

Executive Summary

Brief Overview of the Results

The 2006 Prosecutorial Reform Index (PRI) for Bulgaria reflects a time of rapid and substantial change for the prosecution function, including numerous judicial reforms in preparation for European Union accession. Despite significant challenges, including new responsibilities stemming from substantial legislative amendments, as well as widespread perceptions that the Prosecution Service is unaccountable and vulnerable to improper influence, the new Prosecutor General is to be commended for taking vigorous action to reform the prosecutorial function, most notably by increasing transparency and accountability. Indeed, even the harshest critics of the Prosecution Service expressed a new sense of hope and optimism that reflects the Prosecutor General's willingness to tackle his institution's most challenging issues.

As illustrated in the Table of Factor Correlations, Bulgaria scored positively on only two of the twenty-eight PRI factors (Professional Immunity and International Cooperation), indicating that the country's legislative framework and practices in these areas substantially comply with relevant international standards. Ten factors received a negative correlation, including at least one negative factor in all six sections of the PRI, indicating that there is still much work to be done in all areas of prosecutorial reform. The remaining sixteen factors all received a neutral correlation. While the overall negative trend in the factor correlations is cause for concern, the underlying analyses reveal encouraging signs of progress and awareness of the need for improvement.

Positive Aspects Identified in the 2006 Bulgaria PRI

- An important recent development is the ***initial training program for junior prosecutors*** conducted by the Bulgarian National Institute of Justice (NIJ). The quality of instruction, curriculum and practically oriented methodology was praised by most prosecutors interviewed. Even though there are aspects of the legal education and appointment process that draw criticism, the NIJ's initial six-month training program is viewed as a positive step to ensure junior prosecutors are ready to perform their duties. However, the NIJ's continuing legal education offerings are still limited for prosecutors.
- The 2003 ***constitutional amendment implementing functional immunity*** for prosecutors was praised as an appropriate balance between protecting prosecutors for their official acts while establishing liability for personal, non-official behavior. The only concern is whether the Supreme Judicial Council (SJC) will be an effective mechanism for overseeing requests to waive a prosecutor's immunity.
- The joint ***development of the Rules of Professional Ethics for Prosecutors*** (Prosecutorial Ethics Rules) by the Association of Prosecutors in Bulgaria and the National Union of Bulgarian Prosecutors, and their subsequent adoption by the SJC, is a positive development. The Prosecutorial Ethics Rules provide clear and comprehensive ethical standards for prosecutors, encompassing general statements of ethical behavior; rules of conduct in the course of official activities; rules of conduct outside the office; and conflicts of interest. Efforts to train prosecutors in their ethical requirements and to disseminate the Prosecutorial Ethics Rules to the public should be substantially increased.
- The Office of the Prosecutor General efforts to promote ***cooperation with foreign law enforcement agencies and prosecution offices*** are encouraging. Generally speaking, foreign requests for extradition and mutual legal assistance are honored in a timely and organized fashion. Nevertheless, some respondents claimed that the justice system has not taken advantage of bi-lateral agreements or other treaties that could expedite legal assistance requests.

- **Prosecutorial salaries and benefits have increased** considerably in recent years, helping to attract and retain qualified candidates, improve the prestige of the profession, and negate one of the excuses sometimes proffered for prosecutorial corruption. While morale has improved and prosecutors are no longer trending toward abandoning their profession, compensation should remain competitive and continue to increase when appropriate.

Major Concerns Identified in the 2006 Bulgaria PRI

- The Prosecution Service is widely perceived as being unable to perform its professional functions without **improper interference from prosecutorial and non-prosecutorial authorities**, despite legal requirements to the contrary and reported reductions in actual bribe solicitations by prosecutors. Many direct sources report that some prosecutors are subject to improper influence from parties, attorneys, judges, governmental authorities, family connections, and others.
- The ability of the Office of the Prosecutor General to effectively **prosecute corruption and organized crime cases** is discouraging. There is a widespread public perception that prosecutors are involved in corruption. Over the past several years, there appears to have been insufficient attention paid to prosecuting corruption cases, and convictions were few when compared to the number of corruption incidents reported. Convictions for organized crimes remain low as well. Despite recent impressive efforts to combat corruption and organized crime with the establishment of specialized units, the Office has a difficult task to address the sheer volume of cases with existing staff resources.
- The Prosecution Service is generally perceived as being **too independent and unaccountable to the public**. Some steps have been taken to make the Prosecution Service more accountable, including increased Parliamentary controls and proactive measures by the new Prosecutor General to increase transparency. However, these reforms were dealt a serious blow when the National Assembly's power to remove the Prosecutor General was overturned by the Constitutional Court. The Prosecution Service's lack of accountability and transparency is exacerbated by its strict hierarchy and excessive supervisory control over subordinate prosecutors.
- The **state of relationships with actors in the criminal justice system, such as police investigators, victims, witnesses, and the accused** in particular, are of concern. Although the new Criminal Procedure Code confirms that the prosecutor is the *dominus litis* of the criminal investigation, the implications of this role will challenge prosecutors already burdened with substantial responsibilities. Prosecutors were criticized as being insensitive to the needs and concerns of victims and witnesses and were faulted for a lack of training in this area. They also received mixed reviews concerning their ability to sufficiently control and efficiently manage criminal investigations to ensure that the rights of the parties are respected.
- The Prosecution Service suffers from the widespread **impression that it is overly formalistic, highly bureaucratic, and that it impedes the discretionary function** of its subordinate staff. Although part of the current situation may be explained by procedural requirements, there exists a strict and hierarchical management culture that does not support the full exercise of discretionary functions enshrined in law. However, with the arrival of the new Prosecutor General in February 2006, all respondents expressed a strong belief that the environment will improve over time.

- The ***inadequate enforcement of ethical and professional standards*** for prosecutors is a serious concern. While the regulatory framework for disciplining prosecutors is well developed, most respondents reported that the process does not work well in practice. Disciplinary charges are infrequent, in part because the process is deemed too cumbersome and time-consuming, and because of the perception that the SJC is unable to vigorously enforce ethical and professional standards.
- Budget requests for the Prosecution Service have been reduced significantly by the National Assembly in recent years. ***Funding levels do not appear to be adequate to properly support the prosecution function***, including insufficient resources for personnel, aging buildings and overcrowded office space, an effective technological infrastructure, and even basic office supplies.
- Despite the evident recognition of efficiency as an important issue, ***the Prosecution Service is hampered by inefficiency in many aspects of its operations***. These inefficiencies stem from various sources, including a lack of resources and technological infrastructure, legislative and procedural burdens, excessive caseloads, insufficient specialization and training for prosecutors, and a culture of passivity borne from a strict, hierarchical structure that represses initiative.