The Breaking Point: The 1997 Crisis

***STAGE 4 (1997):** The Albanian government's laxity in economic regulation allowed fraudulent financial pyramid schemes to proliferate. The collapse of these schemes in 1997, when many Albanians lost their savings, led to widespread rioting and lawlessness that cost the lives of about 2000 people (World Bank 2010). The crisis not only brought down the government (DP), but it also brought the country to the brink of state failure. An international military intervention led by the Italian armed forces was needed to restore order.

¹⁸ Based also on personal conversations with officials from the prosecution office in Tirana Albania and police agents from Belgium (2006).

¹⁹ Personal interview with police officer Filip de Ceuninck, police expert working in many international police missions including Proxima, EU Police Assistance Mission to Macedonia.

The pyramid schemes made some of their authors very wealthy, resulting in an accumulation of 'grey' capital. The loss of personal savings and the soaring crime further shook people's confidence in the state's ability to protect their safety. In the minds of Albania's political leaders, the 1997 crisis brought home the need to reverse the retreat of the state from core functions. Government strategy documents adopted in the wake of the crisis put particular emphasis on the need to strengthen state institutions (World Bank 2010; Government of Albania 1997). The 1997 crisis was a breaking point for Albania's development; successive Albanian governments of different political parties have since shown remarkable prudence in fiscal management and paid close attention to supervision of the banking sector (World Bank 2010).

Developments After the 1997–1998 Crisis

Setting Up the Ground

***STAGE 5 (1998-2002):** The period 1998-2003 was crucial to Albania's efforts to return to normality and rebuild the capacity of state institutions. In the decade following the 1997 crisis, Albania's economy has also grown by 5-6 per cent per year on average. Over the same period, Albania's per capita gross national income (GNI) more than quadrupled in nominal terms and more than doubled in PPP terms (World Bank 2010). Moreover, Albania improved its ranking in the UNDP Human Development Index (HDI) from 100th out of 150 countries in 1999 ('medium human development' category) to 70th out of 182 countries in 2009 ('high human development').

Overall, public order and government control over the country's territory had been restored by early 2000 too, despite many challenges (e.g. the significant impact of the conflict in Kosovo).²⁰ Violent attempts to overthrow the Government have not occurred since September 1998, when DP supporters attacked the PM's office to protest the prosecution of senior party leaders and the assassination of Azem Hajdari, a leading DP member of Parliament.²¹ Laws on the civil service, public prosecutor, and courts were also adopted in 2000. Very importantly, the basis for Albania's current institutional setup was also laid during this period, with the adoption of the Constitution in 1998.

Moreover, it was not until 1998 that some politicians partially 'acknowledged' that organised crime indeed existed in Albania. In the late 1990s and early 2000s, international reports gradually started to place more emphasis on the problems associated with Albanian organised crime worldwide (see EU Reports on Organised Crime 2003, 2004; Mutschke 2000). Some earlier reports even stated that in Switzerland, ethnic Albanians were to blame for trafficking some 70 per cent to 90 per cent of Switzerland's heroin supply into the country (see UNODC 2008).²² Consequently, the political debate in Albania with regard to organised crime started becoming vitriolic during election campaigns, as politicians accused each other of being involved in organised crime (Hysi 2004: 542-543). However, despite the alleged increase of Albanian organised crime and the mounting public concern (as conveyed by the media), there was, for a long time, no official definition of organised crime.

²⁰ Albania was still by far the poorest country in Europe (World Bank 2010). Albania was also dealing with the significant impact of the conflict in Kosovo (1998-1999), which brought both an influx of refugees.

²¹ The perpetrators of the assassination have never been identified or brought to justice.

²² Also based on Interpol's reports (Kanun project) and personal conversation with Dr. Cornelius Friesendorf, Research Fellow, Peace Research Institute Frankfurt, Lecturer, Goethe University Frankfurt am Main and analyst at DCAF Switzerland (June 2006).

The 1998 Constitution establishes a parliamentary democracy. Policy making authority resides within the Council of Ministers, which requires the support of a parliamentary majority. The party or coalition with the largest parliamentary representation nominates the Prime Minister (PM), who proposes ministerial nominations and dismissals to the President. Ministerial appointments have to be confirmed by Parliament. Overall, the PM dominates policy making in Albania. A PM's power depends on the size of his or her parliamentary majority. Several features of Albania's political system combine to reduce the risk of excessively centralizing power in the hands of the PM. For example, while coalitions have been dominated by either of the two major parties – the right-of-centre Democratic Party (DP) or the left-of-centre Socialist Party (SP), minor coalition partners have always secured ministerial portfolios in exchange for their parliamentary support. The distribution of political power is further diffused on account of the influence of municipal leaders.

In Albania, parties compete for votes primarily on the basis of 'traditional' loyalties, and patronage, rather than ideological differences. All parties agree on key directions of public policy, most notably the centrality of European integration as an overarching goal (World Bank 2010). The main parties' campaigns allow politicians to make opportunistic promises with little prospect of being held to account for not meeting them once in office. Patronage and other forms of clientelism are a key mechanism for parties and individual politicians to maintain the loyalty of their core supporters (World Bank 2010).

The President is elected by Parliament for a non-renewable term of office of five years. Although the President formally appoints the PM and other members of the Government, his or her role is largely ceremonial. The main exception is his or her power over judicial appointments, though even this requires parliamentary consent. Constitutional amendments passed in April 2008 further strengthened the PM at the expense of the President.

Albania has a unicameral Parliament composed of 140 deputies who are directly elected to a four-year term based on an electoral system whose fundamentals are laid out in the Constitution. The Constitution defines Albania as a unitary state. The Constitution protects the separation of executive, legislative, and judicial powers by guaranteeing the independence of the judiciary. It also provides for additional checks and balances on executive power by institutionalizing independent bodies, notably the People's Advocate, the Central Elections Commission, the High State Control, and the Central Bank (World Bank 2010).

The Albanian legislation and the Code of Criminal Procedure of 1995 (Article 28) do not define the offences of criminal organisation and armed gangs (Hysi 2005). Up to 2002, no one really took the problem of organised crime seriously. It was only in July 2002, with the ratification of the UN Convention against Transnational Organised Crime, that the official definition of 'organised criminal group' was integrated into Albanian legislation.

Thus, although the legislation and the state institutions were considerably strengthened in Albania by the 2000s, it was still too early to consider parliamentary democracy or the rule of law to be well established in the country. Incidents of political violence in this period become rare, yet Albanian politics still remained highly polarised. Sometimes extreme tactics (such as threats of prosecution, parliamentary

boycotts, public protests, and hunger strikes) have been used by the major parties in attempts to discredit their opponents (World Bank 2010).

***STAGE 6 (2003–2010):** The period between 2002/3 and 2005 when the Social Party came to power in Albania, is often regarded as the first step towards Albania's improved performance with regard to the rule of law.

In 2005 the European Commission (2005: 63-64) evaluated Albania's progress and noted that the legislative framework for the fight against organised crime improved with Albania's adoption of the so-called 'anti-mafia package' in September 2004. Progress has been also made in the implementation of the specific action-oriented measures against organised crime. The anti-mafia package included the reversal of the burden of proof regarding suspected proceeds of crime, and better asset confiscation laws. Due to various anti-human trafficking measures, trafficking of human beings across the Adriatic and Ionian Seas was also significantly reduced. There has been some progress in enhancing the effectiveness of the Albanian state police, with the strengthening of departments dealing with organised crime and corruption, and prosecution and dismissal of increased numbers of senior police officers for corruption (EC 2005: 64).

The more noticeable changes in the law enforcement sector, however, appeared after 2005 when the current Democratic Government (Sali Berisha) came to power and announced its programme of 'zero tolerance against crime'. The Albanian Prime Minister, in an interview with Belgian newspaper 'Le Soir', said:

Now we are initiating a new and wide-ranging battle, the one against the criminal economy. In less than two years, we have destroyed in Albania 141 criminal groups; 1170 members and leaders of these groups were arrested and sent to trial. In co-operation with the EU agencies involved in the fight against organised crime, we have hunted down and had 191 wanted criminals extradited to Albania. There will be no peace with the organised crime in Albania and Albanian crime in Europe. We are determined to go through this fight until the end.²³

Minister of Interior of Albania, Bujar Nishani, similarly stated²⁴:

Albania has now embarked on a process vital for its future. The integration process, leading up to Albania's full membership [of the EU], is a dynamic process, which requires legal, structural and administrative commitment and the involvement of the best human resources as well as efficient distribution of funds and investments that contribute to the Development and Integration National Strategy. The Ministry of Interior is one of the main and most dynamic contributors to the designing and implementation of this strategy. The Government has devoted particular attention to the improvement of public security, the quality of services for citizens and the establishment of a safe environment for the Albanian society [...] The government, in order to fulfill its obligation toward the voters and honor the trust of Albanian citizens, has cut all the ties that existed between crime and segments of politics and with 'zero tolerance' in less than two years in office has suppressed 151 criminal groups and arrested 435 of their members.

²³ Interview of Albanian Prime Minister Sali Berisha with Belgian newspaper "Le Soir" translated by Gjovalin Kola, published by the periodical 'Albania' on 26 May 2007

²⁴ Parliamentary request for the Minister of Interior, Bujar Nishani, on the government's engagements concerning public safety in our country, on 31 May 2007, published by the periodical Shekulli (1 June 2007)

Overall political stability continued to increase during the past decade. Organised crime became a key policy priority of the state, mainly due to significant international and domestic pressure. After 2005, the Albanian Government also adopted several amendments to the new law on prevention and combating organised crime, which further facilitated the fight against organised crime. For example, in April 2006 the Government issued an act that prohibits the sailing of any kind of boat off the Albanian coast. Albeit Draconian, this measure supposedly has dealt a serious blow to illegal trafficking in drugs and human beings.²⁵ The Government also adopted the Crosscutting Strategy of fighting against organised crime, illegal trafficking and terrorism. In terms of judicial reform, a new Serious Crime Court was established at two instances: first instance and appellate.

After getting the green light from the political leadership and orientated by the 2006-2009 Government Programme and its motto 'zero tolerance towards crime', the Albanian State Police in co-operation with the Government and the Parliament also assisted in accomplishing the following:

- New State Police Law drafted in September 2007 and adopted
- Seven-Year Strategy of State Police
- Law on Moratorium of Vessels & Speedboats
- Amendments to the Penal & Penal Procedure Codes
- Draft Laws on Foreigners and on State Border Control and Surveillance
- Integrated Border Management Strategy
- Police ranks assigned according to functions
- Reorganisation of State Police
- Reform of Police education system

The signing of the Stabilisation and Association Agreement (SAA) with the European Union in 2003, which marked the first step in Albania's European integration process, also had a symbolic significance as a sign of international acceptance that the country had returned to normality (World Bank 2010).

Albania's efforts became visible to the international community. After 2006, Albania has won much praise from international actors for its efforts to control organised crime. Albania's ranking in the World Bank Institute Governance Indicators 'Rule of Law' dimension has increased from the bottom category in the world in 1998 to the lower-middle category in 2008. Though, according to the WBI indicators, the rule of law remains the weakest dimension of Albania's performance in terms of governance, it nevertheless indicates a remarkable change.

As far as elections are concerned, five parliamentary elections were held under essentially the same mixed proportional system, which was adopted by broad consensus in 1992 and whose fundamentals were embedded in the 1998 Constitution. This strategy culminated in the distorted result of the 2005 elections, in which the DP and SP obtained 40 per cent and 30 per cent of SMD seats, but only 7.7 per cent and 8.9 per cent of the proportional vote, respectively. In response to wide domestic and international criticism, the mixed system was scrapped in 2008 and replaced with a proportional representation system with regional party lists (Table 1). This new system was used in the June 2009 elections and yielded positive results.

²⁵ One, however, can seriously question the degree to which such top-down approaches to the fight against trafficking are effective in the long term, since trafficking networks often relocate their businesses elsewhere or use other routes.

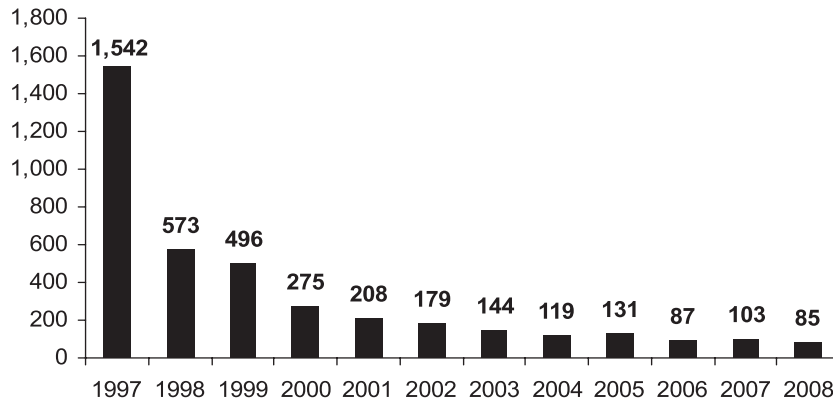
Table 1. Electoral Systems Used in Albania's Parliamentary Elections

Elections	Electoral System	Result
1991	Pure majoritarian system (first past the post) with multiple candidate districts (250 seats)	4 parties won seats; Winner: Party of Labour (later SP)
1992	Mixed member proportional (MMP) system: 100 seats allocated by majoritarian system in SMDs; 40 seats allocated to national party lists by proportional representation (PR) based on a corrective formula; two-ballot vote	5 parties won seats; Winner: DP : 66 per cent of seats with 62 per cent of the vote
1996	Mixed member majoritarian (MMM) system: 115 seats allocated by majoritarian system in SMDs; 25 seats allocated to national party lists by PR without corrective formula	5 parties won seats; Winner: DP (87 per cent of seats with 56 per cent of the vote)
1997	MMM system: 115 seats allocated by majoritarian system in SMDs; 25 seats allocated to national party lists by PR	10 parties won seats; Winner: SP (65 per cent of seats with 53 per cent of the vote)
2001	MMP system: 100 seats allocated by majoritarian system in SMDs; 40 seats allocated to national party lists by PR (return to 1992 system) with corrective formula	7 parties won seats; Winner: SP (52 per cent of seats with 42 per cent of the vote)
2005	MMP system: 100 seats allocated by majoritarian system in SMDs; 40 seats allocated to national party lists by PR. This system was based on the electoral code of June 2003 and then amended four times prior to the elections.	12 parties won seats; Winner: DP (52 seats); SP (42 seats); both DP and SP won all their seats from SMDs; only one party (SMI) won seats in both SMDs and the list
2009	PR-based regional party lists (closed lists) in 12 multi-candidate districts with different thresholds	6 parties won seats; Winner: DP (49 per cent of seats with 47 per cent of the vote)

Source: World Bank 2010

Crime Decline in the New Millennium

Since the early 2000s, there has been a decrease in violent and conventional crimes such as murders and crimes against the person (Figure 2). The 85 murders in 2008 – 18 murders less than in 2007 and 46 less than in 2005 – is known as the lowest number in the history of the past 18 years (Albanian State Police 2009).

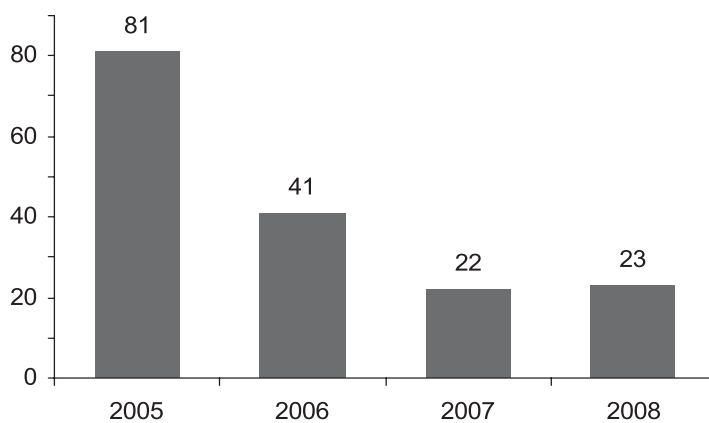


Source: Albanian State Police (2009)

Figure 2. Murder rates in Albania

The strategy of a strenuous fight against organised crime also produced encouraging results; by October 2005, 12 of the largest criminal clans in the country had been investigated and arrested. More than 150 members of so-called 'mafia' families were arrested in operations that were backed up by the anti-trafficking units that had been established throughout the country. In the first 16 months of the new Government (2005), 206 criminal groups were dismantled and 1000 members and key leaders of these criminal groups were arrested.

Trafficking of women has been on the decline since 2002, too (see Figure 3).²⁶ The Deputy Minister of Interior, at the same time coordinator of the State Committee on the Fight against Trafficking in Human Beings stated: *'In Albania trafficking in human beings has a diminishing trend, based on the number of trafficked victims returned from other countries and those identified within the country'*. However, she added that: *'issues still persist, and we are trying to control the erratic movement of people and forms of forced labour within the country, which might influence the trafficking rate'*.



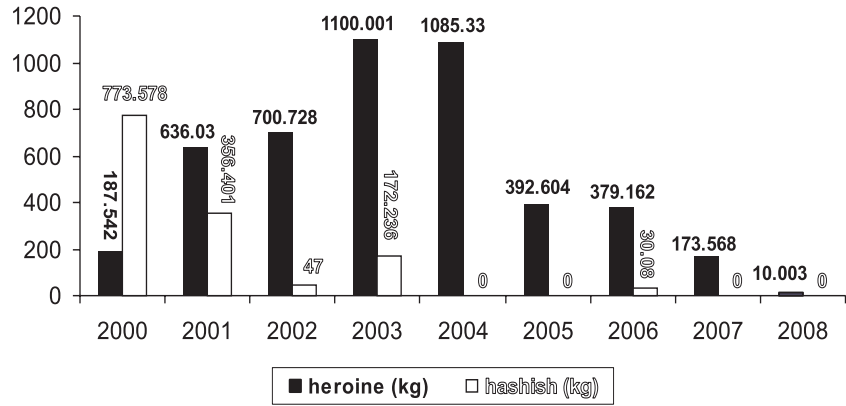
Source: Albanian State Police (2009)

Figure 3. Human Trafficking

The decreasing trend of crimes is also confirmed by foreign data. According to Italian

²⁶ The 2002 'Puna Operation' has first led to drastic decrease in human trafficking and smuggling, particularly with speed boats via the Adriatic Sea to Italy (joint police-prosecution operation done in co-operation with Italian authorities).

authorities (see Figure 4), there is a **considerable decrease in the amount of sequestered drugs** that pass through Albania to Italy and EU countries.

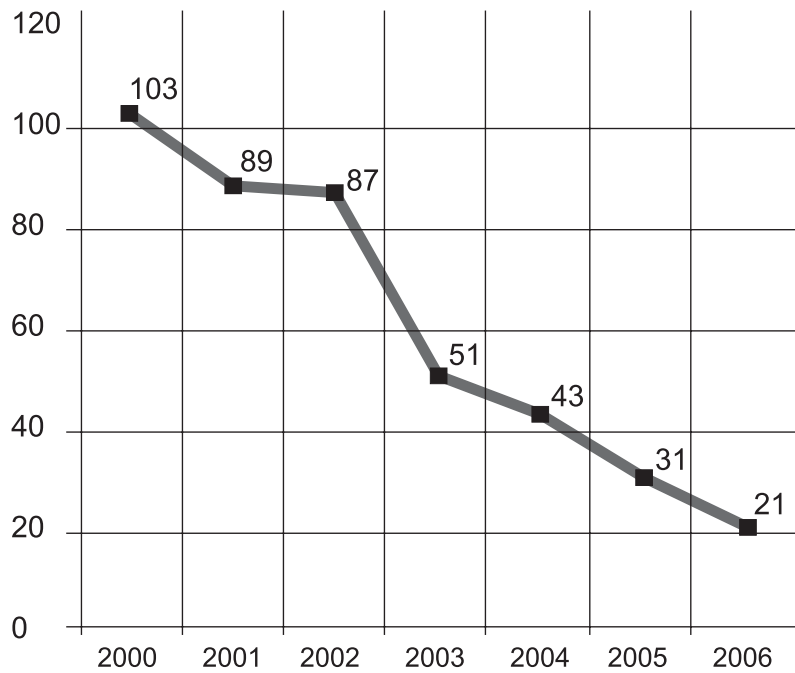


Source: Albanian State Police, 2009

Figure 4. Drug quantities sequestered in Italy with origin or transited from Albania

Also the number of identified heroin traffickers of Albanian nationality went down in Germany since 2000 (Figure 5).

Number of Albanian heroin trafficking suspects identified in Germany



Source: Bundeskriminalamt

Figure 5. Albanian heroin trafficking suspects identified in Germany

Overall, according to Albanian police data, in 2008 illegal trafficking crimes were 6.4per cent less than in 2007.

What Led To the Improved Fight Against Organised Crime?

A. External pressure

One very important factor leading to the drastic change in policy and subsequently to a decrease in crime in Albania was the external pressure placed on politicians by international actors. In the early 2000s organised crime became a topic of grave concern for many Western countries. The UN Palermo Convention provided an international definition of organised crime. In 2001, the Council of Europe declared that organised crime represents, by its economic power, transnational connections and sophisticated techniques used, a major threat to society, the rule of law, and democracy (Council of Europe 2001). The notion of organised crime has been highly securitized and externalized at the EU level, too (Arsovska and Kostakos 2010).

In reports on organised crime prepared by the European Council (2003) and Europol (2003; 2004; 2005; 2006) it was often reported that ethnic Albanian organised crime groups²⁷ constitute a major threat to the EU because of their extreme violence and the fact that they have graduated from simple criminal service providers to working within the highest echelons of international organised crime. According to UNODC Report (2008: 66) in 2005 the Italian Ministry of Social Solidarity, reported *'that in Europe, 40per cent of the heroin trade is controlled by Albanian nationals'* while in 2006 the Italian Central Directorate for Antidrug Services, said *'that in Europe, 80per cent of the heroin trade is controlled by Albanian nationals.'*

Ethnic Albanian organised crime has also been a topic of major concern to the US. The US Department of Justice, in their confidential Intelligence Report from 2005, quoted Grant D. Ashley, assistant director of the criminal investigative division of the Federal Bureau of Investigations (FBI) who in October 2003 stated:

Balkan organised crime groups, particularly those composed of ethnic Albanians, have expanded rapidly over the last decade to Italy, Germany, Switzerland, Great Britain, and the Scandinavian countries, and are beginning to gain a foothold in the United States [...] the Albanian criminal cells have been successful in their criminal endeavours both internationally and domestically [...] Over the years, the illegal operations of the Albanian criminal cells have rapidly evolved and increased at an alarming rate.

Human rights groups and NGOs operating in the Balkans have made similar statements. They have voiced their concerns about the dramatic growth of ethnic Albanian criminals in Kosovo, Albania, Macedonia and beyond. The Council for Foreign Relations has even gone so far as to say that organised crime in the Western Balkans is a problem so serious that it needs to be considered on equal grounds to that of global terrorism (Stefanova 2004: 258). UNODC Report (2008: 66) on organised crime concludes: *'There is round consensus that [...] particularly ethnic Albanian groups, are a hazard in West Europe. [They] are the single most notorious Balkan organised crime phenomenon.'*

According to a comprehensive study conducted by the World Bank (2010), external pressure came from the EU, the Council of Europe and the US, which have repeatedly stated that there are a list of items that should be changed in Albania if Albania wants to become a member of the EU and NATO. Since the late 1990s, the international community has pointed to the following problems in Albania: (i) A

²⁷ Due to the high levels of ethnic homogeneity of Albanian criminal groups, the word 'ethnic' is often used in relation to Albanian organised crime (e.g., Europol reports). Ethnic Albanian crime refers to those criminal groups (mainly) consisting of persons who identify themselves as Albanians due to their culture, history, language, traditions or descents, irrespective of whether they live in Albania or abroad.

weak public administration (especially within the police and customs there is no capacity to control financial transactions or to prevent money laundering); (ii) A weak and inefficient judicial system, underpaid and corrupt personnel; (iii) Unregulated financing of political parties and no control over the incomes of public servants; (iv) Laws have to be implemented, not just created; (v) There is no capacity among the police, judiciary, procurators and judges to investigate, arrest and convict people that are part of organised crime groups.

Thus recently the Albanian government has stepped up in the fight against organised crime, making sure that its efforts are acknowledged publicly along the way. Governments in the Balkans want to be remembered for bringing their countries closer to the EU and NATO structures, since this means improved economic conditions, more investments in the country, as well as freedom to travel and work abroad. EU integration figured prominently in the DP, SP, and SMI platforms. All three main parties campaigned on a broadly forward-looking agenda and each portrayed itself as the most committed to Albania's integration into the European Union (World Bank 2010). The DP-led government timed Albania's application for EU membership at the start of the election campaign in April 2009. The DP also highlighted the prospect of visa-free travel to EU countries. Albania's admission as a member of the North Atlantic Treaty Organisation (NATO) in April 2009 was also an asset to the DP campaign (World Bank 2010).

B. Internal pressure

In addition to external pressure, there has been also internal pressure on the Albanian Government from returning emigrant communities, young intellectuals, the media and social movements. These institutions have tried to raise awareness of the many political and social problems facing Albania, increase active citizenship, strengthen the sense of community, promote responsible governance and improve the image of Albania globally through: (i) encouraging citizen participation in decision-making by influencing and monitoring policies; (ii) promoting volunteerism and improving co-operation within communities; and (iii) rehabilitating the concept of protest. The non-state actors have started holding the Albanian government more responsible and accountable for its actions; they have given voice to the voiceless and socially confused civil society; and have set higher standards for everyone.

The ineffectiveness of the Albanian government to deal with crime problems at home also has affected the Albanian émigré communities abroad (World Bank 2010). Many younger intellectuals have left Albania to study or work abroad but they have been often discriminated against because they are 'Albanians'. Being 'Albanian' often has been linked to being a 'criminal', thus, for many law-abiding Albanians this stereotyping has become frustrating. Also it has been extremely hard for Albanians to obtain visas because of their 'reputation'. Thus Albanian society, and in particular the younger generation, has put pressure on successive governments to improve the image of their country in the world. The Albanian media has been another important tool that has taken more seriously the message of the international community.

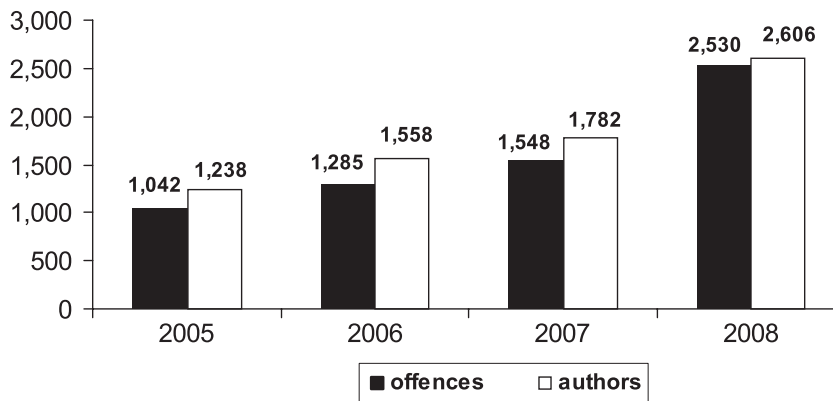
C. Internalisation of norms and change in operational methods

The reduced crime rates and the increased public security in Albania is also a consequence of the fact that there has been a gradual internalisation of democratic norms, reduction of the overall post-communist socio-cultural confusion, improved economic conditions and a change to the modus operandi of Albanian criminals. After the downfall of communism, people were left lost in a system of multiple loyalties (tradition, communist values, Western values, religion) without clear norms to follow (Arsovska and Verduyn 2008). In order to survive and bring 'order' to their

lives, Albanians tended to group themselves in subcultures, many of them deviant. However, over the years, closer interaction with foreigners inside and outside Albania has led to gradual internalisation of some Western norms by Albanians.

Criminal groups too have responded to the criminal justice measures and the social and political developments in their country. After 2003/4, there has been a trend among criminal groups in Albania and among Albanian criminals abroad, to keep a lower profile. During the 1990s, Albanian criminal groups had to use violence to build their reputation and to gain influence over some criminal markets. Nowadays, they already have their 'reputation' and they are feared in criminal circles. Most importantly, they have also acquired profits that have enabled them to engage in lower-risk criminal activities. These groups/individuals have also grown more entrepreneurial and have abandoned some so-called 'irrational' or culture-driven behaviors (e.g. revenge, extreme violence, subordination of women, use of weapons, clan structures).

In fact, the identification of economic and financial crimes has substantially increased in 2008 compared to previous years in Albania. There were 1039 more offences detected and 1105 more perpetrators identified in 2008 compared to 2007. Also new laws regarding money laundering have been introduced in Albania.



Source: Albanian State Police (2009)

Figure 6. Economic and financial crimes

Thus while conventional crime levels are now low and traditional forms of organised crime appear to be in decline, corruption and economic crime appear to remain a serious problem in Albania, potentially distorting the official criminal justice statistics.

Political Manipulation and Areas of Concern

Although it appears as if Albania has stepped up in the fight against organised crime, one has to remain open to various other potential scenarios explaining the Albanian success. Is the recent decline in crime and the improved police performance indeed a result of deliberate long-term government policy and dedication on the part of the Albanian authorities? This question certainly requires further investigation.

POLITICAL GAMES AND MEDIA INFLUENCE: One potential reason as to why it may appear that the Albanian government is actively fighting organised crime is that the government has given a lot of publicity to their anti-organised crime actions. The police have been more active in carrying out arrests which are noticed by the media. The government has adopted strategies against organised crime, and there

have been spectacular and widely publicised actions and operations against human traffickers. The politicians have been repeatedly showing off their 'successes' to the international community, and there have been some alliances between political parties and the media.²⁸

For example, the media sector in Albania shows impressive growth and vitality. According to official figures, there are 24 dailies, 86 radio and TV stations, and 64 weeklies or monthlies. This growth, however, is not matched with the expansion of freedom and pluralism in informing the public.²⁹ On the contrary, as a 2009 report by Reporters Without Borders indicates, the freedom of the press is being ever more curtailed. Aleksander Cipa, an independent Tirana analyst, who is also head of the Journalists' Union of Albania, told *Deutsche Welle* (2009) that: *'The informality that prevails among the Albanian media is among the main factors that set Albania at this low level of press freedom. Another factor is the use of the media by interest groups so that they can flirt with politics and put themselves at its service'*.

The lack of editorial staff's professional integrity should also be added to these factors. The most flagrant cases of the media putting themselves at the service of politics to the detriment of professionalism and freedom of information occurred during the campaign for the 28 June 2009 election. The editorial staffs of the Tirana audiovisual media agreed to broadcast video clips prepared by the main political parties, which greatly impaired the freedom of information. According to Cipa, *'This compromise between the parties and the media has turned Albania back to the state it was in many years ago when it had a two-tone media spectrum, either for or against the government. There are no genuinely independent papers. That accounts for the constant decline in their circulation and credibility with the public'*.

The journalists' self-imposed censorship also affects the freedom of the media. The situation becomes even more acute owing to the economic crisis, which has not failed to leave its mark on the media market. According to Cipa, *'The whole of the media market, and in particular relations between media managers and journalists are going through a period of crisis that cannot be compared to any other period of Albania's 19-year-long transition [from communism to democracy]. Sixteen out of 24 dailies are unable to pay regular monthly salaries to their reporters and editors'* (Tema 2009: 13). Albania's rating in the 2009 report by Reporters Without Borders as the country in the Western Balkans with least media freedom raises some questions regarding the genuine fight against organised crime, too.

QUALITY OF INVESTIGATIONS AND PROSECUTIONS: The pressure to present a high number of arrests and prosecutions has compromised the human rights of some suspected offenders in Albania. This pressure has also led many to question the reliability and validity of official crime statistics despite the fact that new methodologies and procedures of standardized crime reporting were introduced in 2008. It is a fact that the government has been very concerned with staying in power and speeding up Albania's accession to the EU than with the quality of investigations and the long-term effects of its 'zero tolerance' policies. Hastily-adopted initiatives often result in poorly formulated laws, which subsequently pose implementation difficulties and other negative impacts.

²⁸ Albanian newspaper extracts provided by Ana Gjokutaj, Communications Officer at the World Bank Office in Tirana.

²⁹ Text of report by Albanian privately-owned right-wing pro-PD party newspaper Tema, on 29 October [Report by Ani Ruci: 'Informality, Government Control: Factors for Shrinking Freedom of Press in Albania']

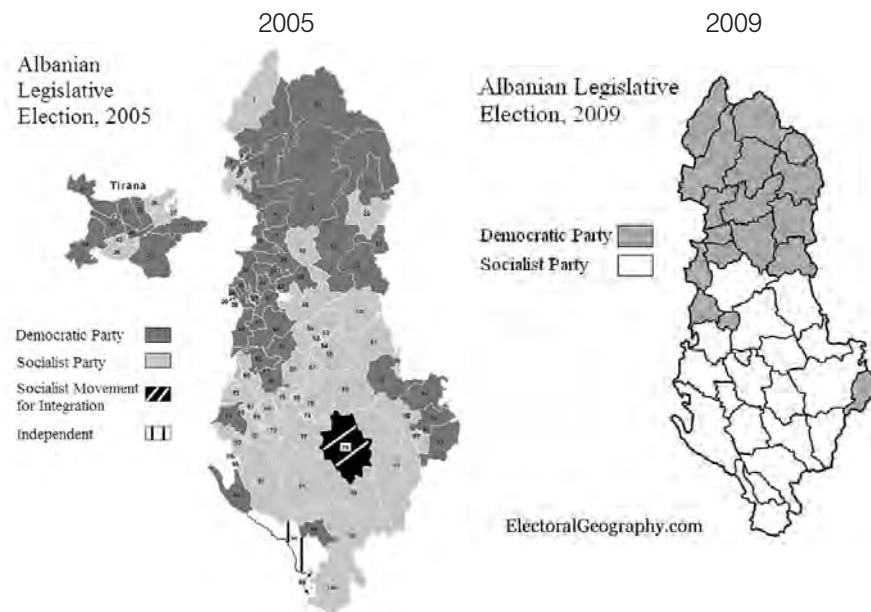
In 2009, the Prosecutor General's Office in Albania opposed the government's bill on changes to the anti-Mafia bill concerning asset sequestration.³⁰ Official sources in the Prosecutor's Office said that the bill gives arbitrary powers to the state police, who can investigate and check any Albanian citizen without the latter being first subjected to criminal prosecution. The prosecutors said that the current bill was of unlimited scope, allowing the police, the Prosecutor's Office, and the Serious Crime Court to check, investigate, sequester, and track the assets of any citizen in this country simply with the argument that this particular citizen is living beyond his means. The prosecutors said that, 'There is no state body in any country of the world that investigates people to learn about how they have made their money or where have they bought their expensive things. This is legally permitted only when there is already an organised crime investigation.' According to this bill, being rich is sufficient for any policeman to torment you. Sources at the prosecutor's office note that, *'Under the bill, Albania will be the only country in the world in which the prosecutors will be tasked with investigating citizens' assets. This runs counter to the Constitution. It is not part of the prosecutors' job to do this. The prosecutors can conduct such an investigation only when there is a criminal prosecution.'*

Moreover, under the bill, the police will be able to investigate anyone simply on the basis of some information about his or her participation in organised crime investigations, without having a criminal prosecution in their hands and without legally checking how reliable this piece of information was. Sources note that, *'Such provisions leave the door open to arbitrariness. In both cases it will be up to the citizen to prove how he has acquired these assets.'*

Furthermore, international bodies such as the EC note in their evaluation reports that the rights of the suspects must be respected and that concrete steps to improve witness protection are urgently required. Also, in order to assess how real is the fight against organised crime, one should also look at who goes to prison and who are the players that are effectively prosecuted. Interviews with police officers from the State Police indicate that sometimes they feel that there is no need for them to put their lives at stake when they know that the criminals will go free again once the case gets to court. The judiciary in Albania is still not fully independent and because of political interference, prosecutors are not able to do their job properly. Furthermore, from some anecdotal evidence and interviews with foreign officers, it seems that during his previous term of office, Berisha often targeted criminals linked to the opposition party, as well criminal empires located in southern Albania, while turning a blind eye to influential criminal figures from the North (personal interviews, Tirana, 2006). Although such claims require further investigation, there is no doubt that clientelist practices continue to flourish in Albania (World Bank 2010).

The electoral results of the DP and SP continue to show distinct geographical patterns, with the DP being stronger in the north and the SP in the south. This trend might also be reflected if one looks at the structure of the prison population in Albania. Clientelist practices are not exclusive to the ruling party, but are widespread at all levels of government and they led to distorted criminal justice statistics.

³⁰ The case was provided to the researcher by Ana Gjokutaj, Communications Officer at the World Bank Office in Tirana (Source: Albania, Tirana, in Albanian 28 Oct 09)



Source: <http://www.electoralgeography.com> (World Bank 2010)

Figure 7. Majority by Party Electoral District

By targeting specific regions and offenders, the police allow criminal groups to change their operational methods and to start using different routes (Limanowska 2005; INTERPOL 2009).³¹ Although trafficking via the Adriatic Sea has been brought down significantly after 2002-2003, there are numerous indications that criminal groups now use the northern routes more frequently. Also when police officers are dismissed because of their involvement in smuggling, the perception among many people is that the authorities simply want to present an image to their international donors that something is being done. A good example is the handling by the authorities of the 17 people arrested during the international operation Puna (2002) that was aimed at disrupting smuggling of people and drugs across the Adriatic: all of them, except for an ordinary policeman, have been allowed to go free by the courts (Huisman 2004).

CORRUPTION: Corruption has the potential to derail the progress of whole nations. According to the US ambassador to Albania, at least until 2005, when Albanian criminals were sought by Western police forces, they simply went back to Albania, where the police would not bother them. They invested their money in motels, restaurants and apartments. Today, these criminals still operate in Albania as 'respected businessmen', and their shady pasts seem to have been forgotten. Also, they no longer have a need to engage in high-risk criminal activities.

On 29 March 2003, businessman Fatmir Rama was gunned down outside Kartodrom 2000, an entertainment complex he owned in Tirana. He had private telephone numbers of senior politicians stored in the memory of his GSM. Media reports claimed that he had connections within the SP, dominated by the former Prime Minister Fatos Nano. Even though there was an international arrest warrant out for him (by Italy on charges of drug trafficking), he had been able to freely conduct his business in Albania (Husman 2004). Similarly, Aleksander Kuqo, a 28-year old man from Berat, was sentenced to life imprisonment by an Italian court for human and drug trafficking and murder. He escaped to Albania, where he was arrested. When

³¹ Based on investigated police files which indicate change of operational methods of Albanian organised crime groups.

he appeared in court in Albania, he was pronounced by a group of medical experts to be mentally ill, and therefore immune to prosecution (Huisman 2004).

In May 2009, an Albanian diplomat was detained in Turkey on charges of trafficking drugs. He was arrested while carrying 65kg of heroin with a street value of 2.5 million euro in Italy and Greece. The arrest of Agim Haxhiu, second secretary of the Albanian embassy in Macedonia, is the country's second recent diplomatic embarrassment after an embassy driver was arrested in Italy with a kilogram of cocaine in 2008.³² It is important to follow up how high status criminals are treated by the criminal justice system in Albania and if they are given the proper punishments.

From discussions with prosecutors from Tirana's prosecutor's office, it emerged that prosecutors nowadays are also more careful in co-operating with criminals.³³ Only powerful groups might interfere in someone's work but such 'co-operation' remains less visible than before. Prosecutors or state officials do not co-operate with criminals known to the public for their high-social impact crimes, but might co-operate with white-collar criminals, or so-called 'respected businessmen', involved in the construction business, real-estate business, money laundering and other types of economic crimes. Also, according to a study by the World Bank (2010), it is not uncommon for politicians to abuse their influence to reward their sponsors through public contracts, concessions, and licences (including construction permits, especially for lucrative developments in urban or coastal areas). Party financing in Albania remains opaque, despite the adoption of legislation that is broadly in line with international good practice (GRECO 2009).³⁴

More recent surveys have shown that large shares of the population continue to report paying bribes and that the most problematic factor for doing business in Albania is corruption, followed by inefficient bureaucracy and tax regulations (World Economic Forum Survey 2009). Also Albania had the highest rate of annual bribe paying (66per cent) of the 57 countries polled in the 2006 Transparency International Global Corruption Barometer. Tirana's task force against corruption was created in May 2009 as an inter-institutional structure. So far, however, the impact of this body on the corruption problem in Albania has been very weak.

Conclusions

This study elaborated on the key factors contributing to the improved governance outcomes in Albania over the past decades, particularly with regards to organised crime. It also illustrated the link between the 'evolution' of organised crime and political processes taking place within Albania and abroad. The dynamics between organised crime and political processes is crucial for developing more comprehensive anti-organised crime policies.

Organised crime, in its different shapes and sizes, has existed in Albania since communist times, although it attracted enormous international attention during the 1990s. With regard to the rule of law, there is no doubt that Albania after 2002 has

³² INTERPOL message from May 2009, provided by E.N.

³³ Personal discussion with Olsjan Cela (2008) and Ardian Visha (2006) from the Prosecution Office in Tirana.

³⁴ Evaluation Report on Albania on Party Financing. As the GRECO (Council of Europe Group of States against Corruption) report points out, however, some loopholes remain in the legal framework, most notably the possibility of anonymous contributions. Although there are legal limits for financial contributions by citizens, firms, and other organisations to political parties or politicians and requirements that such contributions be disclosed, the responsible oversight institutions have not yet acquired sufficient capacity or independence to effectively monitor and enforce this legal framework.

made major strides to curb the violent and organised crime that had damaged the country's international reputation. At the political level, Albania's accession to the North Atlantic Treaty Organisation (NATO) and the activation of the SAA with the EU in April 2009 were achieved in large part thanks to Albania's successful – though by no means complete – anti-organised crime efforts.

Despite important achievements, uneven enforcement presents a major challenge to the broader rule of law. Assessments of the judicial system show improvements, but reflect concerns about widespread corruption, instances of undue interference by the executive branch, limited transparency, and inefficiencies in the judicial process. Systemic gaps also exist in the public administration's implementation of legislation. Albania also continues to trail other countries in Central and Southeast Europe (SEE) with regard to indicators of corruption. Clientelist practices also remain a problem and they are not exclusive to the ruling party, but are widespread. Policy-making is unfortunately highly concentrated in the ruling party and PM personally. The policy process often fails to include adequate consultation due to the Government's haste to launch reform. Particular attention should be placed on less visible, more business-oriented types of crime which involve 'respected businessmen' involved in constructions of routes, hotels, shopping malls and buildings and real-estate and state officials that 'fail' to collect revenue from taxes, excise dues, and VAT. These are the types of crimes that often manage to gain political support. These crimes might not have immediate negative impact on the population and thus might attract less media attention and more political support; however, they do have long-term consequences on the safety of Albanians and on the economic situation of the country. If unaddressed, all these weaknesses may impede progress toward key objectives set by Albania's political leadership.

Looking at current indicators of Albania's economic and social development and governance, it is perhaps easy to underestimate the magnitude of the changes that have occurred during Albania's transition. Albania lacked pre-communist experience with democratic institutions so it will take more time for Albania to fully meet the criteria set by the international community. Despite all, Albania has come a long way in the fight against organised crime and its successes should be acknowledged.

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Political Factors Fuelling the Development of Bulgarian Organised Crime (since 1980 to date)

Iva Pushkarova, PhD. Ch. Ass., Department of Criminal Law, Sofia University

*'The State can do anything it wants to.
Why does everyone in government
suddenly seem so preoccupied with organised crime?'*
*From an interview given by Zlatimir Ivanov the 'Beret',
a drug lord, 11 July 2008*

After 1989, two types of organised crime emerged in Bulgaria. The first type evolved as a direct offshoot of the structures of the totalitarian party and essentially represented an aspect of the adaptation of the former party political elite to the conditions of a democratic society and a free market economy. Its genesis was fuelled by the policies pursued by the Establishment in 1980s whereby it attempted to overcome the crisis, which had spread throughout the centrally-planned economy, by creating illegal channels for the trafficking of drugs and weapons. This form of organised crime engendered the largest and most durable criminal associations in Bulgaria, which continued to operate throughout the transition period and engineered the principal criminal practices, allowing them to gain a firm foothold in the economy and wield significant influence over the functioning and structure of the political system and the political process.



The second type of organised crime covers all other criminal associations, which emerged spontaneously, and were not linked to functionaries of the former Communist party but rather stemmed from the convergence of powerful criminogenic factors after the collapse of the totalitarian regime. Most were temporary in nature and had a limited impact, operating within niche markets whose potential large criminal groups had left untapped while reproducing the criminal patterns established by their more structured counterparts causing economic damage on a local scale. The compounded effect of their activities acted as a systematic driving force, which reinforced the positions and influence of larger criminal associations within and on the political system and process while in parallel effectively countering any resistance from society.

The typical interaction between organised crime and the factors of the political environment took place in the context of the interplay between these factors and the form of criminality originating from the party political structures of the Establishment. The most prominent **factors of the political system** include certain manifestations of the institutional model of separation of powers, the idiosyncrasies of political parties and the system in which they were organised. These include the bipolar model, the party leadership syndrome and the democratic parliamentary rule established by the Constitution. The dominant **factors of the political process** include the speed

and idiosyncrasies of the transition from a totalitarian society and centrally-planned economy to democratic rule based on the principles of the free market economy. The major comprehensive factor for the emergence and evolution of Bulgarian organised crime, however, remains the structural and functional **crises** in state governance.

I. Crisis As a Factor. The Evolution of Organised Crime

'We must establish contact with companies which will give us an introduction to the Common market'.

Todor Zhivkov commenting on the draft budget and economic development plan for 1989, December 1988

By the mid-1980s, it was becoming increasingly evident that Bulgaria was spiraling downwards into a general economic crisis, which the government was not able to contain while maintaining the political status quo³⁵. This period coincided with a weakening of kindred socialist regimes in other Eastern Bloc countries. The policy of forced ethnic assimilation of the Turkish ethnic minority ('Revival Process') heightened discontent with the ruling elite. The potential for reforms had been depleted despite the supremacy of the Bulgarian Communist Party (BCP) and its Constitutionally-guaranteed right to rule the country single-handedly by virtue of all public power being focused in its hands while remaining strictly outside public control.

The anti-crisis strategy of the regime included a series of administrative measures imitating reform, including dynamic cadre and structural shifts at central government level that were most apparent in the economic sector. Strict adherence to the status quo compromised party leadership, which became increasingly entrenched and isolated. An alternative intra-party faction emerged. By banking on the inevitability of the collapse of the system, it favoured more radical reforms as a means of retaining its access to power and the ability to control economic resources.

It initiated two strategies, which precipitated the restructuring of economic relations and made structural dynamics within the government even more robust. These developments transpired in the form of expatriation of capital from Bulgaria to other countries and ensuring a continued capital inflow by alternative means due to the depletion of the potential of traditional sources (for example, the international embargos imposed on countries to which Bulgaria was exporting weapons or suspension of external financing due to the disproportionate increase of foreign debt).

The implementation of the two strategies was aided by setting up foreign trade representations of state-owned enterprises and channels for the illegal trafficking of

³⁵ The 1971 Constitution introduced government monopoly of the BCP. The regime officially recognised phenomena such as 'job hunting, bureaucracy, intercession, circumvention and abuse of law, ambition for personal benefit'. The 'real socialism' doctrine was created as a preparatory stage towards communism. Although some elements of market economy had been introduced in the 60s, the planned economy kept permanent deficient supply under random price-policy and low quality of production. Society responded to the government's reform efforts with indifference because they were conducted centrally and with the conviction that all problems were solvable politically and ideologically ('proletarian internationalism'). Internationally, diplomatic and economic relations with East Germany and Italy progressed, but those with the USA deteriorated after USA officially accused Bulgaria of state terrorism and trafficking in weapons. For further information, see www.212.39.92.39/e/prosveta/istoria_11/55.html.

weapons and drugs. These were managed by elite units of the party operating in close liaison with the repressive structures of the regime (*inter alia*, the State Security Service and the Ministry of Internal Affairs), which reported directly to the top echelons of party leadership. Strategic control over these channels mutated into a means of not only retaining a firm grasp on power as a resource but also on the processes of disintegration of the regime and its transformation into a democracy based on the principles of the free market economy. For that reason, vying for supremacy in this arena became one of the decisive factors of the political competition between the two factions within the ruling political party. This was essentially achieved by gaining and retaining control over organised crime practiced by the ruling party via the institutions of the State.

II. Factors of the Political System

'The independence of an organisation does not depend on the will of its leadership nor on what it aspires to achieve but on the way it is positioned within the mechanisms of power.

Democracy does not depend on the declarations of political leaders but on the way they are elected and the control mechanisms available to the members of political bodies to hold such leaders to account for their actions'.

Georgi Spasov, spokesperson of the Union of Democratic Forces (UDF), National Round Table, 23 January 1990.

1. The Bipolar Model

The bipolar model, underlined by the coming of age of anti-communist ideology, formed at the very beginning of the transition period. The clash between the fiercely negative assessment of communism and what until recently had been the official state ideology of the unreformed totalitarian party produced two momentous consequences.

The first caused a **rift, which splintered the political domain**, allowing each newly-emerged sector to be monopolized by two alternative political powers. Thus competition within the reconstituted political space outside the narrow confines of the sector occupied by the respective ideology was stifled, which effectively precluded expansion in electoral terms. Developments at the political level transpired almost entirely within the confines of the newly-emerged bipolar model, with energies being channeled almost exclusively into creating the political identity of each political power and competing for electoral support.

Hence, the second consequence emerged. The rigidity of the totalitarian party, which resisted change, radicalized antagonism and caused **ideologies to manifest themselves in their absolutist terms**. The political debate disguised the increasingly fierce debate between the actual economic goals of the former nomenclature class, which had its eye firmly fixed on privatisation under the clout of political protection, and the new political elite, which represented and defended property restitution interests. Political confrontation consumed disproportionately high social resources and intense energies while economic, jurisdictional and legislative transition took place against the backdrop of marked apathy and absence of any significant interest and commitment on the part of society.

Ideologies invaded public and economic life and delineated a **demarcation line along the communism vs. anticommunism axis as a main criterion for the assessment and interpretation of developments in the public and**

economic domain. This shaped public attitudes to organised crime as highly-sensitive yet undifferentiated. The simplistic and myth-imbued perceptions of democracy clouded the understanding of legality and criminality. Anti-communist attitudes aided the process of criminal groups gaining legitimacy due to feeding on the misguided perception that the latter were inherent to the free market and did not form a part of the macabre communist past. Any critical public stance towards them was effectively blocked to the benefit of sustainably high and even benevolent tolerance on the part of society.

In the meantime, these attitudes began to be associated with distinct political categories. In the absence of adequate criteria, which allow developments essentially inherent to a free market economy to be distinguished from manifestations of explicit criminality, society loses its ability to rationalise them as belonging to the economic and not the political realm. Society not only failed to oppose such leanings towards the centres of power within political parties but even partially approved them as a form of inclusiveness, which allowed business to assume its rightful place among those values of democracy that genuinely facilitate and contribute to a successful transition to a market economy.

The confrontational nature of the bipolar model, which by that stage was undergoing a successful transformation into a permanent one, caused a similar **rift in the midst of criminal groups** depending on how closely situated they were to each political pole. The process of political parties successively ascending and descending from positions of economic power was driven by and depended on the rotation of the two major political powers in government, which served to boost the process of their **politization**.

This process not only slowed down the recognition of the essentially criminal nature of this phenomenon but also hampered the effective response of the State after its illicit nature became more clearly understood. This was due to the failure to draw a clear distinction in juridical terms between negatively assessed criminality and the arguments pertaining to ongoing political strife, both extensively discussed, but remaining outside the scope of effective legal sanction. This situation created a judiciary that was passive and cautious of being involved in any political dispute.

In principle, strategies for the politization of criminal groups are essentially short-lived. In Bulgaria, however, the strategy was implemented over a relatively long period of time due to the slowness of the transition period while the natural evolution of this process resulted in an **irrepressible growth of organised crime which had a destabilising effect** on the political system that transcended the cover of the political process. The thin line of public tolerance was crossed in 1996 when the government led by Zhan Videnov (1995-1997) was in its second year in office, having come to power following a Cabinet publicly known as the government of Multigroup. Organised crime began to establish asymmetric links to the left political extreme occupied by the former totalitarian party, whose governments invariably precipitated crises on a large scale, which resulted in the demise of their governments. The inertia of opposition helped the next Cabinet led by Ivan Kostov (1997-2001) to clearly identify economic circles close to the defeated political opponent as dangerous for society due to being essentially criminal as opposed to political entities. This launched the process of criminal organisations losing their legitimacy as political entities as a step towards ultimately being recognised as a threat to society.

This coincided with the demise of the bipolar model towards the end of the term of the Cabinet led by Ivan Kostov (2001). The political alienation of society, which kept looking for political alternatives to the polarized political status quo with increasing intensity, the emergence of new political parties and particularly interparty migration

of the political elite after 2001, meant that it was no longer possible to mask criminality as political ideology. For example, the evolution of this process over time explains why the suspension of pre-accession funding by the European Union in 2008 during the term of office of the Cabinet led by Sergey Stanishev could be commonly interpreted as damage to the national interests directly caused by organised crime.

2. The Leadership Syndrome of Political Parties

The political parties established in Bulgaria after 1989 tolerated the **political leaders assuming positions of high personal prominence** against relatively low investments in the development of recognisable ideological profiles along the axis of left and right wing affiliation. The personality cult was deeply ingrained in the mentality of the former totalitarian party although after 1989 its ideology was severely compromised. Democratic parties grew from small elites recognisable via leaders who enjoyed personal prominence. Furthermore, they were underlined by neither solid social support nor visibility in the public domain, let alone sound ideology and strong organisation. The reproduction of these elites in government initially acted as a driver for the professionalization of new politicians and strengthened the political process. The leadership syndrome remained an element of the political environment throughout the transition period although it was partially suppressed while the bipolar model reigned supreme due to the frequent rotation in government of the two major political powers. Nevertheless, political parties still rallied sufficiently strong support to overcome the barrier to entry into Parliament from the very beginning (the Bulgarian Business Block led by George Ganchev, which gained entry into Parliament in 1992 being a case in point).

The political identification of parties remained strongly dependent on the personality of their leaders even after the demise of the bipolar model. All parties, which emerged on the political scene in later periods, were essentially formations centred on the strong figure of their leader. The larger ones originated as movements consolidated around a charismatic leader which embodied their identity and electoral power.

This idiosyncrasy of political parties made them particularly vulnerable to corruption. All infiltration strategies of organised crime were built upon personal relations and concerned private individuals. Criminal groups themselves were structured in a way, which allowed them to comply with the will and serve the interests of their leaders, including their closest circle of associates, and by definition were not defined by any ideological framework. In turn, party leadership regarded them as similar to political entities, which facilitated the process of establishing close relationships between the two. The absence of a developed and sustainable ideology capable of reigning in the subjective decisions of party leaders or acting as a sounding board for such decisions allowed criminal groups to migrate from one political party to another, even before the demise of the bipolar model.

The process was further fuelled by **non-transparent party financing**, with political parties being the strongest opponent of regulating this process. Given their dependence on the financial resources provided by criminal groups, they quickly homed in on the advantages of maintaining a largely undefined ideological profile, thus expanding the circle of groups, which potentially had a vested interest in financing party initiatives.

3. The Constitutional Framework of the Parliamentary Republic

The accord reached by the political powers at the National Round Table of 1990 and the Constitution of the Republic adopted in 1991 set a course for the development

of Bulgaria as a **parliamentary democracy** where the President of the Republic had relatively limited powers while the executive power was placed in the hands of the Prime Minister presiding over an appointed Cabinet. The prerogatives of State power were vested in the figure of the Prime Minister and the Parliamentary majority of the political party in power. The dynamics of the relationship between the two objectified the main political process and the role of organised crime within this process.

In relative terms, a **solid parliamentary majority** increased the capability of any government in power to resist corruption. It allowed governments to pursue independent policies by exercising strict controls over the legislative process. The ruling party was free to choose whether and to what extent its policy was to take into account the interests of criminal groups even where it may have come under their influence prior to winning the general elections. At the time when the bipolar model was still viable, the formation of these majorities was aided by the political isolation of the opposition and the relatively high initial public trust in political parties and governments in power. The detrimental nature of a solid parliamentary majority vis-à-vis the interests of organised crime is best demonstrated by the actions taken by criminal groups with the aim of weakening the parliamentary majority by using corruption as a means to convince Members of Parliament to leave certain groups within Parliament, especially where alliances were fragile. This strategy was clearly addressed at ruling majorities and not the opposition and was triggered each time a criminal group met with resistance from the government. This trend allowed the government led by Philip Dimitrov to be made a scapegoat in 1992.

Conversely, a government, which was not backed up by solid parliamentary support, including a disbanded Parliament, was easily susceptible to the pressures of clientelism and private interests. The governments led by Berov (1992-1994) and Sofiansky (1997) are a case in point.

The first Cabinet was formed under the mandate received by the Movement for Rights and Freedoms (MRF), a small party with seats in Parliament, with support from the remaining two political parties in Parliament, of which the former totalitarian party (the Bulgarian Socialist Party, BSP) had the second largest majority. The Cabinet thus formed was an attempt to overcome the political crisis, which set in after the ruling government of the largest political power in Parliament (Union of Democratic Forces) led by Philip Dimitrov received a no-confidence vote, which resulted in the isolation of UDF from other political parties and formations. The difference between the two major political powers was negligible, which transformed MRF into a significant factor on which depended the possibility to form a government in the first place and the degree to which that government would be sustainable over time. The party leadership maintained a close relationship with the leaders of a criminal organisation, which the Cabinet led by Berov, came to be associated with both in the public domain and in the media.

Berov's government was marked by the rapid and unrestrained rise of organised crime, which at the time was undergoing what later came to be known as its "street phase". Criminal associations were being formed at an unprecedented rate. The first gang war of 1993 unleashed a series of public assassinations of prominent figures in the criminal world. The attempts by the Cabinet to regulate private security and physical protection services, which criminal groups had already taken over, launched a process of restructuring in the criminal world, which had the effect of giving criminal associations an easy entry to the prostitution market in the capital city but poignantly failed to curb rampant criminality. The government, which inherited a relatively stable economy, resigned two years before the expiry of its term in office

amidst an all-pervasive economic crisis.

The successive Cabinet led by Stephan Sofiansky was an interim one. The Prime Minister was appointed by the President after Parliament was disbanded. Therefore, it did not emanate or pursue the achievement of any specific Parliament-decreed mandate. The government was highly susceptible to corruption and allowed certain criminal organisations to temporarily strengthen their foothold.

The presence of a stable parliamentary majority is not a sufficient factor for the sustainability of government policy against organised crime. The key factor is whether governments succeed in maximising the benefits of the support they are lent by Parliament and more specifically whether that support strengthens the position of the incumbent Prime Minister. The government led by Zhan Videnov (1995-1997) made the first attempts at emancipation from criminal circles. This was the first Prime Minister to enjoy the support of an absolute Parliamentary majority after the BSP won 52 per cent of the votes at the general elections. The failure of these attempts did not stem from internal sabotage orchestrated by lobbies within the then ruling political party but from the extreme isolation of the inexperienced Prime Minister both from his fellow party members and from the ruling Parliamentary majority after the collapse of the general policy pursued by his government.

Conversely, assuming office in a very similar environment and enjoying identical parliamentary support, the Cabinet led by Kostov implemented a successful policy against organised crime. For example, he cleansed the gas sector from criminal influences after initiating, in October 1997, a political agreement on the principles underlying the relations between Bulgaria and Russia whose companies had a complete monopoly over gas supplies. The Parliamentary majority lent the government the robust support it needed to defend national interests, including against the criminal group which had penetrated the gas sector.

Nevertheless, organised crime exerted pressure on state governance, which created certain **typical dependencies**. Its detrimental impact on the economic policy of governments was severe and capable of triggering crises in government (forcing Cabinets to resign). The governments led by Popov, Berov and Videnov fell victim to similar developments in rapid succession. Depending on the capacity of the Parliament to reach an agreement on the formation of a new government, crises could grow into parliamentary ones (result in a disbanded Parliament). Due to insufficient Parliamentary support, any newly-formed government was potentially even worse-equipped to oppose pressure originating from the criminal circles in society with no alternative but to resign (the Cabinet led by Berov).

Within the framework of this dependence, whether the Cabinet was unipartite or a coalition is a consideration of overriding significance. Unipartite governments were the norm during the first years of the transition period when political antagonism was strong and the major political powers took turns in governing the country depending on the electoral support as a signifier of public trust received at the polling stations during general elections. Where the planned interventions of organised crime succeeded in triggering a political crisis, then such a crisis would quickly assume the proportions of a full-blown parliamentary crisis for two reasons. The first reason is the lack of residual Parliamentary potential for the formation of a new government given the withdrawal of the compromised party, which holds the majority of seats. The second reason is the dramatic loss of public trust and society reinvesting that trust in the opposition. In general terms, this translates as the Parliament loses its legitimacy due to the radical inconsistency between the real-life and Parliamentary configuration of the political parties represented in Parliament. The government led by Zhan Videnov fell victim to an extreme manifestation of this process.

Coalition governments emerged as a phenomenon of the late stages of the transition period. The breakdown of the bipolar model obliterated the demarcation line between the two poles of the political spectrum, allowed a multitude of political parties to emerge and enhanced their compatibility in ideological terms. The greater capacity to form coalition governments, whose formal manifestations are best demonstrated by the almost inevitable mention of “centrist” in the name of the respective political formation, was driven by the process of integration into the structures of major European political parties. The evolution of the leadership syndrome and the similarity in the political programmemes tabled by the different

Dimiter Popov’s Cabinet (1990-1991) is the first attempt for a coalition government after 1989 but the features of the Cabinet and of the political parties in it do not support a conclusion for an authentic coalition.

The Cabinet involves both political poles in the government of the state in a moment when both are internally divided. The anti-communist block hesitates between institutional and non-institutional instrument of political expression, while the former Communist party, having won the elections, is reluctant to take the sole responsibility for the running of the state under conditions of inter-party tension, pressure from the opposition and increasing public discontent. The Popov Cabinet, lead by an advisor of the President, is labeled ‘expert cabinet’ and the ministers do not officially represent the political power they belong to. This is a politically immature operational attempt that the crisis process of intensifying political confrontation be put under control via artificial formal depolitisation of the government. It hides the incapacity of the political powers to rule.

The Cabinet is excessively weak because it is built on fragmented parliamentary majority. Its policy is not actually supported by any political power. Therefore, it is largely incapable of formulating a policy.

This government is typical for the irrepressible springing of organised crime and stagnancy of the state. After it has liberated the market and inflation has reached 500 per cent, the helplessness of the government descends in the notorious appeal of the Prime-Minister: ‘For God’s sake, brothers, don’t you buy!’.

parties also had a role to play. The alienation of society from politics caused the electorate to shrink and diluted its support, which greatly reduced the chances of any single political power receiving a mandate to form an independent government.

In this environment the influence of organised crime became differentiated. The coalition formula presupposes a multiplicity of criminal claims vying to gain the upper hand and the attention of the government. No single political power was in a position to guarantee solid and unquestioned political protection. Coalition partners kept each other in check because certain aspects of the coalition agreement had significant implications for “friendly circles”. In general terms, governments yielded to pressure where the political interests of all coalition partners converged with those of a criminal entity. This forced criminal groups into seeking influence within the framework of a coalition consensus, which in practice only **strengthened the positions of the government in power**. Therefore, the process of organised crime infiltrating the government was no longer able to trigger crises, which jeopardized Parliament.

III. Factors of the Political Process

‘Shouldn’t we send the tanks in?’

Peter Mladenov, President of the Republic, making a comment on a peaceful protest organised by the opposition in front of the Houses of Parliament demanding the revocation of the party-political monopoly of the Bulgarian Communist Party established by the Constitution, 14 December 1989

The **totalitarian party maintained its strategic long-term influence on the political process** throughout the transition period. Its transformation from “an

institution designed to be the tool to bring about the downfall of democracy and achieve and maintain a political dictatorship of its leaders³⁶ into a structure eminently adapted to the realities of a democracy based on the principles of free market economy was one of the most significant processes under way during the transition period. The totalitarian party gained solid ground as a rigid and conservative factor, which consistently advocated and implemented a strategy designed to maintain the status quo achieved by tactics of minimum concessions always against the backdrop of strong internal resistance and radical external pressure.

The former communist party emerged as a revamped version of its all-powerful totalitarian counterpart and a regime that was significantly more stable than similar regimes in other socialist countries. It never faced any major opposition from society. In reality, the demise of the totalitarian regime was triggered by an initiative of the communist party itself, which on 10 November 1989 orchestrated an internal coup in order to replace the former party leader who had become estranged and isolated from the strong party functionaries of the day. This move ill disguises what was essentially an attempt on the part of the reformist wing of the communist party to overcome the crisis by controlled transition to a democratic form of rule by retaining its position of party-political supremacy.

This heritage, in an organisational, managerial and political aspect, the gigantic structure of the party (which in 1989 had more than 1 million members), its full control over the media, repressive institutions, secret information and a never-ending supply of financing, presented the totalitarian party with a huge advantage as compared to the democratic political parties formed or reestablished at that time. This is also the reason for the asymmetry of the party-political pluralism, which emerged but continued to serve the interests of the former communist party until 1997, thereby favouring its aspirations to slow down its retreat from state governance and the economy and gain a legitimate presence in politics.

Therefore, the **Bulgarian transition period is evolutionary**. Some of its more noteworthy manifestations include a rigid Constitution that was adopted prematurely under the political domination of the totalitarian party, which ensured the latter was integrated and not excluded from the political environment which was undergoing a rapid process of democratization; a delayed and gradual property restitution and privatisation; a slow transformation of the repressive security services of the totalitarian State; a delayed and half-hearted attempt to restrict the participation of former communists and particularly informants of the communist secret services in successor governments or even civil service positions (lustration); and a relatively slow accession to NATO and the European Union, including periods of international isolation. The evolutionary transition was among the factors, which contributed to the passivity of Bulgarian civil society, slowing down its coming of age and translating some non-adaptive political attitudes into permanent features of its political behaviour. Therefore, the durable **political perceptions** of society have the significance of an independent factor, which favoured organised crime. Society lived in a state of continually refueled **disillusionment** with the political process. Neither the expectations of those of an anti-communist mindset of a rapid and radical transition nor the preference of the electorate of the Bulgarian Socialist Party for the privileges and ideology of the former communist regime came to fruition. Disillusionment stemmed from the compromise solutions adopted by the National Round Table and the dissatisfaction of extreme wings with the chosen approach. The sparks that set public disillusionment to fire were kindled for the first time after

³⁶ See **Karasimeonov, G.**, *The Party System in Bulgaria*, vol. II, page 17, published in Sofia, 2006.

the elections for a Grand National Assembly of June 1990, which were won by the communist party but were not recognised by the opposition, which had implications for the respect for the institution. Only two years later an undefined and ideologically shaky vote of 17 per cent supported the bid for the Presidency of the populist figurehead George Ganchev. These elections marked the turning point in electoral perceptions and ushered in a sustainable trend towards low electoral activity.

This process further undermined **public trust in the political parties**, which enabled them to robustly defend their independence from criminal groups. The stability and level of differentiation of this process is of major significance. At the beginning of the transition period, the electoral majority was in full swing between the two political poles while maintaining a high electoral activity and remaining relatively uncritical. Come election time, political powers could rely on the almost full and indiscriminating support of voters, regardless of their political programmemes and in correlation with a guaranteed general negative vote for the political opponent of the day. The dynamics of trust were not underlined by the standard of performance of the ruling party while in government against any promises made to the electorate or the requirements and expectations of society for the achievement of certain results. This created a possibility for the **influence of organised crime on how power was used for the purpose of governance to remain unsanctioned as far as political assessments of performance were concerned.**

The attempt to artificially sustain the Cabinet led by Zhan Videnov and later the Parliament, which appointed that government regardless of the withdrawal of public support, ushered in a process of differentiation of trust following the emergence of an urgent existence to address and neutralize organised crime. Society demonstrated a willingness to support such a cause and proceeded to withdraw that support when the government failed to deliver. This dynamic trend has persisted during the terms of all subsequent governments.

Public trust in the ruling political power also shaped the attitudes towards institutions. At the beginning of the transition period, the political process developed along both **institutional and extra-institutional** lines. The latter extra-institutional line, which took its course in the form of public protests, industrial disputes, civil insubordination and general social unrest frequently threatening to get out of hand, were underlined by strong public mistrust of institutions and therefore relied on total disregard of institutions as a means of achieving its end. The collapse of communism unleashed an aggressive nihilist response against the authority of institutions. Widespread public perceptions associated the bodies of the State with rigidity and resistance to change, which BSP seized upon and used as a tool for slowing down the pace of change against the low and unconvincing efforts UDF invested in the political resources available to it, thus forcing *Realpolitik* to take to the streets. Extra-institutional pressure forced the Head of State to resign in 1990. Against the backdrop of an institutional collapse of the State, the firm impression was formed that institutional decisions are never final and are furthermore subject to effective review by the crowds besieging the very institutions that adopted them. This gave a boost to nihilism, which on occasion exaggerated the understanding of the concept of freedom to demonstrative anarchy of action and thought, which set off on an aggressive march to break down all limits.

Extra-institutionalism was a manifestation of the political process brought to an extreme. It transported it to the periphery of legality where it was driven by entities and individuals that lacked any institutional representativeness. Its preferential use as opposed to institutionally representative power caused institutions to be stripped of their legality in a radical manner, which almost placed extra-institutional pressure

itself on the fringe of legality. Hence, institutions were weakened and their capability to resist criminality dropped significantly. A society, which tolerates extra-institutionalism as a legitimate tool for the achievement of goals within the political process, leaves itself widely exposed to becoming an easy prey to organised crime.

IV. Interdependence between Political Processes and Organised Crime

The political process is primarily objectified by the legislation adopted by elected political powers. Where influenced by or susceptible to different forms of criminality, legislative initiatives are still-born. A direct interdependence between the quality and volume of legislation and the power and structure of organised crime exists in several aspects.

1. Deregulation

Legislation may take any of the following three forms: (1) legislative void; (2) unenforceability due to technical flaws in legislation; or (3) legislation, which is opposed by the majority of society. Organised crime invaded the niches resulting from legislative voids, which political entities either tacitly condoned or had theoretical or incomprehensible discussions about, and then proceeded to enforce their own sets of rules thus effectively criminalizing them.

The transition period commenced with the **abrupt unleashing** of all three forms of deregulation mentioned above.

A void inevitably emerges when developments occur in the public domain that totalitarian law is unfamiliar with, commerce being a case in point. The political behaviour of the former totalitarian party actively encouraged judicial incompetence in this regard.

Technical flaws primarily stemmed from the strong politization of the legislative process, which allowed certain rhetoric incantations to be transformed into legal provisions. The political and legislative inexperience that was typical of non-professional politicians of the opposition, for example, caused a disparity to emerge between legislation and a number of developments in the public domain, which adopted legislation attempted to regulate.

The loss of legitimacy was most detrimental to the bulk of existing legislation in force, particularly after the adoption of the new Constitution, although society witnesses the repeated manifestations of this phenomenon each time public trust sharply swung from one political pole to its opposite.

However, deregulation in the **private and political sectors** had the greatest implications for the processes examined in this study. The first was brand new and was lost amidst the vast existing legislative void while the second required a radical transformation due to the illegitimacy of the bulk of existing legislation. The strong politization at the beginning of the transition period meant that regulatory intervention had to be focused in the political domain as a matter of priority.

This can be directly attributed to causes that are essentially political in nature. The totalitarian party had a vested interest in delaying each transformation, including economic change, which placed the legislative and regulatory initiative of the State in a position of dependence on the agenda of newly-formed political parties. In formal terms, they were illegal entities since they were constituted, registered and financed in an environment of a legislative vacuum. For such political formations,

gaining eligibility on an equal footing with the communist party was of overriding importance due to the need to ensure a perimeter for taking action and obtaining legal guarantees against possible repression. Although the key messages of new political parties were heavily imbued with the values of the free market economy, notably property privatisation and promotion of private business initiative and entrepreneurship, to an extent these messages were diluted and consequently lost to persistent demands for freedom of the political process, including free elections, pluralism of political parties, freedom of speech and of the media, depolitization of the repressive authorities of the State, doing away with the ideological monopoly on culture and education, prosecution of the former political leaders, the adoption of a new Constitution etc.

The initial regulatory efforts during the transition period were focused on the formal democratization of the political system and process understood as the abolition of the unipartite monopoly of the Bulgarian Communist Party, depolitization of the military, the security services, diplomacy and the judiciary and upholding the principle of elective executive and legislative powers and Constitutionalism. Regulation lagged behind in a number of public domains, notably the sectors of the economy, education, science and the judiciary, which continued to **undermine trust in the feasibility and usefulness of reforms** and accounted for the widespread public negativism towards the transition period.

Deregulation had particularly detrimental implications for the private sector, which emerged spontaneously and enthusiastically after 1989 as a public phenomenon that had not been previously witnessed by the overwhelming majority of society. Processes under way in this domain were not understood and, therefore, public interest remained low and uncritical. Society tolerated the essentially unlawful nature of these developments not only due to being nihilist as far as any form of officialdom was concerned, but also because it interpreted tacit legislative response as respect for the freedom of economic initiative of private individuals.

Deregulated areas were quickly and densely populated by criminal groups. They created a private sector using certain schemes, which did not contradict or violate law in formal terms. The initial target of this misguided entrepreneurial spirit included the decapitalization of public funds. The emergence of the private banking sector, the onset of property restitution and the awakening of genuine economic drive and initiative, however, ushered in schemes designed to extort money from small and medium-sized businesses with criminal organisations literally taking over the sectors of insurance and security services.

2. Regulation

*'I've won the war.
It is fairly stupid for a company head
to go to war against the government'.*

*Ivan Kostov, Prime Minister, commenting on the 'Gas War'
launched by Multigroup, May 1998*

The evolutionary approach meant that the **legislative process was destined to be slow, hesitant and inadequate**, which presented organised crime with apparent advantages. The slowness of change against the backdrop of the unrestrained evolution of the public process was among the reasons why legislative interventions fell into the vicious circle of certain dysfunctional dynamics, which often resulted in legislative chaos. This state of affairs continued to prevail until the

onset of the process of harmonization of law necessitated by the integration of the country into international organisations (launched by and completed by the Cabinet led by Ivan Kostov and the two successive governments). This created difficulty as far as the legislative means available to institutions to investigate and prosecute criminal offences committed in the past were concerned, including the process of establishing causal relationships and dependencies, ascertaining the nature of criminal offences and the resultative economic damage, which indisputably favoured the transformation of the business label of formerly criminal economic operators. Slow-paced regulation created an almost permanent environment of legal uncertainty due to constantly changing legislation, which stifled the formation of an image and clear understanding of business integrity and fair and ethical business practices. Similarly, criminal economic activity was attributed to the pressure of constantly changing legislation. An impression was created that legitimate and legal business was frequently arbitrary, illogical and dishonest in nature due to the instability of the legislative framework and the remnants of the inhumane legislation inherited from the era when the State was omniscient and omnipotent.

The significance of regulation as a tool to fight organised crime, however, was a principle enshrined in the Constitution. Within any parliamentary democracy based on the supremacy of the rule of law any legitimate policy is per force pursued through the mechanisms provided for in the bulk of national legislation. The weakness or regulatory ineffectuality of legislation is a symptom of the absence and/or of unlawful and illegitimate policies pursued by the Establishment. In the second instance, that policy is enabled by the adoption of secondary legislation by the government.

This may be attributed to two reasons. The first reason is a consequence of the manifestation of the Establishment based on the principles of the rule of law and separation of powers. As compared to secondary legislation, **primary legislation (essentially laws) makes it more difficult for a policy that is starkly detrimental to public interest to be pursued.** The clash between such policy and the provisions laid down in other laws quickly undermines the legitimacy of the policy concerned. Laws stipulate long-term policies while illicit policies are typically short-lived. As each policy with detrimental implications for public interest essentially represents a private interest, it may only be pursued where it gains a disproportionate advantage as compared to both common public and competitive group interests. In practice, this entails the integration of such recognisable private interests into a valid policy, including into the system of separation of powers, thereby presenting it with a legitimate advantage over any other interest. Such policy is typically pursued by unipartite governments, which identify to the greatest possible extent with the elite of the ruling party of the day. This makes the **executive power particularly susceptible to being abused when it comes to the active pursuit of illegitimate policies that serve a criminal interest.**

The second reason is linked to the totalitarian experience and mentality, which decree that the principal tool for regulation is the legislative acts adopted by the executive power. Where an illicit policy is pursued by semi-legitimate entities dominated by the former totalitarian party, then those entities demonstrate natural leanings towards and using secondary legislation, which is within the remit and powers of the executive power.

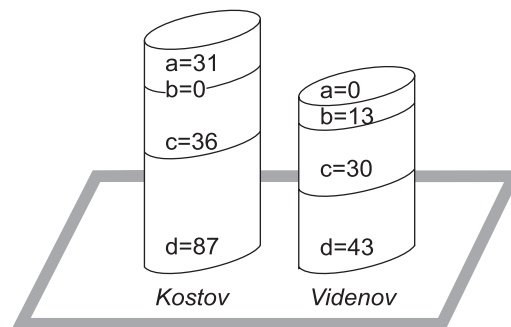
Delayed submission of draft legislation to Parliament or the outright rejection of proposed draft legislation, respectively the conceptual alteration of significant packages of draft laws by Parliament, whose majority supports the government in power within the confines of the bipolar model, are all clear indications that State policy is influenced by illegitimate group interests. This demonstrates an apparent and irreconcilable discrepancy

between the vision espoused by Parliament and the government of the ruling political power on policy matters. It furthermore frequently estranges and isolates government leadership from the party, typically on the grounds of the government pursuing policies that diverge from the official party line and, less frequently, due to the parliamentary majority of the ruling party diverging from the official line.

The governments led by Berov and particularly Zhan Videnov are classic examples of the spectacular failure of regulatory policy, which was pursued by the adoption of secondary legislation as compared to laws. Only one-third of the draft laws drawn up by the Cabinet led by Videnov were adopted by Parliament. Thirteen per cent were rejected out of hand.

The government came to power amidst a raging economic crisis caused by intentional deregulation carried out under pressure from organised crime, which was tantamount to a national catastrophe. It was launched by drastic deregulation of areas of the economy particularly vulnerable to pressure from criminal circles (sectors of the real economy).

Comparative illustration of the Government's Draft-Laws



a - Sent to Parliament; **b** - Rejected by Parliament;
c - Accepted by Parliament; **d** - Accepted by Cabinet

Source: http://212.122.160.99/old/bg/oficial_docs/index.html

Figure 8.

Despite not being responsible for the inherited legislative void, the government still took a step too many beyond the point of no return. The previously deregulated sectors of banking and insurance sector began to function as criminal markets. The subsequent crash of the financial, healthcare and pension systems, which were decapitalized under the benevolent gaze of the government in an environment of unprecedented political corruption, plunged the country into a full-blown crisis.

On the contrary, during the term of the Cabinet led by Kostov, laws were restored to being the principal instrument for legislative regulation. During its first two years in office, **the intensity of the law-making process exceeded that during the term of the previous government** by more than 100 per cent and no draft law was ever rejected, let alone out of hand. More than half of adopted legislation was brand new, which confirms the conclusion that sectoral deregulation was inherited from previous governments. The government was most active in its anti-crisis policies, which aimed to keep organised crime at bay and gradually remove it from the economy. Despite the technical flaws in many laws, the low standard of editorial work they demonstrate and the fact that they were not uniformly consistent, they achieved their immediate objective.

3. Organised Crime Schemes

The **first schemes, which allowed organised crime to derive benefits from the economy**, were set up as far back as the period 1990-1991, although the scale of the damage they caused did not become apparent until the period 1994-1996. They were largely designed and operated with the benevolent sanction of political figures and to the benefit of political powers, typically those whose governments ruled the country at the time. A report of the Ministry of Internal Affairs of 1996 categorically and incontrovertibly links them to the former communist nomenclature class³⁷. Despite the initial intentions to manage and keep the process in check, the length of the period of total deregulation allowed such schemes to be operated by an ever expanding circle of actors.

The first significant transactions were carried out with the primary objective of **transferring public funds overseas and converting public into private resources by employing classic money laundering schemes**. Offshore branches of former foreign trade departments of the largest national enterprises, the majority of which were set up during the period 1981-1982 and were later privatized, were used as a gateway. After the Ministry of Foreign Economic Relations was closed by a decree of the Cabinet led by Andrey Lukanov, these enterprises ceased to be subject to any form of control and were later privatized without even an effeminate attempt at transparency being made.

Schemes that guaranteed the **unlawful accumulation of resources by means of redistribution of bank loan portfolios and foreign currency and equity transactions** followed suit. Huge amounts in national currency accumulated by criminal groups were exchanged into foreign currency and reinvested in criminal activities (trafficking of drugs, smuggling of stolen motor vehicles, prostitution, gambling).

Shortly after the beginning of 1990, the **branches of the Bulgarian National Bank situated in the former administrative district centres were restructured into commercial banks**. This move aimed to ease the access of shareholders to bank lending whose ultimate objective was to promote private business initiative. Regrettably, it was not underlined by legislation protecting the banks from schemes whose aim was to decapitalize them while achieving the ultimate goal of their privatisation away from public scrutiny. Up to 1992, the equity held by private shareholders in some of these banks exceeded 51 per cent as a result of statutory capital increase or share acquisition transactions. Some of the new majority shareholders obtained bank loans in amounts, which in certain cases exceeded the capital of the bank, a scheme, which triggered the collapse of a number of financial institutions.

After 1992, a proliferation of private banks, each being set up with loans obtained from large state-owned banks, spread in abundance. Until 1995, DSK Bank benevolently provided the grand sum of 70 billion BGN for this purpose alone. Subsequently, some of these banks extended generous but essentially non-repayable loans to private enterprises, which facilitated the process of channeling essentially public funds to

³⁷ The same Report says: 'The deliberately sustained non-transparency of the mechanisms for paying debts towards former Socialist states off has favoured some criminal groups. They have been granted unofficial 'short' credits in order to arrange Bulgaria's debts via preferential export of production, including fictitious transactions, and thus they have accumulated vast income'.

the private sector while in other cases foreign currency was expatriated directly³⁸.

This process was greatly facilitated by the **extremely liberal licensing policy** of the Bulgarian National Bank prior to 1994, regardless of the blatant violations in registering banks and the murky origin and non-transparent structure of their capital. Capital increase transactions were carried out by means of fictitious transfers of monies denominated into shares of insolvent companies, securities of insolvent international financial institutions and even obtaining loans from the bank the capital of which was purportedly increased. The scheme of setting up hollow banks was endemic during the term of the Cabinet led by Berov when BNB increased the minimum capital required for the issuance of licences for domestic and international banking. This move was precipitated by corruption pressure exercised directly on the Central Bank whose staff later joined the ranks of criminal groups and by political pressure exercised by the government in power acting in solidarity with the criminal groups concerned.

Some Major Schemes for Criminal Draining-up and Privatisation of State Companies

'Spider's scheme'. The criminal group establishes monopole over supply of raw materials and receives possibilities to realize a great share of the production on the market. The profit remains with the intermediary and not with the producer, thus eliminating the interest of making investments. The scheme was enforced by Multigroup against the state metallurgic company 'Kremikovtzi', 'Agropolychim'-Devnya and sugar factories;

Buying off obligations that state companies owe to each other when these obligations are designed to be paid off by produced goods. Thus the market share of the buyer increases. In 1994 Multigroup used the scheme to purchase Bulgargas' takings from Himko-Vratsa and Kremikovtzi (3.357 billion old levas). The Berov Cabinet granted these debts with the status of state obligations and the companies found themselves indebted both to Multigroup and the state budget. The bargain shook three governments in succession and was derogated by a special law by the Kostov Cabinet. However, it brought to Multigroup net profit of 4 billion leva.

Shadow privatisation of the company by provisional extension of its capital. It is possible only with the consent of the company's principal and always damages the state budget. Many of these schemes have been unsuccessful, having been obstructed by court or terminated by the government.

Mass-privatisation transactions. A common strategy of several privatisation funds for circumventing law by consecutive restructuring of mass-privatisation packages. Some of these packages are sold (Himko, Bulgartabac), some are supplemented to control packages (Ministry holding, Steel Profiles, ElCable, Rila-Borovets, Grandhotel-Varna).

Over the period 1995-1996 many of these schemes were finalised which brought about the collapse of the entire banking sector. Those versed in the ins and outs of these schemes came to be known as **credit millionaires**, the typical manifestation of this phenomenon being obtaining unsecured bank loans on the strength of political protection. The latter replaced securities, particularly where loans were extended by banks and corporations working to the benefit of narrow party-political interests, that were publicly recognisable as belonging to circles on friendly terms with the government³⁹. Party-political interest was rewarded by a share of the loan being paid directly to the political party involved in the criminal scheme. Unsecured loan transactions were also brokered by high-flying politicians on explicit terms stipulating them as unrecoverable from the very onset. In this case, a share of the profits was received by the members of the management of the bank in accordance with an essentially

³⁸ According to information disclosed by the Ministry of Internal Affairs, a total of 2811 consignments containing valuables, and in particular banknotes (the weight of 1 million USD in 100 US\$ bills is 8 kg), were expatriated via the customs office at Sofia Airport in the first half of 1996 by nine banks, one of which (ElitBank) may have expatriated more than 150 million US Dollars. See article Credit Millionaires control power published in Capital Weekly, issue 14-20 October 1996.

³⁹ For example, the Orion group and First Private Bank, which were closely linked to the Bulgarian Socialist Party, rumoured to have been created under the political clout of Andrey Lukanov.

criminal contract concluded with the borrower, typically a state-owned enterprise or a public company, in advance or on the grounds of membership of the governing bodies of the lending institutions (Mollov Bank, Agro Business Bank, CapitalBank). A significant share of unsecured loans comprised transactions that were essentially **intra-bank**⁴⁰.

State-owned banks were drawn into mutual loan guarantee schemes and the brokerage of transactions aiming to inject fresh capital into loss-making state-owned enterprises so that balance sheet profits could be reported due to the adjustment of interest. Money laundering schemes typically involved **bank loans obtained by insolvent companies** whose owners used the loan to set up another company in order to participate in the process of privatisation. This process also meant the almost full decapitalization of the bank, which extended the loan⁴¹.

The **process of property restitution** which was launched during the term of the Cabinet led by Philip Dimitrov (1991-1992) generated fresh capital which was capable of adequately securing bank loans, allowing the debtor to derive an economic benefit by retaining the full amount of the loan while letting go of the restituted property used as security. This scheme, which was revived during the term of the Cabinet led by Berov, sought to exploit certain weak aspects of the legislation laying down the rules for property restitution, including the inflexible and slow procedure, which created serious problems and sometimes required significant financial investments on the part of the claimant to whom property ownership was being restored. Sometimes the location or the condition of the property meant it was unmanageable. The loan scheme allowed the owners of such properties to be legally recompensed for the property while the property itself became the property and responsibility of the creditor bank. Although the scheme formally complied with legal requirements it had a strong adverse impact on the creditor.

When the government withdrew from the management of the economy, **a parallel system of companies engaged in conducting business similar to that of major state-owned enterprises from key sectors of the economy rapidly emerged and expanded**⁴². The heads of these parallel companies had close ties to the managers of state-owned companies who tended to gravitate towards and enjoyed the protection of the former totalitarian party. Parallel companies were powerful economic operators and essentially structures of organised crime, which established a monopoly on the importation of raw materials and the sale of products while the banks they controlled injected a constant flow of fresh capital into the respective enterprises. This form of economic parasitism vis-à-vis state-owned enterprises caused their market positions to deteriorate and essentially placed them on the table of cheap assets to be privatized.

In the meantime any manner of other activities organised crime was involved in were allowed to prosper, including racketeering, smuggling, trafficking of drugs and people, forcing vulnerable persons into prostitution, extortion and kidnapping victims with the object of receiving a ransom.

⁴⁰ After its bankruptcy, the State BalkanBank had 16 grand debtors holding over 80 per cent of the total amount of 'bad' credits. The amount of BalkanBank's unpaid obligations to the state budget alone exceeded its assets. Seven of the 'bad' credits belonged to Multigroup, totally amounting to 33.6 per cent of the credit portfolio of the bank (over 100 million US dollars).

⁴¹ For example, InterTechnology, a Liechtenstein corporation, which obtained loans for 11.6 million US Dollars, mostly from MineralBank. The bank went into receivership immediately after extending the loan and was subsequently declared bankrupt.

⁴² See the report of the Ministry of Internal Affairs on the banking system released in October 1996.

4. The Mechanism behind the Schemes

'A society has reached a state of maturity when it realizes that politics is made outside the political domain'.

Ilija Pavlov, widely considered the most fierce criminal boss of the transition period, Head of Multigroup, 1993

The schemes designed to drain capital from economic entities are **the economic counterpart of the mechanism used by the Establishment, which the totalitarian party used to deplete the resources of power**. It is based on the principle of structural and functional mimicry of the legitimate source of capital and setting a system in place, which allows influence to be wielded on the members of the governing bodies responsible for the management of the funds, thereby placing them in a position of dependence.

The multiplication of criminal economic schemes is a product of the transformation of the totalitarian party and the controlled divestiture of favoured economic players from its main structure. The factors fuelling this development are linked to the structural and functional idiosyncrasies of political parties, state institutions and criminal groups during the transition period.

During the years of communist rule, the totalitarian party evolved into a structure resembling that of the State itself. However, that structure was not subject to official legislation but depended on the unilateral decisions of its leader and was based on a hierarchy of centralized, personal connections inextricably linked by repressive military discipline, privileged and an overriding obligation for loyalty⁴³. The system was geared to serve expansionist aims, in other words it was constantly expanding. The party built its structure and identity mirroring the identity of the Establishment with the ambitious goal of ultimately encompassing all society because in many respects society remained its only viable alternative. Society was not bound by party-political rules and this rendered it illegitimate despite the fact that it created and adhered to the law of the totalitarian state.

During the 1980s, the totalitarian party purposefully set up smuggling and trafficking channels, which legislation in force criminalized. This classical form of criminality emerged and grew with the benevolent political sanction of the most elitist echelons of the communist party, integrated into the security services. Due to its essentially economic nature, the established criminal structures adopted certain characteristics of legitimate state enterprises. However, it was for the same reason, including the ability to operate in secrecy due to the involvement of the secret services, that these structures were also able to use conspiratorial methods. Thus, **the senior echelons of the totalitarian nomenclature evolved into a sizeable, closely-knit operational team, specialising in public governance, well versed in party-political activism and business management, including the management of genuinely criminal businesses**.

At the beginning of the transition period the structures of the communist party within the security services were the first to perish not only because they were immediately recognised as incompatible with democracy but also because the repressive bodies, which backed them up, were also among the first to collapse. In turn, they set up the criminal economic groups of the former elite party nomenclature. Their genesis is responsible for their structural and functional similarity with State

⁴³ See Annex to the Political Declaration of the Supreme Council of the Bulgarian Socialist party and the General Party Supervisory Committee, 30 March 1991.

institutions and enterprises, including political parties, and the amicable and friendly relations between their members (senior ranking party officials, police officers and collabourators of the State Security Service) and the remnant political elite of the former totalitarian party which was regrouping and redefining its alliances by joining the newly-formed political parties.

This **facilitated criminal groups, which were able to yet again infiltrate political and economic entities, this time using the traditional mechanism of forming symbiotic relationships**. The structures of the communist party successfully mimicked a process of building genuine relationships – political within the political domain and economic and partnership ones within the economic domain, although the two were underlined by different motives. The political party protected them and brokered their transactions, which in the widest sense were used as a tool to stifle competition, expand the access to economic resources and improve the conditions for the use of these resources. Enterprises were seen as a target due to being the source of such resources.

The strategy of mimicry also had a powerful psychological effect, which is best demonstrated by imitating similarity at the level of values and ideology with the infiltrated entity, even where such similarity does not exist. This made it both easier for new political parties to appear onto the public arena and for criminal groups to hide themselves behind political parties enjoying high public support.

This strategy supported the **politization of the group** and thus prevented it from being recognised as a criminal one. The more persistently the strategy was pursued **the more similarities may be observed between its behaviour and current political processes under way**. By way of an example, these include the trend according to which the main demarcation line between criminal groups is how close they are positioned to one of the two political poles and a rotation of the access to the resources of power directly dependant on the rotation of the political poles in power; a reflex to resolve internal structural problems within a group primarily by the replacement of officials holding key positions similarly to the strategy commonly employed by political parties; the spectacular process of lustration (removing former collabourators and officers of the Secret Service from positions of power) within criminal groups alleged to be creatures of the former Security Service was under way alongside the official political line towed by the ruling political power (the Cabinet of the Union of Democratic Forces led by Ivan Kostov) whose aim was to cleanse institutions from former officers of the State Security Service.

The slow pace of the transition boosted the efficiency of the strategy and spurred on the improvement of different criminal practices, which were indiscriminately adopted by the entire criminal world. Furthermore, the strategy was adopted by the Russian oligarchy model, which sought a renewed entry mainly through the contacts of the Bulgarian and Soviet nomenclature.

After the end of the transition period the strategy mutated. Under the pressure of integration, the legislative efforts of the Cabinets led by Kostov and Simeon Sax Coburg-Gotha severed the potential for the emergence of crises based on deregulation that had a potential to get out of hand. Organised crime became solely dependent on the dynamics of the legislative process and the enforcement of legislation and focused its efforts on the possibilities to manipulate the legislative process by corruption (including trying to gain entry to the legislative power by vote buying). In order to facilitate this strategy, in 2004 criminal groups **were restructured to resemble the structure of bodies of the State and not of political parties**. This shift in strategy has many manifestations, notably the corruption scandals, which affected the governments of Kostov and particularly those

of Sax Coburg-Gotha (2001-2005) and Stanishev (2005-2009), the unprecedented and arrogant infiltration of the judiciary and the adoption of legislation, which gave a boost to money laundering and unfair economic competition.

5. The Influence of the Former Secret Services

The regulatory potential and ability of ruling parties and their vulnerability to the strategy of mimicry clearly depend on the involvement of **former collaborators of the Secret Services to their policies**.

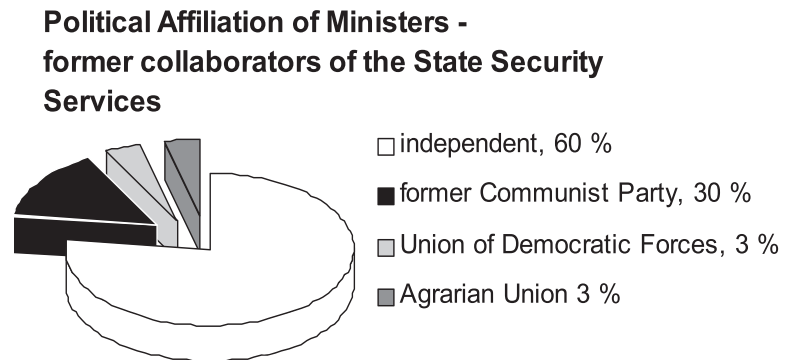


Figure 9.

Their number among the ministers and deputy ministers of a Cabinet is directly proportional to the power of organised crime and is furthermore a factor slowing down the reforms of the transition period and their adaptation to criminal interests. The concentration of former collaborators of the Secret Services increased sharply after the former totalitarian party returned to power and remained relatively high while the bipolar model continued to function due to the failure to take any lustration measures. After the end of the era of Lukanov, they continued to be involved in government affairs posing as independent experts who even began to demonstrate leanings towards specific political powers. This purposeful act of distancing from any direct and permanent affiliation at an early stage allowed them to exit the area of public politics and aided their recognition as factors of criminal influence on the political domain. The Cabinet led by Lukanov, the first government of the transition period, **had the greatest number of former collaborators in its midst** (seven out of twenty-two ministers and seven deputy ministers). This government blocked the development of the economy by imposing a moratorium on the repayment of Bulgaria's foreign debt. The suspension of foreign trade opened up room for the smuggling of excise goods. The criminal group SIC was set up on the initiative and under the political clout of the then Minister of Foreign Affairs, a former officer of the State Security Service, in order to gain control of the large-scale smuggling operation. The incumbent Prime Minister was widely recognised as the ideologist who engineered the principal schemes for expatriation of national funds via the network of overseas representative offices of state-owned enterprises.

The Cabinet led by Zhan Videnov, commonly associated with the greatest number of criminal groups (*inter alia*, Orion, Multigroup and SIC) was controlled by former officers of the Security Service up to the level of the Prime Minister, with a matching high number of state SS collaborators among the majority in Parliament (15 per cent of all MPs). There were twenty-three former officers of the Security Service among the members of the government, of whom six held ministerial posts. Due to the significantly smaller number of ministers and deputy ministers in the government

led by Videnov as compared to the Cabinet led by Lukanov, their concentration was considerably higher. During the term of the Videnov Cabinet the criminal world reigned unrestrained and triggered a crisis, which paralyzed the government itself. Criminal associations of all descriptions abounded, including strong regional groups, while national criminal groups encroached upon the sovereignty of the Establishment by exerting strong pressure on national border controls, gas supplies etc.

The first government in which the number of officers of the Security Services were represented to a minimum was the first to be led by the anti-communist opposition (the Cabinet led by Philip Dimitrov), which remained in office for 13 months from November 1991 until the end of 1992. The only member of that government whose past was tainted by association with the former Secret Service was the Minister of Construction. The government stabilized the economy, launched the process of property restitution and lay the foundations of the private banking sector but failed to reach any progress in the area of reforms. The favourable conditions for private business initiative created by the Dimitrov Cabinet fuelled organised crime whose powerful ascent commenced immediately after the government fell from power.

Former Collaborators of the State Security Services in Government (Ministers)

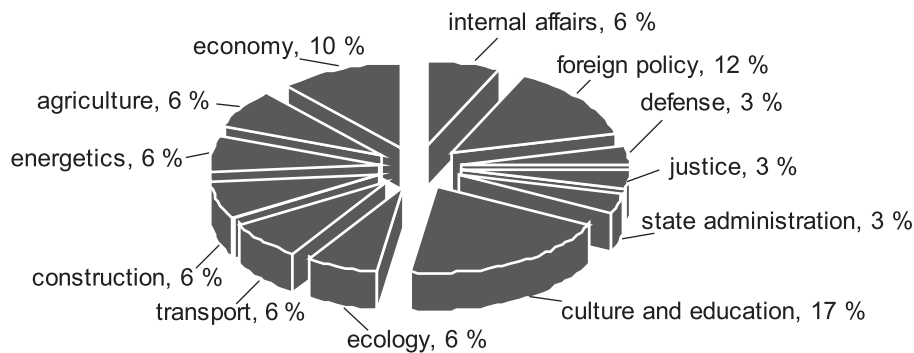


Figure 10.

The only government in contemporary Bulgarian history whose members had no association or links to the former Security Service was the second Cabinet of the anti-communist opposition, which successfully regained territories lost to organised crime and freed them from traditional criminal influence (*inter alia*, the banking sector, coercive insurance schemes, supplies of Russian gas). The Kostov Cabinet was the first to radically change the balance of power in favour of the Establishment while in parallel it succeeded in effectively forcing organised crime into operating within the official regulatory framework.

6. Multigroup

Multigroup, which was established as a structure of the elite of party nomenclature, is a classic example of the criminal phenomena described above⁴⁴.

⁴⁴ There are no certain data on the origin of Multigroup. In 1988 Multiart was registered as a co-operation of seven members – among them Ilija Pavlov and the then head of the sinister VI Department of VI Chief Directory of State Security Dimiter Ivanov, nicknamed 'the Gestapo'. The co-operation (profiled in trade with works of art) accumulated capitals with Andrey Lukanov's support mainly via international transactions with metallurgic production of Kremikovtzi. In June 1990 'Multi-International Holding' was registered in Lichtenstein. The owner was unknown owner. Its initial capital of 50 000 CHF was increased after two years to 500 000. That had been the first foreign company out of

It pursued an open strategy of **appointing recognised experts with a wealth of experience gained in the course of long and successful careers with profitable state-owned enterprises and senior officials within the public administration to managerial posts**, including senior managers, former high-ranking officials of the Security Service and the Bulgarian Communist Party, members of governments and senior diplomats. These appointments were typically in the sectors of commerce and energy but also agriculture, construction, transport, banking and finance, telecommunications, manufacturing, tourism, public administration, foreign affairs and human resources management, particularly within the units of the Ministry of Internal Affairs.

Their experience and competence ensured **the strategy of the organisation successfully duplicated all sectors of the national economy, including the government structures responsible for their management**. This meant the strategy was able to effectively gain control of both voluntarily vacated and intentionally unoccupied market niches transforming it into a factor of national significance, which dictated the inherent weakness of governments.

Multigroup consistently remained the most successful criminal group throughout the term of several governments, which were dominated by the former totalitarian party. While the Lukanov Cabinet was in power, organised crime branched into the markets of petroleum, sugar and steel, which were most severely affected by the unabated crisis, which precluded the paralyzed legal market from satisfying demand. During the entire term of the Berov Cabinet organised crime continued its triumphant ascent conquering new markets while during the Videnov Cabinet it reached the proportions of a factor of national significance, monopolized the supply of gas from Russia and even affected border control. After losing what came to be known as the gas war to the Kostov Cabinet, Multigroup was forced into a retreat and began to increasingly function within the confines of the legitimate market, parted with the former offices of the Security Service, restructured, began to shrink and adopted the behaviour of an ordinary market player competing at arm's length with other economic operators.

V. Factors with Implications for Developments after the End of the Transition Period

'Reigning in corruption and organised crime through legislative interventions, particularly against conflict of interest, strengthening of the capacity of public servants and public awareness.'

An extract from the Governance Programmeme of the Cabinet led by Stanishev

After the end of the term of the Kostov Cabinet, organised crime and the political system interacted upon radically different terms underlined by a host of new factors. The demise of the bipolar model meant a withdrawal of electoral support from the two traditional political poles in favour of newly emerging political powers, which fragmented political space and imposed the standard of coalition governments and floating parliamentary majorities.

which Multigroup later emerged. It was also registered in Bulgaria and controlled Multigroup's first filials: Bartex, Intersteal, Multigrup Engineering, Sofia Ins., Ares Delta, Intcom, Multiagro. Rumors connect Multigroup's initial capital alternatively with Maxwell and the Communist party elite. In August 1991 an anonymous company Multigroup AG was registered in Switzerland with a capital of one million CHF in July 1992 it registered a company with the same name in Bulgaria. By 1995 the group included over 120 companies.

The traditional relations between political powers and criminal associations dissolved. The latter were officially recognised as an undemocratic phenomenon that contravened the principles of the free market economy. The Establishment formulated and began to pursue a consistent policy against organised crime, which it regarded as one of its highest priorities and based on a broad political and public consensus. Within that policy the measures aimed at strengthening democracy grew exponentially. The political parties took on the uphill task of expelling organised crime from the realm of the political process because any exposure of a party being linked to criminal structures meant the permanent loss of electoral trust. They began to actively seek ways to rid themselves of political and, gradually, economic dependence on organised crime.

In turn, organised crime abandoned the strategy of politization and sought to identify itself with certain economic players, while individual criminal groups transformed into business parties as a means of delaying their exit from the political domain. At the 2005 local elections, they focused their efforts on winning key elected offices by direct participation in the elections. Strategies aiming to influence legislation, infiltrate the judiciary and ensure political protection against prosecution were pursued at central level.

VI. Conclusion

'We Are the People! Time Is Ours!'

A popular slogan of the anti-communist opposition, 1992

'When the time comes',

*A frequent response to journalists' questions of
Simeon Saxe Coburg-Gotha,
Prime Minister of Bulgaria (2001-2005)*

The emancipation of the political system from the most destructive forms of criminal dependence was one of the most significant processes under way throughout the transition period. Its initial years were dominated by tumultuous interaction between criminal and political entities within a legally undifferentiated environment against the backdrop of an uncritical public opinion, with such interaction frequently causing and subsequently allowing crises to take the upper hand. The political crises boosted the influence of organised crime while forcefully precipitating a new series of government crises.

After the end of the transition period the public demand for protection against organised crime transformed into a cornerstone and a key rationale for the efforts to counteract criminality as a strategic priority and a national goal, which all governments showed solidarity with and firm commitment to. This success of Bulgarian democracy reflects at least **two major achievements** of the transition period. The first one is that organised criminal groups were forced to at least partially retreat and begin to operate within the framework of law, including seek ways to prove their legitimacy. The second one is the cooling of anti-Establishment sentiments to a pragmatic requirement of citizens for institutions to cleanse themselves of criminal influence and concentrate on their primary responsibility of protecting public interests.

This requirement reformulates the aspirations to freedom and democracy, which gave a powerful initial impetus to the transition period twenty years ago.

However, this noble aspiration remains to be achieved.

Organised Crime and Corruption in Croatia – A Criminological View

Dalibor Dolezal, PhD. University of Zagreb



Part I: Overview of the Croatian Political Regime before 1990

Before it became independent in 1991, Croatia was one of six republics that, along with two autonomous provinces, constituted the Socialist Federative Republic of Yugoslavia (SFRY). In the SFRY, each republic and province had its own constitution, Supreme Court, parliament, president and prime minister. At the top

of the government were the President (Josip Broz Tito until his death), the federal Prime Minister, and the federal Parliament (a collective Presidency was formed after Tito's death in 1980). Also important were the Communist Party general secretaries for each republic and province, and the general secretary of Central Committee of the Communist Party. The type of government was a version of communism, called "self-governed socialism". Nevertheless, being under a communist regime, the SFRY had the same problems with corruption as any other communist country: one-party rule produced a lack of oversight of the ruling elite. Because of the very nature of communism, that of a high level of state control and intervention in people's lives, largely carried out through the coercive powers of a secret police who forced the ideological party line, large-scale organised crime was stifled. In other words, within these constraints, organised crime could not flourish in the way it had been able to, for years, in the Western capitalist states. But a form of organised crime did exist in SFRY, although it did not have a great impact on the country's economy in the way that it has had in the developed countries of the West.

Organised crime existed in a form called the "black market network" which operated at a very low level. The significance of this network was in the connections that members of this network in former Yugoslavia had with other criminal organisations from East and West. The SFRY was considered a "transit country" for heroin and human trafficking, meaning that it provided a link between the East and the West (commonly known as The Balkan Route). Through corruption, a symbiosis was created, between certain members of the police and party and black market operatives, that came to be important during the war for independence in Croatia.

The Emergence of Croatian Organised Crime – War Time

With the collapse of the former Eastern bloc and later the breakup of Yugoslavia, the road to democracy was wide open. But, because of the war that resulted from this breakup, the transition from a communist regime to a democratic one was not peaceful, and allowed the emergence of a new type(s) of criminal conduct, organised crime among them.

A key element that helped to bring together the black market operatives and members of the new elected government was the imposition of an arms embargo that prevented the Croatian government from legally buying weapons. Since the black

market network operated through the whole former SFRY, the Croatian government had to resort to this network to obtain weapons for self-defence. It is important to understand that there was no supervision over how the money was spent, which opened the way for certain people to gain a lot of money and (political) power. Because of the nature of these operations, the people who were most involved were the high-ranking government officials and some Croatian army officers (the best-known case in this regard is the “Jewel case” involving General Vladimir Zagorec).

This partnership between the government and the black market network seemed to open a Pandora’s Box because the fledgling democratic system offered more opportunities for individuals and groups who either already were involved in crime or just became aware of the new possibilities. Even after the war, these ties were not broken, given that there were a lot of benefits for both sides in keeping these illegal channels open. However, in a way similar to that in the former SFRY, operations were at a low level, using the new legal tools provided by democracy.

The Political Transition Process

Although SFRY was a one-party state, the major problem was the constant demands for decentralization of power, culminating in the so-called Croatian Spring event in 1970 (a political movement that called for greater rights for Croatia). After the ethnic turbulence that followed, in 1974 the government enacted a new Constitution, which created new representative bodies and a complex system of checks and balances, designed to enhance party power and limit the influence of professional enterprise managers. The new Constitution replaced direct election of representatives to legislative bodies, substituting a complex system of indirect elections by delegates representing associated labour, sociopolitical organisations, and local citizens in general. The leadership heralded the new system as direct workers’ democracy, but the mechanism actually allowed the central party leadership greater control of the National Council and of republican and local assemblies. Despite the recent nationalist unrest and a conservative backlash, the Constitution retained the 1971 amendments that shifted power from the federal government to the republics. After Tito’s death in 1980, the country started to implement a series of political reforms. Suggestions included abolishing all political parties and running the system through citizens’ associations; holding multiple-candidate elections within the party; and introducing a full multiple-party system that would have meant electoral competition for the League of Communists (LCY). Once the pattern of intraparty debate was established, variations on all these themes appeared in official and unofficial forums throughout the decade. At the Thirteenth Party Congress in 1986, advocates of strong central government gained wide support among all delegations except the Slovenian. There was general agreement that decentralization had led to a dangerous proliferation of narrow, technocratic local interests, beyond the control of the LCY. Centralist forces won a victory when a new party statute transferred election of party Central Committee members from the republic parties to the LCY Congress, and gave the national party the right to curb deviation by republican parties. As SFRY entered the 1990s, four major political problems remained unsolved: (1) achieving meaningful, nationwide economic reform to save the country from the economic decay that had occurred in the 1980s; (2) finding and institutionalizing procedures for compromise among regions with increasingly diverse political and economic interests; (3) forging useful political relations with Western nations willing to provide economic aid, and making foreign policy adjustments to harmonize with new political conditions in Europe; and (4) negating the divisive influence of the rotation system to ensure selection of national leaders competent to focus attention

on solving all-Yugoslav issues. Ultimately, resolution of all those problems depended on restructuring the national political system to allow for multiple parties and accurate representation of current economic interest groups; such representation required a breakdown of the traditional regional fiefdoms of party and enterprise groupings. As the 1990s began, the political culture of Yugoslavia was in an unprecedented state of flux. To reach his goal of separating his government completely from communist domination, Prime Minister Ante Markovic pushed new laws that would allow national, multiparty elections in 1990.

Part II: Forming of a Democratic Regime in Croatia

After the elections, government in Croatia changed from a communist to a democratic form. Between 1990 and 2000 the system was a semi-presidential one, and although it was usually proclaimed as a parliamentary system, that was implemented later. The party with the majority was the Croatian Democratic Union (in Croatian, Hrvatska Demokratska Zajednica = HDZ). The main issue here was that almost all members of the new governments in the former republic were members of the now-defunct communist party. This is important because the only thing that changed was the political regime – as to corruption and nepotism, things remained the same. Because of the war, Franjo Tudjman and his HDZ party had the hard task of transforming one system and installing a new one while defending a country with scarce resources. As described earlier, the government had no alternative but to illegally obtain weapons and at the same time open the channels for various kinds of criminal conduct during the war. Some newspapers like Feral Tribune, Globus and Nacional started reporting on organised crime activities (tobacco and oil smuggling) involving high-ranking party and government officials as well as army officers. But, since the HDZ had absolute power, media censorship was omnipresent and all such media reports were proclaimed “anti-state” and “pro-Yugoslavian”, meaning that those who were reporting such activities were considered “communists whose only wish is to discredit the new democratic government and reinstall the communist regime”. Since nepotism and corruption were endemic, all political power was in the hands of a few individuals who placed people close to HDZ in key positions, thus securing control in almost every segment of Croatian socio-political life.

However, because of the connections between the government and black market network (connections never fully proven due to a lack of evidence), the Croatian legal apparatus was gradually being shaped under the influence of people who recognized, and in some cases created, various opportunities for abuse of power in favor of a few individuals (and groups) close to the ruling party. Bearing in mind that the ruling political elite was connected with members of the black market and through them to illegal organisations in other countries, there was an obvious connection between certain people and members of the government and some elements of organised crime, both domestic and international.

In order to understand current socio-political events, it is necessary to give a brief portrayal of a process that greatly influenced Croatia's politics and economy, giving birth to a new form of organised crime – white collar crime.

The Privatisation Process

The transition from communism to democracy was very difficult, mostly because of the war, which did not allow the transformation to follow normal lines. It was essential to reorganise the whole economy from a state-property concept into a private property concept. Given that under communism, the concept of private

property was unknown, there were no experts on the subject, leading to the process spawning more problems and opening many doors to corruption and opportunities for various types of organised crime to be developed.

The privatisation process started in 1991 and was carried out in four phases. The first phase started in 1991 and finished in 1994. This phase was crucial for the next phases because it charted the way for the whole privatisation process, which in the end was a total fiasco. During this phase, the main problems were the relations between the banking system and economy. One of the major problems was the evaluation of the actual worth of former state firms. From the beginning, all decisions were politically influenced and were not based on market principles. Therefore, all assessments were made by politicians who lacked sufficient economic knowledge to guide the process in the right direction or, more likely, they intentionally devalued state property and made deals with individuals whose money had a suspicious history. Also, the state insisted on speeding up the process and several times changed the legal procedures following the privatisation process, creating chaos in laws and regulations and leaving everyone involved unsure about how to proceed. One of the rumors is that the model that served as a basis for privatisation was a Latin American model of state protectionism and family-based financial empires.

The second problem was a lack of transparency, allowing the accumulation of enormous capital in the hands of a few. Nepotism was endemic, and during this period many influential individuals – backed up by the authorities – acquired state-owned property and companies at extremely low prices, afterwards selling them off piecemeal to the highest bidder for much larger sums. This proved very lucrative for the new owners (dubbed “tycoons”), but in most cases this (along with the separation from the previously guaranteed Yugoslav markets) also caused the bankruptcy of (previously successful) firms, leaving thousands of people jobless, a problem with which Croatia struggles to this day. Although this phenomenon is common to chaotic reforms in most post-communist societies (the best example being Russia with its “oligarchs”), most Croats believe that Tudjman could and should have prevented at least some of these malfeasances, because nothing similar had happened in Slovenia, also formerly part of Yugoslavia. The situation led to the widespread allegation that he had profited personally.

It can be said that everything was done in accordance with the law, but since the laws were inefficient and full of gaps, many people are inclined to say that the privatisation process was actually “robbery” and that it did more damage to the economy and post-war social structure of the country than the war itself had done.

The second phase of the privatisation process was carried out between 1994 and 1998. This phase slowed, and in some cases prevented, the country’s economic recovery. The third phase, lasting from 1998 until 2000, was marked by the setting up of the Privatisation Investment Fund (PIF) and privatisation of the banks. The last phase, from 2000, was marked by bankruptcy of a large portion of firms, huge unemployment and the creation of wealthy individuals close to HDZ, which was still in power.

The negative effects of the privatisation process were:

- A lack of a transparent strategy of privatisation
- Irrational transformation of the biggest corporative systems without clear cost-benefit analysis of such acts
- Allowing individuals to buy state-owned companies with no clear concept and strategy for developing them further
- Following that, allowing them to buy and sell with no intention of investing further in them

- Increase of general unemployment
- A growth in nepotism and illegal employment

The privatisation process allowed state-organised crime to become a part of the legal system. Since the state controlled most of the assets of the former SFRY and the political regime was somewhat similar to the communist regime, the people who profited most were individuals closely connected either with high HDZ party officials or politicians.

Another aspect connected with privatisation issues was the version of the lustration process. Right after it won the elections, the HDZ party started with their version of lustration, leveled against all those who were not “eligible” in the view of the HDZ. This aspect of the transition process was especially apparent in the police sector, secret service, judicial system (judges and prosecutors) and public administration (local and state level). According to some NGOs, during the first phase about 200 of 1300 judges were not re-elected, mostly those who were of Serbian ethnicity but also Croatians who prosecuted people for committing verbal acts of crime. After forming the State Judiciary Council in 1994, which was supposed to be politically independent, the process continued. According to some estimates, about 95 per cent of elected judges were not elected according to objective criteria, instead getting their posts because of their connections with government and party officials. The result was that, during the period from 1990 to 2000, almost everyone who did not fit the “criteria” was excommunicated. The case in the public administration was the same. Some lost their jobs or were demoted and new, politically loyal people were installed. It was a time when being close to one of the “ruling families” brought success and money, and when knowledge or competence did not mean much unless backed up by the official party. This process, along with the privatisation process, deepened the roots of corruption, allowing elements of organised crime to prosper and infiltrate fully as a “normal” way of economic conduct.

The Birth of Croatian “Mafia”

According to relevant sources, the birth of the Croatian mafia started in the 1990s after the collapse of the communist regime. It is now believed that two different groups existed, one led by Zlatko Bagaric (also known as the King of the Poker Machines) and the other led by Vjeko Slisko. They were also known as “The Knezija Boys” after a part of Zagreb called Knezija. The criminal activities of these groups were mostly drug trafficking and illegal gambling. Since the war was still going on and much of the state’s attention was directed towards the country’s defence, the “underground” slowly began to develop and took part in many illegal activities. Beyond this, rumors begin to spread about trafficking in oil, tobacco and other goods between the opposing sides in the war, and that some individuals inside the Croatian government knew about it and even approved it. Newspapers like Feral Tribune, Globus and Nacional started writing about it, but because of the lack of evidence or accusations that the evidence was fabricated, there was little impact on public opinion. According to Radovan Ortynski, former State Prosecutor, there was evidence of ties connecting members of the mafia and some Croatian government officials (http://www.javno.com/en-croatia/mafia-ties-with-politics-and-police-is-evident_199403): “At the end of 1999 and the beginning of 2000, during the surveillance of certain persons in organised crime, we noticed attempts by some people close to the criminal underground to reach certain politicians. Suddenly, in 2000, based on an anonymous tip, police officers Belina, Dolacki and others were dismissed or demoted, although they worked well and conscientiously in the pre-investigation proceedings against the criminal organisation. After the Law on

USKOK was passed in 2001, the Ministry of Justice obstructed the formation of the office. Some confidential information from the pre-investigation process was available to the people from the criminal organisation, as was information in certain phases of the investigative process and future measures that were being prepared. Some people in authority in a way supported a part of the media that wrote with sympathy about the members of the criminal organisation and people close to them. Also, people high up in authority were invited directly or via the media to protect certain persons from being prosecuted". Not only that, Mr. Ortynski said that "there was information that certain people in the secret services have close contacts with people from the criminal underground, that they are giving them and the media confidential information. This obstructed certain pre-investigative processes. The media wrote about secret meetings abroad of people from the secret services and the police with people from the criminal underground, and all this took place behind my back".

In 1994 it became obvious that the criminal underground was operating the whole time. With the killing of Mladen Siskic, the right hand of Vjeko Slisko, the mafia war started, thus presenting the fact of their existence to the public. The two clans now started to fight each other. In 1998, the "boss" of the Croatian mafia, Zlatko Bagaric, was assassinated. In 2001, Vjeko Slisko also was assassinated, but the killings did not stop. Control began to slip from the hands of the ruling HDZ because newspapers started to write about these killings and investigative journalists started to research connections between the mafia and government and party officials. Along with the bad economic situation, Croatia was still isolated from the rest of the world because of the obvious internal insecurity of the state, too many gangster-style killings in the street, and strong control by president Tudjman and HDZ (of which many of the members were actual "reformed" communists). The ties between the politicians and the mafia in every sector of the state became clear and people demanded changes.

The year 2000 was significant for the fact that the state finally decided to do something about Croatia's growing corruption and organised crime problem. Some say that this was possible because after Tudjman died in 1998, growing discontent among Croatians, along with the political isolation of the country, forced the ruling HDZ to do something in order to hang on to power. At the end of 1999, police started arresting people believed to be part of the so-called "criminal organisation".

In January 2000, political power passed to what was known as the Coalition, made up of political parties that had been in opposition to HDZ. With the new government came the political will to deal with the mafia problem in Croatia. On October 31, the famous "trial of the criminal organisation" finally began. It was properly monitored not only by the Croatian public, but also by Western governments because it was one of the first serious steps in showing the Croatian government's desire to tackle the growing problem of organised crime as well as corruption.

The trial ended in 2002, and the court's decision was that there was no criminal organisation in Croatia. Out of 12 members of the Croatian underground, seven were released and the rest were accused of committing other crimes (such as drug dealing, extortion, robbery and attempt homicide). In 2003, the Croatian Supreme Court confirmed the ruling of the Zagreb County Court that there was no "criminal organisation" in Croatia.

That decision can be called the summary of the first decade of Croatian independence. Although it was an independent state, it still had a lot of traits of the former communist regime. New political parties had a lot of members who had been members of the Communist Party and in fact were the only people who

understood how to govern a state. The problem was that they used their knowledge and positions for personal reasons. The political process of transforming from one regime to another may seem easy in theory but the hardest part is in its practical applicability. Croatia did have a democratic regime, but only on the outside. From the inside, it still suffered from the mindset specific to communist regime countries but now incorporated in the new socio-political aspect. After the death of Tadjman, the final collapse of the HDZ government was just a question of time, not only because of his autocratic style of ruling, but for the mere fact that one type of regime cannot survive incorporated in a new diametrically opposed system.

Part III – The Coalition Era

Post-HDZ Transition Process

After Franjo Tadjman's death in 1999, new presidential elections were held and Stjepan Mesic (the last president of the former Yugoslavia), candidate of the HNS (Croatian People's Party – liberal democrats) party won the elections. A year after that, new parliamentary elections were held and the new government was installed.

The new government consisted of a coalition (also known as the Coalition or The Six) of six political parties. The Social Democratic Party of Croatia (SDP) and the Croatian Social Liberal Party (HSL) agreed on a joint electoral list as did the Croatian Peasants Party (HSS), Croatian People's Party (HNS), Liberal Party of Croatia (LS), and Istrian Democratic Assembly (IDS). Although these six parties went into the election with two separate lists, they had negotiated a pre-election agreement outlining a coalition, placing Ivica Racan from the SDP as their candidate for Prime Minister. The first positive action by the Coalition was, after the enactment of constitutional amendments in 2000, to change the form of government from a semi-presidential system into a parliamentary system, the Parliament and the Prime Minister now acquiring a new, more important role in Croatia's political system. The focus of the institution of the president of the state now shifted towards foreign policy, but also with some influence in domestic affairs such as defence and national security issues.

Positive Transformations towards Democracy

One of the first things that the Coalition did was to stop the process of privatisation because it was not bringing the desired benefits to Croatia's economy and society. The second major development was the opening of the country towards Europe and the rest of the world, which included making it possible for foreign purchases of stocks and properties in Croatia. The country slowly began to convalesce from the HDZ period. The world started to offer help in many ways, especially regarding the economy, which had been devastated by the war and privatisation.

Also, the organisation of the secret services had begun. There were some allegations (never fully proved) in various newspapers such as Nacional, Globus and Feral Tribune that Croatian secret service agencies were used by the HDZ to secure its political power and were used against whoever was considered as political opposition. There was speculation that some agencies were using the services of the Balkan criminal *milieu*, especially those from Serbia and Bulgaria.

In 2001 the first specialist agency for combating organised crime and corruption, the USKOK, was set up. This was the first concrete political sign that steps were being taken to stop corruption and organised crime from prospering.

In the economic sector, the Coalition started to work on restructuring the Croatian economy by trying to deal with the problem of solvency and internal debt that mostly had been created by the former HDZ government. However, it has to be said that Croatia had inherited old debts from the former Yugoslavia. These, for sure, were also a vital factor that contributed to the general economic crisis, and a factor for which the HDZ cannot be blamed. Because of the new government and its promises of dealing with corruption and organised crime, the EU and the rest of the world started investing and sending other forms of help to assist Croatia to recover. But it also allowed foreign banks and media groups to start entering the banking and media sector, which at that time was considered as progress towards economic growth.

In the end, on February 21 2003, Croatia presented its application for EU membership and negotiations were opened between the Union and the country. This is considered to be the brightest moment of the Coalition. The Coalition did have some highlights during their time in power, but not enough to win them a second term in office.

Negative Consequences of the New Government

When the Coalition government was installed, people placed much hope in its promise to get the country out of the general postwar crisis. Instead, in spite of minor progress, the new government seemed to be stuck in a void.

Since HDZ had failed to reorganise the economy and start the necessary revitalization process, the new government had a very difficult task of doing everything at the same time. But even with the help of Western countries, progress was stalled mainly because of the growing dispute among the coalition partners. Instead of dealing with the most urgent problems, they failed to draw up a clear programme to start the much-needed changes. The main reason for this was the internal dissension among the six parties, mostly in disputes about which party would have more seats in the government and which ministry it would govern. Because of the devastated economy, the Coalition was forced to ask the International Monetary Fund for financial aid, which came, but under very strict and unpleasant rules. Unemployment started getting higher every month while salaries were low. Also, a new type of businessmen emerged – people who had nothing became wealthy businessmen and property owners. No one seemed to bother to investigate their history and most importantly, the history of their money.

The next step was the selling of firms and banks that were still governed by the official government through the PIF. The government needed money for the necessary reforms and, in order to get it, opened the way for foreign capital. Since Croatia was now open for foreign investments, a lot of firms changed hands but, again, with little known plans for future investment. This put a lot of valuable and potential economic generators into the hands of foreign firms whose only interest was gaining profit. On the other hand, the practice of putting eligible managers instead of professional and capable ones into the rest of the firms was still common, which only made things worse.

The famous trial of the so-called “criminal organisation” turned out to be a total fiasco. In 2001, the main person given the task of putting the accused criminals behind bars, Radovan Ortynski, was discharged from office only a year after he was appointed. The reasons remain publicly unknown. Some say that he had been making deals with the underground – in return for information about the accused members of the underground, he did not prosecute others or the consequences for them were not that severe. Other information indicated that he had discovered

connections between the government and criminals, along with the involvement of some high officials in international crimes. Orzynski claimed that he had been set up because of what he had discovered, but still had to resign from his office.

As to organised crime and corruption, the Coalition did manage to lay some foundations for the upcoming battle against them. After all, this was the promise that had gained them voters' confidence. But, instead of proactive political and technical actions, they hesitated from doing anything drastic, even though this was what the times called for. One of the biggest issues that they left unsolved was the case of the disappearance of large sums of money intended for buying arms and weapons during the war. It was believed that a lot of that money ended up in offshore accounts, and it was only logical to start investigating whose accounts. HDZ had been in power at the time, and so it was obvious where to point a finger. Even the newspapers started investigating criminal activities during the war, but without result. Further, laws that had been drafted to regulate the financing of political parties, such as the Law on Prevention of Interest Conflict and Law on Political Parties, were not approved. The Coalition had the majority in parliament to get these laws approved, but this did not happen. Interestingly, almost every political party was against these laws, even though they all claimed that the country needed strong regulation of political life as in Western democracies.

At the same time, in co-operation with USKOK, police started filling out reports against people for corruption and organised crime. The outcome of these prosecutions was poor – only a few were actually put on trial and even fewer sentenced. One of the reasons was that the USKOK law did not provide the tools necessary for successful prosecutions and it was under strong political surveillance. Even though investigative journalists started publishing articles and explaining the connections between former government officials and elements of organised crime, there was no genuine political will to deal with the most serious crimes. Not because the new government was connected to organised crime elements, but because there was no unity among the coalition's members, resulting in a lack of political will for successful reforms.

Maybe the worst "crime" that the Coalition committed was the "crime of inaction". Although the government changed, there were still quite a number of people who had held office in the old regime, creating a public perception that there was no difference between the Coalition and the former government. Several political analysts said that Prime Minister Racan did not want to do what HDZ did, to fire people just because they had been part of the old regime. But what he did was worse – he allowed the remnants of the old regime to stay, thus making it impossible to implement the reforms that were required. Second, it is now clear that as prime minister, Racan was mostly involved in settling disputes among coalition members, rather than handling more serious problems. Because of this, in spite of strong support from the EU and other leading countries of the world, the new government failed to transform the political climate, allowing HDZ to win the election in 2003.

Part IV – The New Coalition

New Elections, Same People, Same Politics

In 2003, parliamentary elections were held, and it looked like it would be a dead-heat race between the two biggest political parties, SDP and the HDZ. In the end, HDZ won, but it had to seek coalition with some other parties in order to form a government. There were two major reasons for this success.

The first was based on the fact that the former coalition did not carry out the political

programme that had gained them the majority of votes. A lack of strong political will and constant internal disputes among coalition members stalled reforms and people demanded changes.

The second was in the message of the new HDZ leader, Ivo Sanader. Although he represented a party that had a bad reputation, his political programme was very progressive and promised resolute action against the crisis. Also, he made it very clear that the HDZ was reformed and should not be identified with the party of the 1990s. His programme and intentions were backed up with his actions inside the party when he reduced the influence of those who were close to Franjo Tudjman and his regime.

Croatian political life also saw the phenomenon of deep alienation of the public from Croatia's political establishment. One of the stated reasons for this alienation was that mainstream political parties were oriented towards the centre and had almost identical platforms. Another was that parties were heavily centralized and perceived more as representatives of their leaders' personal interests than any clear political platform. That the proportional representation voting system led to coalition governments that often made no political sense – a phenomenon that became notorious after the 2005 local elections – also contributed to these trends. The Croatian public appeared to prefer strong personalities with populist tendencies to well-established parties or any particular ideology.

After the HDZ victory, the President of the Republic named Sanader the Prime Minister-designate on December 9 2003. In the post-election negotiations, Sanader secured the support of ethnic minority representatives, the nominally left-wing Croatian Party of Pensioners and the Independent Democratic Serbian Party.

One of the main goals of the new government was the continuation of NATO and EU entry negotiations initiated by the former government. Sanader's HDZ also sought to establish better relations with minority parties and to promote minority rights. The European Commission and the European Council were positive towards Croatia's bid to become an EU member, for reasons including Croatia's co-operation with the ICTY, continued economic growth and the country's compliance with political and economic criteria established by the 1993 Copenhagen European Council. In October 2005, following the formal start of EU accession negotiations, opinion polls showed Sanader to be the most popular Croatian politician. Croatia was expected to complete negotiations with the EU in 2009.

Organised Crime and Corruption Inside the Political Power

EU reports on Croatia's progress showed that one particular chapter seemed to be stalled – that on reform of the justice system. While there was steady progress on other chapters, this one seemed to present a particular problem. From the outside, the new HDZ looked like an upstanding political party, but in reality, things were just the same as they had been under the old regime in the 1990s. All that had changed was the rhetoric.

On the outside, Ivo Sanader presented Croatia as a country determined to deal with the growth of organised crime and corruption that involved some of the banks – particularly the Hypo Alpe Adria and Raiffeisen banks, believed to be linked directly to Sanader. One of the greatest scandals ensued after evidence that some ministries had falsified their reports on progress against crime. The European Commission knew about the falsifications and drew the attention of the Croatian government to them but the government failed to disclose this. Investigative journalists found out, and there was significant harm to the image of the government but in real political life it caused no great damage to the ruling coalition. The same reports to the EU

showed that progress was being made only in fields that did not endanger the ruling coalition, primarily the judiciary. In 2006, many articles were published describing how high-ranking government officials were connected to a number of corruption cases, and in some cases, to people believed to be involved in crime. These reports explained the connection between banks, secret services, army officials and corrupt government and HDZ officials that formed a parallel system based on personal relationships that dated from the war. In essence, they revealed an illegal system within the legal one, with PM Sanader as a leading figure.

The affairs of top-level political officials continually were being disclosed and people demanded concrete responses, not just paper promises. So, USKOK and other law agencies came up with a couple of successful operations, such as Index and Diagnose, which dealt with corruption inside the University of Zagreb and inside the Ministry of Health and Social Care. These operations had nothing to do with organised crime and served only to distract public attention.

The global crisis only speeded up the inevitable – the economic sector was devastated by corruption and organised crime and Croatia put under severe monetary pressure.

Beginning of the End

On November 25 2007, Croatia had another round of parliamentary elections. HDZ won 66 seats in parliament, insufficient for an absolute majority, which required 77 seats. A capable negotiator, Sanader managed to get 82 seats, but in order to do so he again had to form a coalition involving several political parties. One of the reasons for the victory were the votes of the so called “Diaspora”, votes from people who had the right to vote because they had Croatian citizenship, but did not live in Croatia. Also, the voters’ roll showed that voters outnumbered citizens in Croatia, which revived an old problem about the register; that even dead people voted in the elections.

Now the HDZ and its political partners sealed their political power and things looked even worse. All the significant media were controlled, the economy kept being devastated by dubious deals, and country was plunging towards inevitable collapse.

One episode that marked the beginning of the end of Sanader’s political reign was the October 6 2008 murder of Ivana Hodak, a daughter of well-known attorney Zvonimir Hodak. She was shot twice in broad daylight while she was coming home. This was not just another street murder. Her father’s client was former general Vladimir Zagorec who was being extradited from Vienna because of the “jewel case”, involving the missing jewels that had been meant to be sold to buy arms and weapons during the war for independence. There were some allegations that Ivana Hodak had been murdered because she was involved with Ljubo Pavasovic, a defence attorney for Hrvoje Petrac, believed to be one of the key people in Croatian organised crime, and that this had resulted in a failure to sell properties of general Zagorec. The murder of Ivana Hodak prompted public discontent, as had the murder of Zoran Domini, an innocent civilian caught in the attempted murder of Vjeko Slisko in 1999. That had resulted in the famous trial in the 2000.

The second thing that started the final breakdown was the murder of journalist Ivo Pukanic, the owner of Nacional magazine, and his colleague Niko Franjic in a car bomb incident. News magazine Nacional had been publishing disturbing articles about organised crime and its connections to the political system, not only in Croatia, but also throughout the whole region. Some say that Pukanic had even blackmailed the members of organised crime with information about their activities.

Nevertheless, the whole country demanded concrete action and unrest spread throughout Croatia.

Beyond this, Croatia's negotiations with the EU seemed to be stuck while Slovenia blocked the process because of the bilateral border dispute. The situation worsened every day until something unexpectedly happened.

On July 1 2009, Sanader resigned as prime minister. At a news conference the same day, he said that he had reached the end of his political road and that he no longer saw himself as the leading man of the country. As his successor, he appointed Jadranka Kosor, who became Croatia's first woman prime minister since its independence.

Right after that, a huge wave of political scandals erupted in newspapers. Almost every day, a new affair in some way linked either directly to Sanader or others close to him. Matters inside state-controlled firms like Croatian Railways, Croatian Highways or Brodosplit revealed high levels of corruption leading either to ministers in the government or Sanader himself.

Current Issues

After Sanader resigned and Jadranka Kosor became prime minister, Croatia finally started the long-awaited battle against organised crime and corruption. Kosor started by making it clear that all those involved in criminal activities would be prosecuted and the institutions in charge would be supported. Owing to this support, some former government officials are now facing trials for corruption, i.e. former minister of defence Berislav Roncevic and vice president Damir Polancec. The USKOK is now fully operational; a large number of people are facing charges, mostly for corruption. As regards the organised crime problem, it is fair to say there is no mafia-like organised crime organisation. Mostly there are groups of people who are connected through similar interests and are connected with foreign criminal organisations. The organised crime phenomenon exists through corrupt politicians or other people linked to them, either through business or family relationships.

One thing that puts the current PM in a delicate situation is the known fact that Kosor was one of the closest associates of Sanader and it is legitimate to ask whether she knew about the links between elements of organised crime and some government officials. Even though she seems very determined to bring Croatia to its feet, this question arises in every serious analysis. For now, things are looking good, new laws are being applied in practice, courts and other institutions are doing their work and there is room for optimism.

Greece: Organised Crime and Political Process

Charis Papacharalambous, Assistant Professor in Criminal Law
(Dept. of Law, University of Cyprus)

Greek Politics since the 1980s: Historical Developments



The interaction between organised crime (OC) and politics has become relevant in Greece only since the 1990s. In the period before this decade, and especially since the start of the 1980s, perspectives on the Greek political system were dominated by reflections on the consequences of the tragic period after the civil war (conventionally regarded as having started in 1946 and ended in 1949).

Between 1950 and 1967, the political system in Greece was far from being a normal democracy as we now know it. In discourses on political theory and constitutional law, this period has been labeled a “disciplined” democracy, a rather euphemistic term to distinguish it from democratic normalcy. It was a period of hysterical anti-communism and sometimes of an underlying but clearly “pro-fascist” attitude of the establishment. Even the conservative wins in the elections of 1956 and 1958 were based on election laws of ambiguous legitimacy, whereas the win of 1961 in particular has been described as largely fake, having been gained through widespread terror and illegal force exerted on the electorate. It was an anomalous interval when the politically centrist party won the 1963 and 1964 elections. In July 1965, the government fell because of a plot organised by the Crown and certain treacherous political forces within the centrists; the country was governed by people who had no political legitimacy, whereas the centrist party – supported by the huge majority of the leftists – had announced the so called “unyielding strife”. It was clear that new elections were needed immediately; and at the beginning of April 1967 it was announced that they would take place on May 28 the same year. Then came the putsch of the colonels; it was the dawn of April 21 1967⁴⁵.

The dictatorship (Greeks refer to it as the “junta”, to emphasize the military and Latin-American type of the regime and to suggest its similarity to the banana republics of that area, without exception backed by the US) meant a drawback for the country at all levels. It led finally to the crime against Cyprus (the putsch against the legal government of Archbishop Makarios, which provoked the Turkish invasion and produced the still-unresolved problem of the division of the island, although it already has become an EU member (!)). The Cyprus crisis and the destabilisation that followed a heroic uprising by students at the Athens Law School and then at the Polytechnic School of the University prompted the “junta” to resign, handing political power in July 1974 to a new Karamanlis government. Despite the right-wing government of Karamanlis after the transition, the situation soon became ripe for change; in 1981, Andreas Papandreou’s left-wing socialist party (PASOK) gained power, remaining in office until 1990. A corruption scandal (the Coscotas Affair, involving an entrepreneur of ambivalent reputation, who sought to intrude into the

⁴⁵ St. Kareklas/ Ch. Papacharalambous, Griechenland, in Alb. Eser, J. Arnold (eds.), Strafrecht in Reaktion auf Systemunrecht, Freiburg i. Br. 2001, pp. 40-43.

print media, the banking system and the field of football⁴⁶) into which the Right dragged Papandreou's name meant a temporary return to power by the conservatives (the "New Democracy" party under the leadership of an old liberal, Konstantinos Mitsotakis). In 1993, Papandreou won again and PASOK remained in power without interruption until 2004 (since 1996 under the leadership of Kostas Simitis)⁴⁷. The son of Andreas Papandreou, George, won the 2009 elections after Kostas Karamanlis's (junior) 2004-2009 term of office, which came to a rather inglorious end amid political resignations and financial recession. It is noteworthy that despite all these political "changes" the decisive geopolitical choice in Greece (faced by the ruling élites through blood and terror during and after the civil war) remained blatantly the same (and still is perennial), namely an unconditional orientation to NATO and the EU.

The Modern Greek Political System; Its Characteristics

These are the main characteristics⁴⁸ of the political system in Greece that formed over several decades after the fall of the "junta", meaning the time during which political normalcy was established:

A) Greece is a *parliamentary* democracy, whereby the powers of the President are rather purely pedagogical and symbolic.

B) The government is formed according to the *majority principle*. There has been bad experience in Greece with governments based on a coalition of more than one party (the last such experiments being, between July of 1989 and April 1990, the peculiar coalition of rightists and communists – the Tzannetakis government – formed with the purpose of "purifying" public life of the corruption allegedly perpetrated by PASOK, and the so-called "government of national unity" under the former prominent professor of economics Xenophon Zolotas⁴⁹).

C) The electoral system is *not based on purely proportional representation*, but on a strongly reduced form of it, in order that the elected parties form stable governments; whereas the left-wing parties are traditionally in favor of a more proportional system, neither of the two bigger parties in the country (the PASOK social democrats of the post-Andreas Papandreou era and the conservatives of "New Democracy") has supported such an amendment. There is also an electoral threshold (of 3per cent), which, like its German prototype, allows for the exclusion of political formations held by the mainstream politicians to be insignificant.

D) Contrary to the relatively recent "bad" prehistory of Greek politics, as described above in section I, there has been *no sign of electoral fraud* during the whole post-"junta" period; but as already noted, the political system in Greece remains totally bipolar, meaning that the other parties (principally the left-wing ones, i.e. Communists [the Communist Party] and Reform Leftists [the so called "Coalition of Radical Left"]) remain protest parties of an almost "structural" character.

E) The *two main parties* are rather strong ones; *leadership* plays a crucial role, even though, as has been acknowledged, only Andreas Papandreou really was a *charismatic*

⁴⁶ A. Karakoussis, *Country in Suspension*. From the Society of Need to the Society of Desire (1975-2005) [in Greek], Athens 2006, pp. 79-108.

⁴⁷ Kareklas/ Papacharalambous 2001, pp. 43-49.

⁴⁸ See, as indicative literature on these issues with regard to the constitutional provisions in general, mainly G. Kasimates, *Constitutional Law IIa*. The functions of the state, Athens-Komotini 1980, D. Tsatsos, *Constitutional Law, Ia*, 3rd ed., Athens-Komotini 1982, Ev. Venizelos, *Lessons on Constitutional Law*, Thessaloniki 1991, K. Chrysogonos, *Constitutional Law*, Athens-Thessaloniki 2003, A. Manitakis, *Greek Constitutional Law I*, Athens-Thessaloniki 2004 [all the above in Greek].

⁴⁹ See in details Karakoussis 2006, pp.113-158.

leader (his adversaries acknowledged this by accusing him of “Peronism”). These parties are (officially) still *programmematic* parties, although their statements of political principles have proven merely rhetorical, a fact which for some years has fed an ultra-rightist populism (claiming to be a reaction to the “rigged establishment”).

F) The parties are *publicly financed*, as long as they are deemed to be organic fundamentals of democracy, institutions of it, remaining unaltered in their mission and independent of private interests; it is of course well known in Greece that the costs of election campaigns hardly remain in the framework of the official funding.

G) Parties in Greece are based *on public confidence*. Only the (dis)approval of the electorate decides the future of a party. There is *no mechanism of legal bans or dissolving procedures* (as is the case, for example, in Germany). However, every political formation wanting to participate at the elections has to present its candidacy to the Supreme Court. This Court may bar constitutionally unacceptable political formations from taking part in the elections. Public confidence as basis of political legitimacy does not, of course, exclude the possibility that the public will is *over-determined* by the press and the trade unions; nevertheless, it remains principally and mainly authentic and supplies the government with strong support: Greek governments are principally *popular*, notwithstanding the fact that the level of this confidence is rather dynamic, changing according to political circumstances and thus each time transferring power to the other player in the bipolar system.

H) As to the *media*, the electronic media has significant influence. There are public electronic media (more or less prone to become the government’s voice, although open party propaganda does not exist) and private ones (funded by economic groups and which exchange their “freedom” from the alleged “bad state” for financial market dependence). The involvement of the private electronic media in politics can bring about selectivity in the disclosure of scandals, so even manipulating to a certain degree public opinion. In the recent past, the print media (newspapers and journals) also showed symptoms of such selectivity (for example, the extraordinary militant manner which the print media displaying in handling the “Coscotas” scandal in 1989/90, and when it took sides for or against Andreas Papandreou regarding his alleged involvement). This has also to do with the fact that, contrary to what happens with “white collar” crimes, criminality by politicians (“top hat” crimes) is more exposed to the hostile, often speculative and unjustified attitudes of the media⁵⁰.

I) The *Judiciary* operates with full budgetary and functional independence. Phenomena of obvious *patronage or political influence on ad hoc decisions cannot be traced*. Nevertheless, the *system of the appointment* of the heads of the judiciary through the government creates a problem. The new government of George Papandreou has said that it wants to make changes to this system.

J) Dependence of the *administration* on the government was a problem for the Greek political system in the past. Now, the appointments and terms of service of public servants are exempt from political manipulations. This is true also for the constitutionally recognized independent authorities, meaning bodies such as the Ombudsman. Of course, high-ranking positions in public administration (heads of General or Special Directorates in the ministries and the like) remain absolutely at the discretion of the apparatus of the governing party (which is also understandable). Finally,

K) A *minority problem* is neither recognized in Greece, nor is there any threat of separatist movements. The only issue of serious concern remains the religious minority in Thrace, as long as this could be misused against Greece in the event of

⁵⁰ See in general on the issue also *Spinellis, Crimes of Politicians in Office*, in: D. Spinellis, *Essays on Criminal Sciences*, Athens – Komotini 2001, pp. 407, 408.

a relatively serious conflict with Turkey or if there was wider turbulence throughout the Balkans.

Contemporary Issues in Relations between OC and Official Greek Politics

Because there has been no profound political change in Greece since the 1990s, interdependencies between OC and politics developed without abrupt changes. Rather, developments followed structural influences on the political and social situation in Greece. These influences were the wider phenomena of globalization, the emergence of a market economy unhindered by moral scruples, and the progressive collapse of the Political and morals as binding normative forces. This makes a methodological clarification necessary: as to the Greek case, a strict differentiation between *political system* (in a rather static-normative meaning) and *political processes* (in the sense of transition periods like those in Eastern Europe after the 1990s) is not available. With Greece lacking this transitory dimension in relations between OC and politics, the politically relevant issues will be treated in common, including when necessary any possibly existing “dynamic” parameter.

As to the characteristics of political developments, one can focus on the *stability of state and the constitutional order*, on the ongoing deprivation of all the larger social groups (a tendency enhanced hugely by the recent recession), the solidification of islands of social exclusion and the consequent social tensions, aggravated by ultra-right extremism, sometimes reaching down to the Parliament’s hall. Immigrants are here a preferred target⁵¹. Although the law against illegal migration has been very strict since 2005 (L. 3386), poor performances by law enforcement agencies in preventing illegal entry and in combating crime have made the problem an explosive one. The fact has been – largely accurately – emphasised that instead of trying to deal with the problem by first coming up with a coherent operative migration policy, Greek governments spewed out laws excessively. In 2007 alone, three new laws (L. 3536, 3613 and 3625) tried anew to strengthen the fight against smuggling, to widen protection of victims and to effectively combat sexual and economic exploitation of minors. Despite the eventual failures of this one-sided and inflexible orientation solely to policy on crime⁵², it is clear that a political exploitation of the migration problem cannot be identified. *We have rather to do with inappropriate and amateurish initiatives by the state without the purpose of involving itself in the OC scene*; nevertheless, the continuing failure to act properly is tending to transform the migration problem (and through its persistence, indirectly also the growth of the related OC) to a structural one. *Civil society* is not that active, but institutionalized mediation is proceeding relatively well, as the Ombudsman’s Annual Reports show. However, this is quite not the right response to the urgency of OC.

As to the correlation between OC and politics in contemporary Greece, one can differentiate between (a) para-organised criminality, not necessarily involving OC features (an enterprise-like modus operandi; a hierarchical structure, the goal of a

⁵¹ For analogous developments in the US, see L. *Shelley*, The Rise and Diversification of Human Smuggling into the US, in: Panteion University of Athens, Human Rights, Crime, Criminal Policy, Essays in Honour of Al. Yotopoulos – Marangopoulos, Vol. B’, Athens, Brussels 2003, pp. 1194 et seq. See also at a worldwide level on the same issue Ag. *Tsitsoura*, Criminality and criminal policy in the era of globalization, in: Panteion University of Athens, Human Rights, Crime, Criminal Policy, Essays in Honour of Al. Yotopoulos – Marangopoulos, Vol. B’, Athens, Brussels 2003, pp. 1405 et seq.

⁵² Cf. in details N. *Hadjinicolaou*, The penal repression of illegal immigration and trafficking in Greece: Searching the cohesion between punishment and the victimological approach [in Greek], Criminal Justice 2/2008, passim (and especially at pp. 223 et seq.)

huge amount of illegal income, to mention some ingredients as described after the UN Palermo Convention of 2000) and (b) the real OC⁵³.

In this context, uppermost in everybody's mind as to the *first sub-category* is of course corruption, as the most prevalent form of economic crime in Greece, which involves many different forms, beginning from seeking illegal profit through the banking system or through exploitation of domestic and EU institutions up to bribery and tax evasion⁵⁴; Greece has been listed in 2009 by Transparency International as 71st among 180 countries, below the elementary level (grade 5) of the respective index of perceptions of corruption, and ranking among EU member states considered to have the lowest performance⁵⁵. It is a very controversial issue: should this result be ascribed exclusively to the previous government or is it the end product of economic and political failures and misconduct by political élites of the more remote past? In any case, trends in corruption are closely linked to the relative proportions of the illegal and legal economies. Between 1987 and 1998 the proportion of the illegal economy as a share of GDP in Greece fluctuated between 30 per cent and 36.7 per cent, according to estimates in various research. Income from the illegal economy increased between 1990 and 2000⁵⁶.

One can also focus on political funding, i.e. the alleged dependence of parties' political leaders or personnel on their sponsors, or the fact that parties' financial resources remain partly undisclosed, despite legislation against illicit financing that came into force in 1996, as well as regarding trading in influence in general since 1931⁵⁷.

Further, one may emphasize, for example, the traditional problem with the transparency of public procurement procedures; in Greece, these mainly involve construction or national defence material. Abuses include deliberately incorrect initial projections about the projects, exploitation of market increases in costs of labour or materials, lengthening the duration of work, flaws in supervision, and so on. Something like the Italian "clean hands" campaign seems to be required in Greece, although it cannot be said for certain that in Greece a systematic investigation would disclose

⁵³ See relatively the differentiations made by *N. Courakis*, *The Crime in Contemporary Greece* [in Greek] (accessible in: <http://www.niotho-asfalis.gr/na/meletes2.pdf>), as well as by *K. Panagos*, *Economic Crime in Greece today: a criminological approach* [in Greek], 1 *Greeklaws Law Journal* 2008, pp. 366-385 (accessible in: http://users.hol.gr/~a_antonopoulos/glj/365-399.pdf).

⁵⁴ See a still timely description of economic crime in Greece in *N. Androulakis*, *About Economic Criminality* [in Greek], in: Hellenic Association of Criminal Law, *The Economic Crimes* (Acts of the 4th Panhellenic Conference held at Thessaloniki, 1991), Athens 1993, pp. 9 et seq.; see also *Panagos* 2008, pp. 385 et seq. Further developments as to the criminal law treatment of economics represent: a) the recent amendments on the incrimination of infringing upon *freedom of competition* through L. 3784/2009, aiming at combating concerted practices, cartel formation and the like (see *D. Voulgaris*, *Penal treatment of enterprises' concert actions (cartels)* [in Greek], *Poinika Chronika* 2009, pp. 872 et seq.; *I. Androulakis*, *The Revision of the Provisions on Free Competition through L. 3784/2009* [in Greek], *Poinika Chronika* 2009, pp. 953 et seq.), as well as b) the penalization of bribery in the private sphere established through the ratification of the Council of Europe Criminal Law Convention on Corruption of 27.1.1999 (plus its Additional Protocol of 15.5.2003) through the L. 3560/2007; see respectively *Ath. Dionyssopoulou*, *Thinking about active and passive bribery in the private sphere* (art. 5 of L. 3560/2007) [in Greek], *Poinika Chronika* 2009, pp. 967 et seq.

⁵⁵ See the news in the press in: <http://www.enet.gr> of 17.10.09.

⁵⁶ *I. Vavouras/ G. Manolas*, *Paraconomy, evaluation and its relations with financial crime*, in: Panteion University of Athens, *Human Rights, Crime, Criminal Policy, Essays in Honour of Al. Yotopoulos – Marangopoulos*, Vol. B', Athens, Brussels 2003, pp. 1448, 1450.

⁵⁷ See e.g. *Ch. Papacharalambous*, *Greek National Report*, in: Council of Europe Publishing, *Trading in Influence and the Illegal Financing of Political Parties 2000*, pp. 103 et seq.

a “Bribesville” similar to the Italian case⁵⁸.

Another form of economic crime constitutes interference with the proper functioning of the *Stock Exchange Market*. There were allegations after 2000 about some “Stock Exchange” scandal during a Simitis term of office, involving government personnel said to have participated and materially benefited through illegal involvement in the functions of the respective market. However, whenever the “scandal” has come to court, there has been nothing serious to suggest that the state was behind the supposed crimes. But besides this specific case, it is true that there is theoretically a range of possibilities for improper involvement of interested third persons through “insider trading”. An early law (L. 1806/1988) already has dealt sufficiently with the subject. The law says that insiders who seek to make money by supplying information about the rates of shares which is not public, is materially relevant and has the potential to influence significantly the performance of stock market prices are behaving in a way that is punishable. L. 3340/2005 deals anew with both insider trading and market manipulation. Penal and administrative sanctions are considered as offering together a compound system for legally fighting economic crime⁵⁹, thus satisfying to a good degree the need to protect the secrecy of economic information obtained by insiders⁶⁰.

As to the history of cases: Alleged attempts by high-ranking people (such as allegedly corrupt politicians proposing in Parliament draft provisions aimed at legalizing such criminality) to “cover up” the economic crimes of others, opened a nexus between politics and crime in Greece after the fall of the dictatorship⁶¹. A recent case illustrating the situation in Greece is the so called “Siemens case”, in which it was alleged that political parties had been bribed by the firm, and that slush funds had been operated while no written records of the payments were traced⁶². The main suspect of the company in Greece managed to flee to Germany while the investigating judge awaited him for interrogation. Finally the German Constitutional Court decided not to extradite him to Greece. Result: Case lost!

As to the *second sub-category*, and especially the *OC forms*, a wider crime network seems to be emerging, according to statements by the new Public Order Minister (after the most recent elections, renamed the “Citizen’s Protection” Minister). It consists of organised foreign criminals, marginal groups and newcomers to the terrorist scene and finally, common perpetrators of violent crimes. It is multinational, probably trans-border and territorially ubiquitous, and it presents hitherto-unknown difficulties to police and polity (repeated pattern of conduct: murders of police and attacks on police stations with machine guns and explosives, resulting in serious damage and grievous injuries).

As to the *type of OC*, the big concern in Greece is, among others, money laundering.

⁵⁸ Cf. e.g. *Fr. Sav. Borrelli*, Investigation Techniques in Public Procurement Corruption, in: Council of Europe Publishing, Corruption in public procurement 1998, pp. 49 et seq., 53.

⁵⁹ Cf. though a critical presentation of the law in *V. Petropoulos*, Notion of and dealing with the offence of manipulating the funds market [in Greek], *Poinika Chronika* 2009, pp. 199 et seq.

⁶⁰ See on this need also *Ag. Konstantinides*, Crimes of Insiders of Enterprises or Sectors of Financial Activities [in Greek], in: Hellenic Association of Criminal Law, The Economic Crimes (Acts of the 4th Panhellenic Conference held at Thessaloniki, 1991), Athens 1993, pp. 27 et seq.

⁶¹ See respectively *L. Margaritis*, Economic Criminality of High ranking Persons [in Greek], Hellenic Association of Criminal Law, The Economic Crimes (Acts of the 4th Panhellenic Conference held at Thessaloniki, 1991), Athens 1993, pp. 63 et seq.

⁶² See on this mode of corrupt conduct *J.-P. Bueb*, Slush Funds and their Role in Public Procurement Corruption, in: Council of Europe Publishing, Corruption in public procurement 1998, pp. 73 et seq.

Through the most recent law on the subject (L. 3691/2008), the legislation became stricter. Critical voices from the academic community emphasize the limitlessness of the punishable conduct, the severing of laundering from the prerequisites of OC and the total subjection of the Greek penal legislator under the commands of FATF⁶³.

But concerning the *types of OC as well as the intermingling of OC and politics*, trafficking in humans remains the most heinous, repugnant and appalling example. The nexus combining trafficking, prostitution and criminal internet sites has come to Greece, prompting police forces to be more pro-active. The legal framework in general can be considered one of the best in the EU, both in the harshness of punishment and in measures to protect victims, principally regarding women and minors⁶⁴. In the 2005-7 period, more than 500 traffickers were arrested and more than 300 victims identified⁶⁵. For the 1996-2000 period, it has been estimated that OC income in Greece from trafficking in women and minors rose up to 4,6 billion € and the money directed to respective corruption of public servants has been estimated between 700 and 800 million €. Further, racism, hatred and discrimination against women in general, and the revival of a male chauvinism that is disgusting, humiliating and for a long time was believed to be dead, resurfaced, dominating throughout the country and devastating any sense of cultivation and civilization⁶⁶.

Interaction between OC and Politics. Future Perspectives

Concerning the responsibility of the political establishment for OC activities, one should strictly *distinguish political liability from criminal responsibility*. While the two may overlap, they have to be analyzed differently. Criminal responsibility means imputation for concrete acts according to the principle of legality, personal culpability and fair trial according to the law on penal procedural; political liability is seen and judged often from the viewpoint of expediency, refers to the government's general policy and is dealt with through electoral or parliamentary procedures. A politician may insist on the merely political nature of his/ her liability; thereby he/ she may invoke legal lacunae or other "gray zones" of conduct, in many cases believing that impunity is further guaranteed due to the lack of sufficient evidence and the political support of the party mechanism. Also, clarity in subjectively ascribing the act to the politician may prove difficult, as certain "neutralization techniques" are used and have to be correctly assessed each time. Among them may be mentioned the argument of having pursued the "common good" or that of having served the "interests of the party" (whereby is implied that the latter is the common good itself) or, finally, that

⁶³ See e.g. *M. Kaiafa-Gbandi*, Penalization of money laundering: Basic characteristics of the L. 3691/2008 and the limits of the Rule of Law [in Greek], *Poinika Chronika* 2008, pp. 917 et seq; *St. Pavlou*, L. 3691/2008 for preventing and repressing money laundering and the terrorist financing [in Greek], *Poinika Chronika* 2008, pp. 923 et seq. (especially at 932, 933); *G. Dimitrainas*, Money laundering: Investigative provisions on seizing and freezing of assets of the accused from the viewpoint of the provisions on seizure and special confiscation of crucial assets [in Greek], *Poinika Chronika* 2008, pp. 954, 955. As to the Greek law on laundering before the L. 3691/2008, see among others also *Ch. Papacharalambous*, Socially neutral acts and money laundering, in: Hellenic Criminal Bar Association, *Money Laundering. 'Clean' or Free Society?* [in Greek], Athens 2007, pp. 199 et seq.

⁶⁴ Cf. *Council of Europe*, Trafficking in human beings: Internet recruitment (prepared by Ath. Sykiotou), Strasbourg Cedex 2007, pp. 37, 38, 82-86.

⁶⁵ This, according to presentation made by the *President of the Migration Institute* in a Conference held in Thrace during 21-22.10.2009 (paper with the author).

⁶⁶ *Gr. Lazos*, Enforced prostitution and transnational trafficking in human beings: Impacts on society [in Greek], in: Panteion University of Athens, Human Rights, Crime, Criminal Policy, *Essays in Honour of Al. Yotopoulos – Marangopoulos*, Vol. A', Athens, Brussels 2003, pp. 761 et seq.

everything is a “political conspiracy” by rivals, who, by the way, can be presented as having done the same or even worse deeds than those allegedly imputed to the “accused” party (which may very well, of course, actually be the case!)⁶⁷.

Concerning the real penal liability of politicians, the Greek legal framework for the *criminal responsibility of ministers* has produced insurmountable problems; if the older legislative decree 802/1971 was insufficient, the newer L. 3126/2003 (in coordination with the relevant art. 86 of the Constitution) is only slightly better. The problems with the intervention of Parliament (contrary to the separation of powers), the statute of limitations which takes effect quickly, and the uneven treatment of accomplices who are not politicians, suggest rather the need for a constitutional amendment; this should aim at wholly dispensing with the specific provision for politicians’ penal liability, except perhaps a provision for a specifically composed juridical body as competent court in their case⁶⁸.

Coming now to the specific forms of criminality in Greece, the following aspects have to be considered:

As to economic crime, specific partial proposals can be made, while bearing in mind that a proper solution to the problem in the framework of the EU presupposes in general the “regulative idea” of a common European Criminal Law⁶⁹, i.e. an aim not well served until now, if one recalls the adventures of the so called “Corpus Juris”.

The widening of the criminal scope of *corruption* is obvious in the criminalization of *trafficking in influence*, even if it is mainly geared to the archetypal form of corruption that is bribery (L. 3560/2007)⁷⁰. What is to be combated, though, is something deeper, because corruption means: a) shortcomings in the democratic legitimacy of the penal legislation, which often is used as a means for achieving political goals; b) general social indifference and decline of civic virtue; c) aggressive and possessive individualism and consumerism and the seeking of power without moral limits⁷¹; to cut a long story short: *corruption flourishes where the main characteristics of a degenerated capitalist lawlessness abound, and this goes far beyond any connection between economic crime (eventually organised) and conventional politics*.

It seems clear that the means for the future counteracting of *illicit political funding* remain the same: rules on raising or using funds; control of politicians’ wealth; dissuasive sanctions⁷². Of course, the answer to the question of how possible it is to effectively enforce the law will depend on the seriousness of the political establishment’s will to deal with the issue.

As to *public procurement*, what can be said as to future scenarios or law enforcement techniques is that the investigation should be flexible and highly intelligent, focusing primarily on inter-European co-operation⁷³.

As to *insider trading*, the use of sophisticated methods by administrative bodies with hybrid administrative-investigative competence is the proper way to deal

⁶⁷ Spinellis 2001, pp. 409-420.

⁶⁸ See e.g. Ar. Charalambakis, Penal Responsibility of Ministers [in Greek], Poinika Chronika 2009, pp. 769 et seq.

⁶⁹ See already U. Sieber, The Law on Economic Criminality in the Federal Republic of Germany [in Greek], in: Hellenic Association of Criminal Law, The Economic Crimes (Acts of the 4th Panhellenic Conference held at Thessaloniki, 1991), Athens 1993, pp. 188 et seq.

⁷⁰ N. Bitzilekis, Corruption as legal and political problem [in Greek], Poinika Chronika 2009, p. 106.

⁷¹ Bitzilekis 2009, pp. 106 et seq.

⁷² See e.g. G. Colombo, Sanctions and Remedies in Cases of Illegal Financing of Political Parties, in: Council of Europe Publishing, Trading in Influence and the Illegal Financing of Political Parties 2000, pp. 59 et seq., and at 66.

⁷³ Borrelli 1998, pp. 56, 57.

with the problem. The further enhancement of an already existing Independent Regulatory Agency (the “Funds Market Committee”) seems to remain the best tool to restrict deviations from the market ethos, while preventing a premature intrusion of the prosecutor into it⁷⁴. Nevertheless, this enhancement doesn’t mean *eo ipso* harmonization with the safeguards traditionally provided for the accused, especially where administrative bodies act as both administrative and investigation institutions, as is the case with the new L. 3340/2005 regarding the Funds Market Committee⁷⁵. It must though be admitted that the trend of establishing independent bodies with expanded sanctioning jurisdiction is a mark of the (post)modern administrative hyper-state⁷⁶.

The *illegal economy* raises, generally speaking, a double problem; insofar as it involves tax evasion and the like, it can still be dealt with through appropriate financial policy, reduction of bureaucracy and cultivation of modest ways of living and enhancement of tax consciousness. What does not respond to such “managerial” solutions is exactly the income achieved through economic crime, especially when it is OC; against these types of conduct other means are urgent⁷⁷. These means should entail sophisticated tracing mechanisms, intensification of transnational co-operation and appropriate staff training; concerning Greece, the relics of “ancient” anti-crime legislation in the field of economics (like the primitively “Draconian” L. 1608/1950) have to be abandoned immediately⁷⁸.

Concerning the *stricto sensu* OC and first the *migration-related OC problem*, one has to say that objections as to its allegedly extremely austere criminalization should not have been raised at all. It is obvious that where people are treated as “bare life”⁷⁹, the penal legislation must proceed with resolve and without lacunae. What the infantile liberalism in criminal policy cannot grasp is the systemic, massive and globalized nature of the exploitation of immigrants. This nature makes insistence on traditional safeguards-and-balances-thinking obsolete⁸⁰. What is needed is *more rationalization of migration policy in and of itself*, in order for the austere criminal policy to go beyond its merely symbolic value (and practical inefficiency) and become *really productive (that is forcing crime to decrease and effectively deterring)* against this imminent threat to the very meaning of democracy itself⁸¹. The 2000 anti-trafficking and victims protection law in the US is a signal in the right direction, in enforcing human rights of irregular immigrants and allying with them in a common combat against the crime⁸².

⁷⁴ I. Apsouris 1996, pp.71, 72

⁷⁵ Petropoulos 2009, pp.206-208, 213 et seq.

⁷⁶ See e.g. with regard to the French Stock Exchange controlling institution “C.O.B.” Fr.-J. Pansier, Contemporary Issues of Economic Criminal Law: Repressing Treacherous Activity [in Greek], in: Hellenic Association of Criminal Law, The Economic Crimes (Acts of the 4th Panhellenic Conference held at Thessaloniki, 1991), Athens 1993, pp. 205/6.

⁷⁷ I. Vavouras/ G. Manolas 2003, pp. 1451 et seq.

⁷⁸ II. Anagnostopoulos, The Greek Administration and its Abusers [in Greek], Athens University/ Law School/ Penal Law Dept., “MNEME II”, Athens 1996, Vol. A', pp. 1 et seq. (especially at 11 et seq.).

⁷⁹ According to the well known notion elaborated by G. Agamben, Homo sacer. Die souveräne Macht und das nackte Leben (transl. into German: H. Thüring), Suhrkamp, Frankfurt a. M. 2002.

⁸⁰ Ch. Paracharalambous, Illegal immigration, penal justice and the problem of respecting the human rights of economic immigrants [in Greek], Criminal Justice 12/2007, pp. 1436/7.

⁸¹ See in this respect also the correct remarks of Ath. Sykiotou, EU – Organised Crime – Illegal trafficking in human beings. A peculiar dynamic-dialectical relation [in Greek], Poinika Chronika 2008, pp. 200 et seq, especially at 214, 215.

⁸² See Shelley 2003, pp. 1203, 1204.

Concerning *money laundering*, one can register a slow improvement in dealing with the problem. The initial hasty and inefficient attempt to penalize money laundering (L. 2145/1993) has been replaced after EU pressure with the new legal framework which is now (after major amendments) in force. The effectiveness of this framework is, though, *structurally limited*. This is because the banks do not comply wholeheartedly with the due diligence principle and the state is itself reluctant to accept as a crime something that multiplies funds and assets flowing in the economy (“*pecunia non olet*”), especially when this economy is already weak enough⁸³. Further, the fact that money laundering is not limited to OC seems to make penal law inflationary and reaffirms the need to somehow *inherently connect money laundering with OC*, even if merely through interpretation of statutory law: legalizing assets is not tantamount to mere depositing of the proceeds of crime, as is the case in the conventional receiving of stolen goods⁸⁴. Confronted with these difficulties, the Greek legislator was and remains forced to further improve the *administrative framework* in combating money laundering. As long as this improvement means that the administrative agencies also incorporate investigatory and supervisory competences in their activities, it is evident that a new form of polity tentatively arises (as we also saw above in this section regarding insider trading), which is stressed by intense “policing-and-overseeing” characteristics (a further symptom of the decline of the traditional liberal polity).

Without wanting to come back to the whole legislative network, to be underlined is, more concretely, that the means of combating the crime have to remain concentrated on *seizing and freezing of assets*, as well as to possibly further *extend confiscation*⁸⁵. The law already provides for a civil law confiscation without a previous criminal conviction. Therefore, the state can, on the ground of a respective advisory opinion of its “Legal Counselors’ Body” and at the expense of any convict for a predicate offence constituting a felony, demand in a civil court the acquisition of any property obtained by this convict through any predicate offence, irrespective of a relative conviction; the property is deemed fictionally as belonging to the state, but the convict is allowed to provide counter-evidence. If the property has been transferred, the convict has to compensate on the basis of the property’s value at the time of the ongoing civil procedure. The confiscation can be also imposed on the convict’s relatives acquiring the property gratuitously or to third persons acquiring in bad faith after the indictment and being aware of the fact that it has taken place. Insofar, the Greek legislator has accepted a kind of *enhanced confiscation going beyond property linked to a concrete crime*. If the de facto “penal” nature of this measure (as able to totally destroy the economic capacity of a person) is taken into account, then we have here, according to some voices in the doctrine, a *hybrid civil/criminal forfeiture system*, flagrantly violating the “*in dubio pro reo*” principle and replacing the strict criminal evidence rule through probabilities and assumptions of the civil procedure, thus partly reverting the burden of proof. If this critical view will prevail in the future, implementation of the provision will mean deferral of criminal procedures to the civil judge and violation of the prohibition of “general” confiscation, i.e. one covering the total property of the accused, regulations which are both *counter-constitutional*. It has to be reminded

⁸³ E. Symeonidou-Kastanidou, Money Laundering [in Greek], in: Organised Crime and Terrorism. Contemporary developments in the European and Greek legal order, Athens-Thessaloniki 2005, pp.173, 174, 180 et seq.

⁸⁴ E. Symeonidou-Kastanidou, The Crime of Money Laundering [in Greek], in: Organised Crime and Terrorism. Contemporary developments in the European and Greek legal order, Athens-Thessaloniki 2005, pp. 192 et seq.; analogously see in the same volume E. Symeonidou-Kastanidou, Money Laundering as Enhancement of Organised Crime [in Greek], pp. 208, 209.

⁸⁵ On the new (harder than those of the former L. 2331/1995) provisions for seizure and confiscation of the L. 3691/2008, see in details Dimitrainas 2008, pp. 944 et seq.

though – at least as to the modes of obtaining evidence – that according to the European Convention and European Court of Human Rights case law, assumptions of guilt are allowed in principle⁸⁶.

Some *crucial technicalities* will also prove important; among other things, this means the intensification of civil servants' training in the field of complex financial and patrimonial investigations; the proper staffing of the relevant FIU; issuing of the appropriate guidelines for personnel and professionals subject to the obligation to detect suspicious transactions, in order for the reports they have to compile to be complete and useful; and the deepening of the acquaintance of the judiciary with international treaties⁸⁷.

On the other hand, the influence of the *punitive attitude of public opinion* should not have any impact on the proper implementation of the law; it is, e.g., not correct, when the laundering legislation is extremely widely interpreted by the courts in order to allow for felony penal sanctions otherwise not available at the time of the proceedings. It is very probable that this took place with the occasion of a sensational *case of corruption in the judiciary*, whereby the felony sanction for this conduct was not available to the court because the respective law which made the bribing a felony (L. 3327/2005) was blocked on the grounds of non-retroactivity⁸⁸. What is embarrassing is the return to the misdemeanor form of the judges' bribery (except the cases of bribes beyond 73.000 €, which remains a felony). Isn't it obvious that the legislator came back to the old provisions after the "scandal" of the "illegal circuit" has been judicially dealt with, making thus criminal law dependent on the fluctuations of "public indignation"?⁸⁹

Concerning the monstrosity of *trafficking in human beings*, the effectiveness of law enforcement will be crucial to the future. Failure on this front will be tantamount to society's total defeat by the most egregious form of evil, which, rightly estimated, has for many years taken on the *clear marks of a universally committed and recklessly (if not intentionally) left unpunished crime against humanity, which "competes" with the enslavement and forced prostitution practices followed by the Axis forces in Europe and Asia during World War 2.*

The Greek case is very representative of the seriousness of the problem. Despite the harsh legal framework in force, which we have hinted at before (above under section III), until recently the legislation presented structural shortcomings indicative of a deeper unwillingness to radically exterminate this evil. More concretely: a) protective measures were targeted more to minors and to an important degree left unprotected women above 15 or 18 years of age; b) sentencing was unacceptably lenient; sanctions were to a great degree commutable to pecuniary penalties; c) the male-chauvinistic attitude of the legislator is still obvious: there is no real will to extinguish trafficking insofar as the absolutely necessary step has not been taken, i.e. *the austere penalization of seeking sexual services from trafficking victims and its unconditional implementation*; only this initiative (according to the Swedish model, establishing with the No 408/1998 "Act on Prohibiting the purchase of sexual services" zero tolerance on such inexcusable victimization) would have really uprooted the

⁸⁶ A. Tzannetis, Confiscation of legalized products of criminal activity, in: Hellenic Criminal Bar Association, Money Laundering. 'Clean' or Free Society? [in Greek], Athens-Komotini 2007, pp. 296-299

⁸⁷ On the importance of international judicial co-operation for effectively combating money laundering, see also G. Triantafyllou, International Judicial Assistance for Combating Money Laundering. The international division of labour for extracting illegal assets, in: Hellenic Criminal Bar Association, Money Laundering. 'Clean' or Free Society? [in Greek], Athens-Komotini 2007, pp. 409 et seq.

⁸⁸ K. Chadjikostas, Some thoughts on bribery and money laundering [in Greek], Poinika Chronika 2007, pp. 583 et seq. and at 594.

⁸⁹ Bitzilekis 2009, pp. 105, 106.

phenomenon⁹⁰. The inflexible invocation of liberal principles de facto allows for the unpunished flourishing of trafficking, *which shows on the one hand the degeneracy of "liberalism" and on the other the tacit complicity of the state mechanism to OC.*

The desired solution to the problem will never be achieved without 1) a thorough analysis of the deep connections among casino-capitalist craving for gain, the total lack of morality in social life and a deceiving "emancipation" normalizing evil and cultivating acquiescence in it through limitless consumerism, plus 2) the realization of the need to establish a new type of criminal policy that considers perpetrators as *lawless outcasts*, whereby they have to be considered as *social enemies par excellence rather than traditional culpable citizens*⁹¹, and finally 3) the presumption of knowledge of the so-called "clients" as to the victim's situation, according to *strict liability* terms, in order for the criminal law system to get rid of impasses in evidence and proceed to the deeply needed stigmatization of those who are the real source of the evil.

Besides, we do not need more *research*, for example on the "demand" aspect of organised sexual slavery⁹². Also the usefulness of investing in efforts to illuminate the public and the enhancement of its sensibility through the *press* is ambivalent. The press may give information on the problem, may contribute to dismantling false identifications (forced prostitution is not to be seen as sin but rather as brutal victimization), it is not, though, the proper means to combat this crime. This is so because of the fact that the deep connections between this crime on the one hand and social stereotypes or the complicity of members of law enforcement agencies themselves or representatives of "high society" on the other, are not accurately elaborated⁹³. Further, the press itself has been a systematic promoter of pimping through the publication of phone numbers and obscene texts advertising sexual services (apart from the circulation of other marginal overtly pornographic material, which though formally illegal in and of itself according to L. 5060/1931, is easily accessible at any kiosk⁹⁴). *What we need is action and resolve*⁹⁵. Lack of it can mean

⁹⁰ *Ei. Dialynaki, M. Stamataki, Al. Papadopoulou, A. Philippou, G. Tzamalouka*, Presenting Trafficking through the Greek Press [in Greek], *Penal Justice & Criminology* 2/ 2009, pp. 102-104. As to the low sentencing rates, see also *E. Symeonidou-Kastanidou*, Trafficking in Human Beings in the international environment and its penalization in Greece [in Greek], in: *Organised Crime and Terrorism. Contemporary developments in the European and Greek legal order*, Athens-Thessaloniki 2005, pp. 225, 226. On the Swedish law see also *UNICEF/ Greek National Committee*, Fighting against Illegal Children's Trafficking and Trade [in Greek], p. 51 (accessible in: <http://www.unicef.gr/pdfs/Unicefper cent20Traffickingper cent20Handbookper cent20Greek.pdf>).

⁹¹ I refer here to the concept of a "penal law of the enemy", elaborated by *G. Jakobs*, for which see e.g. *Ch. Papacharalambous*, The Penal Law of the Foe: Beyond Liberalism, *Poinikos Logos* 2007, pp. 819 et seq. In front of a universal crime against human dignity such as the trafficking, it is luxurious to reflect too much upon procedural rights and pedantic formalities. Therefore the liberal tones I pronounce concerning the need to maintain the rule of law in fighting OC in *Ch. Papacharalambous*, The investigation of organised crime. The problem of specialized inquiry techniques, in: in: *Panteion University of Athens, Human Rights, Crime, Criminal Policy, Essays in Honour of Al. Yotopoulos – Marangopoulos*, Vol. B', Athens, Brussels 2003, pp. 1047 et seq, is to be profoundly moderated if taken into account with regard especially to human trafficking. These tones intended to deal with a specific problem of the Greek criminal policy in 2000/1 concerning its inaccurate distinction between OC and terrorist acts.

⁹² Cf. as representative example the *DeStoLi Report* of the AGIS Project of the EU Commission, presented by *A. Papantoniou/ M. Papantoniou-Frangouli* and submitted as material in the above -under section III- mentioned Thrace Conference).

⁹³ See on these dimensions of the issue *Dialynaki et al.* 2009, pp. 104 et seq., especially at 107, 108.

⁹⁴ *Symeonidou-Kastanidou*, Trafficking in Human Beings etc. 2005, p. 225; see on the penalization of advertizing when involving minors (after the L. 3064/2003), *ibid.*, 236/7.

⁹⁵ Among other things the systematic penalization of legal entities seems indispensable

no other thing than the *profound moral and political responsibility* of the official establishment in the industrialized global humiliation of individuals and peoples⁹⁶.

And a technical “detail”: A very important means to combat OC and also to disentangle its treatment from any (even merely hypothetical) improper involvement in politics is the wholehearted endorsement of the instrument of the Joint Investigative Teams. JITs have been provided for at the EU level already through art. 13 of the EU Convention on Judicial Co-operation in Criminal Matters (29.5.2000). Bringing them into being has been accelerated through the EU Framework Decision 2002/465/JHA; they can be used by Europol in its work, and they are a key way to do the work of Eurojust⁹⁷.

Conclusion

As to the Greek case concerning the relationship between OC and politics, one can maintain the following: a) Greece has succeeded in establishing a relatively well-functioning political system, after having gone through major political and social catastrophes since the end of the World War 2, the last of which was the military dictatorship of the 1967-1974 period; b) globalization and market-centred neoliberal extremism have produced deep-reaching ills in Greek society, from corruption and economic crime up to several forms of OC; c) the most perilous forms of OC are human trafficking and money laundering (though the latter has not been legally conceived of as OC in and of itself); d) the involvement of politics in OC is not something marking political and social life in Greece; even if economic scandals (or “scandals”) alleged such involvement, this has not been proved judicially (as was the case in Italy, e.g.); also, there have been no indications of a structural impairment of the judiciary, which would have led to possible “shielding”, apart from a major incident of corruption in the judiciary, which has been dealt with very strictly; e) revisiting the most recent legislation one can admit that economic crime (that is the periphery of OC) has been treated properly (anti-cartel laws, laws against insider trading, enhancement of administrative sanctioning mechanisms), as well as that OC is now confronted with harsh penalties; f) the remaining problem is twofold: on the one hand the law has to be enforced, has to become really productive, has to register efforts; this is so because OC and especially trafficking in human beings is destroying the very core of Greek societal ethics and thus the criminal bands must be treated not as “normal” delinquents but as social enemies of the first order; what is still missing in the Greek anti-trafficking legislation is the express, strict, and pitiless punishment of slave services seeking “clients”; on the other hand, Greek criminal policy has to be reoriented regarding the immigration issue: the state has to rationally filter the entrance (in coordination with the EU authorities) of foreigners entering illegally, while simultaneously guaranteeing human rights and maximal possible legitimization to the present alien population in the country.

together with the whole arsenal of administrative sanctions; see also on this *Symeonidou-Kastanidou*, *Trafficking in Human Beings* etc. 2005, p. 240, as well as in the same volume *E. Symeonidou-Kastanidou*, *Human Trafficking: special measures combating it and problems of their application*, in: p. 244, whereby the need for further legal-political action is rightly underlined (at pp. 245 et seq.).

⁹⁶ Human trafficking is the least feasible to the high reflexivity flights of good old “critical” or “postmodern” criminological intellectualism; insofar it serves best the theoretical demand to regain a valuable notion of the “substance” of the crime; cf. the general theorizing of *I. Tsiganou*, *Crime and dangerousness in the society of risk, social inequalities and difference*, in: Panteion University of Athens, *Human Rights, Crime, Criminal Policy, Essays in Honour of Al. Yotopoulos – Marangopoulos*, Vol. B’, Athens, Brussels 2003, pp.1385 et seq.

⁹⁷ *L. Patsavellas*, *Joint Investigative Teams: A new, judicial and operational means for combating organised transnational crime in the EU* [in Greek], *Criminal Justice* 7/2008, pp. 911-922. See also art. 13-24 of L. 3663/2008.

Political Regime and Organised Crime in Romania

Alina Han

The Romanian transition from totalitarianism to democracy and from a centralized economy to a free market economy was neither easy nor problem-free. In addition, the process did not happen overnight. Soon after the collapse of communist power, Romania entered a long and difficult transition process towards democracy. Ousting a dictator, abolishing communist state structures, a transition to political pluralism and organizing free elections do not necessarily mean



the functioning of an authentic democracy, although theoretically these are some of the principles of a democratic state. The current situation in Romania is complex, with the communist legacy continuing to negatively affect the country's path to democracy. Several political practices carried over from Romanian Communist Party (PCR) ex-leaders encourage corruption, the shadow economy, incompetence and an administration that is inadequate to deal with Romanian citizens' problems. The early years after communism are under the partitocracy sign, rather than under the democracy sign. December 1989 and the collapse of the communist regime took Romania into a system of government based on democratic principles, within the same timeframe that had followed the totalitarian system, but there is a continuing strong influence by former communists, including in the government system.

Overview of the Romanian Political Regime before December 1989

The communist regime was characterized by expansion of state and co-operative property, abolition of private property, and political and state leadership by a single political party, the PCR.

Nicolae Ceaușescu governed the communist regime from 1965 to December 1989. Within this timeframe, three stages can be distinguished: first in 1965-1971, the second from 1971-1982, and the third from 1981 – in December 1989.

The third and last stage of the totalitarian communist regime during Ceaușescu's government covers the period between 1982 and December 1989, when the regime was overthrown in the Romanian revolution. At this time, rights and freedoms were severely restricted. The country's economy was going through a period of crisis with a cessation of growth and, especially, a lack of efficiency and profitability. The state's economy was strongly affected and the measures initiated by Ceaușescu to pay foreign debts owed by the Romanian state led to Romania's economic and political isolation, and deprivation of the economy of modern means of development. Most serious was the sharp drop in the living standards of the country's people after orders were given that they be subjected to severe shortages of all kinds, including food and heating. The PCR was the brain of this repressive system and Securitate (security) the tool to put policy into action. The Securitate officers and other units of the Ministry of Interior worked directly to keep the population under surveillance

and intimidated. The Securitate, Militia, military prosecutors and border guards were subordinate to the specialist sections of the PCR Central Committee (CC). Most of them had been party activists before joining the Securitate. The regime invented institutions designed to enable the destruction of the free spirit and total manipulation of the subjects.

Between 1980 and 1989 there were three communist governments in Romania:

1. The government led by Prime Minister Ilie Verdeț (1980 – 1982), A Communist totalitarian who had Elena Ceaușescu as Deputy Prime Minister. Notably, this government included the young Ion Iliescu as President of the National Council for Water (with ministerial rank), a future President of Romania, and an outstanding figure in the events of Revolution 1989⁹⁸.
2. The first government led by Prime Minister Constantin Dăscălescu (1982 – 1985, Communist Party, with Elena Ceaușescu as First Deputy Prime Minister and Ion Iliescu (May 1982 to March 1984) a member of the government as President of the National Council for Water (with ministerial rank).
3. The second government led by Prime Minister Dăscălescu (1985 – December 22 1989, Communist Party, with Elena Ceaușescu as First Deputy Prime Minister). As Prime Minister, Dăscălescu had no real power. He supported Ceaușescu's controversial methods to restructure the national debt. His last act as head of the government was to sign a decree releasing all political prisoners and those arrested during the anti-communist demonstrations⁹⁹.

A detailed analysis of crimes committed by the communist regime in Romania was done by the Presidential Commission for the Analysis of Communist Dictatorship in Romania created by Romania's Presidency in April 2006 (during the first term of President Traian Băsescu). The Commission issued a report known to the public as the "Tismăneanu Report"¹⁰⁰. The report identified the major crimes committed by the communist regime in Romania.

The New Political and Constitutional Regime

After the events of December 1989 and adoption of the Constitution in 1991, the Romanian political system was characterized as a semi-presidential system, because of the powers conferred on the State President (to promulgate the laws, tasks in the organisation and functioning of public powers, duties in choosing, forming, approval, appointment or dismissal of public authorities¹⁰¹, powers regarding the country's

⁹⁸In 1990, Verdeț put up the Socialist Labour Party (PSM), which entered the Romanian Parliament after the elections of 27 September 1992. At these elections, the PSM won 3.18 per cent of the vote for Senate and 3.04 per cent of the vote for the Chamber of Deputies. At the next elections PSM did not enter Parliament.

⁹⁹Dascalescu was put on trial in 1990 as a defendant in the "Executive Political Committee Lot" trial. Initially, Dascalescu and other defendants were charged with genocide, but because the elements of this crime weren't met, the charge was changed for all the defendants to first degree homicide. In 1991 he was sentenced to life imprisonment, but after five years, was released because he was severely ill.

¹⁰⁰Tismaneanu Commission was the first presidential commission in Eastern Europe to investigate communist-era crimes, being preceded only by the parliamentary committee of the Bundestag. Although its legitimacy has been challenged by opponents of President Băsescu, the Commission was able to draw up a (first) report on crimes committed under the communist regime and to enable President Băsescu to officially condemn that regime.

¹⁰¹Dissolution of Parliament if highly restrictive conditions are met; appointment of a candidate for Prime Minister; appointment of the Government on the vote of investiture of Parliament; revocation and appointment of ministers in the event of a government reshuffle

defence and in ensuring public order¹⁰², and a role in foreign policy).

Most of these powers are subject to restrictions and control by other public authorities, meaning Parliament and the Government. This simple enumeration of these powers does not mean that in reality the Romanian President exercises them all. For this reason, Romanian constitutional legal doctrine classified the system of government regulated by the Constitution of 1991 as a semi-attenuated or parlamentarized system.¹⁰³ This idea originated with one of the most important figures who drafted the Constitution, Professor Antonie Iorgovan. He identified 12 constitutional arguments (normative) proving the semi-attenuated features of the post-December Romanian semi-presidential system, of which the most significant are:

- Both Parliament and President are elected by universal vote, equally, directly, secretly and freely expressed, as national representative bodies, but only Parliament is the supreme representative body of the Romanian people;
- The President's right to dissolve Parliament referred to in Art. 89 of the Constitution requires the fulfillment of no less than six conditions, making it almost impossible to apply in practice;
- The Constitution establishes two forms of liability of the President: political responsibility for serious violations of the Constitution (Article 95 of the Romanian Constitution) and criminal liability for high treason (Article 96 of the Romanian Constitution);
- The investiture of the Government, although initiated and carried out by the President, requires a mandatory vote of confidence by Parliament. In other words, the political majority formed in Parliament is essential for the formation of a new Government;
- The Government as a whole and each of its members, jointly with other members, report politically only to Parliament according to Art. 109, par. (1) of the Constitution;
- Not only the President, but each Chamber of Parliament can demand the prosecution of members of the Government, for acts committed in the performance of their duties. The President can request only their suspension from office, if prosecution was demanded according to Art. 109, par. (2) of the Constitution;
- The President has no right of legislative initiative, this right belonging to the Government, members of Parliament and to a number of citizens according to Art. 74, par. (1) of the Constitution;
- The President's refusal to promulgate a law may be exercised only once, after receiving it.

All these arguments are valid in their regulatory logic. The main problem, however, is whether these arguments correspond to the political practice of the post-December regime and to the logic of action of the three Romanian Presidents after December 1989 (Ion Iliescu, two presidential terms; Emil Constantinescu, one term; while Traian Băsescu is in his second presidential term). Moreover, certain constitutional

or vacancy of office on the recommendation of the Prime Minister; the appointment of three judges at the Constitutional Court; the appointment of magistrates on the recommendation of the Superior Council of Magistrates; public appointments under art. 94 lett. c of the Romanian Constitution (e.g. appoint two members to the National Audiovisual Council).

¹⁰² CSAT (Supreme Council for State Defence) leadership, proposes directors of Secret Services which, in turn, are appointed by Parliament in joint session.

¹⁰³ Bogdan Dima, „*Post December Romanian Semi Presidentialism*” magazine *The Sphere of Politics* no. 139/XVII/sept.2009, p. 14.

prerogatives of the President of Romania are likely to give the President a strong influence over other political and institutional actors.

Post-December Socio Political Scene Featuring Corruption

After the 1989 Revolution, Romania has had three Presidents (six presidential terms) and 13 Governments¹⁰⁴:

President Ion Iliescu, First Term, from May 1990 – October 1992

President Ion Iliescu¹⁰⁵, first term as temporary president between December 1989 and May 1990, before the general elections, with a National Salvation Front (FSN) interim government; Iliescu's term as the first freely-elected President was between May 1990 and October 1992. Following the 1990 parliamentary elections, the majority was held by the FSN with a 64.41 per cent share of seats in the Assembly of Deputies (later on the Chamber of Deputies) and 76.47 per cent in the Senate. The direct consequence was the establishment of the first single-majority government led by Petre Roman.

During the Roman Government (1990 – 1991, FSN), more than 100 laws were adopted, including a package that established market economy mechanisms in Romania and the foundations of democratic institutions and the rule of law (a law on privatisation of state-owned commercial enterprises was considered at that time to be the most effective throughout the former socialist countries, the concept of refurbishment was launched, with reference to industrial objectives of the communist era, liberalization of prices for a number of consumer goods). In 1991 there remained excessive centralization, a high level of corruption, an old communist mentality, emphasizing once again the need to speed up economic reform. The strongest social response to domestic economic reform initiated by the Roman government was represented by the "miners actions" (September 1991). Under violent pressure from miners, Roman was given a mandate to find a political solution to the crisis together with President Ion Iliescu. The episode was very violent and there were a number of victims and negative consequences: opening of the interbank market was abandoned, along with the convertibility of national currency and exchange rate unification, while co-operation with the IMF, EBRD, European Community, Council of Europe and GATT were frozen.

During the Stolojan¹⁰⁶ Government (October 1991, political coalition, and October 1991 – November 1992, political coalition between FDSN – FSN – PNL)_the Romanian economy went through a difficult time, with all three state-owned banks close to bankruptcy. Stolojan had to take the decision to recapitalize banks. Another important decision was price liberalization, but without liberalization of the exchange rate, which resulted in the seizure of businesses and companies' foreign currencies.

¹⁰⁴ Cristian Preda, Sorina Soare, „*The Regime, the Parties and the Political System of Romania*” (Nemira, Bucharest, 2008), 129.

¹⁰⁵ After the Revolution of 1989 the Council of FSN was presented to the people as the organiser of the first free elections after which it was supposed to dissolve itself. After its dissolution, most of its members formed the National Salvation Front, which ran in the first elections and won 70 per cent of the popular vote. As a founding member, Iliescu remained within the FSN, the organisation going through several name changes (FDSN, PDSR, PSD).

¹⁰⁶ In 2002, he was elected president of the National Liberal Party and later on his party was allied with the Democratic Party, led by Traian Băsescu, mayor of Bucharest at that time, forming the DA Alliance – Justice and Truth. Stolojan launched the Liberal Democratic Party (PDL), and became chairman of the new political formation. In 2007 the Democratic Party (PD) merged with PNL (forming the new party PD-L). In 2008 parliamentary elections the Liberal Democratic Party won only 35 per cent of seats.

People were forced to change their foreign currency savings into the national currency, the lei, at rates that were arbitrarily established. Romania experienced a wave of protests by trade unions, while inflation continued to grow rapidly. Economic and financial instability caused a delay in the growth of foreign investment in Romania in comparison with other countries of the former Communist bloc. However, the Stolojan Government's term in office was popular among citizens.

President Ion Iliescu, Second Term, from October 1992 – November 1996

After the parliamentary elections in 1992, following the legislative changes (the Constitution was adopted in 1991), the formation of the Romanian Democrat Convention (CDR) and the split in the FSN, the political parties represented within the Chamber of Deputies were PDSR (later PSD) 35.67per cent (majority), CDR with 20.01per cent, FSN (later PSD) with 10.19per cent and a further four minority parties below 10per cent including the successor to the Communist party, called the PSM (Social Labour Party). In the Senate, the situation was similar.

The 1992 general elections brought no major changes to the leadership of the country: President Iliescu was re-elected and the Democratic National Salvation Front (FDSN split from FSN – the National Salvation Front) won the parliamentary elections. Prime Minister Văcăroiu (1992 –1996, FDSN (Democratic Front of National Salvation, which became the PSD [Democratic Socialist Party] in 1993) took office. There were a number of developments on the foreign policy front in these years: Romania became an associate member of the European Union and joined NATO's Partnership for Peace. The economy seemed to recover from the shock of previous years. The period also saw the Programme for Mass Privatisation.

In 1993, the press reported on a huge deal representing the combination of PETROMIN and a Greek company, Maritime Forum. In sum, it involved 95 vessels, representing Romania's strategic fleet, being sold for little to nothing to a Greek ship owner who was almost unknown and who, moreover, turned out not to be a specialist in shipping. Reports made it clear that the transaction was fraudulent. The contract with Maritime Forum was challenged in court, and the Bucharest Tribunal Court annulled the deal. After the verdicts, seven of the 95 vessels went to a new company, this time with a real owner, resulting in the Ermis deal¹⁰⁷.

President Emil Constantinescu¹⁰⁸, Single Term, 1996–2000

After the 1996 Parliamentary Elections, six of the major parties were represented in the Chamber of Deputies, including the Romanian Democrat Convention (CDR) (35.57per cent) which subsequently coalesced with the Democratic Union of Hungarians in Romania (UDMR), Social Democrat Union (USD) to form a parliamentary majority on the one hand, and the Social Democrat Party (PSD) (26.53per cent) with two other parties. The coalition government accelerated privatisation and restructuring

¹⁰⁷ Source: newspaper „*The Financial*”, 01.06.2008, http://www.financiarul.com/articol_5066/flota-romaneasca-disparuta-fara-urma-in-triunghiul-tranzitiei.html; newspaper „*Romania Libera*” 25 November 2004 <http://www.9am.ro/stiri-revista-presei/Politica/688/Vacaroiu-Cu-flota-fara-flota.html> – Later on, Vacaroiu was appointed as President of the Senate, continuing to be a member of the party's successor FSN-FDSN-PDSR-PSD. For a month in April-May 2007, following the suspension by the Parliament of the President in the course Traian Băsescu, he took over as president ad interim.

¹⁰⁸ CDR represented the Democratic opposition. In 1996, CDR has won local and parliamentary elections and Emil Constantinescu was elected by direct vote as President of Romania, for a term of four years. During his presidential term (1996 – 2000), Romania has undertaken a broad process of reform in the economy, justice and administration. During his term Romania was nominated for NATO expansion, negotiations on EU accession began and Romania held the OSCE chairmanship in 2001.

of state industry. Laws adopted during this time included those on restitution of agricultural and forest land confiscated by the communist regime, the law on access to files compiled by the political police of the former Department of Securitate, local budget law, and laws against corruption and money laundering. Laws on local administration, the criminal code, and guarantees of human rights in criminal and civil lawsuits were amended and supplemented.

The Ciorbea Government (1996 – 1998, CDR – USD – UDMR) was the first government made up from right-wing politicians after more than 50 years. The year 1997 saw Romania go into its second recession after the Revolution, albeit much harsher. The Ciorbea Government immediately began massive layoffs among the staff of large industrial enterprises, especially in the mining industry. At the end of 1998, the Ciorbea Government fell into a political crisis within the government coalition.

The Vasile Government (1998 – 1999, coalition of CDR – USD – UDMR) was marked by big bank bankruptcies: Bancorex¹⁰⁹, Albina Bank. Corruption encouraged a proliferation of financial schemes (large borrowers forgot to return the amounts borrowed). Inflation of 45.8per cent was a continuing problem, and unemployment, which had been increasing steadily since 1997, reached a peak in 1999 with a record rate of 11.8per cent. The Radu Vasile Government held out for only for a year and a half, the post of prime minister being taken over in late 1999 by Mugur Isărescu.

During the Vasile Government's term in office, the law on the access to personal files and disclosure of the Securitate as political police was enacted. On the basis of this law, the National Council for Studying Securitate Archives (The National Council for the Study of the Securitate Archives (CNSAS))¹¹⁰ was set up.

The Isarescu government (later Governor of the National Bank of Romania, 1999 – 2000, coalition of CDR – PD – PSDR – UDMR) developed the business strategy of joining the European Union. The Isarescu government was characterized by more relaxed fiscal reforms. At the end of 2000 President Constantinescu came to the end of his term of office, leaving Romania with slight growth, of 1.8per cent, after a period of three years of major recession.

¹⁰⁹ Bancorex was the successor to the Romanian Bank for Foreign Trade (founded in 1968) which was liquidated in 1999. In 1996 the bank held about 60per cent of foreign trade operations in Romania and was very active in energy imports. Bancorex was at the centre of a powerful political and financial scandal caused by faulty policy of the bank and by granting loans on the basis on political criteria. There was the so-called “robbing” the bank. In 1997 there was an attempt to “clean” Bancorex, ordered by the President of the country, which resulted in the trial and conviction of the bank's president. In 1999, following international pressure, the authorities liquidated the bank. According to media statements by Bancorex in 1994, an appropriation of one million dollars to a factory from Slobozia (small city nearby Bucharest) was accepted on a loan guarantee consisting in a round of flowers located in front of factory and with the main entrance gate of the factory. Source daily newspaper *Cotidianul* 29.08.2006 http://www.cotidianul.ro/secretele_bancorex-14968.html; *Saptamana Financiara*, 14.01.2006 http://www.sfin.ro/articol_3712/, *Financiarul* 28.09.2009, http://www.financiarul.com/articol_33170/prabusirea-bancorex-o-frauda-pentru-mileniul-iii-aproape-doua-miliarde-de-dolari-disparuti-in-neant.html

¹¹⁰ Later on in 2008, a Constitutional Court Decision no. 51/2008 indicated that Law concerning access to personal files and disclosure of the communist political police as a whole was unconstitutional, so the law was repealed and an Emergency Ordinance was issued in March 2008, later on confirmed by the Law 293/2008. Among the most important duties of the board of CNSAS are: confirmation or denial, as appropriate, of finding notes and issuing certificates of regarding the quality Security officer or Security collaborator; also confirmation of notices to be communicated to the persons examined;

President Ion Iliescu, Third Term, 2000–2004

The parliamentary elections of 2000 marked the return to power of the former PDSR (now PSD) with 46.43 per cent and also marked the electoral peak of a party labeled as extremist – PRM (Great Romania Party) with 26.43 per cent, as well as a further three parties, the PD, PNL and UDMR, each with less than 10 per cent. The parliamentary majority was made up by the association of PSD – UDMR. There was only one government led by Prime Minister Nastase (2000 – 2004, PDSR became PSD since June 2001), a political government with good parliamentary support. Under this administration, there was economic growth. In 2004 Romania became a member of NATO and foreign direct investment immediately surged. Inflation and unemployment decreased. The national currency appreciated massively. The Nastase government also had major negative aspects: the controversial privatisation of the large national energy industry companies. The gas distribution and the national company Petrom became the property of foreign investors, but the privatisation contracts had detrimental clauses. Another example was the Bechtel contract, which was assigned to an American company, without the legally-required bidding procedures and solely on the basis of political considerations¹¹¹.

Also, Romania has been shaken by the FNI (the National Investment Fund) phenomenon, which resulted in a criminal trial with 220 000 third parties. The trial arose from the collapse of the FNI. In 2000, the National Investment Fund was bankrupt, and more than 300 000 people (individual investors) were left without 300 million dollars. Thirteen people were put on trial, but not the person who founded and owned the company which managed the fund. The process is still pending. The Romanian media has suggested that he was not charged thanks to his political connections and the involvement of massive corruption in politics.

Adrian Nastase also held the office of President of the Chamber of Deputies between 1992-1996 and 2004-2006. He is being investigated by National Anticorruption Directorate (DNA) prosecutors in connection with four cases, involving bribery, obtaining undue advantages and blackmail.¹¹²

President Traian Băsescu, First Term, from November 2004 – November 2009

President Traian Băsescu¹¹³, first term, November 2004 – November 2009 (suspended for one month by parliament in 2007); second term in office started on December 21 2009 – present.

¹¹¹ The contract covered the construction of Transylvania national highway, with a value of 2.2 billion euro. Construction was interrupted in mid-2005, when the authorities began reviewing the previous government contract. The annexes to the contract were kept secret for a long time, and the authorities have ignored media reports. From the time that the Bechtel contract was signed until now, no Minister of Transport has been concerned about the clause of renegotiating the unitary prices which led to a general contract costs for Romania of about 30 per cent higher than the costs provided for when the contract was signed.

¹¹² Source: DNA Press Releases: 17/VIII/3/17.02.2006, 25/VIII/3/16.02.2006, 37/VIII/3/07.03.2006. DNA declared "In the period 2001-2006, using the authority and influence from political and administrative functions held, Adrian Nastase committed more crimes of corruption stipulated by Law 78/2000 (corruption), rendering also other people. The crimes are bribery and obtaining undue benefits, crimes from which the defendant obtained the total amount of 48,116,210,938 lei (1,370,324.69 euro)"

¹¹³ He was a member of the Romanian Communist Party, also Deputy Secretary of State for Transport within the Roman government. The President's name was involved in the "Fleet" file, which "started" in 2003, trying to establish how the CNM PETROMIN was prejudiced by the sale, during April 1991-August 2000, of 16 vessels, particularly large mineraliers of big capacity. The "Fleet" file, initiated by the National Anticorruption Directorate, investigated three former Ministers of Transport including Traian Băsescu.

After the 2004 parliamentary elections, the political scene saw another major shift by the formation of the Alliance Dreptate si Adevar (DA Alliance – Justice and Truth) made up of the PNL (Liberal Party) and PD (Democratic Party), but which got only 33.73 per cent representation in Parliament, while the opposition alliance (PSD and PUR) obtained 39.76 per cent. Following political negotiations, the most complicated to that point, a parliamentary majority was formed around the DA Alliance, another party (the Conservator Party) being invited in to enable the formation of a majority.

At the end of 2004, the government formed by Calin Popescu-Tăriceanu (first government 2004 – 2007, Alliance D.A. PNL- PD; second government 2007 – 2008, coalition PNL – UDMR) was voted by 51 per cent of Parliament members. President Băsescu and Prime Minister Tariceanu became involved in severe conflicts with each other.

The parliamentary elections of 2008 marked the transition to a single-vote system oriented towards the candidate (person) and not the political formation. This has given rise to an increased trend of individuals defecting from one party to another: at least 83 candidates have done so. Many candidates who had been investigated for years by DNA Prosecutors or the National Agency for Integrity (ANI), were nominated to party lists and being elected allowed them immunity from prosecution for the next four years¹⁴. In 2008, the Boc government (2008 – 2009, PD-L – PSD and 2009 – present, PD-L – UDMR) took over a difficult situation, against the background of an economic crisis.

An Analysis of Post-December Political Elements

Political instability always was a fertile field for corruption and both have seriously compromised economic development. Political instability encouraged corruption at every level and generated a number of effects. These were an increasing discrepancy between potential economic development and what actually happened; reduced direct domestic and foreign investment; an increasing risk of financial crisis or even financial chaos; increased inflation; a stimulus for tax evasion and minimized opportunities to increase public income (black market, large public investments lacking efficiency, little social expenditure and increased allocation of public money to areas that had the potential to make the money “disappear”, generally complex technical projects in public acquisitions).

In Romania after December 1989, the balance of power between the state president and the prime minister on one hand, and the executive and legislature on the other hand, often led to tension and sometimes conflict. These relationships cannot be explained only by constitutional norms. A constant of post-revolutionary political practice has been that presidents have exercised, and continue to exercise, more political influence than is conferred by the constitution and sometimes even act outside it.

All post-December presidents have had at least one confrontational relationship with one of the Prime Ministers (Iliescu vs. Roman, Constantinescu vs. Vasile, Băsescu vs. Popescu Tariceanu). After each major conflict between president and prime minister, the president who outlasted the Prime Minister (Iliescu to Roman, Constantinescu to Radu Vasile, and Băsescu to Tariceanu) worked hard to try to appoint an obedient prime minister after the parliamentary elections (Iliescu named Stolojan in 1991 and Vacaroiu in 1992, Constantinescu named national bank governor Isaescu in 1999

¹⁴ Adrian Nastase (former premier), was investigated in four cases on charges of taking bribes, blackmail and acquiring undue benefits. Miron Mitrea (former minister in two various ministries under the Nastase government) is accused by the DNA of “bribery, instigating false official documents and forgery, the latter two directly related to the crime of corruption” (source: *DNA Press Releases 53/VIII/3/05.03.2009*).

and Băsescu named Boc in 2008).

Before being elected, presidents of Romania have tended to outrank, in party or alliance terms, the Prime Ministers that they nominated (see Iliescu and Petre Roman, Iliescu and Adrian Nastase, Emil Constantinescu and Victor Ciorbea, Emil Constantinescu and Radu Vasile, Traian Băsescu and Popescu Tariceanu; the latter were part of the Alliance DA in 2004, but from different parties). In some cases, the president of Romania got into open conflict with the prime minister if he was not obedient or showed signs of independence. This was the case with Prime Minister Roman in 1991 and Prime Minister Tariceanu in 2005.

Because of its direct legitimacy, the office of president enjoys greater stability than that of the prime minister. The prime minister is responsible, together with the government, to the political majority in Parliament. Romanian voters perceive the parliamentary majority as a presidential majority, not only that it is required to sustain the head of state but also that it is brought into power by the president. The president strongly influences (or at least can influence) the procedure of forming the government through his prerogative of appointing a candidate prime minister. Moreover, this political influence has been enhanced by the fact that presidential elections are held ahead of those for parliament.

The presidents of post-December Romania (Iliescu in 1990, Constantinescu in 1996, Iliescu in 2000 and Băsescu in 2004) had high profiles, leading parties or coalitions that had supported them, and they had a strong influence among political party structures.

Impacts on Legislation¹¹⁵

Political migration, governmental instability and ministerial instability led to a huge increase in lawmaking. Statistics on simple government ordinances and government emergency ordinances (SGO and GEO) show that this was the case with each cabinet. The First Report of the Legislative Council in 1998 contained a summary of legislative activity in the periods 1947-1989 and 1989- 1997. Between 1947 and 1989 there were 2138 acts (an average of about 50 acts a year). Between 1989 and 1991, when the first democratic post-Communist Constitution was developed, there were 939 laws, or about 500 acts a year, 10 times more than in the communist era. Between 1991 and 1997, 6600 laws were passed, including various provisions amending acts (laws 1100 annually). After the first change of power after 1996, the Cabinets led by Prime Ministers Ciorbea and Vasile were often forced to use simple and emergency ordinances, due to the “emergency” of the crisis caused by the policies of Vacaroiu’s Cabinet. After 2000, from the Nastase Cabinet to the Tariceanu Cabinet and then Boc’s Cabinet, the rate increased again. Repeatedly, European Commission reports have drawn attention to these legislative excesses by the executive, but for all the “taking note” of these warnings, governments of various “affiliations” have not paid much attention and have continued with legislative excesses. After 2008, despite the establishment of a broad executive coalition of the socialist democrats (PSD) and liberal democrats (PD-L), which controlled more than 70per cent of the parliamentary vote, the Government forced through Parliament “a package of legislation” at high speed, even though it required passage through committees of both Chambers and other legislative procedures. Besides altering the principle of separation of powers, the problem is that these legislative packages began to generate major social and economic tension. The problem is not one of majorities or minorities, but of transgressions by the executive branch of power, and of shortcomings in the relationship between the executive and legislative branch.

¹¹⁵ Dan Pavel, “The Crises of the Executive, the Crisis of Democracy” magazine *The Sphere of Politics* no. 139/XVII/sept.2009, p. 3

Social Impacts

Transition¹¹⁶. The phenomenon of political migration prolonged and made more difficult the time of transition from a totalitarian regime to a democratic one. Romania did not have a peaceful transition and did not go through a stage of negotiation with the former structures of power. The NSF (FSN) was made up from a patchwork of former officials.

According to Anca Herghea, Romania's transition was characterized by an absence of previous trends of reform; a lack of negotiations in transition; violence resulting in casualties; and the presence of former dissidents after December.

There are many examples illustrating the failure of institutions and failure of democracy. One example is known internationally: Romania's justice problems are so serious that they have led to numerous warnings from the European Union and European Commission, which closely monitor the functioning of the judicial system, which has not yet managed to reform itself. Another case that raised questions about the image of the Romanian judicial system was the election of a judge identified by SNSAS as a former Securitate collaborator to be President of the Supreme Council of Magistracy (CSM). Choosing and keeping this judge as president of the CSM drew an adverse reaction from the Magistrates Association of Romania. Once again, the episode drew harsh criticism of Romania from the international press. French daily newspaper *Le Monde* wrote: "In Romania the magistracy is infiltrated by former agents of the communist political police (...). After the removal of Nicolae Ceaușescu in December 1989, Ion Iliescu – a Communist apparatchik in disgrace during the last years of the dictatorship – and his team have spared the former Securitate officers. Even better, the new authorities have offered to political police to become judges on the basis of qualifications obtained on the benches of the school of the Securitate." ¹¹⁷

Impacts upon Organised Crime

Things have changed fundamentally since 1989. Organised crime manifests itself quite differently in an open society in which citizens have freedom of movement and free enterprise is not restricted, but it had its way in a totalitarian regime in which the state exercised strict control over all.

Before 1989, the state held an umbrella over crime operations. Prostitution networks also existed under Communism, but in a supervised manner. According to an analysis by the Directorate for Investigating Organised Crime and Terrorism (DIICOT)¹¹⁸, trafficking and consumption of drugs existed before 1989, but was limited to those in the high echelons of power interested only in luxury drugs such as cocaine. On

¹¹⁶ Anca Herghea "Summary: Transition from Communism to Post Communism: Romania, Poland, Czechoslovakia, Hungary, Eastern Germany, Bulgaria (1989-1990)" *the Sphere of Politics* magazine no. 129-130/XVI/2008

¹¹⁷ *Le Monde*, no. 19.01.2010, http://www.lemonde.fr/europe/article/2010/01/19/en-roumanie-la-magistrature-est-noyautee-par-d-anciens-agents-de-la-police-politique-communiste_1293725_3214.html

¹¹⁸ Following the initiation of negotiations with the EU a more firm position was needed. Law 508/2004 enabled the creation of the Directorate for Investigation of Organised Crime and Terrorism – DIICOT. According to the law, DIICOT is a "specialized structure in combating offences of organised crime and terrorism, within the Public Prosecutor's Office attached to the High Court Of Cassation and Justice (...)". DIICOT is subordinate to the Public Ministry, the Public Prosecutor's Office attached to the High Court of Cassation and Justice, and coordinates the activity of the territorial Services for the Investigation of Organised Crime and Terrorism, at the level of the Prosecutor's Office attached to Courts of Appeal, and Bureaus of the same Directorate, organised at the level of Prosecutor's Office attached to Tribunals.

the other hand, poverty under communism led to trafficking of all kinds. During communism, the black market was fueled with goods stolen from the socialist production system, and in some cases there were organised thefts (such as, for example, the theft of large quantity of meat from the slaughterhouse in Targoviste in the 1980s). Further, because the dictatorship banned the possession of foreign currency, this led to the appearance of traffickers, although authorities controlled the situation closely. The Securitate developed its own operations of this type, but the stake for the operations was outside the country.

After 1989, organised crime has intensified and taken on new forms. In the first phase, a large number of Romanian criminals migrated to the West in the early 1990s, where they associated with organised criminal groups from Western Europe and committed serious crimes. In terms of how these groups act, their methods initially were unknown to authorities because they changed the fields in which they worked. For example, it is more difficult to traffic a total of 50 women for prostitution than to falsify 50 cards.

Civil order has worsened, inflation has leapt, crime has increased alarmingly, the black market is everywhere to be seen. Opening borders throughout the region facilitated the movement of people and goods, driving the free market but also driving crime. Using their financial strength, organised crime groups very rapidly have penetrated the young democracies, corrupted political and government officials, usually represented by voluntarism, and people who are poorly prepared to lead or easily influenced. The privatisation process, which began without clear rules and a basic strategy, was beneficial to the underworld. To give an overall picture, between 1990 and 1999 the police forces had to deal with 2 606 894 crimes. About 655 crimes are recorded daily, which means that every hour, 38 crimes are committed. Within the same time frame, more than 1 284 647 people were investigated, of which 311 375 were detained. As for the age of the perpetrators, 49per cent were young and minors. Fifteen per cent were recidivists.

The data also show that in 2005, DIICOT investigated 400 cases related to electronic offences, a figure that in 2008 rose to 1300. However, trafficking in stolen cars recorded a significant downturn in recent years. Rules imposed by EU membership and a competitive market have drastically undermined the entry of such cars on to the Romanian market. Combating the phenomenon is made more difficult by a lack of staff, of facilities and by legislation that is inconsistent.

Drug trafficking also involves extreme violence and feeds the prostitution networks, and money laundering is at the final stage of all types of trafficking. In terms of human trafficking, the first form of this type of crime, resulting in a large number of victims, was sexual exploitation. But the first "serious convictions" for human trafficking took place only in 2003. After the development of structures to combat human trafficking for sexual exploitation, organised crime networks have changed the proportion of trafficking for labour exploitation. In 2004, more than 80per cent of victims were trafficked for sexual exploitation while in 2008 the proportions were equal to those of labour exploitation.

Regarding drug trafficking and consumption, heroin remains the principal drug trafficked and consumed in Bucharest. In 2008, DIICOT put no less than 891 people on trial for drug trafficking, including 378 in Bucharest, and arrested 575 traffickers. The border police seized 393 976 kilograms of drugs, including 386 976 kilograms of heroin. The traffickers held various citizenships: Turkish, Syrian, Romanian, Albanian, Iranian, Ukrainian, Belgian and Spanish¹¹⁹.

¹¹⁹ DIICOT – 2008 Annual Activity Report, http://www.diicot.ro/index.php?option=com_content

Poverty is among the factors contributing to the phenomenon of organised crime. Another factor is the large differences between the social layers: at the time of the Revolution of 1989, Romanian society was mostly divided into two large categories: the poor and a sufficiently wealthy category. On the other hand, massive privatisation in Romania fueled economic criminality by reducing the value of companies, bypassing auctions, tax evasion and breach of contracts after privatisation sales.

Even if a direct connection cannot be established, political conflicts including strained relations between presidents and prime ministers and those involving conflicts among various parliamentary groups and ministers have prevented Romania from having a firm legal framework for the fight against corruption. Gaps in the legal framework have led to growing organised crime. During the transition period after the Revolution of 1989, national organised crime became visible and developed, with criminal groups acting in a structured way in different aspects of social and economic life: defrauding public money and investing it for the benefit of specific groups; human trafficking, especially for sexual exploitation; trafficking of people with disabilities to be beggars; and networks for illegal migration.

But the crucial criminal phenomenon in Romania is CORRUPTION, which affects all state structures. Corruption in post-communist Romania is one of the factors that have hampered economic development and political progress.

After Romania began negotiating EU accession, an increasing number of complaints from outside to the Romanian government about corruption made it one of the key problems on the path to EU membership. After the accession treaty was signed in 2005, corruption was and continued to be an issue of concern.

As a result, the Romanian Government, in collaboration with various civil society organisations and with international bodies, underlined that the fight against corruption had to become a central concern for all of Romanian society so as to increase the level of integrity and confidence in state institutions. In 2000, during the government led by Prime Minister Isarescu, corruption was criminalized by the law on the prevention, detection and sanctioning of corruption¹²⁰.

The National Anticorruption Direction (DNA)¹²¹, initially named the National Anticorruption Prosecution Office, was set up as a specialist body to investigate corruption. Following amendments to legislation, DNA is an independent institution in relation to other authorities. The strategy developed in 2005¹²² says that the fight against corruption is structured on three important levels: preventing, combating and national and international co-operation.

The European Commission reports in 2003 and 2004 presented corruption as “a serious and extensive problem that affects almost all aspects of society”.¹²³ In spite of the 2003 national anti-corruption campaign and efforts prior to that, the 2004 report showed that there was no difference in perceptions about levels of corruption, a further worry for Romanian authorities.

The 2004 report also said that among institutions that had law enforcement tasks, there were “problems of integrity”, which hampered the fight against corruption. As part of the National Anticorruption Strategy for 2005-2007, a draft law was approved in July 2006 setting up an integrity agency. This led to Law no.144/2007 being adopted, on

[nt&view=article&id=52&Itemid=69](#)

¹²⁰ Law no. 78/2000, published in Official Gazette of Romania, Ist Part, no. 219 of May 18, 2000,

¹²¹ Government Emergency Ordinance no. 43/2002

¹²² National Anticorruption Strategy 2005-2007

¹²³ European Commission Report, 2004

the establishment, organisation and operation of the National Integrity Agency (ANI). According to the description on the institution on its website,¹²⁴ “Romania became the first European country which created a specialized agency in verifying wealth, conflicts of interest and compliance to the incompatibilities system. Although the obligation to declare the wealth was enforced since 1996 and the asset declarations have become public documents since 2003, the control mechanisms were difficult to use and the control of conflicts of interest had never been pursued systematically”. The powers of ANI include verifying asset declarations and declarations of interest, control of submissions of wealth declarations and declarations of interest by people required by law to do so, finding “manifest” discrepancies in official and actual income, and notifying the criminal prosecution body if there is evidence or indications that a crime has been committed.

ANI's activity is monitored by the National Integrity Council (CNI), a representative body, under parliamentary control of the Senate of Romania, with non-permanent status. Of the 16 members of the CNI, seven are appointed by parliamentary groups¹²⁵.

The degree of perception of corruption in Romania was the subject of a number of studies by international organisations such as Transparency International and Freedom House, Inc. The most important work of this kind seems to be the evaluation report by Freedom House, done at the request of the Ministry of Justice in 2005, of the Romanian government's anticorruption policies. This comprehensive study covers efforts to fight corruption, along with an important section on the main positive and negative aspects of the efforts. The report contains recommendation on further steps to fight corruption in Romania.

Another document that had a significant impact on public opinion in Romania was done by Transparency International¹²⁶. Designed as a guide to anti-corruption, it presents the main cases regarding corruption and government law and practice in this area. Quite affordable, this “guide” is for ordinary citizens who, in the authors' opinion, are “the most affected by various forms of corruption”¹²⁷. The document says that the problem of corruption, although the subject of a government strategy, is a key to European integration but is not perceived as such at the individual level. The scourge of corruption has harmed Romania's image as a democratic state.

In an interview with Deutsche Welle, German Bundestag vice president Susanne Kastner criticized the poor commitment of the Romanian Parliament to fighting corruption. Kastner highlighted the enormous amounts that the EU had made available to Romania but that were not accessible due to the lack of feasible projects. “Corruption in Romania is a worrisome problem. There isn't a sporadic occurrence, but rather a systemic phenomenon. The Minister of Justice and prosecutors really make great efforts to combat corruption, but the minister is not too long in office. In Romanian history, justice ministers have changed very often, which has caused concern among people familiar with the situation.” She said that in Romania the procedure was difficult because of regulations on the immunity of senior office-bearers. In Romania, Kastner said, the procedure was extremely complicated, “of course to protect members of Parliament”.

An important issue closely related to transparency in politics would be the adoption of the Lustration Law, which has remained as a draft. In March 1990 the “Proclamation of Timisoara” was made public, a document which claimed that the Romanian Revolution was not only anti-Ceausescu, but anticommunist. Perhaps the most

¹²⁴ <http://www.integritate.eu/home/despre/ce-este-ani.aspx>

¹²⁵ <http://www.integritate.eu/home/cni/legislatie-cni.aspx>

¹²⁶ Transparency International, Anti-Corruption Guide

¹²⁷ *ibid.*

important article of the “Proclamation of Timisoara”, the famous “Point 8”, requires that electoral law forbids, for the first three consecutive legislatures, any former communist activist or former security officer from being on any list of candidates for election. This point was taken up in the Lustration Law, which today still has not been adopted by Parliament, even though most parties at least have said that they agree with the intended law. Liberals, Liberal Democrats, the Hungarian minority, even the Conservators declared themselves to be in favor of lustration. PSD did not express its opinion and the only ones who opposed were members of the PRM. From time to time, especially around election time, politicians revive the topic of the necessity of a law on lustration. In reality, however, the proposed law was passed by the Liberals in 2005 and was adopted by the Senate in 2006, but got “stuck” at the Chamber of Deputies despite the insistence of civil society.

Findings

In Romania, as in the rest of Eastern Europe, civil order has worsened, inflation has soared, crime has increased alarmingly, and the black market is ubiquitous. Opening the borders throughout the region has facilitated the movement of people and goods, driving the free market but also driving crime. Using their financial strength, organised crime groups very rapidly have penetrated the young democracies, corrupting political and government officials.

The privatisation process, which began without clear rules and a basic strategy, was beneficial to the underworld, which was linked to the communist past and to the former nomenklatura, which from the beginning had the necessary financial strength to possess an important part of the capital made available at privatisation.

The current trend is to exploit public office to do business and make money.

Economic and financial crime has experienced an unprecedented boom. The situation opens the way for major crimes, while through tax evasion, fraudulent bankruptcies and accounting, the proceeds of crime are legitimized. These serious economic crimes have become a constant concern for businesses and for various groups of people, seriously affecting the economic climate.

The extremely serious phenomenon of corruption has added a new dimension to the landscape of crime. Cases of politicians who have been investigated by the DNA have shown the involvement of public figures in dealing in influence and in being complicit in the worsening crime situation.

A serious crisis hit the financial and banking system after 1995. This was because of a lack of liquidity, caused by previous activities that had breached prudential standards – huge loans were given because of political decisions, with or without the required financial guarantees; there was a high rate of inflation; and the bankruptcy of various institutions including CreditBank, Dacia Felix and Bancorex had a great impact on the national economy, on political corruption and on trading in influence.

Corruption also led to fraud in privatisation. The ensuing criminal investigations and court actions have shown how sales of publicly-owned enterprises were done illegally.

These factors shaped Romania’s economy and politics, resulting in serious acts of financial indiscipline, abuse and lack of basic controls, allowing different people, more or less public figures, to get huge profits and money.

The result was a state that was overwhelmed and lacking the authority to act, and that accepted the ways of criminal groups that have put in place an arsenal of means and methods sometimes refined and sometimes brutal.

Constitutional Systems, Governments and Key Developments in Serbia 1980–2010

Nemanja Nenadic

The Socialist Republic of Serbia (1980/1990)

The Socialist Republic of Serbia was one of six socialist republics in the Socialist Federal Republic of Yugoslavia. The federal constitutional arrangement of 1974 significantly increased the powers of the administrations of federal units by introducing confederal elements. The position in Serbia was different and more complicated because Serbia included two socialist autonomous provinces (Vojvodina and Kosovo), which also were deemed to be “elements of the federation”. These provinces were run differently from the way that others were in the rest of Republic, which led to conflicts between communist leaders in Serbia and the provinces, and tensions among local populations.



The socialist system lacked important elements of the separation of powers, instead being based largely on a “convent” system. The complicated method of “elections” was merely a means of confirming decisions that had been made by the Communist Party and its bodies. The Communist League and the organisations that it controlled were financed with public money, while the Party collected significant sums from its own membership. The Party also was the dominant influence over most of the country’s economy.

The inherent ineffectiveness of Yugoslavia’s communist economic system meant that it constantly had to be patched up through reforms. The crisis was officially recognized in the first years after the death in 1980 of the long-time leader of communist Yugoslavia, Josip Broz Tito, who had held the system together. The Federal Government headed by Milka Planinc (in power from 1982 to 1986) took steps to decrease the foreign debt and made arrangements with the IMF. However, the steps taken were largely temporary, to try to cut the country’s trade deficit or to bring down inflation, and had no long-term effect on the root causes of the crises. The media were not in the fullest sense free, but most of them openly criticized weaknesses in the country’s economy.

In the second half of the decade, the elements that had made cohesion among the various republics’ provincial elites weakened further, leading to the outbreak of open “media wars” among them. At the same time, the focus of discussions about reforms became less about economic issues than about ethnically-based quarrels about the constitution. Notwithstanding this, the last federal government, led by Ante Markovic, finally came up with significant economic reforms. These reforms included a freer environment for entrepreneurship and foreign investments, and made it possible for privatisation through employee buy-outs. In 1990, federal law was changed to allow citizens to organise themselves in associations and in political organisations.

As internal conflicts in Yugoslavia worsened, it became impossible for there to be

consensus about reforms or about the way forward for foreign policy in a world that, in those years, was becoming increasingly less bi-polar.

Amid the quarrels about the future of Yugoslavia, Serbia also had its own internal disputes. Various factions, formed around party leaders such as Dragan Markovic and Ivan Stambolic, fought for years to dominate the Party organisation in Serbia. In the end, the winner was Slobodan Milošević, who succeeded first in sharing power with his friend Stambolic, and later (in 1987 and 1988) in defeating Stambolic as well. To achieve this, Milošević exploited public unrest about the position of Serbia and in particular the problems faced by Kosovo Serbs, responding with promises of a speedier solution to these problems. By mobilising public support, notably at mass meetings, and combining this with party intrigues, Milošević also succeeded in overthrowing the leadership in the Vojvodina province and in putting strong pressure on Kosovo Albanian communist leaders. On March 28 1989, amendments to the constitution of Serbia were promulgated, giving SR Serbia greater powers over its provinces.

The new ruling elite took a controversial approach to political and economic reforms. They introduced changes that had a semblance of democracy (more than one candidate at elections, referendums), but also held on to a one-party system for longer than elites in other Republics. The idea of creating a huge basis for investment, such as the “loan for Serbia to flourish” and other schemes, failed for various reasons.

Republic of Serbia in the 1990s

Adoption of the September 1990 constitution officially brought an end to the socialist one-party regime. The constitution introduced the separation of powers, in a form of parliamentary system, with some elements of a presidential one. The new constitution significantly reduced the rights of autonomous provinces to the level of those of comparable regional governments in non-federal countries elsewhere in Europe, for example, by denying them any say over the judiciary. While this state of affairs was accepted by the majority in Vojvodina, almost all of the ethnic Albanian population in Kosovo rejected it. In the decade that followed, ethnic Albanians in Kosovo regarded Serbian authorities in the province as an occupying power. This opened the way for various types of crime, including massive tax evasion, racketeering, corruption, smuggling and in the late 1990s, even terrorism.

Despite the guarantees provided in the constitution, the system was hardly democratic. During most of this decade, the regime used legal and illegal means to suppress criticism in the media, while the state-controlled media were openly biased in favor of the regime, in violation of professional journalistic standards. The situation of political influence over the media changed slightly after the opposition gained control of several important municipalities, drawing on local public media as well as newly-established print media to promote itself.

Although several hundred political parties were registered and there frequently were elections for various governing bodies (in 1990, 1992 (2), 1993, 1996, 1997, 1998 and 2000 (2)), some of the most important features of democracy were absent. None of these elections was free and fair, mostly because of bias in the state-controlled media, the dominant role of ruling parties in electoral administrations, gerrymandering of constituencies and large-scale abuse of public resources. Over the decade, the political system featured the following major parties: the Socialist Party of Serbia, organised by the former Communist league of Serbia; the Serbian Radical Party, combining extreme nationalism with social demagoguery;

the Yugoslav Left, organised by president Milošević's wife, without popular support, but a member of the ruling coalition from 1996 onwards, a combination of idealists and new businessmen that made their profits under sanctions; New Democracy, a party with weak public support, but a member of the ruling coalition between 1993 and 1997, as a countermeasure against the opposition; the Serbian Unity Party, led by pre-war criminal and associate of Federal Secret service, Zeljko Raznatovic Arkan, who later went into business, and who at the beginning of the war in Croatia established his own military units; the Serbian Renewal Movement, led by charismatic leader Vuk Draskovic, the strongest opposition party, traditionalistic and pro-Western; the Democratic Party, established by a group of anti-communist intellectuals, a proponent of a pro-Western policy and reforms. The Democratic Party of Serbia, the wing of the DP that separated in 1992, sought a "third way" for Serbia and an equal distance from Milošević and from the West. The Civil Alliance of Serbia had weak popular support and an anti-nationalistic orientation. Minorities, with the exception of Albanians, also participated in elections, and Hungarian and Muslim (Bosniak) parties scored successes in areas dominated by these minorities.

Political party financing during the decade was not merely non-transparent, but very often clearly illegal. This included not only abuses of state funds and public enterprises operated for the sake of ruling parties' campaigns, but also racketeering of existing businesses and prominent individuals to support certain lists financially or through public endorsements. In the last year of the decade, the opposition got substantial financial and logistical support, mostly from the US government.

Internal conflicts in Yugoslavia strongly influenced developments in the country. The Serbian leadership opted in 1991 for a "stronger Yugoslavia", even when it was obvious that Croatia and Slovenia would not accept the concept. The next option was a "federation of those willing to stay", that in 1992 also largely failed. In May that year, Serbia formed with Montenegro a "Federal Republic of Yugoslavia". Serbs in Croatia and Bosnia and Herzegovina, with the help of Serbia, Montenegro and the Yugoslav army, organised their own states, which Serbia largely financed.

The sanctions that followed the May 1992 United Nations Security Council Resolution 757 heavily affected Serbia's economy. The consequences, in particular when combined with galloping inflation, were disastrous for the whole population. Milošević made several attempts to "discipline" Serbian leaders in western territories to try to get rid of the unbearable sanctions. This succeeded mainly after the military defeats of the Serbs in summer 1995 and the Dayton Accord for Bosnia and Herzegovina in November that year. However, from 1997, the Kosovo situation became more heated, with the organizing of ethnic Albanian military groups, police repression, and the support that ethnic Albanians gained from the US government and EU states. In turn, in 1999 there was direct intervention by NATO forces to support the ethnic Albanian cause by bombing Serbia, after Milošević had failed to meet political ultimatums to solve the problem. In June 1999, Serbian authorities and some parts of the population quit Kosovo. Furthermore, the political allies of Milošević in Montenegro split into two factions. In 1997, the one hostile to the Belgrade regime became clearly more powerful. From that point on, the Former Republic of Yugoslavia amounted to nothing more than just another level of the Serbian government. Milošević himself became president of this "federation".

During this decade, society faced not just economic crises, but also destruction of moral values. Salaries and pensions, in particular in the public sector that dominated the economy, were very low, sometimes ridiculously so – for example, in 1993, less than 10 Deutsche Mark. At the same time, state-controlled prices were also somewhat low. In the early 1990s, corruption of every kind flourished, poverty increased and

graft seriously damaged the reputation of the public administration and institutions. About a million refugees came to Serbia, many staying on long-term while some moved on to Western countries. At the same time, hundreds of thousands of people left the country, mostly looking for better career prospects outside an isolated Serbia, but also, in 1991, to avoid conscription or for other reasons of personal safety.

It is difficult to speak about the country having had any serious economic policy at the time. Rather, there were efforts by the regime to survive and efforts by some rulers to boost their personal gains. Unemployment increased as many industries collapsed because of the absence of a market for their goods and services or because it was impossible to import what they needed to continue production. The state largely tolerated small-scale smuggling and a street trade in gray goods (with inevitable petty bribery of custom and police officers). However, large-scale smuggling of products such as oil and cigarettes was controlled either directly by state officials or by criminals on good terms with the regime. The official tax rate was low but, on the other hand, "private" taxation systems functioned perfectly. These systems included racketeering of small businesses as well as criminal organisations taking part in large-scale businesses, sometimes alone, sometimes in co-operation with public officials, while sometimes high-ranking individuals were directly involved. Serbia also experienced a series of mostly unresolved assassinations, not just in criminal underworld, but also of state officials, like police chief Radovan "Badza" Stojicic, or Zoran "Kundak" Todorovic, a Yugoslav Left official and businessman.

Matters were organised similarly on the monetary front. In 1992 and 1993, the regime unleashed inflation on an unprecedented scale. There were lots of small-scale currency dealers on the streets, but only selected people were given information about envisaged rate changes, or money to buy on the streets the savings that people had put by in better times. In later years, after Avramovic's 1994 monetary reform failed, privileged businessmen were given the opportunity to pay for DEM at the official exchange rate and to operate in the market, so gaining extreme profits. There were several serious crises in the banking sector. One was the 1990 robbery of private deposits which the state refused to pay back. Another was organizing, with active official participation or tacit consent, "private banks" that functioned as pyramid schemes (till early 1993). Yet others involved state and private business operations through offshore accounts, mostly opened on Cyprus, and cash transfers to evade UN sanctions.

The effects of the privatisations of 1990 were partly eliminated through 1995 legislation and a new concept legislated by the government in 1997. This concept was still based on internal and voluntary privatisation, which resulted in a small number of firms being privatized. However, if not privatized legally, many firms were privatized in other ways, i.e. by being robbed by their managers, with goods and operations transferred through suspicious contracts to their own or others' private firms. Some big companies still operated successfully if their managers were close to the ruling parties. Moreover, under the governments of the 1990s, in particular those headed by Mirko Marjanovic (1993-1997 and 1997-2000), directors of such enterprises included cabinet ministers (among them Marjanovic). Even though the economy showed faint signs of recovery in the years after the Dayton Accord, in 1999 spending on the Kosovo conflict and the destruction by NATO bombs of some industrial and communication facilities further weakened an already poor economy.

Developments in the 21st Century

For Serbia, the new century brought a radical change to the political environment. After the September 2000 "federal" elections, the regime's reluctance to recognize

that opposition candidate Vojislav Kostunica had defeated Milošević led to public demonstrations and the collapse of the regime. Key moments in the October 5 events came when the elite police forces, headed by Milorad Lukovic Legija (a former associate of Z. Ruznatovic Arkan, assassinated by gangsters earlier that year), refused to fight on the regime's side, and the army command made a similar decision. In the very first days, this turnaround had elements of a revolution, as demonstrators and workers unenthusiastic about the former regime took possession of major state institutions and firms in moves that were legally questionable.

The DOS coalition won a large majority at the subsequent December 2000 elections. Although composed of a large number of parties, only two (the Democratic Party and Democratic Party of Serbia) held significant sway among voters, although many others got important seats. Prime minister Zoran Đinđić's Democratic Party had a major impact on policy and reforms, while the Democratic Party of Serbia, most popular among voters at the time, had an influence that was limited to the federal administration, though this meant it controlled the army. Disputes between the two parties diminished chances of uncovering or punishing wrongdoing by the former regime, as both sides sought alliances with profiteers from the 1990s and with the powerful structures that then had been established within, among others, the state security police.

The first government began many reforms in various sectors, often with technical or financial support from the EU and the US. The privatisation process was revamped on the basis of new legislation that provided for mandatory privatisation of all enterprises. However, reforms were hampered by internal and external problems, including complicated relations with Montenegro (that opted for full independence), strengthening of Kosovo's independence under the UNMIK administration (with independence being proclaimed in Pristina in 2008), and international pressure to extradite war crimes suspects to appear before The Hague Tribunal. Domestically, the Serbian government faced problems in fulfilling huge expectations and election promises, but also in satisfying the appetites of all its coalition members. Organised crime groups, along with their collaborators from the secret service, also controlled some media, exerting additional pressure.

After the March 2003 assassination of prime minister Đinđić and action taken against many criminal groups during the subsequent state of emergency, the government fell into crisis that resulted in the December 2003 elections. A new political structure, composed of several former DOS members (including the Democratic Party of Serbia and new party G17 Plus) continued reforms, although in some aspects with greater reluctance, for instance about privatisation. After the 2006 Constitution, the elections that followed were the last that resulted in a government made up solely of previous DOS members. In 2008, differences about the way that the country should proceed, particularly on the issue of relations with the EU after most members of the bloc recognized Kosovo as independent, were too far-reaching to allow the Democratic Party-G17Plus-Democratic Party of Serbia (with its partner New Serbia) government to stay together. The current government, formed after fresh elections in May 2008, is made up from the For A European Serbia (Democratic Party together with G17 plus) list, coalition of Socialist Party of Serbia (that proclaimed its pro-European and social-democratic orientation), Party of Retired People of Serbia and United Serbia, and several regional and minority parties.

The priorities of this government are similar to those of its predecessors – EU integration, defence of Serbian rights in Kosovo, economic development, the fight against organised crime and corruption. There are also some common characteristics in ways of working: prioritising huge infrastructure projects, but doing

little about them because of a lack of money or because the money is being spent elsewhere (in particular during 2005 and 2006); reluctance to carry out significant public sector reform or to finalize the privatisation process, to avoid provoking social unrest; strict division of “responsibilities” (or spoils) among coalition members (in particular between 2004 and 2008). The current government also carried out reform of the judiciary, including the reappointment of all judges and prosecutors, a move that was controversial from the outset and the effects of which remain to be seen. Making the situation more difficult is the fact that the global financial crisis has reduced public revenue and foreign investment.

In the first decade of the 21st Century, the strongest opposition party was the Serbian Radical Party. The party split in 2008 because of conflict between its leader, Vojislav Seselj, imprisoned in The Hague since 2003, and Tomislav Nikolic, who went on to set up the Serbian Progressive Party, which proved to be influential among voters. Since 2007, there has been another significant opposition force, the Liberal-Democratic Party, established by Cedomir Jovanovic, who had been deputy prime minister in Dindić government.

Political party financing is currently regulated by a 2003 law that provides for public funding of parliamentary parties, outlaws anonymous donations as well as certain types of income, and sets the rules for reporting duties, publicizing data and sanctions. However, the Republican Electoral Committee, the body in charge of administering the law, is composed of members of political parties. The result is that in reality there is no effective control. No one has been punished for even the most obvious breaches of the law. The situation has led to public concern that a lack of transparency in party and election campaign funding could open the way for improper funding, lobbying by the business sector, and even links with criminal organisations.

There are many media outlets in Serbia. The media are strongly dependent on the interests of advertisers, many of them linked directly or indirectly with political parties. However, criticism of politicians has been widespread in the media during this decade. This criticism, including scandal-seeking, seems to be selective, and often is based on material provided by one party structure against their opponents within the same coalition. It seems too that some media use information provided to them by secret service structures. Media frequently report alleged crimes by politicians, civil servants and managers of public enterprises. However, perhaps the main concern should be that law enforcement bodies never follow up to establish whether prosecutions should follow. It is not unusual to read allegations of politicians being connected to organised crime networks or individuals, while in turn politicians accuse the media of being controlled by criminals.

Reforms and laws adopted include several providing for the establishment of independent state bodies, such as the Board for Preventing Conflicts of Interest (2004), Commissioner for Information of Public Importance (2004), Ombudsman (2007), Supreme Audit Institution (2008), Anti-corruption Agency (2009). These independent bodies face serious problems because of a lack of resources or because of a reluctance to act on their decisions or recommendations. However, some of them have huge popular support and have achieved changes.

Models of Organised Crime in Serbia

Illegal Trade in Firearms

“Over the past years, such trade was intensive in all states generated on the territory of the former Yugoslavia. Relatively few criminal proceedings were initiated.”¹²⁸ There

¹²⁸ M. Grubac, in: “The fight against organised crime in Serbia – From the existing legisla-

is a specific background to the illegal firearms trade in Serbia. Huge amounts of firearms and ammunition were brought by soldiers returning to Serbia or arriving in Serbia as refugees during the 1990s. These firearms and ammunition were mostly sold individually or hidden, meaning that it is possible that many firearms used in crimes remain unregistered. Moreover, groups associated with organised crime participated as volunteers in military conflicts in Bosnia, Croatia and Kosovo.

Smuggling and Trade of Stolen Vehicles

“Stealing and smuggling of cars flourished in Serbia from 1989.”¹²⁹ This kind of organised crime in Serbia happens in at least two ways. The first involves co-operation with similar criminal organisations from Eastern and Western Europe, as well as those from Bosnia and Herzegovina and from Montenegro. “This was a common phenomenon in Serbia, but the police barely reacted to it, since many of its members were corrupt.”¹³⁰ The second type of trade in stolen cars is an internal one, where organised criminal groups racketeer owners of cars who want their vehicles back.

Smuggling of Cigarettes and Oil

“Illegal smuggling and legal trade of cigarettes and oil were the most profitable and widespread organised crime businesses during the entire course of Slobodan Milošević’s regime and international community economic sanctions. This type of smuggling represented the nucleus of organised crime in Serbia, and has created the first and strongest criminal organisation. The police and the customs service did not even try to suppress it, but rather, created conditions for its uninterrupted operation (removing regular customs control, counterfeiting of documents, police escort for smuggling convoys and the like). The organisers of the operation included high state officials, police generals (deputy interior minister Stojičić), members of Slobodan Milošević’s family (son Marko and wife Mirjana), their friends (Vlada, aka Tref) and others. Some of them were killed in “business” liquidations, while criminal proceedings are pending against others (10 members of the so-called “tobacco mafia” are in custody, and several, including the wife and son of Slobodan Milošević, are on the run).”¹³¹

While illegal trading in oil stopped after international sanctions against Serbia were removed, the illegal trade in cigarettes continued for years in a less intensive manner. It seems that the reason for the decrease in the illegal trade is not the work of law enforcement agencies, but because of the appearance on the Serbian market of large international tobacco companies (BAT and Philip Morris), activities of financial authorities (excise policy) and the relatively low prices of cigarettes on the Serbian market.

Trafficking in Narcotics

Even before the development of national organised crime organisations, the former Yugoslavia was on the heroin route from Asian countries to Western Europe. Furthermore, it is commonly held that large quantities of illegal narcotics are transferred to or through Serbia from Kosovo. Cocaine: smuggling is less frequent, but there is the recently opened case (2010) of the Darko Saric group. Cannabis: It seems that the illegal trade is often conducted not just by organised crime groups but also by individual smugglers and planters. Synthetic drugs: Besides cases of

tion to a comprehensive Reform Proposal”, UNICRI, Turin. Published in Belgrade 2008.

p. 30.

¹²⁹ Ibid

¹³⁰ Ibid

¹³¹ Ibid, p. 34

smuggling of such narcotics from abroad, there was also an organised crime case, where police uncovered a whole factory (the “Zarubica” case).

Human Trafficking

“This illegal trade has several forms, and the most frequent one is the *smuggling of illegal migrants* from undeveloped countries. It is closely connected to prostitution”¹³². Serbia faces problems of human trafficking, usually as a transit territory. Such smuggling is often arranged by international criminal organisations. A new concern in this area is about the Chinese communities in the larger Serbian cities, and obstacles to controlling their eventual involvement in activities of this kind.

Trafficking in Human Organs

“In Serbia, there were no prosecutions for this type of organised crime offence, but the public suspects that such things did take place. Parents who were told that their children were dead, and were then secretly and illegally ‘buried’ in hospitals where they were delivered, have been requesting an investigation for years.”¹³³ The problem of trafficking in human organs was also raised by Serbia in regard to people kidnapped in Kosovo by Albanian terrorist groups and allegedly transported to northern Albania, where they were killed and their organs harvested.

Cyber Crime

In Serbia, the most widespread type of crime of this kind is illegal copying of computer programmes or recording of music and films. However, it seems that this type of crime is more the work of small groups, bribing local police officers not to obstruct illegal sales of goods. The trade was entirely tolerated until 2003. Other types of cyber crime still seem to be poorly developed.

Money Laundering

Although money laundering is considered to be a crime in itself, it is more a way of legalizing profits from other types of organised crime. While prosecutions are extremely rare, it appears that the favorite money laundering method among Serbian organised crime groups was to buy flats and buildings in Belgrade (which, among other factors, led to a significant increase in prices at the time when the Deutsche Mark and other currencies were replaced by the euro¹³⁴) and purchasing of firms in the process of privatisation (where the control mechanisms seems to be less efficient than they should be).¹³⁵

Corruption

Corruption is also more of a method to protect the interests of organised crime groups and their businesses rather than a type of organised crime in itself. However, “the large-scale corruption (system corruption) is enabled by excessive involvement of political centres of power in the passing of business decisions. On the other hand, there are powerful companies, that is, their owners, who have key influence on the actions of state authorities and agencies (it is publicly said that they have conquered the Government and the Parliament). The role of political parties in this is a separate issue. Corruption is built into the system of education, health care and

¹³² Ibid, p. 35.

¹³³ Ibid

¹³⁴ The prices increased in about 30 per cent at that wave. As there was no control of money origin, that was the easiest way to invest it.

¹³⁵ In 2010, after opening of “Saric” case in the public, this issue became the heat in the press again. Agency for privatisation, once “attacked” for weak control of whether criminals are buying firms, responded that they asked Directorate for money laundering prevention in hundreds of cases to make a check, but received answer only in few.

judiciary. It is in those terms we can speak of a system of corruption.”¹³⁶ Recognition of systemic corruption comes not just from analysts, but also from top-ranking public officials, including president Tadic’s statement on connections “between criminals, politics, business and judiciary that has to be broken, in order for Serbia to have a better future”.¹³⁷

Extortion and Debt Collection

Courts in Serbia are known for their inefficiency, in particular in execution of decisions. Furthermore, in particular during the 1990s, there were many transactions which were not “covered” through legal contracts or only partly corresponded to the provisions of agreements, for various reasons (use of the foreign currency clause, with false declarations of amounts to circumvent rules or to avoid taxation). Such contracts could not be enforced in court. This opened the way for the appearance of special “companies and organised criminal groups dealing with financial engineering and debt purchase.”¹³⁸ Although the phenomenon mostly relates to the 1990s, it still exists on a smaller scale and probably, with less brutal ways of debt collecting.

Development of Organised Crime in Serbia

“In the so-called Tito’s Yugoslavia, which lasted until the end of the 1980s, organised crime did not exist in the present-day sense. The closed socialist economy and controlled market by a single-party, ideological and semi-police state did not provide for the emergence and development of that type of crime.”¹³⁹

The “so-called economic crime was different from organised crime, particularly in that it could not be internationalized, and it did not aim at acquiring social or state power.”¹⁴⁰ In the former Yugoslavia, “there were some rudimentary forms of organised crime, such as drug trafficking, but in terms of scope and organisation, this was far below what we have today. Some organised crime activities (e.g. trade in firearms) were performed by the state, rather than criminal associations. The only chance for individuals in this type of crime was to go abroad. The state encouraged such moves and used ‘its men’ in foreign organised crime associations to accomplish its political goals – primarily to eliminate political opponents.”¹⁴¹

“Large-scale organised crime in all its forms emerged in Serbia at the beginning of the 1990s.” Besides the already mentioned environment that enabled it to develop (sanctions, wars), “this criminality and increased corruption, was bred by Milošević’s power, as a ‘saving hand’ and as a means to preserve political positions. The regime had tacitly accepted organised crime as a source to provide for the basic minimum needs of the population (payment of pensions and salaries to civil servants and soldiers)”.¹⁴²

“During this period, which lasted for over 10 years, organised crime was not

¹³⁶ M. Grubac, (2008), p. 37.

¹³⁷ <http://www.politika.rs/rubrike/Ekonomija/Raskinuti-spregu-kriminala-politike-privrede-i-pravosudja.lt.html>

¹³⁸ M. Grubac, (2008), p. 37.

¹³⁹ *Ibid*, p. 39. The author also explains following reasons for the non existence of organised crime: “Trade and economic relations with other countries were inconsiderable and well controlled. There was no private entrepreneurship in the economy, real estate ownership was limited, while money flows were under strict supervision of the police apparatus. Foreign trade affairs were under direct control of the intelligence service, which in turn were controlled by a small circle of highest party leaders.”

¹⁴⁰ *Ibid*

¹⁴¹ *Ibid*

¹⁴² *Ibid*

criminally prosecuted and suppressed, but was rather consciously nourished and incited in a planned manner.... The state was fully integrated in crime, and crime was fully integrated in the state. All the spectacular murders, which happened on a daily basis, happened with direct participation of several active or former police officers or civil servants. The highest state officials, their families and the next of kin engaged in crime or were involved in it. Some of them were even leaders of criminal organisations. Active policemen, even officers, served the leaders of organised crime after working hours in the capacity of advisors, bodyguards or security guards for their families, property or facilities.” Moreover, “during that period, there was not one conviction for organised crime. Not one internal regulation was passed ... The notion of organised crime was unfamiliar even to legal professionals. It was not considered or discussed. That expression was not used either in political or legal speech, or even in election campaigns.”¹⁴³

“Local wars on the territory of the former Yugoslavia have enabled the expansion of the illegal arms trade, which brought enormous profit, particularly after the introduction of an international community embargo on that activity. Theft and smuggling of motor vehicles, followed by insurance fraud and counterfeiting of documents, have become everyday and widespread. This type of illegal international trade was conducted by many people, even by family members of the president of the state... Drug trafficking has become very profitable and widespread. The monopoly was held by the most powerful gangs in Belgrade and Novi Sad.”¹⁴⁴

Tools to Fight Organised Crime, and Actions Taken

Among legislative and institutional changes by Serbia to cope with organised crime, the most important are:

- Changes to the Criminal Procedure Code, providing for measures to be used in investigating organised crime cases (2002)
- Adoption of a special law on the organisation of state authorities in the fight against organised crime and subsequent changes to the internal organisation of courts, the prosecutors’ office and police in order to cope more effectively with organised crime (2002)
- Adoption of a law making it possible to confiscate the proceeds of crime (2008)

“The activity of state authorities in this direction began sometime before the assassination of prime minister Zoran Đinđić and was the direct cause of the assassination.”¹⁴⁵ The implementation of these measures started before the assassination of the prime minister. The Ministry of Interior even prepared a so-called “white book” of organised crime during 2002, with the names of big and small criminal gangs operating in the country.

The book, officially titled “Criminal groups and individuals acting in organised crime manner”, was prepared over two years, on the basis of operational evidence gathered by police. Police identified a total of 50 groups with 230 members and 59 individual perpetrators of various crimes. This catalogue contained information on 15 groups (110 members) involved in violent crime (murders, hijacking, armed robbery, extortion etc), 20 groups in the narcotics trade (110 members); 24 groups dealing with vehicle crime (95 members); two groups (four members and 22 other

¹⁴³ Ibid, p. 40

¹⁴⁴ Ibid.

¹⁴⁵ Ibid, 42.

perpetrators) involved in human trafficking, and eight groups (40 members) dealing with economic crimes. Belgrade district had the largest number of groups (13), Sabac had 10, Pozarevac nine, while most other places numbered about three organised crime groups¹⁴⁶.

This information was used during the state of emergency to imprison not just criminal groups related to the assassination of Đinđić (the so-called “Zemun clan”) but also many others. However, because of procedural failures, many allegations and evidence collected during that time were not used in subsequent trials.

The most challenging task for newly-established bodies was prosecution and trial of those involved in the assassination of the prime minister, but also other crimes uncovered during the investigation. During the trial, prosecutors mainly made use of the new institution of the “collaborator – witness” (i.e. a gang member providing information about crimes committed by him and other members).

According to a February 2009¹⁴⁷ media report, the Ministry of Interior collected new information of this kind and prepared a “new white book” dealing with the same issue. In the meantime (2003-2010), specialist bodies created to fight organised crime, as well as other units of law enforcement agencies, uncovered many criminal acts and groups operating in an organised manner. In order to give greater importance for their work, both police and prosecutors (not to mention politicians and journalists) were using inappropriate terms to describe the nature of these criminal groups – “mafia”.

Types of Organised Crime Prosecuted

As has been pointed out, crimes by organised crime groups may be handled either by specialist bodies or by “regular” police and public prosecutors. The specialist prosecution office in charge of dealing with crime has the discretion to decide whether to take charge of dealing with any serious crime involving organised crime. However, for statistical purposes, the documents of the specialist prosecution office are the most reliable, because they are meant to deal solely with organised crime cases. Within the first six years of the specialist prosecution office, a total of 1068 people were indicted, for a total of 2410 criminal offences, within 102 separate criminal files.¹⁴⁸

The largest individual groups of crimes are “offences against public peace and order” (because organising a crime group is an offence in itself), with a total of 898 cases (37.26per cent) and crimes against official duty, with total of 619 (25.68per cent).¹⁴⁹

In 67 cases, the prosecution dealt with crimes such as assassinations or grievous bodily harm, almost all of them initiated back in 2003. This might reflect a lack of more accurate figures about violent crimes, including assassinations, but more probably is a reflection of the fact that the types of crimes committed by organised crime groups have changed in recent times (meaning that there has been a shift to financial abuses from more classic varieties of organised crime). Similarly, the total of 37 crimes processed linked to extortion or hijacking is also related to the first years of the specialist prosecution work.¹⁵⁰

¹⁴⁶ According to “Danas” daily, http://www.danas.rs/vesti/hronika/bela_knjiga_uskoro_u_tajnosti.3.html?news_id=150651

¹⁴⁷ <http://www.vesti.rs/Vesti/MUP-zavrsio-belu-knjigu-na-redu-su-drugi.html>

¹⁴⁸ “Specialized prosecution for organised crime – First six years”, Belgrade, 2009, page 64.

¹⁴⁹ Ibid. p. 65.

¹⁵⁰ Ibid, p. 67

The special prosecution office dealt with a large number of criminal offences committed against property rights (a total of 221). Among them, the largest number of indictments for armed robbery was in 2005, serious types of theft in 2006 and fraud in 2007. Economic crime, with a total of 182 trials, has taken up more of the workload of the special prosecution office since 2005. The most frequent crimes in this category were smuggling (50), forgery of trademarks (42), money forgery (27) and tax evasion (22).¹⁵¹

There were also 180 crimes involving narcotics production or trade in the time since the special prosecution office has been set up. Most of these were initiated during 2003, the figures significantly decreased in 2004 and 2005, and again increased in 2008.¹⁵²

Within the broad group of criminal offences “against public order” (898), most are related to the offence of organizing a criminal group. Other crimes in this group are smuggling of people and illegal border crossings (81, mostly in 2006) and illegal possession of firearms and explosives (71).¹⁵³

Forging of documents was prosecuted in a total of 52 cases. Corruption-related offences were quite frequently prosecuted (619 cases), in particular since 2006. This includes 465 cases of “abuse of power”, 72 cases of accepting a bribe, 57 cases of giving a bribe, six cases of corruption judges or prosecutors and only two cases of trading in influence.¹⁵⁴

Among cases they worked on during this period, the most important are:

- Abuses of Police Unit for special operations: This case followed the assassination of prime minister Đinđić. The assassin was deputy head of the unit (Z. Jovanovic), while a former head of the unit (M. Ulemek aka Legija) had organised the criminal group. They operated together with organised criminal groups, in particular the Zemun clan, and with people working in government agencies, in particular the secret service. During the investigation, many other crimes were uncovered, including the assassination of former Communist Party leader, Ivan Stambolic.
- Zemun clan: The criminal group was convicted of various crimes, including assassination of other gangsters and hijacking and extortion of businessmen.
- Terrorism: The prosecution accused several members of the Wahhabi Islamic group of planning to organise the assassination of an Islamic religious leader in Serbia, along with other crimes.
- Abuses of bankruptcy procedures: A large group of commercial court judges, lawyers and businessmen accused of abuses and fraud aimed at damaging the interests of state-owned enterprises through bankruptcy procedures and other means.
- Abuses in the tobacco trade: This relates to tobacco smuggling during 1995 and 1996. The accused, apart from “controversial businessmen”, included the former director of FRY customs.
- Abuses within the “Strelicijum” enterprise: Members of the group were convicted of setting up networks of fictitious legal entities and providing each other with fictitious services to commit VAT fraud.

¹⁵¹ Ibid, p. 70 and 71.

¹⁵² Ibid, p. 72.

¹⁵³ Ibid, p. 76.

¹⁵⁴ Ibid. p. 78.

- Abuses at the Belgrade city cleaning enterprise: The group committed fraudulent public procurement while accepting payment for goods that the enterprise did not receive.
- Abuses involving the Belgrade – Nis highway: The group, composed of managers and employees of the Serbian Roads public enterprise, was convicted of fraud after having collected tolls that were not paid over the enterprise but instead were retained by members of the criminal group.
- Production of synthetic drugs: Businessmen M. Zarubica and his companions were sentenced for illegally producing amphetamine tablets and further for selling these products to “unidentified” buyers, mostly in Macedonia and Bulgaria.

As noted, apart from the cases handled by the special prosecution office for organised crime, there were also other cases processed by other law enforcement units, involving larger numbers of people and people described in the Serbian press as “mafias”:

- “Customs”: A total of 17 people were arrested, including customs officers and salesmen, on charges of smuggling excise goods and for losses of more than 30 million euro.
- “City Transport”: Sixteen people were accused of forging city transport tickets in Belgrade, leading to losses of 1.5 million euro in 2005 and 2006.
- “Oil”: Twenty-two people were arrested in 2007, including directors of firms and fuel station owners, accused of having caused about 10 million euro losses to the state.
- “Educational”: A total of 89 people have been arrested since 2007, because of organised corruption mainly at the Kragujevac faculty of law.
- “Auto”: More than 30 people arrested in 2007, including 10 customs officials, suspected of illegal transport of cars from other countries, forging of documents and reselling in third countries.
- “Army”: Sixteen accused, with the most senior being a retired army captain, for various abuses, including irregularities in the allocation of military flats, retirement and evasion of military service.
- “Football”: Investigations are continuing, involving several well-known people, including former directors of the Red Star football club, and Obilic football club. The alleged instances of fraud are related to the forgery of transfer contracts for football players.
- “SMS”: An investigation recently started into 14 people allegedly involved in cheating in TV games of chance by sending huge numbers of mobile phone text messages and by manipulating modern technology to ensure that they won.

The Outlook for Organised Crime and the Fight Against It

It is clear that the concept of organised crime in Serbia has been changing in recent years. The time of violent criminal groups more or less openly demonstrating their power and wealth, presenting themselves as patriots and performing dirty jobs for politicians obviously has passed.

However, it does not mean that organised crime does not exist. The “classic” forms of organised criminal groups continue to exist today, but are less prominent in the public eye. The first confirmation of this is in the recently-prepared police “white

book” of organised crime groups in Serbia. Further evidence of their existence is the strong and seemingly growing illegal trade in narcotics. Drug abuse has spread over the years throughout the country, and the market can be served only by organised criminal groups with strong links to similar groups in other countries. It seems that only a very small portion of such groups has been uncovered. The third item of evidence for the presence of violent organised crime groups is the cases of armed robbery in the country and the murders involving Serbian gangsters, mostly in other countries (such as the recent case of the assassination in Zagreb of Ivo Pukanic, where criminals from Serbia are accused of having been involved in organizing and carrying out the hit).

Besides its classic, violent forms, organised crime seems to take on more and more new forms, involving financial abuses and fraud. The big distinction between two types is the fact that organisers of embezzlement and fraud are rarely people who have a purely criminal background, but rather are people taking advantage of their official position and who have a good (albeit illegal) business idea. Such criminals are hardly inclined to devote their entire lives to illegal activities, but prefer to exploit opportunities to get rich quickly. Bearing this in mind, it might also be problematic, from a theoretical point of view, to describe this type of crime as “organised”.

Both the classic and the new concepts of organised crime might have clear links to actors in public policy or, at least, civil servants. In this sense, the factor that is of the greatest concern is the lack of clarity about political party financing and a lack of effective means of control over the incomes of public officials. Without evidence, it cannot be claimed that politicians or parties are financed by organised crime groups or that they are protecting the interests of such groups, but it is also not possible to claim the opposite, until their sources of funds are independently verified. Similarly, even though it is theoretically possible to do so, the wealth of civil servants is not checked and compared with their legal incomes, either on a permanent basis or when suspicions are raised in the press. Furthermore, there are suspicions that some types of organised crime are run by politicians – for example, by directors of public enterprises causing losses to the public coffers, and by their party leaders and protectors.

The role of secret and security services and their former members is a factor that up to now still has not been sufficiently researched. Unlike other Eastern European countries, Serbia has never opened its dossiers of secret service collaborators and members, and it is hard to estimate their influence over public policy. In the past, the secret service itself co-operated actively with organised crime groups and in criminal activities in the country and abroad. Another concern related to security is the fact that many police officers or retired police officers left public service and opted to work for private security companies, providing protection. Obviously, this increases the risks of corruption and the creation of illicit networks involving law enforcement officers and criminal structures.

The future will bring challenges in fighting organised crime. For example, it may be expected that the visa liberalization with the EU that took effect in December 2009 will facilitate cross-border crime. Another potential area for organised crime is internet-based fraud and other types of high technology crimes. A third type of organised crime, already in existence and that could flourish in the future is defrauding of public money either through schemes involving state officials or through tax evasion, because state mechanisms are simply too weak to cope with a large number of cases of this kind.

However serious the extent of organised crime, it is certain that the state never before had such powerful tools to combat it. Special methods are allowed for organised

crime investigations, there are specialist bodies in the police, prosecution office and courts to fight organised crime, and the law allows the swift confiscation of the proceeds of organised crime. There is public support for the fight against such crime, and the political will exists, demonstrated in declared intentions and sometimes also in actions. Finally, there is the opportunity to use international assistance, in particular from the EU, to fight organised crime more effectively.

There are several concerns in regard to future developments:

- A tendency for the fight against organised crime to be selective. For example, there was a famous case of suspected corruption at the Kragujevac faculty of law, involving dozens of accused. There is no logical reason to assume that only one faculty in the country was so infested by corruption while others are clean, even though they function within the same system. At least, it would be reasonable to collect information from potential witnesses and whistleblowers, and to involve undercover agents, in other places.
- A tendency for serious criminal investigations to be politically-driven or at least politically approved. In several high-profile cases, the launch of an investigation was announced by politicians. In others, it seems that the extent of police actions depended on political will to “push” the case, or to treat it with no special rush, or to stop the investigation “before the main actor is caught”.
- Doubts about reform of the judiciary. At the end of 2009, there was judicial reform, including the re-appointment of all judges and prosecutors. Because there were fewer vacancies than there were existing prosecutors and judges, there was a selection process, but it was not transparent. It is too early to assess the results of the reform, but there is widespread concern about political influence in the selection criteria.
- A serious lack of capacity within law enforcement agencies. The capacity to fight crime is not in proportion to the extent of crime. Although police and prosecutors have the legal tools to fight crime more effectively, they lack personnel to be deployed as undercover agents.
- A low level of confidence in institutions. The level of confidence in public institutions in Serbia, although much better than in the past, is still very low. This is a burden for law enforcement bodies and reduces the possibilities of getting more information about crimes that have been committed. Further, protection of whistle-blowers and witnesses to crimes is not what it could be, lessening opportunities for evidence that can secure convictions.
- Insufficient co-operation with other countries’ law enforcement agencies: While such co-operation exists, both in the region and wider, there are situations where national legislation prevents prosecution of suspects (as evidenced recently in the problems that Serbian authorities faced when they wanted to arrest suspects who were citizens of Montenegro). In particular, this concern might be relevant for relations with authorities in Kosovo, which Serbia does not recognize as legitimate.

Notwithstanding the concerns that have been raised, it seems that there could be reason for optimism in predictions about the future, in the sense that an increasing number of cases of organised crime will be uncovered, and that organised crime will never regain the strength that it had before the strict measures against it were introduced.



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