

**Testimony for the Senate Foreign Relations Committee  
Subcommittee on European Affairs  
By Deputy Assistant Secretary Steven Pifer  
Transnational Crime in Europe  
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Mr. Chairman, members of the Subcommittee, thank you for the opportunity to address the impact of transnational crime on U.S. priorities in Europe. I will focus my remarks today on Russia and Ukraine -- two countries that are key to our efforts to combat transnational crime.

I would like to discuss briefly the historical context that has given rise to crime and corruption in the former Soviet Union following the collapse of the USSR and focus on some of the steps that the Russian and Ukrainian governments are taking to cope with these problems. I would also like to describe the strategy and some of the policy tools that the U.S. Government brings to bear to address these challenges.

**Historical Context**

Along with the positive and historic possibilities created by the collapse of the Soviet Union, the early 1990's were marked by an increase in criminal activities in the region, in large part because of a vacuum in institutions resulting from the breakup. The process of privatization of vast state resources often took place in the absence of any effective legal or regulatory structure, and many valuable state assets were privatized in "insider transactions." As a result, property rights were unclear, and disputes over property rights often could not be resolved in courts of law. Insiders and organized crime took advantage of this situation to take control of major assets, often having to pay no more than a small fraction of their true value.

Privatization took place roughly simultaneously with the development of small-scale private businesses. Again, because of the absence of an effective legal and regulatory system governing the activity of private enterprises, these businesses were ripe for extortion by street gangs. In order to protect themselves, small businesses often had to turn to other gangsters to provide a "krysha" (roof) of protection. Consequently, gangsters gained control of many small businesses and accumulated capital, which they frequently used to acquire larger businesses during the

privatization process. They often then used these businesses to make more money and to acquire public status, which they then used to obtain political office.

Organized crime figures and groups have in some cases been linked with key government and business figures. Unfortunately, organized crime increasingly exercises both political and economic power, and there are numerous reports of corruption among government officials and members of legislative bodies. Corruption weakens the ability of a government to conduct normal business; it undermines political processes, allows the trafficking of illegal drugs and terrorist activities, impedes trade and investment, and hampers participation in the global economy. It is difficult to get an accurate picture of how widespread this problem is. The situation is very opaque, and we often have little more than anecdotal glimpses. The proliferation of organized crime groups has had reverberations in the United States, where many of the same organized crime groups that plague Russia and Ukraine now have a foothold.

We wish to see Russia and Ukraine develop as modern states, with democratic institutions and prosperous market economies, and we have since the end of the Soviet Union urged political and democratic reforms in these directions. We recognize the reform path will be, in both countries, a difficult and lengthy process. In order to succeed on this reform path, political leaders and law enforcement agencies will have to come to grips with and seriously tackle the problems of organized crime and corruption.

### **Russia -- Reforms**

To address organized crime, corruption and other threats to continued democratic and economic development, the Russian government has passed impressive legislation in the past several years.

In June 2002, the Russian Duma (parliament) passed a new Code of Criminal Procedure of the Russian Federation. The new Code substantially changes the previous Soviet-era criminal justice system. It establishes a more adversarial system of justice, extending jury trials for significant crimes nationwide and giving defense counsel a greater role in the proceedings.

The Code also strengthens the powers and independence of the judiciary by requiring the approval of judges for search and arrest warrants and for the pretrial detention of defendants. Additionally, it broadens the rights of criminal defendants by requiring, among other things, the review of pretrial detention within 48 hours after arrest. After the introduction of the new Code the number of criminal cases opened by the Procuracy declined by 25 percent; the number of suspects placed in pretrial detention declined by 30 percent; and the courts rejected 15 percent of requests for arrest warrants. Judges released some suspects held in excess of allotted time when the government failed properly to justify its request for extension, and the Supreme Court overturned some lower court decisions to grant pretrial detention considered inadequately justified.

Human rights advocates reported that the strict new limits on time held in police custody without access to family or lawyers, and the stricter standards for opening cases, have discouraged abuse of suspects by police as well. As a result of the passage of the new Code, 83 of 89 regions in Russia have introduced jury trials, 713 jury trials have taken place during the first nine months of this year, resulting in 614 convictions and 99 acquittals. This system should reduce the potential for corruption.

### **Ukraine -- Reforms**

Ukraine has also taken significant steps in recent years to address deficiencies in its judicial system. Its ability to attract investment, and thus to sustain its recent economic growth, will depend on continued progress towards development of a legal infrastructure that protects investors' legal and contractual rights.

In 1999, the State Executive Service was established as a special department in the Ministry of Justice to execute court decisions. Its powers include enforcement of judgements in civil cases; decisions in criminal and administrative courts involving monetary compensation; and judgements of foreign courts, the Constitutional Court, and other authorities.

Legislation enacted in the past three years to regulate the court system and improve the administration of justice has

brought Ukraine's legal framework more into line with the Constitutional requirements for an independent judiciary. Enactment in 2002 of the Law on the Judicial System of Ukraine and the Law on Enforcement of Foreign Court Decisions are hopeful signs, although these still need to be fully implemented. The Law on the Judicial System created an independent State Judicial Administration as well as a new appellate body, the Court of Cassation. Ukraine also enacted a new Criminal Code in 2001. The law also established a Judicial Academy to train new judges and continue the education of sitting judges.

Other legislative changes enacted in 2001 curtailed prosecutors' authority. The Procuracy no longer may initiate new criminal cases; its powers are limited to the observance of laws by law enforcement agencies only. In May 2001, the Constitutional Court ruled that citizens may challenge court actions by the prosecutors and investigative agencies, as well as government actions regarding national security, foreign policy, and state secrets.

While there has been significant progress in criminal justice reform in Russia and Ukraine, both governments must continue to make strides towards fully utilizing their justice systems to fight transnational crime.

### **Policy Tools**

The U.S. Government would, of course, like Russia, Ukraine and all of the states of Europe and Eurasia to have the capacity to enforce their laws in accordance with international standards while employing up-to-date practices. While recognizing that the responsibility for fighting organized crime and corruption lies first and foremost with the countries themselves, the U.S. Government has increasingly made efforts to fight money laundering, narcotics and trafficking in persons a central element of our engagement with Russia, Ukraine and the other states of the former Soviet Union.

The U.S. strategy for combating transnational crime in the former Soviet Union has five prongs: 1) expand rule of law and law enforcement programs with an emphasis on criminal justice reform and enhancing the capabilities of law enforcement agencies at all levels, 2) provide judicial and law enforcement training that introduces modern crime-

fighting techniques while also promoting concepts of respect for human rights and professional integrity, 3) promote the development of working relationships among U.S. and regional law enforcement counterparts, 4) institutionalize cooperation through law enforcement agreements (MLATs), and 5) promote the eventual integration of these countries into multilateral and regional institutions.

To implement this strategy, we have several policy tools:

**Law Enforcement Working Groups** with both Russia and Ukraine were established to provide high-level policy oversight and to serve as ongoing fora for the coordination of bilateral anti-crime efforts. Earlier this month I co-chaired a meeting of the U.S.-Ukraine Law Enforcement Working Group via digital video conference. We addressed four transnational crime threats: 1) intellectual property rights enforcement, 2) counternarcotics efforts, 3) money laundering and 4) trafficking in persons. Representatives of many Ukrainian government agencies took part, which gave us the ability to engage the full spectrum of Ukrainian entities dealing with these crime issues. We engaged at a substantive level, noting the progress that has been made on these issues and the areas where continued progress is necessary.

**Mutual Legal Assistance Treaties** (MLATs) are not a traditional policy tool; the purpose of an MLAT is to improve U.S. law enforcement abilities, by enabling U.S. authorities to obtain evidence and other types of law enforcement assistance from other countries. Conversely, foreign governments can use the MLAT to request assistance from the United States. Rule of law therefore is generally a consideration for the State Department and the Senate before a treaty is concluded; we do not want to create international legal obligations to provide assistance to criminal prosecutions in countries that do not respect the rule of law.

That said, an MLAT, by creating formal and regular bases for law enforcement cooperation, can help support other efforts towards promotion of rule of law. The dialogue and cooperation that is resulting from the MLATs with Russia and Ukraine advance the regularization and improvement of our joint law enforcement efforts. In the long term, these MLATs further the rule of law and help Russia and Ukraine

regularize their law enforcement efforts overall. Having this kind of regularized process for seeking and obtaining evidence will help strengthen Russian and Ukrainian institutions and encourage the rule of law in these countries.

Our experience with the Ukraine MLAT has been particularly positive. Under the MLAT, the U.S. Government has sent the Ukrainian government requests in cases involving fraud, money laundering, homicide, computer crime, interstate transportation of stolen property, racketeering, corruption, and embezzlement. Each request has been executed promptly and thoroughly. In one high profile example -- the prosecution of former Ukrainian Prime Minister Pavel Lazarenko -- Ukraine has handled numerous requests with exemplary professionalism. According to Justice Department records, we have conducted more formal depositions in Ukraine in connection with that case than in any other country in connection with any other case.

***The U.S.-Russia Counterterrorism Working Group*** serves as a forum for cooperation on transnational crime issues linked to the Global War on Terror. For example, through the working group our two countries promote counternarcotics activities that will reduce the trafficking of illicit drugs through Central Asia to major markets. These activities are aimed at identified needs on the ground, including our recent agreement to work together to develop a narcotics-detecting canine program in Central Asia.

***Multilateral efforts*** to address transnational crime have also been successful. For example:

The international Financial Action Task Force (FATF), with the U.S. Government as an active participant, has begun to tackle the problem of money laundering in Ukraine and Russia. As a result of improvements in its legislation and overall practices against money laundering, Russia was admitted to FATF. Under the threat of sanction from FATF, Ukraine finally passed new legislation earlier this year to deal better with the money laundering problem. I will come back to these cases in more detail.

The United States, along with many member states of the European Union, is a major contributor to projects managed in Central Asia by the United Nations Office on Drugs and Crime (UNODC). UNODC, for example, established a senior

level Drug Control Agency (DCA) in Tajikistan several years ago, and is now in the process, thanks to a U.S. contribution, of replicating that success in the Kyrgyz Republic. We have also contributed to a number of other diverse UNODC-managed projects, from assisting border control between Turkmenistan and Afghanistan, to providing video surveillance equipment for a major bridge crossing on the Uzbek-Afghan border, to helping the Uzbek prosecutor's office in archiving on a web site legal materials for the prosecution of narcotics cases across the country.

The Organization for Security and Cooperation in Europe is expanding its work in law enforcement and prison reform in Eurasia. In Ukraine, for example, the OSCE is supporting rule of law development through a project to train the staff of the Office of the General Prosecutor. We are also encouraging efforts to cooperate regionally, based on the successful Bucharest Anti-Crime Center for Southeast Europe. A similar effort is underway with the GUUAM states (Georgia, Ukraine, Uzbekistan, Azerbaijan and Moldova), which aims at the creation of a virtual law enforcement center to strengthen regional cooperation among those states' law enforcement agencies. We are supporting this effort and are exploring the possibility of a second center in Central Asia.

**Bilateral assistance** is vital to our anti-crime strategy. Our assistance program targeting Russia, Ukraine and the other states of the former Soviet Union is the FREEDOM Support Act (FSA). FSA assistance and exchanges have played and are playing a key role in helping the governments of states such as Russia and Ukraine make progress to deal with crime and corruption issues. We greatly appreciate the strong support that Congress has provided since the breakup of the Soviet Union for the transition to democracy and market economies of the states that emerged from Communism.

Since the start of the Anti-Crime Training and Technical Assistance program with FSA funding in 1995, we have allocated roughly \$166 million to the states of the former Soviet Union for reforms, training and capacity-building in the areas of law enforcement and counternarcotics. Close to one-half of that total has been allocated to our efforts in Russia and Ukraine, given their size and importance in the region, and the potential role that Russia can play as a model of reform for all of the former Soviet states. An

increasing proportion of our assistance will now go to the states of Central Asia, given the role they play as "front-line" states in the fight against terrorism and heroin smuggling out of Afghanistan. Congress, in fact, specifically appropriated \$22 million in Fiscal Year 2002 for law enforcement and counternarcotics efforts in Central Asia.

With regard to Russia, an important step forward was made in September 2002, when the United States and Russia signed our first bilateral agreement on law enforcement assistance. Under that agreement, over \$4 million in funds have been allocated to start a series of new projects. These will provide training and equipment to Russian units fighting drug trafficking along Russia's southern border with Kazakhstan and training and equipment to improve narcotics searches and seizures at key ports in the south of Russia and in areas that drugs transit in the northwest region of the country. Projects on fighting Internet child pornography and trafficking in persons will be started. Support to the new financial unit set up to combat money laundering will be provided, as will assistance to help implement the new criminal procedure code and the U.S.-Russia Mutual Legal Assistance Treaty. A further \$4.7 million in Fiscal Year 2003 funds will be allocated to such projects in Russia to maintain the momentum we have achieved.

We have made a major transition in our assistance programs in the last few years. In the past, most of our assistance went to training, much of it provided at the U.S.-led International Law Enforcement Academy in Budapest. Today, our FSA assistance has evolved and is focused on comprehensive, multidisciplinary institution-building, including major legal reforms, creating new forensics laboratories, setting up financial intelligence units to fight money laundering, helping introduce investigative methods that would eliminate the use of torture, creating "vetted" counternarcotics units, and more.

We are, of course, limited in what we can do by two things: the limits on the assistance we can provide and the political circumstances in the recipient countries. We cannot do it all. We continue to engage the European Union and its member states to increase their support for anti-crime and legal reform efforts.



## **Progress**

There are three areas of major progress in the battle against transnational crime I would like to highlight today. All three of these areas, trafficking in persons, money laundering and counternarcotics, are linked with organized crime.

### ***Trafficking in Persons:***

We have seen a concerted and welcome effort to combat trafficking in persons from our European partners this year. Russia and Ukraine have both shown some improvement, but at different paces and to varying degrees.

Our efforts to counter the Trafficking in Persons problem focus on three areas: prevention of trafficking; protection of the victims (and potential victims); and prosecution of those who perpetrate this crime. Progress on trafficking can be accomplished in a number of ways: legislation and amendments to criminal codes can be passed; public awareness of the trafficking in persons problem can be increased; and, most importantly, prosecution numbers can rise. In the State Department's Trafficking in Persons report from last year, the Bureau of European and Eurasian Affairs had eight countries in Tier 3, the lowest tier. Today, there are none.

### Russia

Russia has begun to turn the corner on combating human trafficking. There is increasing recognition at the top of the problem. On October 27 President Putin said "trafficking in people is part of organized crime, it is one of the most serious and vital world problems."

The UN has cited Russia as the largest source country for trafficked women throughout Europe. Making use of substantial U.S. technical assistance, the Duma Committee on Legislation drafted aggressive anti-trafficking legislation that would criminalize human trafficking and all related crimes. The legislation would also provide protection for victims and witnesses in human trafficking cases and mandate government-funded public awareness campaigns designed to raise awareness of the dangers of human trafficking.

An omnibus criminal code amendment bill is pending before the Duma that includes the anti-TIP criminal articles that were originally put in the anti-TIP law. It appears that the criminal code amendments are also going through some unwelcome changes, according to our Embassy in Moscow, which closely follows this issue. Passage of the anti-TIP articles included in the President's Omnibus Criminal Code Reform Bill will require a concerted effort by key Duma members to gain the support of government agencies and regional governments. Currently, the Russians are using older and weaker laws to go after traffickers; last year Russia prosecuted some traffickers under lesser laws. We hope -- and it will be important -- to see convictions rise with the new legislation.

#### Ukraine

Ukraine is another large source country for trafficking victims to all parts of Europe and around the globe. The Ukrainian government has a comprehensive action plan for each government ministry to support public awareness, education, and prosecutions. The police opened 169 trafficking cases last year alone, double the number opened in 2001, and followed up with 41 prosecutions and 28 convictions. The Ministry of Internal Affairs has established 27 special anti-trafficking units at the national and oblast levels.

The Ukrainian anti-trafficking NGO community and police across the country have developed vital linkages that have resulted in prosecutions. We have seen political will on the part of the Ukrainians to engage on the trafficking issue but must continue to work with them to ensure further progress, and to ensure that such progress is not impeded by corruption.

#### ***Money Laundering:***

#### Russia

In the last two years, Russia has made substantial strides in combating money laundering. On February 1, 2002, Russia's new financial investigation unit, the Financial Monitoring Committee ("FMC"), began operation. The FMC is responsible for collecting suspicious activity reports from banks and coordinating all of Russia's anti-money laundering and counterterrorist financing efforts.

In 1997, Russia passed amendments to the Criminal Code criminalizing money laundering. In 2002, additional amendments were passed, strengthening the 1997 legislation and criminalizing all financial transactions designed to conceal the source of any illegal proceeds.

Largely as a result of the passage of broad anti-money laundering legislation and the FMC's successful monitoring work, in 2002, Russia was removed from the international Financial Action Task Force (FATF) Non-Cooperative Countries and Territories list. In 2003, following further progress, Russia was admitted to FATF. This was a major achievement. Since beginning operation, the FMC has received over a half million suspicious transactions reports. However, according to FATF, few criminal money laundering cases have been successfully prosecuted, and more needs to be done in this area.

#### Ukraine

The U.S. Government also engages with Ukraine on money laundering issues through FATF. In September 2001, FATF placed Ukraine on its Non-Cooperative Countries and Territories list, citing inadequacies in Ukraine's anti-money laundering régime. In November 2002, Ukraine passed a comprehensive anti-money laundering law, but FATF's Europe Review Group found it deficient in a number of areas and not in compliance with international standards.

In December 2002, FATF called on its members to impose counter-measures against Ukraine. The U.S. Government, in response, designated Ukraine a jurisdiction of money laundering concern under Section 311 on the USA PATRIOT Act. Following consultations between FATF and the Ukrainian government, and with assistance from our Embassy in Kiev, the Ukrainian Rada passed amendments to the anti-money laundering law, the criminal code, and the banking law that brought Ukraine's anti-money laundering law into compliance with international standards. At its mid-February plenary, FATF rescinded its call for counter-measures. Early this month, Ukraine submitted to FATF an implementation plan; that plan must now be vetted by FATF's Europe Review Group. Until full and satisfactory answers are provided to the FATF review group, no decision will be taken by the FATF to undertake an on-site visit -- the penultimate step prior to recommendation for removal from

the FATF Non-Cooperative list. Ukraine's work with FATF nonetheless is an example of success -- fundamental reforms, combined with close international scrutiny, resulting in real progress.

**Counternarcotics:**

Russia

The flow of Afghan heroin into and across Russia has increased tremendously. While overall seizures have yet to increase noticeably, we are now seeing instances of seizures of roughly 50 to 60 kilograms of heroin at a time.

Russia is a party to the 1988 UN Drug Convention and other UN agreements on combating drug trafficking. In 1998, the Russian government enacted the Law on Narcotics and Psychotropic Substances, which criminalized the purchase and possession of drugs and stiffened penalties for large-scale trafficking. More recently, the Russian government has taken additional steps that show promise for future progress in this area with the support of U.S. assistance programs.

In March 2003, President Putin took primary responsibility for the investigation of narcotics trafficking away from the Ministry of Internal Affairs and reassigned it to the newly formed "State Committee for the Control of Narcotics and Psychotropic Substances," known by its Russian acronym, GKN. GKN is still in the start-up process, so it is too early to evaluate its effectiveness. However, most observers view its creation, and the appointment of a close political ally of President Putin, Viktor Cherkessov, as its director, as signs that President Putin intends to take the war on drugs very seriously.

At the same time, Russian law enforcement authorities have come to support the use of drug demand reduction programs as a complement to their efforts to reduce the supply of drugs.

The U.S. Drug Enforcement Agency is also seeing hopeful signs of growing cooperation between Russian law enforcement and a new counter-narcotics Special Investigative Unit created and vetted by the DEA in Uzbekistan. Such bilateral cooperation will be an

important component of any successful effort to halt the flow of drugs out of Afghanistan.

## Ukraine

The Ukrainian Government takes effective steps to limit illegal cultivation of poppy and hemp. Ukraine is a party to the 1988 UN Drug Convention, and it follows the provisions of the Convention in its counternarcotics legislation. Combating narcotics trafficking continues to be a national priority for law enforcement bodies, although a lack of financial resources seriously hinders Ukrainian efforts. Corruption is also a problem, although it has rarely been linked to drug enforcement. Coordination between law enforcement agencies responsible for counternarcotics work has improved, but still remains a problem because of a lack of resources, some tendencies to resist interagency cooperation and sharing of information, and regulatory and jurisdictional constraints.

The National Counter-narcotics Coordinating Council, established in 1994 within the Cabinet of Ministers to coordinate the efforts of government and public organizations to combat drugs, is responsible for a counternarcotics program for the period through 2008. The main objective of the program is to make qualitative changes in the national strategy for combating narcotics. Although many of the measures in previous national counternarcotics plans (1994-1997, 1998-2000) were constrained by lack of funding, the Ministry of Internal Affairs is giving a high priority to counternarcotics actions and is providing overall support to the maximum extent available.

## **Conclusion**

Transnational crime is a real threat to stability in the countries of the former Soviet Union as those countries move to develop more modern political and economic structures. However, in the last decade, with U.S. assistance, progress has been made in institutionalizing the rule of law, and developing criminal justice systems, especially in Eurasia.

While challenges remain, my colleagues will attest to the strengthened capacity of their law enforcement counterparts, and the strong law enforcement networks that

have developed. Strengthening the capacity of countries such as Russia and Ukraine to deal with today's transnational crime problems, as well as improving bilateral and multilateral cooperation to counter these threats, will remain major parts of the U.S. agenda with these countries. We have made progress, but the challenges remain serious and will require our continued attention. Thank you.