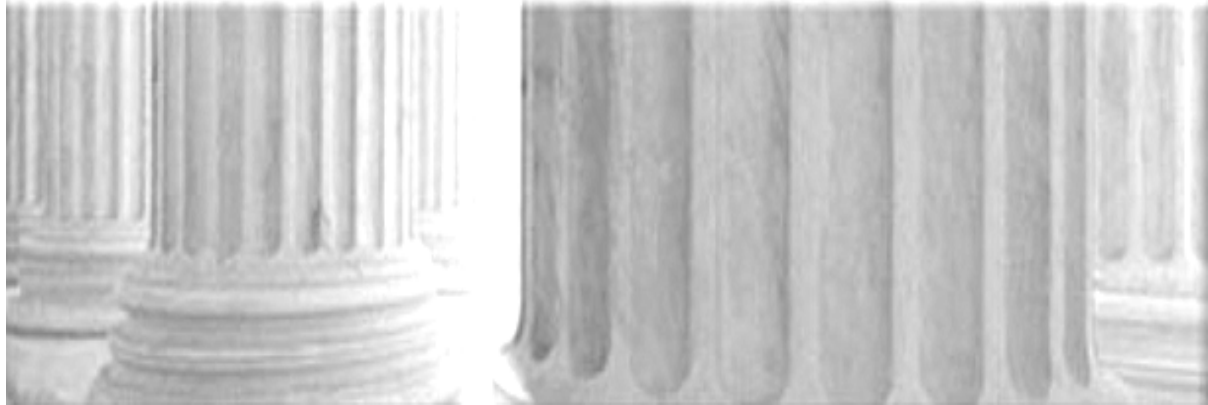




The Republic of  
Bulgaria



**CHAMBER OF THE PRIVATE ENFORCEMENT AGENTS**



**ANNUAL REPORT**

**2 0 0 7**



Distribution and number of the private law- enforcement officers within the territory of the Republic of Bulgaria as per court districts of actions

Blagoevgrad	6	Kiustendil	4	Silistra	2
Burgas	14	Montana	2	Sliven	4
Varna	11	Pazardzhik	1	Targovishte	2
Vratsa	3	Pernik	4	Haskovo	4
Vidin	1	Pleven	6	Shoumen	5
Veliko Turnovo	7	Plovdiv	16	Ymbol	1
Gabrovo	4	Rousse	4	Sofia City	40
Dobrich	6	Razgrad	3	Sofia District	4
Kardzhali	2	Stara Zagora	11		

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Totko Kolev - Deputy Chairman  
 Ivan Cholakov - Deputy Chairman  
 Mariana Obretenova  
 Ani Ivanova  
 Slavi Serbezov  
 Krastio Angelov  
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 Elitsa Hristova - spare member

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#### Control council

##### **Valentina Ivanova- Chairman**

Rossitsa Stoyanova  
 Nikola Videv  
 Georgi Georgiev -  
 spare member

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## ADDRESS OF THE CHAIRMAN



Dear colleagues, ladies and gentlemen,

As from the very moment of establishment of the Chamber of the private enforcement agents (November 26, 2005), its most important goal has been all the private enforcement agents to commence and effective activity. The past 2007 was the first entire year, during which all the offices operated with full capacity. Therefore I am especially pleased to present to your attention the annual report of the Chamber for 2007.

While in 2005 and 2006 we were setting up the foundations of the new profession - normative, institutional and purely practical, in 2007 we actually built up the system vertically. This process has not been completed yet and this is not only because at the moment when we have built two stories there are always people that would bring down one of them, but also because it depends on us, the private enforcement agents as to how far this " building" will be accomplished.

It has always been the uncompromising will of the Chamber for the legislation, the state institutions and their employees in Bulgaria to provide all the necessary conditions for the private law enforcement officer to carry out its activity, so that this profession may become a synonym of efficiency, observance of the law and high morals. On his/her part each colleague has to realize his/her great responsibility he/she bears for his/her great responsibility not only for his/her own actions but also for the entire reform.

During the last year the Chamber has continued to make considerable efforts for the removal of the obstacles before the enforcement agents and for the approval of the conditions for work. The Parliament has accepted our proposals for amendments in the Law on the activity of the enforcement agents, by which to be deleted the inequality between the private enforcement agents and the state enforcement agents with regard to the payment for the information from the state and municipality authorities. Texts were accepted also by which the competitions for deputy enforcement agents are regulated, whereby the Regulation for the carrying out of these competitions has already become a fact. A great part of our proposals have been accepted in the new Criminal Procedural Code, but still we have to say that a few decision were made with which were most resolutely do not agree and we shall again insist for amendments. The instruction made together with the Ministry of Interior came into effect and thanks to this the support we get on the part of the Ministry is running without any problems.

The Chamber has sent dozens of written statements and has carried out dozens of meetings at central and regional level with different state institutions for the removal of the problems facing the private enforcement agents with the Ministry of Justice, the Ministry of Interior, the Ministry

of Regional Development of Bulgaria, the Cadastre Agency, the National Revenue Agency, Agency for State Receivables, the National Insurance Institute, the Committee for the Protection of Personal Data, as well as with the management of the courts, and the Chamber participated in a number of working groups. It has organized also a national meeting with the judges from the district courts and the courts of appeal, for the unification of the practices of the process of execution.

In this year too our basic partners are the Ministry of Justice and the Ministry of Interior, for which we hereby express our gratefulness for their effective cooperation and support.

We carried out a lot of work with our friends from the Project for reform in the commercial law with the American Agency for International Development, but unfortunately the project was closed in September. We express our special gratefulness to the whole team of Mr. Kriss Thompson, who did so much during the recent years for the success of the reform. By their support we made and accepted a strategic plan for the development of the Chamber during the following five years, a communication strategy, a manual for the qualitative management of the offices, we published the first issue of a collection named "Court practices".

The Chamber is carrying out an unbending policy of transparency and openness with regard to its members, the public and its partners and it carried out several round table discussions with the representatives of the business, the banks, and also with the International Fund and the management of the state authorities which have to do with the collection of the public receivables.

The fields of activity and the scope of work of the Chamber has considerably increased, without this having affected the quality of the services of the members, the further rising training and the very good relations with the media.

The Chamber has managed to have a serious presence internationally though its domestic problems have often been an obstacle to this important activity. As a full-rights member of the International union of the enforcement agents we became co-constitutors of its organization "Eurodanube", which unites the states from Central and Eastern Europe, we also participated at the European Council in Bucharest and at the World Council in Paris, and we also signed the professional charter of the European law enforcement officer. The regional meeting in the town of Rousse was attended by the management of the Romanian Chamber and in Thessaloniki with the support of the American Agency for International Development a round table discussion was carried out between the Bulgarian and the Greek chambers with the participation of a number of Bulgarian journalists.

Priorities in the development of the Chamber during the next year shall be the improvement of the legislation and especially the Civil Procedural Code, the summarization and unification of the practices of the process of execution, removal of the practical problems facing the Chamber of the private enforcement agents, widening of the electronic access to the institutions and the acceptance of a Code of ethics. The Chamber shall continue to develop the scope of services for its members, including the multilateral training of the private enforcement agents, their assistants and employees, it shall work in close cooperation with the institutions, the Bulgarian and foreign partners and the media.

Georgi Dichev

CHAIRMAN

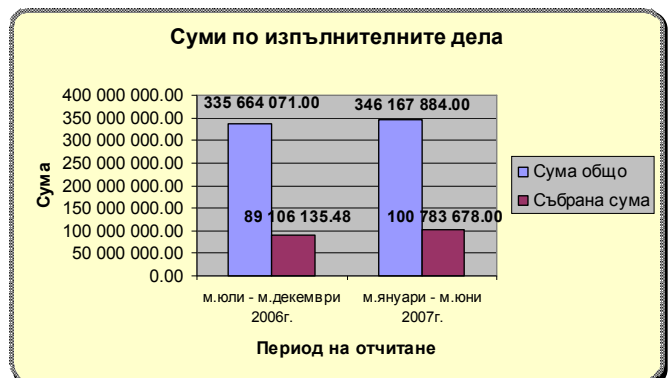
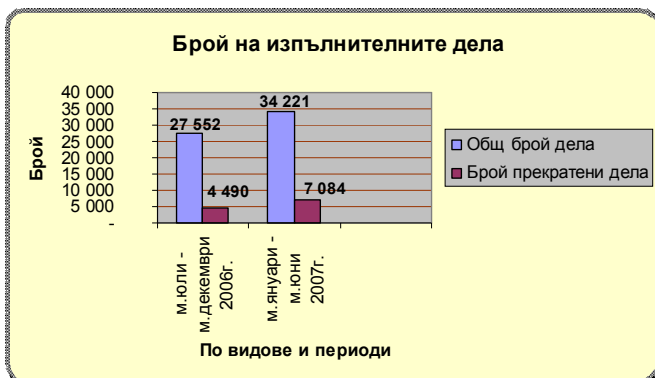


## 2. GENERAL REVIEW OF THE SYSTEM OF THE PRIVATE LAW ENFORCEMENT

Without the effective law enforcement no active legal systems shall be possible, no legal state and no supremacy of the law. The private law enforcement in Bulgaria appeared in view of the problems existing in the country in this respect. It started actually in April 2006, when the first offices were opened. Until the end of 2006 the first 168 private enforcement agents were appointed. Within this short period of time they achieved impressive results - they initiated 37 280 court cases, of which 5 500 were terminated and they collected 90 million BGN. This was well noted and the World Bank in its annual report for 2006 highly appreciated the introduction of the private law enforcement in Bulgaria as one of the most successful reforms of the year in the whole world.

The reform is going on at very high speed. The statistics for the first half year of 2007 (the annual statistics shall become known at a later time) shows a clear tendency: the newly initiated court cases are 34 221, those terminated 7 804, the collected sum is over 100 million BGN. For comparison with the state enforcement agents, who are about 250 in number, for the same period 2.25 times less court cases have been initiated, which is - 14 791, the collected sum amounts to 103 million BGN, but from 5 times more pending court cases (370 179) than those of the private enforcement agents (60 706). At the same time one cannot say that the results are for the account of neglecting the law, rather just the opposite. The claims made with the court against the actions of the private enforcement agents are 1 190, of these those given a positive decision by the court are 155 (188 for 2006). For comparison with the state enforcement agents the claims are 1 071, and those with positive court decision are 234.

The statistics prove clearly that the creditors prefer the private enforcement agents and these are not only the corporate creditors - banks and traders. The newly initiated court cases in favour of citizens (physical persons) are 7 982, while with the state enforcement agents these are



5 354. "The labor" receivables with the private enforcement agents are 1 271, while with the state enforcement agents they are 842, the handing over of children - respectively 64, compared to 63.

What is the reason for that? The speed and the efficiency are the basic criteria for the choice of the creditors. The model of the private law enforcement has been successful all over Europe; this is the case in Bulgaria, too. The private law enforcement officer is a professional, whose remuneration is related to the end result - the execution of the court decision and the satisfaction of the claimant. The creditors use at large the opportunity given by article 18 of the Law on the private enforcement agents to assign the enforcement agents the official processing of the court cases. On the other hand is the good organization of the offices of the private enforcement agents - more than 1 000 new working places were opened for lawyers, record conducting officers, summons carriers. Their training and motivation for work, the efficient control on them, the use of up-to-date technologies and the electronic access to the information on the debtors make it possible that the private law enforcement in Bulgaria meets all the European requirements for a modern, legal and efficient activity.

On the grounds of the new Civil Procedural Code and the possibility given to the private enforcement agents to hand over court documentation shall expand the scope of their functions on the one hand, but on the other hand, what is more important is that one of the reasons for the delay of the court cases at the courts shall be removed.

## **2. DATA ON THE CHAMBER**

Since its establishment on November 26, 2005 for the period of its existence the Chamber of the private enforcement agents has succeeded to impose itself as a good partner of the Bulgarian and foreign international institutions, through its striving to impose the high standards of professionalism and ethic behavior among the enforcement agents, to maintain efficient working relations with the authorities and the institutions as well as to offer a wide range of services in support of its members. Effort are made also for the purpose of maintaining active relations with the wide public and the media aiming at making public and promoting the image of the profession of the private law enforcement officer.

The active private enforcement agents cover almost all court districts of Bulgaria, with the exception of the District

court of Smolian and the District court of Lovech. In these districts the activity for the law enforcement is carried out only by state enforcement agents.

Currently the members of the Chamber are 166, of which 85 men and 81 women. Each member of the organization has his/her own set of documents, which are duly kept at the administrative office of the Chamber. They are place in good order following upwards the order of the registration numbers of the private enforcement agents and these are regularly updated, whereby the data from the notifications for changes in the circumstances regarding the private enforcement agents are reflected in the Register of the private enforcement agents.

The Chamber is managed by a Council. It disposes also with administrative staff of 4 employees. The Chamber is financially independent and does not get any financing from the state.

### 3. REVIEW OF THE ACTIVITY

For the purpose of obtaining an objective picture and carrying out a better assessment of the reporting period in this year too a poll was organized and carried out among the private enforcement agents, regarding the basic aspects of the Chamber activity. The assessment form included questions on the services for the members rendered by the Chamber e, their quality, the organizational skills of the employees and the activity of the management.

After the generalization and summarization of the opinions collected from the poll forms, the results are as follows:

Please assess the activity of the Chamber, according to its contribution to your work and its usefulness in response to your needs and expectations	Below the expectations (1-3) Beyond the expectations (4-6)	
	Average marks	Percentage of satisfied expectations
<b>Are you satisfied with the activity of the Chamber of the private enforcement agents as your professional organization?</b>	5.15	85.90%
How do you assess the services, rendered by the Chamber?	5.15	85.80%
Administrative services	5.50	91.67%
Training	4.96	82.72%
<b>How do you assess the management of</b>	5.36	89.33%



<b>the Chamber of the private enforcement agents?</b>		
Activity	5.15	85.80%
Readiness to communicate with the members	5.25	87.50%
Communication with the media	5.12	85.26%
<b>How do you assess the administrative personnel of the Chamber?</b>	5.63	93.83%
Activity	5.53	93.83%
Communication with the members	5.61	93.45%
In due time	5.58	92.95%
To the extent needed	5.58	92.95%
Complete relationship	5.68	94.64%
<b>What is the quality of the materials produced by the Chamber?</b>	5.26	87.65%
Internet site	4.92	82.05%
Information bulletin	5.00	83.33%
Collection „Court Practices”	5.37	89.51%
Others	4.95	82.54%
<b>How do you assess the training organized by the Chamber?</b>	5.08	84.67%
Lecturers	4.80	80.00%
Learning materials content	4.81	80.13%
Price	4.35	72.44%
<b>How do you assess your personal participation and contribution to the activity of the Chamber?</b>	3.42	57.05%
<b>Are the expectations for your professional behavior clear?</b>	4.78	79.71%
On behalf of the Chamber	4.92	81.94%
On behalf of the Ministry of Justice	3.81	63.46%
On behalf of the public	4.27	71.15%

All private enforcement agents, who have filled in and sent poll forms, are satisfied as a whole with the activity of the Chamber. The assessment obtained relating to the services rendered by the Chamber and its usefulness to the individual private law enforcement officer amounts to 5.15 as per the six grade scales, whereby the first issue of the Collection "Court Practices" has the mark of 5.37, which makes it a favorite among the services rendered by the Chamber. All participants at the poll without any exception have pointed out its activity as a useful one.

When generalizing and summarizing the results better results are reported also in the activity of the management of the Chamber of the private enforcement agents and of the administrative staff of the Chamber. The average mark from the assessment of the activity of the management during the year 2007 is 5.36 (compared with the mark from the assessment obtained in 2006, this was 5.05), whereas the team of the administrative staff has been assessed with the mark 5.63 (compared to 5.40 for 2006).

As the most useful activity in the service and in the interest of the members during 2007, the biggest number of the participants has specified the campaign undertaken and still current against the amendments in the VAT Act, the remote access to the data base of the ESGRAON (Unified System of Citizens Registration and Administrative Servicing of the Population) and the National Insurance Institute, the useful cooperation with the Ministry of Interior and the training courses carried out. Secondly, a very positive assessment has been made on the communication: on the one hand of the separate members and the administrative staff of the Chamber and on the other hand, between the regional meetings organized by the Council and the response to the specific problems of the colleagues at the concrete places.

As regards the adequacy of the amount of the membership fee relating the activity of the Chamber of the private enforcement agents, the opinions vary. The bigger part of the private enforcement agents participating at the poll are of the opinion that the membership fee is adequate and within realistic norms, but according to other it has to be increased for the purpose of raising the image of the organization and in view of the inflation processes in the country. Only one private law enforcement officer has stated that he gets less than he pays.

A considerable part of the criteria in the poll forms referred to the expectations for the professional behavior of the private enforcement agents. The opinions of the colleagues in this respect may be grouped into three basic categories. **The first opinion** is to clarify the attitude of the state institutions with regard to the private enforcement agents. Here a low assessment mark is to be noted (**3.81**), which is obtained for the Ministry of Justice. **The second opinion** that the Chamber, as a professional organization of the private enforcement agents has to provide in due time back feed information to its members on the ongoing processes and the establishment of an Ethic Code. **The third place that the opinion**, relating to the attitude the public has to the profession, namely that this attitude has to be formed by carrying out a wider clarification campaign in the media and otherwise on the functions and the obligations of the private enforcement agents.

Certainly, critics are found too. According to the participants in 2008 is to be improved the activity in the following aspects: there must be created a better "listening to" the opinion of the individual private law enforcement officer, to be defended in a better way the interests of the trade before the state institutions, to be achieved changes in the civil legislation, facilitating the enforcing of the execution of court decision, to be facilitated the access to information on the activity of the Chamber for the private enforcement agents.

Notwithstanding the well intended critics and the recommendations, 90 % of all private enforcement agents, participants in the poll, are of the opinion that the activity of the Chamber of the private enforcement agents during the last year was positive and a considerable progress was achieved.

### **3.1. National and regional conferences, working meetings**

At the beginning of March 2007 in the town of Lukovit was carried out a seminar on the strategic planning for the management bodies of the Chamber, the Council, the Committee on disciplinary matters and the Control Council. The training was carried out following the method of facilitation, which is a method still not well-known in the country, where the trainer takes the position of an assistant and its basic task is only to stimulate and direct the process of searching of information in the group of the participants at the training course. Beside being useful in the sense of acquiring experience in the planning and the organization management, at the end of the seminar a strategic plan for the Chamber was developed for the period 2006 - 2011 as well as a plan for action for the first year of this period, and these were approved and accepted at a regular session of the Chamber Council /Decision №1, Protocol № 23/20.04.2007/.

In 2007 the Council of the Chamber, in execution of its policy for the maximum closeness to the problems of each individual private law enforcement officer, organized five working regional meetings, at which current matters and problems were discussed, arising in the practices of the private enforcement agents. All forums were carried out in the spirit of an open dialogue and a positive discussion on the general problems, common for the colleagues in the specific regions and in the whole country.

The first regional meeting of the private enforcement agents was conducted on April 20 and 21, 2007 in hotel „Danube” in the town of Rousse. This meeting was attended by private enforcement agents from seven court districts of action,

namely Varna, Dobrich, Razgrad, Rousse, Silistra, Targovishte and Shoumen. The participants at the meeting discussed the project "Collection Court Practices", which the Chamber of the private enforcement agents acquired under grant before the American Agency for International Development. Concrete questions and questions were specified regarding the harmonization of the practices in the legal execution for the carrying out of a discussion forum with the participation of District judges from the country on May 03, 07 in the town of Veliko Tarnovo. The Strategic plan worked out by the Council of the Chamber was submitted to the attention of the colleagues for the Chamber of the private enforcement agents for the period 2006 - 2011. The latter was worked out in March 2007 in the town of Lukovit, whereby an inseparable part of it was the annual Plan for action April 2007 - March 2008, which reflects the distribution of concrete tasks, terms for their execution and those responsible for the execution. As with this moment the activities, taken down in the plan, have been fulfilled at 80%, bearing in mind even the tasks planned for the first quarter of the year 2008.

On April 20, 07 we presented to journalists and private enforcement agents an Information system of the legal execution in Bulgaria, worked out together with the Ministry of Justice and after a draft from the American Agency for international development.

On June 30, 2007 in the town of Shoumen upon the initiative of colleagues from South-Eastern Bulgaria was organized a working meeting of the private enforcement agents of the towns of Varna, Rousse, Dobrich, Targovishte, Razgrad and Shoumen. The aim of this meeting was to harmonize the practices of the private enforcement agents and to discuss in an operative order the problems in the activity of the state bodies and institutions. The discussions encompassed the application of the forms of the certificates as per article 191 of the ДОНК (Taxation Insurance Procedural Code) and the problems arising in its use for obtaining information from the Territorial Department of the National Revenue Agency and the Regional Department of the Agency for State Receivables- non-observation of the legal terms, lack of information on the taxation and revision acts, providing incomplete or insufficiently clear information on the obligations of the debtors. The discussion included also the cases, where the debtor pays its public receivables directly to the National Revenue Agency at the National Revenue Agency or the Agency for State Receivables, on which the institutions do not inform in due time the private enforcement agents. Even the serious problem of the warning on the part of the Territorial department of the National Revenue Agency was not skipped over, as well as the serious problem of the warning on the part of the National Revenue Agency of the private enforcement

agents for the possibility of initiating administrative criminal procedures for imposing enforcement administrative measures in case of lack of registration as per the VAT.

The second regional meeting of the private enforcement agents, as per the Action Plan was carried out in July 2007 in the resort of Pamporovo. This was attended by private enforcement agents from South-Eastern Bulgaria - Plovdiv, Pazardzhik, Burgas, Yambol, Sliven, Stara Zagora, Haskovo and Kardzhali. The accent at the discussion was on the serious problem of the taxation of the activity of the private enforcement agents with VAT, the new Civil and procedural Code - pluses and minuses, the access of the private enforcement agents to the data base of the National Insurance Institute and the Information system of the legal execution in Bulgaria - advantages and faults. This meeting provided the private enforcement agents the possibility to place current and important problems of its daily activity, as well as to discuss with the members of the Council currently important problems of the reform, as well as of the profession itself.

In October 2007 the town of Lom was host of the third working meeting of the private enforcement agents from six court districts - Vratsa, Vratsa, Montana, Plevan, V.Tarnovo and Gabrovo. Problems were discussed arising in the practices of the private enforcement agents when working with the Registration Agency and the Cadastre Office. The general discussion established that the colleagues from the region have no serious problems and there exist no obstacles of professional nature.

In October 2007 the fourth working meeting of the private enforcement agents of the town of Sofia and the District of Sofia was carried out. Similar to the colleagues from the other legal districts in the country, the private enforcement agents of the town of Sofia and the District of Sofia placed for discussion the problems referring to the acceptance of the new Civil Procedural Code, the rendering of assistance on the part of the bodies of the Ministry of Interior relating to the application of the Instruction, the providing of remote access to the data base of ESGRAON (Unified System for Citizens Registration and Administrative Servicing of the Population), the National Insurance Institute, the National Revenue Agency, the Privatization Agency etc.

On December 14-15, 2007 the town of Sandanski was host to the fifth meeting as per the annual Strategic plan of the Chamber of the private enforcement agents, as per the annual strategic plan of the Chamber of the private enforcement agents, which was a regional meeting, attended by private enforcement agents from the towns of Pernik, Kiustendil, Sandanski and Blagoevgrad. Problems were discussed relating the application of the VAT Act for the private enforcement agents and the

taxation checks undertaken by the Territorial department of the National Revenue Agency of the offices of the private enforcement agents of the Chamber. In connection with the problems shared by the private enforcement agents from the region a decision was made for the carrying out of a meeting of the Council of the Chamber of the private enforcement agents with representatives of the National Revenue Agency and the Agency for State Receivables of the town of Sofia. There were discussions relating to the new Civil Procedural Code - faults /the problem of public sales/, as well as recommendations for proposals for changes and amendments.

With the carrying out of the regional meetings of the Chamber of the private enforcement agents, the Council of the Chamber of the private enforcement agents is conducting a consistent policy for the expansion of its activity in the regions so that the members of the Chamber stay constantly well informed on any kind of activity of their professional organization. The experience and the results from the regional meetings carried out in the whole country during the reporting period show that this form is more and more imposing itself as a successful and efficient one because of the opportunity for the members of the Council to listen and discuss „on the spot” to the problems in the activity of the colleagues. It proved in many of the cases that the private enforcement agents from the different court districts have difficulties specific for the region in their daily work, that are not so profoundly dealt with at the national conferences.

### **3.2. Interaction with the institutions**

#### **3.2.1. A monitoring report on the application of the Law on the private enforcement agents**

In view of making an assessment of the application of the Law on the private enforcement agents a working group was established with the Ministry of Justice for the carrying out of monitoring and supervision on the activity of the private enforcement agents, whose Chairman was the Deputy Minister of justice, Mrs. Sabrie Sapundzhieva, and in which participated also representatives of the Ministry of Justice, of the Chamber of the private enforcement agents, lecturers at Sofia University and consultants from outside. The targets of the working group were: support for the introduction of an efficient system of monitoring and supervision on the activity of the private enforcement agents and developing a strict system of rules and procedures of supervision. As a result of its activity the working group produced several documents:

1)Criteria for monitoring on the application of the Law on the private enforcement agents; 2)A questionnaire enabling the

assessment of a private law enforcement officer; 3)A manual on the supervision process; 4)Methods for the carrying out of planned control checks on the activity of the private enforcement agents. As regards the criteria for monitoring 1)Criteria for monitoring on the application of the Law on the private enforcement agents, the information was collected by means of polls among different public groups, applying the Law - judges, attorneys, bank institutions, business circles, citizens and private enforcement agents. The members of the working group relied very much on the competent opinion and the recommendations of the different focus groups with regard to the application of the Law on the private enforcement agents, which provided valuable information on how expediently and effectively other court awards were executed in Bulgaria, as well as regarding the problematic areas in the working together between the private enforcement agents and all interested party participating in the law enforcement process. The end target of the team, whose work was actively supported and coordinated by the Project for reforming the commercial law of the American Agency for International Development, was the preparation of the **Monitoring report on the application of the Law on the private enforcement agents**, which had to throw light on problematic areas and to offer solutions for the improvement of the system for law enforcement in Bulgaria. The complete text of the Report was published in Bulgarian and English in the sites of the Chamber of the private enforcement agents and the Ministry of justice.

### **3.2.2. Conference on "The Institution of the private enforcement agents and the process of law enforcement in Bulgaria"**

At the beginning of May the Chamber of the private enforcement agents organized in the town of Veliko Tarnovo a conference on „The Institution of the private enforcement agents and the process of law enforcement in Bulgaria“, which was attended by the members of the Council of the Chamber of the private enforcement agents, private enforcement agents and 26 judges from 16 district and appeal courts in the country.

The carrying out of such an event was imperative in view of the variety of existing practices of appealing against the action of the private enforcement agents and setting the beginning of a better cooperation between the institutions.

A number of questions were discussed at the meeting: as for instance the powers of the private enforcement agents, the Tariff for the fees and the subsidized fees, the stopping of the execution due to claims against the actions of the enforcement agents, problems relating to the administration of the claims and the preparation of the correspondence between

the institutions, revoking the actions of the private enforcement agents and a number of practical problems, arising in the execution of the court awards.

The event was used also for the initial presentation before the judges of the already started project „Collection of Court Practices“. According to the general opinion of the present judges and private enforcement agents, the conference in Veliko Tarnovo proved to be exclusively useful. A wish was expressed on both sides similar forums to be not an exception but to become a regular practice, at least once a year, for the achievement of the general objectives, namely expediency, efficiency and observation of the law in the execution of the court awards in enforcing the law in Bulgaria.

### **3.2.3. Round table on „The private enforcement agents in support of the collection of the state receivables“**

On September 19-th, 2007 in the town of Sofia was carried out a round table on the topic „The private enforcement agents in support of the collection of the state receivables“. The round table was attended by private enforcement agents and the leading officials of a number of state institutions: the Ministry of Finance, the Ministry of Justice, the Agency for State Receivables, the Agency for Post-privatization Control, The National Revenue Agency, the State agency „State and War-time Reserves“, the State Funds „Agriculture“ and the Public Procurement Agency. The target of the round table was to develop a pragmatic discussion of the problems facing the assignment of the collection of state receivables to private enforcement agents, the terms and conditions for such assignment and the expectations on the part of the state for the increase of degree of collection of its receivables. The meeting stressed on the following problems, constituting the basis for the small number of assignments for public receivables to private enforcement agents:

- There exists no clear procedure for the assignment, with the exception of the general text quoted in article 2 of the Law on the private enforcement agents;
- There exist as yet no criteria and it is difficult to work out such for the choice of the private enforcement agents, because the fees are equal and in this case it is a matter of confidence (similar are the cases for the choice of bankruptcy trustees (receivers), liquidators, appraisers, etc.)
- It is difficult for the state institutions to substantiate the payment of the advance fees for the private enforcement agents in view of the fact that the use of state law enforcement officers is not related with payment.



The Chamber has undertaken the initiative to go on with carrying out the working meetings for the purpose of improving the interrelation between the private enforcement agents and the state institutions. Agreement was achieved also with the representatives of National Revenue Agency and the Agency for State Receivables for the prompt carrying out of a meeting for the unification of the contents, the way and the terms for the issue of certificates under article 191 of the Taxation Insurance Procedural Code.

Such a meeting took place on December 12, 2007 in the town of Sofia, at the administrative office of the Chamber of the private enforcement agents. The meeting was attended by the management of the Chamber of the private enforcement agents and also by eight representatives from the different departments of the Agency for State Receivables and the National Revenue Agency. Basic accent in the discussion was put on the execution of a uniform form of the certificates as per article 191 of the Taxation Insurance Procedural Code and the possibilities for providing electronic access to information on the debtors from the data base of the National Revenue Agency.

As regard the form of the certificates as per article 191 of the Taxation Insurance Procedural Code, the representatives of the National Revenue Agency undertook the obligation to instruct their structures to observe the specified unified form and contents of the certificate. It was made clear that as with 2008 it will be possible for the private enforcement agents to certify the availability or absence of liabilities in an electronic way and to obtain back feed from the Agency for State Receivables or the National Revenue Agency in the same way. The prerequisites for this to happen are the smooth start of the electronic system on the revenues of the National Revenue Agency, and the use of the electronic signature on the part of the enforcement agents for accessing the system. The National Revenue Agency shall have the possibility to provide also information on the bank accounts of the debtors in an electronic way. The Management of the Chamber placed for discussion also the problem of imposing insurance measures as per the Taxation Insurance Procedural Code, representing an obstacle for the law enforcement as per the Civil Procedural Code. A new meeting of the working group was timed for the beginning of 2008.

#### **3.2.4. Participation at working groups, coordination meetings and public forums with representatives of the institutions**

One of the basic tasks of the Chamber is to assist for the establishment of best possible conditions for the functioning of the private law enforcement. In this regard the Council

request a number of the state authorities to provide electronic access to the information needed for the purposes of law enforcement: to begin with the Ministry for Territorial Development concerning the ESGRAON (Unified System for Citizens Registration and Administrative Servicing of the Population), the Ministry of Interior concerning the register of KAT (the Traffic Police), the National Insurance Institute and the Ministry of Justice concerning all registers kept by the ministry, the Ministry of Finance concerning the declared bank accounts and the electronic requesting and obtaining of the certificates of the National Revenue Agency and the Agency for State Receivables. Not rare were the attempts of the state institutions to create obstacles for the private enforcement agents in their efforts to execute their obligations, and all this only because of the „private“. The examples are quite a few - the Agency for State Receivables, the National Revenue Agency, the Registry Agency, the Cadastre Agency, the Offices on the lands and forests, state law enforcement officers, etc. Some of the authorities required to be paid for the information provided.

Notwithstanding the continuously created problems, the principles accepted by the management of the Chamber of the private enforcement agents of effective communication and partnership with the participants, these processes had a positive result. During the reporting period a great number of coordinating meetings were carried out and several public forums, attended by senior representatives of the above mentioned institutions. Working groups were established, whose activity brought about, as an end-result, to a number of concessions in the procedure of availing ourselves of the required data.

As a result of all this in February 2007 the private enforcement agents had acquired already electronic access from their offices to the registers of ESGRAON (the Unified System for Citizens' Registration and Administrative Servicing, a as from the summer of 2007 - access to the registers of the National Insurance Institute.

The interaction of the Chamber with the Ministry of Interior may be defined as more than successful. The participation of members of the Council in the common working group with representatives of all bodies of the Ministry of Interior contributed for the solving of a number of problems in the application of basic acts, concerning the activity of the private enforcement agents: the Civil Procedural Code, the Law on the Bulgarian documents of identity, Regulation I-45, the Foreigners in the Republic of Bulgaria Act, the Traffic Act. The ***“Instruction on the terms and conditions and the order, in which the bodies of the Ministry of Interior shall render assistance to the private and the state enforcement agents in the execution of their powers”*** was accepted, which was signed

by the three parties, namely the Minister of the Interior, the Minister of justice and the Chairman of the Chamber of the private enforcement agents. The Instruction was published and issued in State Gazette issue 56/dated 14.05.2007.

After coming into effect of the Instruction, for the purpose of its effective application, a number of meetings were carried out at national and regional level between the private enforcement agents and the bodies of the Ministry of Interior, at which also the measures for security and protection of the private enforcement agents and their offices were discussed. In view of the fact that at this stage the Traffic Police has no technical capacity for electronic communication, the Instruction reads that the Traffic Police shall have the obligation to provide information to the private enforcement agents within the shortest possible terms. During the current year a priority in the collaboration shall be the working out of a program for common seminars and training of the bodies of the Ministry of Interior and the private enforcement agents as per regions and at a national level.

The Chamber participates also in a working group with the Committee on legal matters with the Parliament on the working out of a new Civil Procedural Code. A great part of the proposals of the private enforcement agents were accepted, but there remained a number of texts, which shall again create problems before the enforcement of law.

The most striking of these texts refers to the public sales, which shall have to be carried out in the buildings of the courts. Leaving aside the evident treatment of the private enforcement agents not as officials and bodies of law enforcement, bearing unrestricted responsibility for their actions, it does not become clear how the courts, having no premises available for the judges and their sessions, shall provide halls for the tenders of the private enforcement agents and how the individual private enforcement agents shall organize their schedule of the sales. It is again a case in which the state creates inequality between the private enforcement agents and the state law enforcement officers and this problem shall be one of priority for the Chamber in 2008.

The Chamber continued its policy of openness and transparency to the public and its partners. A round table was carried out in Sofia on February 21, 2007 with representatives of the banks, where all aspects of the activity of the private enforcement agents were discussed, and where the management of the Chamber obtained valuable feedback on the opinion of a basic partner in the persons of the Association of the Banks in Bulgaria. The banks and the representatives of the business have always supported the Chamber in its efforts and have expressed their satisfaction with the work of the private enforcement agents, and they stressed that the results of

their activity are impressive as regards speed and efficiency in the execution of the court awards. At the same time it has recognized that the reform in the law enforcement is going on and a lot of working together is awaiting us that has to be carried out. The banks, the business and the Chamber of the private enforcement agents set up a regular dialogue and a close working relationship and during the last year their common initiatives were developed further. Representatives of the banking and the business sector were constantly attending the events, organized by the Chamber, namely training courses, official forums and presentations of new products of the Chamber of the private enforcement agents, as well as working meetings in an operative order.

The management of the Chamber is making best efforts to inform in due time its members on the questions poised by the banks and the business for the purpose of finding the best possible solutions for removing the practical problems in their daily working together. The organizations of the business in Bulgaria played an important part for the realization of the reforms in the law enforcement and they shall further remain a basic partner and friend of the Chamber of the private enforcement agents.

### **3.3 Intercession and public relations**

#### **3.3.1. The new Value Added Tax Act**

The Value Added Tax Act, adopted by the 40-th National Assembly on July 21, 2006 and coming into effect on January 1, 2007, in article 3, paragraph 2, included the private enforcement agents, the notaries and the attorneys as physical persons due for taxation and carrying out independent economic activity. The adoption of this Act placed in state of inequality the state law enforcement officers and the public law enforcement agents on one side and the private enforcement agents on the other, but such inequality was established also between the private enforcement agents themselves. Practically, a double standard was introduced for one and the same activity, by which the price paid by the citizens to the private enforcement agents became by 20 % higher, than the one paid to the state law enforcement officers. The legislation declared as independent economic activity the execution of the courts' awards only for the private enforcement agents. The execution of the courts' awards cannot be considered independent economic activity, because in its essence it is an expression of the state power imposed on the private law enforcement agent by the state. The agent carries out the public functions, which the state imposes on the agent and the latter is acting as a state body. This act demonstrated

clearly that the reform in the law enforcement is not carried out unbendingly and that practically an inadmissible state support is being introduced. Now, under the situation arisen, which is obviously in contradiction with the Bulgarian Constitution and the European law, the Council of the Chamber of the private enforcement agents has decided to take prompt measures for revoking this text from the law. The matter was referred to the Minister of justice, the Minister of Finances, the Parliament, The Prime-Minister and the President of the Republic of Bulgaria, whereby the Chamber organized a very serious media announcement of the problem and obtained the support of the European experts and of the International Union of the law enforcement agents. Nevertheless, no real actions followed for the abolishment of the double standard in the law. This made it necessary for the Chamber to unite its efforts with the attorneys and the notaries and the three trades together addressed the Ombudsman of the Republic of Bulgaria, Mr. Ginio Ganev. Upon his application a constitution case was initiated under № 1/2007. The Minister of Justice provided not statement under this court case. By decision № 7 dated April 23-rd, 2007 the Constitutional court declared as contradicting the law the phrase "as well as the practicing of a free profession (trade), including the one of the private law enforcement officer and of a notary" from the provision of article 3, paragraph 2, sentence 1 from the Value Added Tax Act. In spite of the decision of the court, the Executive director of the National Revenue Agency issued obligatory instructions under reg. № 24-00-31/dated May 8-th, 2007, by which it practically ordered its subordinate structures not to take into account the decision of the Constitutional court of the Republic of Bulgaria. This astonishing act of violating the legal order in the country was attacked by the Chairman of the Chamber of the private enforcement agents before the Administrative Court - the town of Sofia; the case was joined later by the Supreme Administrative Court and the Notary Chamber. On June 28-th, 2007 the Administrative court stopped the execution of the instructions, and afterwards revoked them. Upon a claim from the National Revenue Agency the Supreme Administrative Court revoked the decision of the First-Instance Court in December 2007 with the grounding that the instructions were not due to appeal because they represented an act issued and valid for internal use in a definite agency and they did not infringe the rights of the private enforcement agents. Right after this event we applied to the Supreme Administrative Court to interpret this decision. A session of the court was appointed for January 30, 2008 and the opinion of the court is pending to be given. On December 7, 2007 the Parliament adopted again the text in the Value Added Tax Act, by which the activity of the private enforcement agents was defined as independent economic activity. 53 of the members of Parliament attacked the

amendment before the Constitutional Court and a pronouncement in substance expected at the beginning of 2008.

### **3.3.2. The amendments in the Law on the private enforcement agents**

Important amendments were made in the Law on the private enforcement agents, promulgated in the State Gazette issue 31 from 2007.

Upon the insisting request of the Council of the Chamber of the private enforcement agents were removed the double meanings in the interpretation of the requirements, which an assistant enforcement agent has to meet. The Regulation on the order of carrying out an exam for the job of an assistant enforcement agent was promulgated in issue 108/ of the State Gazette from 2007 and according to this Regulation the exam has to be appointed not by the Council of the Chamber of the private enforcement agents, as was provided for in the project agreed upon as per article 36, paragraph 2 of the Law on the private enforcement agents, but by the minister of justice. We expect this exam to be conducted as fast as possible because it shall soon be a period of 2 years in which the private enforcement agents are not in the position to appoint their assistants.

The control practiced by the Minister of justice on the activity of the private enforcement agents is gradually more and more increasing. Beside the court inspectors, also financial inspectors are being introduced and beside the annual reports also 6-month reports have been foreseen to be made by the private enforcement agents.

An information system on the law enforcement is being introduced, to be maintained and developed by the Minister of justice, and in article 83 was made an important amendment, removing the maximum size of the proportional fees.

The new paragraph 3 of article 16 of the Law on the private enforcement agents foresees that the private enforcement agents shall not pay state and local taxes for the information they obtain on the debtors. Thus the double standard introduced and the state sanction in view of the fact that the applicant has chosen the private law enforcement and not the state one were removed. By this amendment the Council of the Chamber achieved a considerable success, bearing in mind that the text was not proposed by the Council of Ministers but by members of parliament from different parliamentary groups.

### **3.3.3. Communication strategy of the Chamber of the private enforcement agents**

In February 2007 in the town of Sofia was conducted a working meeting between representatives of the Chamber of the private enforcement agents, the American Agency for International Development and journalists, the target of the meeting being to work out a Communication strategy of the Chamber of the private enforcement agents. The team specified the basic topics of its activity. A review was necessary to be made on the interrelations of the Chamber with its members, partners and the different groups, relating the process of execution. On the grounds of this review and the investigations made among different professional and public groups, the Chamber had to establish some basic messages, the target groups, the goals, the basic principles of communication and the activities for the improvement of the efficiency in these interrelations. The communication strategy was worked out and accepted by a decision of the Council of the Chamber of the private enforcement agents at a regular session in June 2007. An inseparable part of the strategy was also the Rules of the Chamber on communications in critical situations. The strategy was made for a period of three years and shall be revised and updated every year.

#### **3.3.4. Public relations**

As with the current moment one can speak with confidence of successfully established sound relations with the media, which have proved to be good partners of the Chamber in its striving to inform the wide public and to protect the public interest. Journalists of different national and regional media /TV, press and radio/ have attended almost of the forums, organized by the Chamber - working meetings, conferences, seminars, travels, etc. The team of the Chamber of the private enforcement agents sent regularly press releases and invitations on the occasion of all important events and developments in the field of law enforcement, as a result of which in the national and regional printing and electronic media appeared a number of articles and reports. This activity is a proof for the will of the Chamber of the private enforcement agents to maintain an open and active dialogue with the media, which are the basic factor of informing the public and forming the public opinion.

An example in this respect is the visit of June 15-th, 2007 of representatives of the Chamber of the private enforcement agents and Bulgarian national media in the town of Thessaloniki, where the journalists were made acquainted with the solutions made in Greece of the problems facing our activity, namely far-reaching powers provided to our Greek colleagues, the handing over of the court records, the non-imposing of VAT, etc. The Greek experience was reflected in the program transmission „The Law and We” of the Bulgarian

National TV, the Bulgarian National Radio, Darrik Radio and in more than a dozen of articles in central daily newspapers.

An important part in the general information and communications with the public played, certainly, the parties in the law enforcement process, as direct or indirect participants in this process, i.e. the banking institutions, the representatives of the business, the attorneys, the insurers, and last but not least, the citizens themselves.

#### **3.4. Control on the activity of the private law enforcement agents**

According to the Law on the private enforcement agents and its statute, the Chamber is standing firmly behind the principles of protecting the public interest. The Chamber and its members highly estimate the supremacy of the law and are working with responsibility, transparently and with professionalism. One of the most important obligations of the Council of the Chamber of the private enforcement agents is to practice and effective control on the observation of the law and the statute on the part of the members. This activity is of great importance for the success of our profession, due to which the Council pay special attention to it by making efforts for the improvement of the control activity from the point of view of a higher efficiency and transparency. The Ministry of Justice /through the court inspectors/ and the Chamber of the private enforcement agents /upon decision of the Council of its members and/or the persons elected by the Constituent Assembly/ carry out independently from each other a strict policy of control and supervision on the activity of the private enforcement agents and control the application of the rules of professionalism and ethics. Checks are carried out not only upon specific claims but also on the entire activity of the offices of the private enforcement agents.

#### **3.5. International cooperation**

The Chamber of the private enforcement agents is a full-rights member of the International union of the law enforcement agents, which gives us the right for a two-member Bulgarian delegation to attend the sessions of the Standing Council, carried out twice a year. Currently members of the International union of the law enforcement agents are 65 countries. In the near future four more countries are expected to join the international professional organization, which are currently enjoying the status of observers or associated members. These are Azerbaidzhan, Khazakhstan, Moldova and Macedonia.



In 2007 the Bulgarian Chamber of the private enforcement agents attended through representatives of its own the two sessions of the Standing Council of the International union of the law enforcement officers/agents, the European Council /in May 2007 in the town of Bukarest, Romania and the World Council /in November 2007 in Paris, France/. Unfortunately, due to the fact that the autumn of 2007 was full of events, it proved impossible for a Bulgarian delegation to attend the first session of the newly constituted organization „Eurodanube“, to the International union of the law enforcement agents, where Bulgaria is also a member. The session was conducted in September in the town of Sopot, Poland. The Council of the Chamber of the private enforcement agents was duly informed afterwards by the Secretary, Mr. Michal Redelbach on the basic topics discussed at the session, namely: the statute and the characteristics of the law enforcement process, the ethic standards, the training programs and the raising of the professional qualification of the law enforcement agents in the 10 countries-members of „Eurodanube“.

It has to be stressed that the attention of our colleagues in Europe is directed at the successful carrying out of the reform in the legal system of Bulgaria and particularly in the part of the law enforcement. The International union of the law enforcement agents, in the person of its president, Mr. Jacque Isnar, declared its resolute support for our country and its readiness to render any assistance in order to further the reform until its successful completion.

At the beginning of February 2007 a common group of the Chamber of the private enforcement agents and the Ministry of Justice visited the Kingdom of Holland, availing themselves of the financial and organizational support of the American Agency for International Development. The purpose of the visit was to get acquainted with the Dutch practices for the introduction of professional standards for the organization and assessment of the activity of the law enforcement agents. Meetings were carried out with representatives of the Royal Association of the Dutch law enforcement agents, the Ministry of Justice of the host country and the Office for financial supervision. Some offices of private enforcement agents were visited. The system in operation in Holland is used as a model in many respects for the introduction of the private law enforcement activity in Bulgaria and it has imposed itself as one of the best functioning systems in Europe. The visit of the Bulgarian delegation was accompanied by a team of the Bulgarian National Television. After the return, a documentary film was produced, which was broadcasted in March 2007 in the legal program transmission „The Law and We“ in Channel 1 by the journalist Renny Nikolova. The film reflected the working visit and the results from it, and also made a comparison

between the Dutch and the Bulgarian systems of law enforcement.

On April 21, 2007 in the town of Rousse was carried out the first in its kind meeting between the management bodies of the Chamber of the private enforcement agents and the Romanian union of the enforcement agents. The meeting was very emotional for both parties, and discussion were held on the comparing the activities of the enforcement agents in the two countries, Bulgaria and Romania.

The visit to Thessalonica from June 15, 2007 was mentioned already; there representatives of the Chamber of the private enforcement agents and Bulgarian national media met the Chairman of the Greek Association of the enforcement agents and other colleagues in the field and an office of law enforcement officers in Thessalonica and the office of the regional chamber were visited. The Greek enforcement agents expressed their support for their Bulgarian colleagues in their fight against the introduction pf the VAT on the activity of the private enforcement agents in Bulgaria.

### **3.6. Services, rendered to the members of the Chamber**

#### **3.6.1. Training**

During the report period a number of seminars and courses were conducted in execution of the strategy of the Chamber the long-term development of the profession of the private law enforcement officer in Bulgaria, whereby to a great extent the project commenced in the preceding reporting period were continued and new project were further developed.

The courses commenced by the Chamber of the private enforcement agents, namely **„For an Effective Law Enforcement “** and **„The Legal Framework of the Activity of the Private Enforcement Agents“**, continued with success their pilot start. The training was attended and exams passed after the training almost 1/3 of the private enforcement agents, i.e. two regular courses were carried out in February and April 2007. Following the already approved technology three new courses were developed, namely **„Problems on the Specific Securities (Pledges)“** /two courses carried out in June and December 2007/, **„The Practices of the Private Enforcement Agents - Problems and Solutions“** / one course carried out in July 2007/ and **„Assistant Enforcement Agent. Competency and Powers“** /carried out in September 2007under an exclusive interest on the part of the participants/.

In June 2007 was carried out also the pilot course on the topic **„The Private Enforcement Agents between the Debtor and the Claimant: Techniques for Managing Problematic Situations“**,

which caused live discussions among the participants and imposed the conclusion of the necessity providing courses with more profound knowledge and adapting it to the specific problems of the private enforcement agents, taking into consideration that this profession is a rather conflict one and the own „mediation experience“ of each private enforcement agent is to be considered and valued.

During the current 2008 year the Chamber intends to continue the carrying out of the training courses, which have already been worked out, but their contents shall have to be updated to encompass the introduction of the new Civil Procedural Code. A new course has been foreseen for the first quarter of 2008 on the **“Assistant Enforcement Agent. Competency and Powers”**, with a view to the expected appointing by the Ministry of Justice of a date for exam for assistant enforcement agents. For February 2008 has been foreseen a seminar on the topic **“The law enforcement procedure as per the new Civil Procedural Code”** with the participation as lecturers of well known theoreticians and those practicing in the law enforcement process in Bulgaria. A new course is to be worked out on **„The European legislation in the field of law enforcement. Regulations and practices”** in the context of the membership of Bulgaria in the EU and the obligatory application of the European instruments in the process of law enforcement.

As a whole, the type and frequency of carrying out the training courses of the Chamber of the private enforcement agents depends on the interest of the members of the trade but it also depends on external users. Updated information on current training courses may be found on the site of the Chamber [www.bcpea.org](http://www.bcpea.org) in section **“Trainings and seminars”**.

### **3.5.2. Information services**

After conducting a study on the efficiency of the information activities of the Chamber, the Council accepted the following principles of communication:

- **Persistency**, which includes the daily efficient communication with the members of the Chamber and the different institutions;
- **Purposefulness**, working out of methods of approach for communication, making use of all information instruments;
- **Critical attitude**, including a careful checking of the information, obtained at the Chamber from its members and representatives of the public;
- **Diplomacy**, expressing itself in looking for a consensus, avoiding confrontations and the establishment of

partnerships, which might lead to the increase of the efficiency of the communication strategy of the Chamber;

- **Unity**, which is to bring about the preparation of unified stand points on general problems of the profession and to their solution.

As a result of the analysis of the results from the past year, we can report a positive assessment of the ways of using the communication instruments for providing the members of the Chamber with information on the activities of the Chamber of the private enforcement agents and obtaining feedback from them. An important part in this process played the regional meetings carried out by the Council with the private enforcement agents in the whole country. Every member of the Chamber shall bear already the responsibility for creating the image of the profession. Every member shall have the right to demand current information and high-quality services, but every member shall also have the responsibility to observe the rules and the policies, adopted by the management bodies of the Chamber. Thus the private enforcement agent shall become an efficient professional, executing a public function. The meetings and the good level of information brought about the strengthening of the self-respect and the professionalism of the members of the trade.

Certainly, there is still what to be achieved with regard to the use of the means of communication between the members and the administrative personnel on the one hand, and between the Chamber of the private enforcement agents and the wide public on the other hand. We foresee the Internet site of the Chamber of the private enforcement agents to be basically restructured, and to be updated on a regular basis. The information bulletin has to undergo the same procedure and also an internal forum is to be established, where the private enforcement agents, the administration and the members of the Chamber bodies shall be in a position to communicate on line, to discuss cases, etc. For all this it shall be necessary to appoint an additional person to the Chamber for the position "Maintenance of the information systems", which shall cause considerable new expenditure.

### **3.6.3. Other services**

#### **3.6.3.1. The Collection „Court Practices of the Law Enforcement“**



At the beginning of April 2007 the Chamber of the private enforcement agents was a candidate for financing before the American Agency for International

Development with a proposal for a project on „Collection of Court Practices“. The Project was approved and according to agreement (contract) №PCE-I-818-98-00012/12.04.2007, the American Agency for International Development approved the granting of a financial support for the execution of the project to the amount of US Dollars 15 500.

The publishing of the "Collection of Court Practices" was due at the first place to the necessity to make uniform the practices of the private enforcement agents in the separate court districts and further on the aim is the issue to reach as many as possible interested persons (judges, attorneys, legal advisers, students, etc.)

In execution of the engagements under the project were carried out the following activities:

- A poll among the private enforcement agents from all court districts regarding the necessity of publishing the Collection and the topics, which have to be treated in the first issue;
- Making more popular the idea among the private enforcement agents, the judges from the district and territorial courts, legal advisers at banks, etc.;
- collection and preparation of the data base with court acts;
- formation of an editorial team for the first issue;
- working meetings of the editorial team, preparation of comments on the selected court acts, editing and preprinting;
- printing;
- popularization of the issue.

The basic tasks were executed within the terms set and as a result of this, on September 14-th in the building of the union of the jurists in the town of Sofia was carried out the official presentation of the "Collection of Court Practices". The event was attended by judges from district courts in the country, private enforcement agents, state enforcement officers, representatives of the Ministry of Justice, of banks, of attorney offices, juridical organizations and others.

Until the end of October 2007 the first issue in 700 copies was sent to all district courts in the country, the Ministry of Justice, to state enforcement officers and certainly, among the active private enforcement agents.

Due to the great interest to the publication, in October the Council of the Chamber made the decision for the first issue

of the Collection to undergo a second issue, in execution of which in November another 700 pcs. of the "Collection of Court Practices" were ordered, the second issue has been paid for and is being distributed entirely by the Chamber of the private enforcement agents.

### **3.6.3.2. Manual on the activity of the private law enforcement agent**

The idea of the compilation of the Manual appeared as a result of the study of the good European practices, according to which every profession and trade create their own rules on quality and recommendation standards. The purpose we set ourselves still at the beginning of the process was that the working out of this document would contribute for the raising of professionalism of the private enforcement agents. The start was made still in the first half of 2006 by the number of seminars for the representatives of the Ministry of Justice and the Chamber of the private enforcement agents and lecturers from Holland and Bulgaria. The basic concept of the training courses was related to the assisting and strengthening of the profession of the private law enforcement agent, monitoring and supervision in the profession, transparency and reporting, the standards of the professional practices and the assessment of the activity of the private enforcement agents.

The Manual was made with the financial support of the American Agency for International Development, which during the recent four years permanently supported the reform in the law enforcement. The official presentation of the Manual took place on September 15-th, 2007 in the town of Sofia.

During the presentation the private enforcement agents had the opportunity to get acquainted with the Manual and the method of using it so that it becomes a support for the continuous improvement of their work at the offices of the law enforcement agents. The policy at the office has to contribute for the more complete satisfaction of the needs and expectations of the parties of the court cases in the process of execution through granting qualitative and law governed services during the procedure of execution of the courts' decisions under the conditions of mutual confidence and creating a positive image of the profession. The consulting team, which worked out the project, presented the basic components of the system for qualitative management of the office with regard to the procedure of execution of the courts' awards and the process of administration. The basic steps to be undertaken were made clear, relating to the implementation and application of the Manual and the

Procedures for qualitative management, as well as the following actions of self control and improvement. As a conclusion clarifications were made on the process of the future certification of the offices of the private enforcement agents, which has to be done by the Chamber, in case of an application of readiness and interest on the part of the law enforcement agents from the whole country.

**Exclusively useful proved to be also the presentation of a Dutch expert on European law in the field of law enforcement, whereby each of the private enforcement agents in Bulgaria was given the collection "European regulations in the sphere of law enforcement", containing the texts of the regulations in Bulgarian and in English.**

**3.6.3.3. Applying with a proposal for a project under the Operative program „Administrative capacity" (OPAC), the Open procedure "Development of the structures of civil society - efficiency and professionalism for the achievement of partnership with the administration and the juridical system" with the Ministry of State Administration and the Administrative Reform (MSAAR).**

The OPAC program aims to strengthen the capacity at all levels of the administration- central, district and of the municipality, as well as with the structures of the civil society and the juridical system. The target is to improve the work of the state administration for the execution of more efficient practices, for a high-quality servicing of the citizens and the business, as well as for creation of conditions for the sustainable growth and employment, as well as for raising the professionalism, transparency and due reporting of the juridical system. The granting of financial support shall be ensured by the financial support of the European Social Fund.

With a view to the furthering of the successful start of the reform and the accumulated professional experience with regard to the institutions, the organization and the professional experience of the structures of the Chamber and its members, and due to the short terms of the participation by a project proposals under OPAC, the Council of the Chamber of the private enforcement agents at its extraordinary session dated 23.10.2007 made the decision for the Chamber to assign to an external sub-contractor the working out of the project. As a result of this, the proposal was ready and submitted within the term set by the Ministry of State Administration and the Administrative Reform (MSAAR) in the Invitation. Unfortunately,

after the carrying out of the procedure on the assessment of the projects, our proposal was not approved. The official motivations and explanations for the revoking of the proposal have not yet been provided to us in writing, though the terms set for that have long ago expired.

#### **3.6.3.4. First annual ball of the private enforcement agents**

At its regular session on September 13-th, 2007 the Council of the Chamber of the private enforcement agents decided to declare officially the day **November 26-th** for „Day of the private law enforcement agent“. Thus, at the second anniversary of its establishment the Bulgarian Chamber of the private enforcement agents for the first time celebrated its professional day! On this pleasant occasion and as a logical and well-deserved conclusion of one year, full of much hard work, victories and defeats, disappointments and successes we had the pleasure and honour to organize our **First annual ball of the private enforcement agents**. The official event took place on November 25-th, 2007 at the Central Military Club, the town of Sofia. The private enforcement agents celebrated their day together with members of parliament, ministers, bankers and businessmen, attorneys and notaries, who have worked and who have rendered permanent support to the reform in the juridical system during the last four years. And this is a reform, which slowly but surely shall lead to a fast, efficient and law-observing execution of the court decisions and awards.

A charity raffle was organized at the ball. The means collected amounting to BGN 2105 was donated for the campaign of the Ministry Of Interior for the children of the employees of the Ministry, who had died when executing their professional obligations.

On the spur of the moment there appeared the idea for collecting additional means to be donated to a home for children left without parents' care. 1427 BGN was collected and donated to the home for children in the village of Mogilino.

The management of the Chamber of the private enforcement agents and its administrative personnel sincerely hope this event to become an expected and liked tradition for the entire trade for years to come!

#### **3.6.4. Services in the process of development**

In the long term it is foreseen the "**Collection of Court Practices**" to become a **periodical issue**, issued and distributed exclusively by the Chamber of the private



enforcement agents. Further 3 numbers will be issued in 2008, whereby the topics for the first issue have already been chosen and the editorial team has been appointed. These are judges and lecturers, well-known representatives of the legal profession in the country. We hope the issue will be on the market until the end of March 2008.

Until this moment interest has been shown and subscriptions have been made for the three issues for 2008 by the District court in the town of Targovishte, District court in the town of Varna, private enforcement agents, state enforcement officers, lawyers outside the system of the private law enforcement, as well as on the part of citizens.

In June 2007 an **Information system on law enforcement** was installed at the Ministry of Justice (ISLE) worked out under the Project for a reform in the trade law of the American agency for international development. The work on the system commenced in 2006 after the working out of a detailed technical assignment with the participation of the Chamber of the private enforcement agents, the state law enforcement officers and representatives of the Ministry of Justice. The tasks set by the Information system on law enforcement, were to provide the opportunity for the automation of the working processes, to provide safe statistic data for the law enforcement (on a national scale) and to create the conditions for the execution of control on the activity of the law enforcement agents. We expect that the System shall facilitate the work of the law enforcement agents for the maintenance of the registers.

Until the beginning of June 2007 all private enforcement agents obtained access to the test version of the System. 13 trainings were carried out in Sofia and the country. More than 120 enforcement agents and their assistants participated at the courses. The Information system on law enforcement has been created following regulation №4 on the office archives and records of the private enforcement agents and it contains all necessary books for accounting. Some functions of the System considerably facilitate the work of the law enforcement agents for the maintenance of the records in the registers and the technical preparation of the court cases. However, the first months of testing of the system, showed that there were number of faults. Most probably in the process of work other faults shall be discovered, which is only normal for any information system. Still, we believe that a good basis for work has been set and the Ministry of Justice will undertake the necessary steps to ensure the further improvement of the System, so that it meets the requirements and the needs of the law enforcement agents, no matter whether private or state.

As until this moment no official start of the System has been made.

In view of the publishing of the long-expected **Regulation on the order of carrying out exams for assistants the law enforcement agents** we still expect the Minister of justice to appoint the exam in 2008 so that the Chamber manages to organize it and carry it as soon as possible.

## REPORT

### **On the activity of the Committee on the discipline Of the Chamber of the private enforcement agents for 2007**

During the reporting period four /4/ disciplinary procedures were initiated, the documentation for another three /3/ have been sent to the Chairman of the committee in December 2007, due to which disciplinary procedures have been initiated to begin in 2008. Directive sessions have been carried out on all procedures and also on three such for 2006. Decisions have been made on six /6/ of them. One case has been postponed due to non-appearing of private enforcement agents for good reasons. The decisions made have imposed five penalties to the amount of BGN 500 to 5 000. By one decision the disciplinary staff refuses to impose a penalty. The decisions made have not come into effect. On some of the court cases their reconsideration by the Supreme Court of Cassation is appointed for 2008. Due to the above we are of the opinion that the terms for the consideration of the court cases by the Supreme Court of Cassation have to be shortened by law. We are starting a third calendar year of activity and still there is no practical work done for the improvement of our activity, which is, undoubtedly, necessary. We are also of the opinion that the Law on the private enforcement agents has also to foreseen terms for striking off an imposed penalty.

The activity of the Committee on the discipline is aiming at the minimization of the violations of the law. The same direction is followed by the Council of the Chamber, as well as by the established Committee on the administration of the claims with Chairman Mrs. Polia Ruycheva. Each claim is discussed in detail, the necessary checks are made, always the opinion of the private enforcement agent, against whom the claims have been made, has been taken into account. It is a fact that in 2007 the Council itself and together with the Ministry of Justice have disputed 162 claims. As becomes evident from the above mentioned; only seven /7/ of the cases have reached the disciplinary procedure. In relation to concrete signals the Council has carried out checks on the entire activity of the private enforcement agents. Three procedures have been initiated after such checks.

Within the framework of the working visit to Holland in February 2007 we had the opportunity to get acquainted with the disciplinary procedures of the Royal Dutch Association of the Law Enforcement Agents, the rules of work of the

disciplinary court, etc. Unfortunately, the visit foreseen to the court itself and the attendance of a case discussion of a disciplinary case did not take place for reasons not on our part. In Holland every claim turns into a disciplinary case without any preliminary check of grounding. The disciplinary court is external for the Chamber, as its staffs consist of magistrates. Due to these facts we consider that the Bulgarian model is a better one.

As regards the claims: these shall be difficult to be systematized. The more important and indicative fact for the Disciplinary Committee is that more than 80% of the claims have been made by debtors, about 15% - by third persons in the process of execution and only 5% - by claimants. Also there is no definite tendency of violations of one kind, which is proven by the fact that all the procedures concern different violations.

## REPORT

### **On the activity of the Control Council Of the Chamber of the private enforcement agents for the year 2007**

During the reporting 2007 the Control Council (CC) of the Chamber has been working according to the powers given to it as foreseen in article 64 of the Law on the private enforcement agents. The Chairman of the CC participates at important sessions of the Council and at the working meetings of the management during regional and national forums.

It is the stand point of the Control Council that the Chamber as the professional organization of the private enforcement agents since its very establishment has expressed and defended the professional interests of these members regarding important matters. In the person of its management bodies the Chamber exercises monitoring and control on the activity of the private enforcement agents. According to the Strategic plan accepted for the period 2007-2011 the Council of the Chamber of the private enforcement agents was working successfully for the improvement of the profession, for the improvement of the law enforcement process in Bulgaria and for supporting the private enforcement agents. The Chamber has rendered services to the members by organizing national and regional forums and meetings of the private enforcement agents, has supported the web site, has organized and carried out regular training courses for the private enforcement agents. According to the activities provided for in the Plan of actions for the period April 2007 to March 2008 it is only courses for training of the personnel at the offices of the private enforcement agents that have not been carried out yet.

For the reporting period a total of 14 sessions of the Council of the Chamber of the private enforcement agents have been carried out, at which a total of 162 decisions have been taken, of which: on operative and economic matters - 44 and on claims made - 118 decisions. As becomes evident from the protocols submitted, the sessions have been conducted with observing the requirement for quorum attending and the sessions were regular. All decisions of the members of the Council have been made taking into account the current legislation, the Statute and the internal rules of the Chamber. The Administrative secretary of the Chamber has been following whether the terms of execution of the decisions made were observed. The members of the Council of the Chamber have

been informing the remaining members and have been reporting on the work done by them at every following session.

During the past 2007 the members of the Council of the Chamber have carried out a number of meetings at national and regional level with representatives of the state institutions and the public organizations, the Ministry of Justice, the Ministry of Finances, the Ministry of Interior, the Traffic Police Office, the Unified System for Citizen' Registration and Administrative Servicing, the National Revenue Agency, the Agency for State Receivables, the Registry Agency, insurance agencies, bank institutions, international partners, etc. The Chamber participated by proposals at the acceptance and amendments of normative acts, maintained close relationship with the other professional organizations, as for instance the Supreme Council of the Attorneys, the Chamber of the Notaries, the Union of the legal advisers and the Union of the Lawyers. The Management of the Chamber of the private enforcement agents made great efforts and is still making great efforts in relation to the revoking of the anti-constitutional texts in the newly accepted VAT Act.

In this year too the media have been unbending partners to the Chamber, attending all the organizational events, rendering invaluable support in reflecting the successes and the problems of the profession.

The Control Council considers successful the financial management of the Chamber. Relatively good financial resources have been guaranteed from internal revenue, whereby the most important financial source is the membership fee. The organization is a financially independent one and during the year has not obtained any financing from state or other institutions, with the exception of the partners from the American Agency for International Development. This support was ended in September 2007. The CC is of the opinion that it is necessary to generate external revenue from sponsorships, from sales of products, from collection of fees and others. During the reporting period the Chamber was financially independent and financially solvent, following only the principle of good and preventive financial planning.

According to the budget approved for 2007 it had been planned for the Chamber of the private enforcement agents to create a revenue to the amount of BGN 100 800 on the basis of annual installments, planned on the basis of 168 private enforcement agents. Until the end of January 2007 all members had paid their membership fee. Currently the Chamber has 166 members. The extraordinary General meeting in 2006 voted and accepted a decision for the one-time payment of the annual installments, not later than the time of the annual General meeting in January each calendar year. The actual revenue received from annual installments has to be BGN 99 600. As with this moment

25% of the private enforcement agents have paid their annual installments to 2008.

It is a recommendation of the Control Council that we define strict rules and procedures with regard to the collection in due time of the membership fee from all members. The Chamber shall have the right to refuse services to members, who are in serious delay with the payment of the membership fee.

The basic kinds of expenditure of the Chamber are for the maintenance of the office of the Chamber and for the servicing of its members. After a detailed investigation made and of offers submitted from different banks in the country in the period February - March 2007 for the purpose of choosing the best financial conditions for the management of the means of the Chamber of the private enforcement agents, the Council has taken a decision /Protocol № 24/dated 5.05.2007/ to conclude a contract with Central Cooperative Bank AD for the distribution of the financial resources following a flexible scheme of fixed term deposits with a different term of validity. The contract was concluded on 11.05.2007.

The Chamber is keeping financial archives and documentation following an open and transparent method by compiling and keeping all documents in compliance with the National rules of accounting. For each concluded deal, contract or partnership a simplified tender procedure is to be carried out with a minimum of two tenders submitted, out of which the choice is made upon the „ratio price:quality“. The entire financial activity is controlled also by the carrying out of an independent annual financial audit.

In 2007 after the carrying out of simplified tender procedures /a minimum of 2 tenders/ has been concluded a total of 21 contracts with different external suppliers of services to the Chamber and providers of advertisements/sponsors, of which: 18 contracts for services, 2 contracts for providing advertisement time and 1 contract for sponsorship. Also 3 annexes have been signed to services contracts already in effect. The execution of the contracts has been within the clauses agreed and respectively the payments on the part of the Chamber have been made within the terms agreed.

As regards the analysis made on the expenditures relating to the activity of the Chamber, the Control Council makes the assessment that these expenditures are well grounded and to the point, they have taken into account the budget accepted and voted by the General meeting for 2007 and are in tune with the decisions voted by the Council.