

## **Promoting the police station duty solicitor model in Bulgaria**

In Bulgaria, as in many other jurisdictions, police arrest is a critical stage of the criminal proceedings. Statements made by defendants at this stage often form the basis of a criminal case against them. Absent a legal representative, there is little guarantee that these statements are not misinterpreted by police or simply coerced. If no attorney is appointed at this stage, defendants have little opportunity to present alternative information to counter the suspicion against them, or to argue for pre-trial release. For these and other reasons, the possibility to obtain legal advice and representation at the stage of police arrest is crucial for the proceedings to be considered fair and just.

Bulgarian legislation guarantees the right to a state-paid attorney to every person under police arrest, notwithstanding her financial status. However, the findings of the Final Report on the Civil Monitoring of the Police Project implemented by the Open Society-Sofia Legal Program in 2005-2007 have shown that the right to legal aid at this stage was symbolic rather than real.

This project aims to address the gap by implementing two pilots similar to the English *duty solicitor scheme* (with the modifications necessary to adjust the model to the local context) in two different locations in Bulgaria. The outcomes of the pilots, credibly assessed and carefully documented, will be employed in a national advocacy campaign for the institutionalization of a duty solicitor model throughout Bulgaria.

The project is implemented jointly with the Open Society Institute-Sofia and Open Society Justice Initiative. It forms the part of the National Law Program strategy (2007-2009) on promoting early intervention of a legal aid lawyer in criminal proceedings.

The immediate purpose of the project is to improve access to, and quality of, free legal aid to criminal suspects in police custody in Bulgaria by testing an administrative model of on-call attorneys serving at police stations. The project

overarching goal is to ascertain whether better legal representation at police station results in broader criminal justice system benefits, such as: decrease of arbitrary arrests by police; enhanced quality of justice by elimination of false confessions; improved police conduct and accountability; more streamlined pre-trial detention practices; economy of cost and more efficient administration of justice (by achieving early closure of unsubstantiated cases and cases eligible for the application of alternatives to prosecution, and by reducing the number of days in pre-trial detention); and improved public perception of fairness of the criminal proceedings.

Two pilot duty solicitor schemes will be implemented – one in the town of Veliko Tarnovo and one in a bigger city<sup>1</sup>. At present only scheme in Veliko Tarnovo operates since 1 September 2008.

The main organizational elements of the scheme are: 1) maintenance of the list of attorneys on duty each day of the month to serve the police stations by the Bar; 2) maintenance of the telephone line at police stations to ensure permanent link with the Secretary of the Bar. 3) training for police officials on right of legal aid and seminars for attorneys on their role. In addition, the police station in VT designates one person responsible for receiving rota lists from the Secretary of the Bar Council and making them available for custody officers, detainees and public. The list of attorneys on duty is available to the detained persons and their families/other visitors inside the police station: e.g. they are placed in the waiting room, in cells where detainees are held, and in premises where detainees' written declarations are taken. Once a person is arrested by a street police officer on the street, the police officer informs the detained person about his/her right to legal aid and call the Bar Secretary who ensures appointment of a lawyer.

In order to guarantee and improve coordination in implementing project activities and facilitate recognition of the project by all stakeholders two Steering Committees, consisting of main stakeholders – attorneys, police officials, judges,

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<sup>1</sup> The second site will be selected during the initial stage of project implementation based on the following criteria: number of police arrest per year, established cooperation with the local bar council and the local police.

prosecutors, civil society - are formed on the local and on the national level. The tasks of the Committee are to provide legitimacy to the scheme (and in this capacity it will endorse decisions about staffing, scope, organization, approve the operational guidelines and the performance standards, project interim monitoring report and the final report), and to ensure smooth operation of the scheme: resolve conflicts between the parties involved; receive and decide on complaints against attorneys.

**Project Budget (Euro):** 137,586 € Funding secured by Human Rights and Governance Grants Program OSI, OSI-Sofia and OS-Justice Initiative

**Project Start:** October 2007 **to End:** April 2009

**Project Partners:**

Ministry of Interior  
Ministry of Justice  
Supreme Bar Council  
National Legal Aid Office  
Bar Council – Veliko Turnovo  
Regional Police Directorate – Veliko Turnovo  
District Police Directorate – Veliko Turnovo

**Contact information:**

56, Solunska str.  
1000 Sofia, Bulgaria  
tel.: +359 2 930 6641  
fax: +359 2 930 6348  
E-mail: [vdelcheva@osi.bg](mailto:vdelcheva@osi.bg)