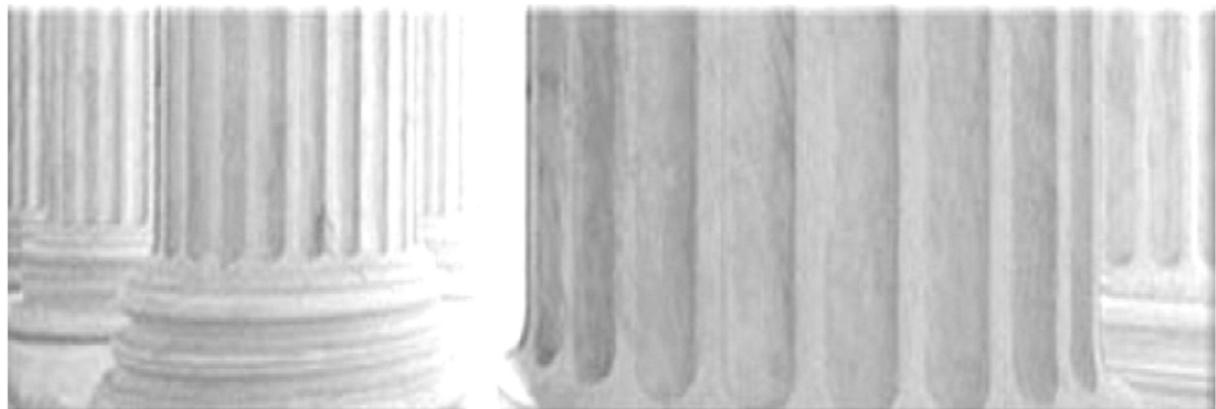




REPUBLIC OF BULGARIA



***CHAMBER OF PRIVATE ENFORCEMENT AGENTS***



**A N N U A L   R E P O R T**  
**2 0 1 0**



**Allocation and number of Private Enforcement Agents /160/ on the territory of the Republic of Bulgaria according to judicial regions of activity**

Blagoevgrad	6	Kyustendil	4	Silistra	2
Burgas	14	Montana	2	Sliven	4
Varna	10	Pazardzhik	1	Targovishte	2
Vratsa	3	Pernik	4	Haskovo	3
Vidin	1	Pleven	5	Shumen	4
Veliko Tarnovo	7	Plovdiv	16	Yambol	1
Gabrovo	4	Ruse	4	Sofia city	38
Dobrich	6	Razgrad	2	Sofia district	4
Kardzhali	2	Stara Zagora	10		

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Totko Kolev - Vice Chair

Elitsa Hristova - Vice Chair

Ivan Hadzhiivanov

Nikola Popov

Stefan Gorchev

Rosen Sirakov

Krastyo Angelov

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Zvezdelina Vasileva

Galin Nikolov

Viktor Georgiev - reserve member Milkana Makedonska - reserve member

Marian Petkov - reserve member

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Georgi Georgiev

Reneta Milcheva

Aneliya Vasileva

Nikolay Zhelev

Silvi Chernev

Kostadinka Arsova

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**Control Committee**

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Militsa Veleva

Rositsa Stoyanova

Vasil Nedyalkov

Georgi Tseklev -  
reserve member

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## **CHAIRMAN'S OPENING SPEECH**



Dear colleagues, ladies and gentlemen,

In 2010 the Chamber of private enforcement agents celebrated the fifth year of its establishment and of the start of a radical reform of great importance not only for the efficiency of the judicial system and the supremacy of the law but also for the entire business environment in Bulgaria. Due to a number of reasons, and not only because of the continuing economic crisis, this year was extremely difficult both for the

individual private enforcement agents and the organization in general. Despite all, our work, efforts and perseverance give us the right to be proud of our achievements and all of us celebrated the anniversary with the feeling of satisfaction and pride.

Actually for about 4 years (the data refers to the end of June 2010), the private enforcement agents opened over 1 000 new work places; they managed to gain the trust of the creditors by initiating almost 350 000 cases, 100 000 of which were completed; 1,400 billion BGN were collected and the state was credited by over 100 million BGN! The executed writs of possession amount to 3 200, the public sales of real estates are 9 000 and of movable chattels - 10 500.

This is why it is not a surprise that our 5<sup>th</sup> anniversary in Bulgaria was honored by the presence of the President and Vice President of the International Union of Enforcement Agents, Mr. Leo Neten and Mr. Bernard Menu, as well as by the presidents of colleagues from a number of other countries. The evaluation which we received for our activity and results give us the self-confidence arousing from well-done job and the peace of mind that we are heading in the right direction. The absence of the Bulgarian Minister of Justice was noticed but as we usually say - nobody is a prophet in his own country.

The annual report which I present to your attention indicates the serious volume of activities and work which we completed during the past year, so there is no need to list them once again. I would like to put an emphasis on what is still ahead of us as a challenge and to point out the most important objectives of the Chamber from now on.

The main priorities before the Chamber of private enforcement agents may be summarized in three words - fastness, efficiency and lawfulness.

The steps regarding the first two are elimination of the problems in the legislation as well as maximum introduction of electronic

technologies - not only in the filing activity of the offices and the collection of information about the debtors but also with reference to the enforcement procedures such as imposition of distraints and levies.

In cooperation with the experts under the Matra project of the government of the Netherlands in a few months we shall complete the analysis of the problematic areas in the legal framework and shall make particular proposals for their elimination. Outside this project the most important objective is the National Assembly to adopt the bill of the Cadastre and Property Register Act put forward in January 2010 regarding the entry of liens on immovable properties without requesting a plan - copy of the cadastral map.

Having in mind that this issue also concerns the state enforcement agents and the public executives of the National Revenue Agency, we believe that the bill will not be delayed in time any longer.

Speaking about the legislation we cannot omit the fact that instead of adopting measures for improvement of the fastness and efficiency of the enforcement which are even more important for the creditors in times of economic crisis, the Ministry of Justice proposed and imposed in the National Assembly an amendment in the PEAA and Civil and Procedure Code which drastically delays enforcement requesting advance payment of a state fee by the creditor for each separate reference, lien or restraint. There is not a logic and grounded answer to the question why such serious defeat is inflicted on the judicial enforcement in Bulgaria. The results from this activity are already visible - a number of creditors with multiple cases are not able to cope with the administration of so many transfers to various institutions and are forced to restrict and delay their requests for investigation and actual enforcement procedures which affects the final result from the enforcement and the time for its execution. The private enforcement agents will be forced to take up this burden but it is very strange how something which is almost unachievable for a bank for example, would be easy for a private enforcement agent?

The tension created by the Ministry of Justice with this amendment increases every day and it will not be a surprise if the issue is put forward for consideration before the National Assembly again. For comparison - neighboring Romania adopted a text in their Civil Procedure Code analogical to the text adopted by the Bulgarian National Assembly in 2007 for elimination of such fees while we are going backwards - to the starting point.

To our and creditor's satisfaction the other amendments of the legislation in the past year connected with the judicial execution are not negative. Appreciation should be given to the MPs who used their right of legislative initiative and due to their efforts a number of very important positive amendments of the Civil Procedure Code were made regarding the process of bidding on public sales and the obligation for assistance to the PEA on behalf of the state authorities, including Article 35 of the Special Pledges Act and Article 191 of the Tax-Insurance Procedure Code.

The use and introduction of new electronic technologies to the activity of the private enforcement agents is especially important for the CPEA. We created the electronic register of public sales

with our efforts and funds, which register was undoubtedly accepted by the society and considerably contributed to the increased number of completed sales and the higher end-prices; and the debtor register as well. The latter will become a very useful assistant not only to the PEA but also for the civil turnover, business and banks. It can be said that even the most developed countries have not adopted any such registers. The efforts and perseverance of the Chamber give results and we have almost achieved our objective - an electronic access to all possible sources of information about the debtor; we are also working on the possibility of imposing liens and constraints in the same manner.

The third (but not least) priority of the Chamber since its establishment is the strict compliance with the law, increase in the quality of the activity and of the professional ethics on behalf of the PEA. For this purpose we increased to a maximum extent the control and its efficiency. In this respect (but not only with respect to complaints - (subsequent control) in 2010 the Commission on Professional Ethics performed for a second subsequent year a check of all offices which was even more comprehensive than the first one and its aim was to play a strong preventive role. On the basis of the obtained results, particular measures will be taken for elimination of the omissions and non-admission of violations.

Contrary to the general opinion in our country about the validity of the principle "there is honour among thieves" the statistics from the activity of the Disciplinary Committee shows just the opposite - from April 2006 to the end of June 2010 61 disciplinary proceedings were initiated against private enforcement agents, 31 of which at the request of the Chamber Council. 6 censures have become effective, 14 fines (at the amount of up to 10 000 BGN), 1 warning of deprivation of qualification and 3 deprivations of qualification (for 8 months, 1 year and 3 years).

We cannot expect high professionalism, ethics and lack of violations without efficient training. Due to that fact the Chamber makes continuous efforts, spends funds and energy on the organization of multiple workshops, round tables and last but not least it invests on the collection with judicial practice called "Enforcement".

Georgi Dichev,

Chair

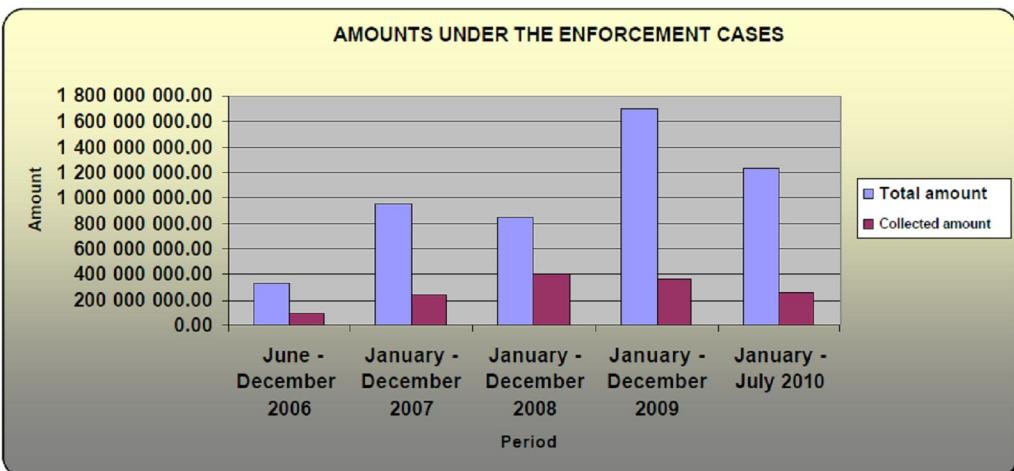
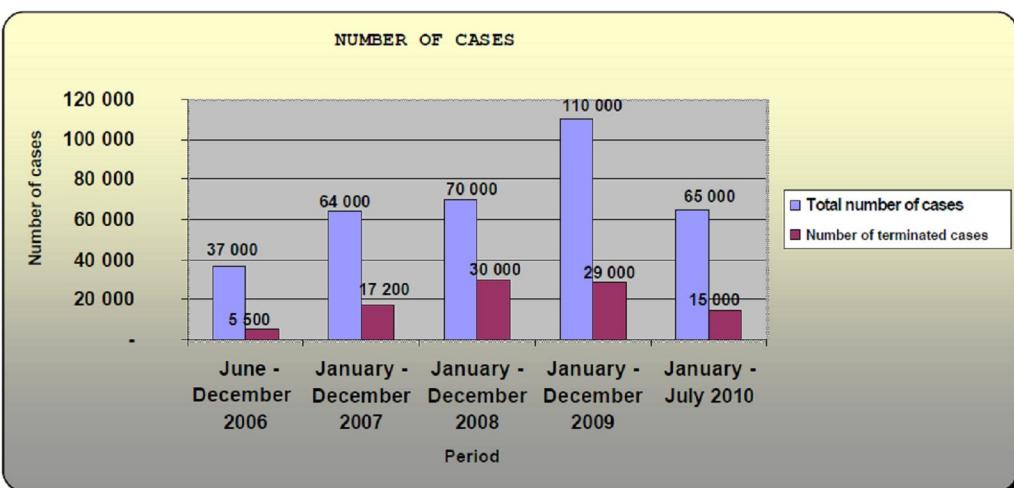
## 1. GENERAL OVERVIEW OF THE PRIVATE ENFORCEMENT SYSTEM

In 2010 we celebrate the fifth anniversary from the establishment of the Chamber of private enforcement agents. At present there are **159** offices of private enforcement agents with over **1 000** employees.

The reform in figures looks like that: Initiated cases in 2006 - 37 000, 2007 - 64 000, 2008 - 70 000, 2009 - 110 000, 2010 (first six months) - 65000; completed cases in 2006 - 5 500, 2007 - 17 200, 2008 - 30 000, 2009 - 29 000, 2010 (first six months) - 15 000. The collected amount is as follows: 2006 - 95 million BGN, 2007 - 250 million BGN, 2008 - 400 million BGN, 2009 - 365 million BGN, 2010 (first six months) - 260 million BGN.

(Note: the data for 2010 are based on the reports for the six-month period).

From the establishment of the private enforcement to 1 July 2010, **346 000** cases were initiated by private enforcement agents; **97 000** of them were completed and the collected sum exceeds **1 370 billion BGN**.



In 2010 the submitted complaints to the district courts through private enforcement agents are above 1500, around 200 of which have been respected by the court.

The system works and has an upward trend; the number of office employees increases. A large number of the private enforcement agents have empowered their assistants - currently there are 104 assistant-private enforcement agents throughout the country.

The reform was directed exclusively towards ensuring efficiency of the judicial system and supremacy of the law; however it turned out that the direct benefits for the fisc from it are considerable since the private enforcement agents have deposited to the Republican budget over 100 million BGN from collected public receivables, VAT from public sales and enforcement fees, taxes and social security from the activity of the offices. The indirect financial proceeds from the fast and efficient enforcement for the business and economy and from there - for the budget are difficult to measure. According to creditors and as seen from the statistics pertaining to the initiated cases, the private enforcement agents are the most efficient system of enforcement in the country and it is not a coincidence that multiple state authorities and municipalities, including the largest ones, assign collection of their public receivables to the private enforcement agents.

At the same time the offices use modern technologies in their filing activities. The access to information about the debtors, a considerable part of which is received electronically, ensures the necessary expedience of the process.

Unfortunately some legislative amendments were carried out in the past few years which show a different attitude on behalf of the state towards both types of enforcement bodies /private and state enforcement agents/, which in their essence are considerable withdrawal from the principles of the reform and instead of supporting it they are practically directed against it.

- A value-added tax was introduced only for private enforcement agents which raised the cost of their activity by 20% compared with the state enforcement agents. In case the price of the service is different we cannot talk about equal conditions and fair competition.
- The National Assembly has been delaying the adoption of the bill put forward on 22 January 2010 for amendment of the Cadastre and Property Register Act which aims at eliminating the requirement for provision of a property layout from the cadastral map when filing distraints because while the enforcement agent waits for the relevant layout, the debtors transfer their property and practically impede the enforcement of the judicial resolutions. This problem concerns not only the private and state enforcement agents but also the public enforcement authorities of the National Revenue Agency for the security and collection of the public receivables and it is a paradox that despite our persistence neither the Ministry of Justice nor the National Assembly responded to the elimination of one legal possibility for defraud of not only private creditors but the state as well.

➤ Since 1 January 2011 Art. 16, Par. 2 of the Private Enforcement Agents Act was revoked; at the same time Art. 431 of the Civil Procedure Code was amended. A new paragraph 4 was introduced which reads "for the information under Par. 3 necessary for the relevant enforcement proceedings as well as for the entry of security measures thereto the relevant fee is due. The fee is payable by the creditor and is at the account of the debtor." This amendment of the law delays the work of the private enforcement agent since for each reference under the cases the private enforcement agents need to wait for the creditor to pay the fee to the relevant state authority and to bring the receipt in order to enclose it to the claim. The drastic delay of the enforcement will also lead to delay in the transfer of the receivables from the PEA to the budget. In many cases there will not be any proceeds for the state because the debtor would have sold everything by the time the private enforcement agents collect the information about him. The approach should be just the opposite - the state will receive even more proceeds from the private enforcement agent by introducing electronic connection between their offices and the National Revenue Agency and eliminating the above indicated obstacles impeding their fastness and efficiency.

Clients of the private enforcement agents are not only companies, banks and the business in general but also Bulgarian citizens with receivables under civil relations, employment remuneration, alimony and delivery of a child. Having in mind that the fees for the above receivables are not deposited by the creditors but should be paid from the budget of the relevant court; however this does not happen - practically the private enforcement agents in our country pay out of their own funds such kind of cases which are not small in number.

The banks are the target group which occupies the first place with respect to satisfaction with the services provided by the private enforcement agents. They provide information about average collectability around 50-60% and the public creditors - up to 80%. Banks, as well as the lawyers share the opinion that their work has been considerably facilitated with the introduction of private enforcement.

Private enforcement in our country meets all European requirements regarding a modern, lawful and efficient activity.

## **2. INFORMATION ABOUT THE CHAMBER**

From its establishment on 26 November 2005 until present despite the continuous problems created by the opponents of the reform, the Chamber of private enforcement agents proved to be a reliable partner of the Bulgarian and international institutions trying to impose high professional standards and ethical norms among the enforcement agents, to maintain efficient working relations with the authorities and institutions and to offer a wide variety of services to its members. Efforts are exerted for maintenance of active relations with the public and media for the purpose of recognition

and raising the image of the profession of the private enforcement agent.

The acting private enforcement agents cover almost all judicial regions in Bulgaria with the exception of the regions of Smolyan district court and Lovech district court. In these regions enforcement is performed only by state enforcement agents but it is expected in 2011 the Minister of Justice to announce a competition for those vacancies for private enforcement agents in the above regions.

Currently the acting private enforcement agents - members of the Chamber - are 159, 79 of which are men and 80 women. One private enforcement agent has been deprived of qualification under Art. 31, par. 1, subpar. 7 of the PEAA in connection with effective judgment of the Supreme Cassation Court No. 280/7 July 2010 confirming the penalty imposed by the Disciplinary Committee at the Chamber of private enforcement agents under Art. 68, par. 1, subpar. 4 of PEAA - deprivation of qualification for a term of 1 (one) year.

One private enforcement agent has been deprived of qualification under Art. 31, par. 1, subpar. 7 of PEAA by virtue of effective judgment of the Supreme Cassation Court No. 438/22 June 2010 confirming the penalty imposed by the Disciplinary Committee at the Chamber of private enforcement agents under Art. 68, par. 1, subpar. 4 of PEAA - deprivation of qualification for a term of 3 (three) years.

One private enforcement agent has been deprived of qualification on the grounds of Art. 31, par. 1, subpar. 3 of PEAA. Each member of the organization has his/her own record file duly kept at the administrative office of the Chamber. The record files are arranged in an ascending order depending on the registration numbers of the private enforcement agents and are regularly updated and the data from the notifications about changes in the circumstances under PEAA are reflected in the Register of private enforcement agents.

Currently the Chamber of private enforcement agents was approached by virtue of Order LC-I-1159/20 December 2010 for suspension of the qualification of one more private enforcement agent on the grounds of Art. 31, par. 1, subpar. 4 of PEAA in connection with Art. 5, par. 1, subpar. 4 of PEAA. The order has not become effective yet.

The Chamber is governed by a Council with 10 main and 2 reserve members. It also has administrative personnel of 4 employees. It is financially independent and is not funded by the state.

### **3. ACTIVITY REVIEW**

For the purpose of obtaining an objective picture and a better balance of the accounted period this year the traditional questionnaire was also held among the private enforcement agents with respect to the main aspects of our activity. The assessment form included questions about the services rendered by the Chamber to its members, their quality, the activity of the management and the organizational skills of the employees.

We would like to thank all our colleagues who took part in the questionnaire and were very objective and critical in their personal judgment as members of the branch. We wished more colleagues to respond to our appeal and give their opinion since it is very important for the management of the Chamber of private enforcement agent and the administration with a view to correcting and improving the activity for future periods. After summarizing the collected opinions from the questionnaires the results are as follows:

<b>Please assess the activity of the Chamber depending on its contribution to your work and its usefulness in response to your needs and expectations</b>	Below expectations (1-3)	Above expectations (4-6)
	<b>Average evaluation</b>	<b>Percentage of satisfied expectations</b>
<b>Are you satisfied with the activity of the Chamber of private enforcement agents as your professional organization?</b>	5.17	86.11%
How do you assess the services provided by the Chamber?	5.23	87.22%
Administrative services	5.38	89.58%
Training	4.47	74.48%
<b>How do you assess the management of the Chamber of private enforcement agents?</b>	4.97	82.78%
Activity	4.88	81.25%
Readiness to communicate with members	4.78	79.69%
Communication with the media	5.03	83.89%
<b>How do you assess the administrative personnel of the Chamber?</b>	5.37	89.44%
Activity	5.48	91.40%
Communication with members	5.48	91.40%
timely	5.26	87.63%
exhaustive	5.32	88.71%
comprehensive attitude	5.48	91.40%
<b>What is the quality of the materials elaborated by the Chamber?</b>	5.13	85.42%
Website	5.09	84.90%
Collection "Judicial Practices"	4.97	82.81%
Other	4.68	77.96%
<b>How do you assess the workshops organized by the Chamber?</b>	4.76	79.31%
Lecturers	4.72	78.65%
Content of the training material	4.75	79.17%
Price	4.66	77.60%
Number	4.31	71.88%

<b>How do you assess your personal participation and contribution to the activity of the Chamber?</b>	3.88	64.58%
<b>Are the expectations for your professional behavior clear?</b>		
On behalf of the Chamber	4.87	81.18%
On behalf of the Ministry of Justice	3.93	65.52%
On behalf of the society	4.37	72.78%

All private enforcement agents who have filled in and sent questionnaires /32 in total/, are generally satisfied with the activity of the Chamber. The evaluation received for the services provided by the Chamber and its efficiency for the separate private enforcement agent is **5.17** under the 6-point scale and the performance of administrative services for the members has received the highest mark - **5.38**. The publication of the collection "Enforcement" received an average mark - **4.97**. This is a comparatively low mark which can be explained by the fact that for 2010 only one book has been issued and not so much due to the quality of the published materials in the collection.

All participants in the survey with the exception of four people have defined its general activity as positive. As regards to the issue whether in 2010 there was progress in the overall activities of the Chamber compared to 2009 the responses are controversial. Most of the respondents indicate availability of such progress. Four colleagues believe there is no progress. They think that there is standstill and withdrawal of the Chamber from already conquered positions and also that 2010 is a year of regression for the branch and because of that fact many colleagues are disappointed and discouraged. The remaining respondents share mixed impressions on the issue, i.e. they report progress in certain areas /such as timely information and overall attitude, technical progress, more transparency in the work of the Disciplinary Committee, etc./ and in others - lack of progress /for example in the relations with the Ministry of Justice, disregard of the law by some colleagues, lack of steadfastness and consistency in the activities of the Chamber Council and the Disciplinary Committee, etc./.

The summary reflects some positive results from the work of the management of the Chamber of private enforcement agents and its administrative personnel. The average evaluation of the management's activity in 2010 is **4.97** (compared with 5.00 in 2009, 5.32 in 2008, 5.36 in 2007 and 5.05 in 2006). The administrative personnel have been evaluated at **5.37** (5.40 in 2006, 5.63 in 2007, 5.66 in 2008 and 5.51 in 2009).

The larger part of the participants indicate as most useful activities for the benefit and in the interest of the members in 2010 the following: the achieved agreements for remote electronic access for the needs of the enforcement to the databases of the register of population, the National Social Security Institute, the Property Register, the Register of Conjugal Contracts, BULSTAT Register, the Cadastre Agency, the functioning of the Public Sales

Register; the work on the Debtors' Register; the timely and exhaustive information on the issues of judicial enforcement and amendment of the legislation sent from the administration of the Chamber of private enforcement agents; the unequal struggle for introduction of the fees and the daily fight with everything and everybody; the competence and fast reaction to problems occurring in connection with claims; the support on behalf of the administration and the management regarding the problem with the unregulated withdrawal of amounts from special accounts of the private enforcement agents; the contacts with colleagues during national forums and exchange of practices; the conducted workshops on the European law, etc.

As regards to the adequacy of the amount of the membership fee towards the activity of the Chamber of private enforcement agents the opinions vary as usual. Some colleagues think that the proportion of the membership fee towards the activity of CPEA is good and balanced. Others - that the amount should be raised a little. Some of the colleagues share the opinion that the fee is low but if it is raised some private enforcement agents would find it difficult to pay it. They believe that hard work should be done in order to introduce the Debtor's register which is expected to bring good proceeds to CPEA. One colleague has indicated that the membership fee is too high. More and more members of this branch begin to share the opinion that the amount of the mandatory annual fee should be differentiated and formed in proportion to the proceeds of the offices of the separate private enforcement agents /provided that there is a lower and upper limit of the amount/. And last, but not least many colleagues indicate that the financial independence of the Chamber would lead to increase in the organization's reputation.

A considerable part of the criteria in the questionnaires refers to the expectations towards the professional behavior of the private enforcement agents. The opinions of our colleagues on this issue can be grouped in three main categories. **First**, the attitude of the state institutions towards the private enforcement agents should be clarified - the mark is 3.93 /for comparison - it was 4.42 in 2009/. **Second**, the Chamber as a branch organization of the private enforcement agents should provide timely and comprehensive feedback to its members about the ongoing processes and activities, the summary of the good practices in the country and the expression of common views before the institutions on important issues pertaining to enforcement - the mark is **4.87** /the same evaluation was obtained in 2009/. **And third**, the attitude of the society towards the profession should be formed through a more expansive media and explanatory campaign as regards to the functions and obligations of the private enforcement agents - the mark is **4.37** /compared to 4.35 in 2009/. Generally the private enforcement agents' responses to this category of questions indicated less satisfaction and clarity with regards to the expectations for their professional behavior on behalf of the institutions and the society compared with the previous year. Judging by the final result from the responses they do not have any remarks towards the Chamber as their professional organization.

The responses to the question what can be done in order to make the expectations of the institutions and the society clearer are directed towards an increase in the number of the national conferences throughout the year; establishment of clear rules for work, evaluation and sanctions of colleagues who make mistakes in their work; open discussion about the problems in our activity; regular attendance of the workshops organized by CPEA; sending emails with bad practices of colleagues or frequently occurring problems which lead to complaints against private enforcement agents, etc.

There is criticism too. According to the respondents in 2011 the activity should be improved in the following directions: hard work on the Debtors' Register - on behalf of all private enforcement agents, including the management; synchronization of the practices in the offices; more positive media presentations and discrete lobbying; more practical trainings - the idea about an annual plan and schedule of trainings of CPEA is very good; the tasks of the private enforcement agents /references, questionnaires, other requested information/ should be assigned earlier; an example should be taken from other branches with longer history /for example the Chamber of Notaries/; the funds should not be spent on the annual ball, the control should be increased and in case of violations performed by colleagues the reactions should be fast, clear and complete.

Despite the constructive criticism and recommendations the private enforcement agents evaluate themselves with **3.96** for their personal contribution and participation in the work of the Chamber which is not sufficient testimonial of the personal motivation and engagement of each colleague towards the common cause.

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

In 2010 the Chamber Council, in the course of execution of its policy for maximum closeness to the policy of each PEA organized two national conferences at which current issues and problems arousing in the practice of the private enforcement agents were discussed. All forums were carried out in the spirit of an open dialogue and positive discussions on the common problems for the colleagues in the specific regions and in the whole country.

The first national conference of the private enforcement agents was conducted on 29 May 2010 in Sandanski, at Interhotel Sandanski. The agenda included very important issues pertaining to the activity of the Chamber's members. The results and the summarized conclusions from the meeting conducted on 12 May 2010 between the management of the Chamber of private enforcement agents and the Inspectorate under the Judicial Authority Act at the Ministry of Justice were presented. The members of the Commission on Professional Ethics explained the form and requirements towards the conduct of the annual monitoring in the offices of the private enforcement agents - templates of the questionnaire, schedule of the checks, the inspectors, the methodology of the monitoring, etc. A review of the progress of the disciplinary proceedings and the most common

violations performed by the private enforcement agents as well as the current status of the Debtors' Register was made.

A number of specific procedural issues and problems in the judicial enforcement were discussed.

The Council of the Chamber of private enforcement agents presented to the attention of the colleagues a summarized report on the proposals for amending the legislation pertaining to the judicial enforcement. Currently a working group of CPEA is working on the report which will be officially presented for public discussion in the middle of 2011 at a special international conference in Sofia where we will invite representatives of the Bulgarian legislative and executive authority as well as colleagues from abroad.

On 11 September 2010 Pomorie hosted the second national conference of the private enforcement agents which proved to be very useful and efficient for the members of the Chamber. Official guests were Mr. Eric Vinken - the leader of Matra Project and Mr. Yos Witdehaag - a member of the Board of the Royal Dutch Association of the enforcement agents. The conference was preceded and accompanied by a number of additional events - a seminar on the European regulations in the field of judicial enforcement held on 8 and 9 September, an open seminar on the practical aspects in the enforcement held on 10 September, a football match between the team of the private enforcement agents from Plovdiv and a combined team of private enforcement agents from Sofia and the country on 11 September.

The emphasis of the discussions in Pomorie was put on the celebration of the 5<sup>th</sup> anniversary from the establishment of the Chamber of private enforcement agents; the degree of readiness for initiation of the Debtors' Register in Bulgarian and the main instructions for filling and work with the database of the register; personal presentation by Mr. Eric Vinken of the results from the activities under the Matra project until present. A considerable part of the time during the working forum was dedicated to discussions and comments pertaining to synchronization of the practices of the private enforcement agents in connection with the implementation of the Civil Procedure Code. Many disputable cases were discussed as well as the problems in the work of the private enforcement agents arousing from them.

This conference achieved its objectives by giving the opportunity to the private enforcement agents to put forward current and important issues from their everyday activity as well as to discuss with members of the Council persistent problems of the reform as well as of the profession in particular. The general opinion of the colleagues who attended this year's questionnaire is that the number of these working forums should be increased because they are very useful for the participants.

During the reported period regional working meetings of the private enforcement agents took place in the bigger regions of the country - Sofia, Plovdiv, Burgas, etc.

On 11 November 2010 in Sveta Sofia Hotel the colleagues from Sofia city and Sofia district gathered together to discuss a number of issues and problems pertaining to their everyday work in the biggest judicial region in the country. At the meeting they discussed the

specific steps in the process of execution of the Agreement with Sofia municipality for collection of its receivables by private enforcement agents. From the conversations it became clear that not only the private enforcement agents in Sofia but also their colleagues throughout the country need immediate training on the collections under the Tax-Insurance Procedure Code and in this connection the seminar planned by the Chamber for the middle of January 2011 on the Forced collection under the Tax-Insurance Procedure Code will be timely and very useful for the future work of the colleagues. At this meeting the idea of the charity initiative of the Children's Playgrounds project which CPEA started in October 2010 was discussed. The colleagues discussed the list of proposals of Sofia district for construction and renovation of sites on the territory of Sofia which are suitable for this purpose. Three out of 11 playgrounds, proposed by the municipality, were selected and a decision was adopted for establishment of a working group for continuation in details of the negotiations and the work related to the implementation of the project. The condition of the bidding halls, the admission regime and the conditions provided to private enforcement agents in the building of Sofia Regional Court for the conduct of the procedure of public sales were also discussed.

With the organization of the national conferences and the working meetings of the private enforcement agents the Council of CPEA aims at conducting a straightforward policy towards optimization of the information process which would guarantee that the members of the Chamber are permanently informed about all activities of the professional organization.

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

2010 was a year full of serious work and interaction of the Chamber of the private enforcement agents with the institutions of the Republic of Bulgaria.

At the beginning of January 2010 the Chamber of PEA sent a letter to Central Depository JSCo requesting the provision of remote access for the purpose of making references and issuing electronic certificates and their electronic transmission related to information about the issuers, the type, number, nominal value of the uncertificated securities held by debtors under enforcement cases, entered constraints on them and established special pledges under the Special Pledges Act. Several meetings were conducted between the managements of both institutions. Up to now a trial version of the access has been developed which will function until the beginning of February and in the middle of February the actual remote access of all private enforcement agents to the database of the Register of Central Depository JSCo will be a fact.

In 2009 the Chamber of private enforcement agents offered recommendations to be addressed to the registry judges in the country that it is not necessary a plan - copy of the cadastral map to be presented for the purpose of entry/deletion of injunctions. If it is found appropriate that it is necessary, the copy of the plan obtained through electronic access from the Geodesy, Cartography and

Cadastral Agency should be sufficient for the entry/deletion of the injunctions on the real estates. We proposed an alternative solution of the problem - the Cadastre and Property Registry Act should be amended and added so that the requirement for a plan - copy should not refer to the cases of entry of an injunction under Art. 26 of the Entry Regulations. On 22 January 2010 a bill was put forward in the National Assembly for amendment of the Cadastre and Property Register Act which contrary to the Regulations for the activity of the National Assembly has not been reviewed by the Committee on judicial issues for over a year.

At the beginning of February 2010 we sent a letter to the General Directorate for Civil Registration and Administrative Service at the Ministry of Regional Development and Public Works requiring the access to the national database of the population to be conducted by a second electronic signature - of the private enforcement agents. The negotiations continued for more than six months and resulted in procurement on behalf of the General Directorate of the opportunity the references at the Civil Registration and Administrative Service to be performed by both private enforcement agents and assistant-private enforcement agents.

In April 2010 CPEA confronted the proposal of the Ministry of Justice for amendment of article 16, par. 2 of PEAA and the introduction of fees for the information obtained on the grounds of article 431, par. 3 of the Civil Procedure Code. Multiple statements were drawn up - to the Ministry of Justice, Ministry of Finance, the Committee on judicial issues at the National Assembly. A number of meetings were held between the management and separate members of the Chamber and members of Parliament, heads of committees, the Chair of the National Assembly. Interviews and press conferences were organized for the purpose of clarification of the problem - the amendment of PEAA will lead to inequality between the private and the state enforcement agents; it will considerably delay judicial enforcement and will reduce the proceeds for the budget. After we found out that the Ministry of Justice insists on passing the amendment in Article 16 of PEAA, as a possible alternative the Chamber proposed the introduction of a one-off fee upon initiation of cases. The fight was in this direction - whatever the change in the Civil Procedure Code, it should pertain equally to both private and state enforcement agents. As a result the Civil Procedure Code was amended and a fee was introduced for both the information and the records required by the private and state enforcement agents and the entry of security measures.

At the same time the Chamber Council required an official meeting with the Minister of Justice in order to discuss the current status of the enforcement in our country, the problems in the activity of the private enforcement agents and the opportunities for their overcoming. A respond to the letter was not received and a meeting was not held.

Again in April 2010 the management of the Chamber initiated a series of conversations and meetings with representatives of the National Revenue Agency in connection with the conclusion of an agreement for cooperation and information exchange which will considerably facilitate and increase the efficiency in the work of the private enforcement agents, make the enforcement process faster and satisfy

the needs of the civil turnover. It was not until November 2010 when the National Revenue Agency sent a model table of contents of the above agreement which was approved by the Council with few remarks. We are waiting for the copy of the approved arrangements signed and sent by the Executive Director of the National Revenue Agency which will be a fact very soon after defining the technical specifications.

In May 2010 the Chamber initiated a meeting with the inspectors from the Inspectorate under the Judicial Authority Act at the Minister of Justice for the purpose of improving the interaction between the supervisory bodies of these two institutions. There were two meetings in total - in May and in December. At those meetings the management of the Chamber put for discussion the main problems of the branch as regards to the inspections in the offices of the private enforcement agents performed by the Inspectorate.

In the middle of May the Chamber of PEA deposited a written statement under constitutional case No. 9/2010 of the Constitutional court of the Republic of Bulgaria by joining and supporting in full the arguments of the Ombudsman of the Republic and presented additional ones regarding the anti-constitutionalism of article 519 and 520 of the Civil Procedure Code. On 21 December 2010 the Constitutional court passed a judgment rejecting the request for announcement of anti-constitutionalism of the effective texts of Articles 519 and 520 of the Civil Procedure Code but instead of that declares anti-constitutional the amendments thereof performed by virtue of par. 1 and 2 of the Law on amendment and supplement of the Civil Procedure Code. As a result enforcement against municipalities is possible but not against state institutions.

In May the Chamber of private enforcement agents received an official letter from the Bulgarian association of owners of agricultural lands with a proposal for assignment to the private enforcement agents the collection of the receivables of the separate companies - members of the association. The private enforcement agents gained one more creditor in the face of the owners of agricultural lands.

Throughout the year members of the Chamber of private enforcement agents participated in the establishment and elaboration of an official position of an interdepartmental group for synchronization of the Bulgarian Identification Documents Act with the legislation of the European Union in the field of application of administrative enforcement measures.

In August the Chamber Council submitted a request to the Competition Protection Commission for intervention and vindication with a view to its powers under Article 28 of the Competition Protection Act for non-permission of unfair competition in the activity of the private and state enforcement agents in connection with the proposal of the Council of Ministers for amendment of Article 16, par. 2 of the Private Enforcement Agents Act. The Competition Protection Commission passed judgment expressing an opinion that the obligation for payment of fees for references and copies of documents is not an ungrounded barrier for entering the market since it is not connected with investment of specific funds for beginning of the type of economic activity under consideration and also that according to the

effective legislation the material, technical and normative costs in the activity of the private enforcement agents are covered by the state.

One of the achievements of our branch in the past year was another amendment of the Civil Procedure Code - the text of Article 431, Par. 2. After the official standpoints sent last year by CPEA to the Ministry of Justice and the Committee on legal issues at the National Assembly we managed again to achieve amendment of the provision. The latest amendment, effective as of 1 January 2011, reads that the state institutions, municipalities, organizations and citizens are obliged to assist the enforcement agent. Upon request the police authorities are obliged to assist the enforcement agent in the event of hindrance of the performance of his functions. We managed to eliminate a real legal absurd!

In the middle of 2010 the Chamber of private enforcement agents conducted a meeting and conversations with the acting Executive Director of the Registry Agency at that time - Mr. Anastas Georgiev regarding the opportunity for providing electronic exchange of documents between the Agency and its offices and the private enforcement agents in the Republic of Bulgaria. Requesting and provision of documents through electronic means will lead to considerable reduction of costs made by the different Registry agencies and will contribute to the considerable facilitation and fastness of the enforcement. An agreement was achieved with the former management of the Agency on the proposal and we expect it to be continued in the spirit of succession by the present management represented by Mrs. Violeta Nikolova. In this sense two letters were sent to her.

In June 2010 representatives of the Chamber took part in a round table on Necessary changes for improvement of the work of the Commercial Register, organized by the National Assembly of the Republic of Bulgaria and the US Chamber of Commerce. The Chamber of private enforcement agents submitted to the Ministry of Justice an official position in connection with the project on Publicity and efficiency of the insolvency proceedings and proposed amendment of Article 638, par. 3 of the Commercial Act, namely continuation of the enforcement on a mortgaged property.

Representatives of the Chamber also participate in the European judicial network in civil and commercial matters. This is a flexible structure which functions informally and aims at simplifying the judicial cooperation among the Member States. Its main objective is to provide support to the parties to civil and commercial legal proceedings with a cross-border element, concerning more than one Member State of the European Union. The presence of the Chamber of private enforcement agents in this project means participation in the implementation of the provisions and consultations in the course of adopting future projects; an opportunity for making inquiries about procedures, legal acts, legal and technical specifications in another Member State of the European Union. On 21 and 22 January 2011 one of the regular meetings of the network was held in Brussels which was attended by our representative.

In an official letter at the end of September 2010 the Chamber of private enforcement agents made proposals to the Geodesy,

Cartography and Cadastre Agency for improvement of the reference for entries under a lot of a particular person, improvement of the issued plans/schemes from the cadastral map, adding a new possibility for visualization and printing of the electronic images of the entered acts as well as adding the possibility for submission of entry acts through electronic means using an universal electronic signature. Until present a response from the Agency has not been received.

At the end of September the Chamber of private enforcement agents signed a Cooperation Agreement with Sofia municipality which determined the terms and conditions for assignment of collection of public municipal receivables by private enforcement agents.

In connection with a complained of 2007 by virtue of which the Chamber of private enforcement agents approaches the European Commission in connection with the imposition of VAT on the activity of the private enforcement agents, at the beginning of December 2010 we received another letter from the Commission requiring from CPEA and the Ministry of Justice provision of additional information containing statistical data about the activity of the private enforcement agents by years. The Chamber provided the requested information within due time. We expect judgment on the complaint from the representatives of the Taxation and Customs Union Directorate-General, Department of control of the application of the community legislation and state aids at the European Commission.

At the end of December CPEA sent a second letter to the Ministry of Justice and the Central register of special pledges requesting provision of remote access to the data maintained by the register for the purposes of enforcement. An analogical request was addressed one year ago. Until present we have not received an answer to any of the two letters.

In order to continue the working dialogue of the Chamber with the institutions and as continuation of the policy of cooperation with the state administration and the Bulgarian business as well as in connection with the series of events with which we celebrated our 5<sup>th</sup> anniversary on 16 November 2010 at Arena di Serdica Hotel in Sofia a discussion was held with representatives of Bulgarian business organization on Private enforcement - problems and opportunities. The discussion was attended by representatives of the Association of Banks in Bulgaria, the deputy executive director of the National Revenue Agency - Mrs. Dimana Miteva, the Bulgarian Industrial Association, the Ministry of Justice and the Bulgarian Chamber of Commerce. The persons attending the forum clearly and categorically presented their opinion on the efficiency of the work of the private enforcement agents. Prior to the beginning of the reform, the opinion of the European Commission was that the enforcement was among the worst functioning procedures in Bulgaria and was an obstacle to the economic development. Five years later the private enforcement proved that it can exercise self-regulation very successfully and can be based on competition, quality and law. Liberalization of the enforcement system in Bulgaria became possible due to the efforts of the state administration, the responsible Bulgarian business in the face of its organizations, the state and the professional community. The successful functioning of the private enforcement agents considerably increased the number of

public creditors on a local and national level. This considerably increased the proceeds in the national budget and achieved a strong preventive effect. However the continuing debates on the legal framework of the private enforcement require consideration of the evaluation and positions of the state administration and the business organizations as well as the problematic fields in our cooperation. The meeting was very useful because opinions on current issues affecting each institution as regards to enforcement were exchanged and specific measures for joint actions were outlined.

Immediately after the discussion a press conference organized by the Chamber of PEA took place. The journalists addressed their questions towards the Chairman of CPEA, Mr. Georgi Dichev and Mrs. Zhasmina Sazdova - an expert at the National Revenue Agency.

On 3 December the Chamber, together with the project on Strengthening of the private enforcement in Bulgaria under the Matra programme of the Ministry of Foreign Affairs of the Kingdom of the Netherlands organized an international conference on Current problems of the enforcement in Europe. Directors of the European Chambers of private enforcement agents from the Netherlands, France, Romania, Poland, Greece and Macedonia took part in the event. After the conference a special press conference was given to the media.

### **3.3. Public Relations**

After a 5-year purposeful and active work with the media now we can talk about successful constructive relations with the journalists who are good partners of the Chamber in its desire to inform the public and to protect the public interest. Throughout the year journalists from various national and regional media /television, press and radio/ attended forums organized by the Chamber - working meetings, press conferences, seminars, etc. As a result of the active work of the colleagues from the Chamber Council who are responsible for the sector of Communication and Intercession Policy and more specifically of the director of this sector in 2010 dozens of positive articles about the private enforcement agents were published mainly in the regional and national daily newspapers. This activity proves the willingness of CPEA to maintain an open and active dialogue with the media which are the main factor for informing the public and formation of the public opinion.



An example in this respect was the traditional workshop held from 16 to 18 April 2010 at Park hotel Pirin, Sandanski with the representatives of the media on Current problems and results from the private enforcement agents in the conditions of economic crisis. The event was organized by the Chamber of private enforcement agents together with the project on Strengthening of the private enforcement system in Bulgaria /with the financial support of the Matra programme/.

The first day of the forum was given up to presentation of the results from the activity of the Chamber of private enforcement agents from the first year and analysis of the tendencies in the development of the processes and the profession. The Chairman of CPEA informed the media about the results from the study carried out by CPEA and Matra project of the opinion of the creditors and debtors involved in the enforcement process about the PEA's activity. The results from the internal monitoring of the activity in the PEA's offices, carried out at the end of 2009 by the Committee on Professional Ethics at the Chamber of private enforcement agents, were also presented. The special interest of the media was directed towards the information provided by us in connection with the review of the progress and results from completed disciplinary proceedings against private enforcement agents - most common types of violations, types and amounts of the corresponding penalties, judgments of the Supreme Cassation Court under appealed decisions of the Disciplinary Committee at CPEA, the number of effective penalties, etc. The second and the third day of the workshop were given up mainly to a discussion on topical issues of the enforcement proceedings in Europe as well as interviews and informal conversations of the management of the Chamber of private enforcement agents with the media. The forthcoming activities and events of the Chamber for 2010 were announced. The present representatives of the media were provided with written articles in connection with the discussed topics.

The participants in the seminar were members of the Chamber Council of private enforcement agents and more than 20 Bulgarian top-journalists who after the end of the event reflected the results from the activity of the private enforcement agents in more than 50 extended publications, interviews and television broadcasts. The working meeting reconfirmed the sustainable line of positive and objective presentation of the private enforcement agents in Bulgaria by the media as a counterpoint of the common view that only the negative information is news to them.

A very strong presence and significant interest on behalf of the media could be noticed on the occasion of the 5<sup>th</sup> anniversary from the establishment of the Chamber of private enforcement agents. On 16 November 2010 immediately after the meeting with the Bulgarian

business organizations in Sofia, hotel Arena di Serdica, a press conference was held which was organized by the Chamber of PEA on Forthcoming amendments of the legislative framework affecting the private enforcement activity. The Chairman of the Chamber Council, Mr. Georgi Dichev and Mrs. Zhasmina Sazdova - expert at the National Revenue Agency answered the journalists' questions.

On 3 December, on the day of the jubilee concert on the occasion of our professional holiday, after the international conference with our foreign guests - directors of European chambers of enforcement agents, a press conference was held on 5 years from the establishment of the Chamber of private enforcement agents which was also attended by a large number of journalists from different media. Mr. Leo Neten - Chairman of the International Union of Enforcement Agents, Mr. Eric Vinken - director of the project on Strengthening of the private enforcement system in Bulgaria and Mr. Georgi Dichev - Chairman of CPEA answered the journalists' questions.

Media partners of the Chamber during the sequence of events marking our 5<sup>th</sup> anniversary were Trud newspaper, Information agency Focus, Nova Television and Legal World Magazine. The results from these press conferences as well as from the entire reflection of the anniversary are eloquent testimony to the considerable media interest and positive reflection of our activity! The Chamber prepared two press books with the articles published and reflected in all media - press, internet, television, radio and specialized legal editions.

In 2010 we continued the successful cooperation between CPEA and Banker Newspaper /a weekly edition for finance, economy and policy/ where a specialized page is published with information about the property which is offered for public sale in the Public sales register of the Chamber. According to the agreement concluded between both parties, apart from information about the sales the printed media used to publish other information, statistics and analyses, provided by the Chamber in connection with the current status and the problems of the enforcement in Bulgarian.

An important role in the general information and public communications was played by the parties to the enforcement process as direct or indirect participants in it - bank institutions, business representatives, lawyers, insurers and last but not least - the citizens.

#### **3.4. Control over the activity of the private enforcement agent**

According to CPEA and its Statute the Chamber defends principles protecting the public interest. The Chamber and its members appreciate the supremacy of the law and work conscientiously, transparently and professionally. One of the most important obligations of the Council of CPEA is to exercise efficient control over the observation of the law and the statute on behalf of the members. This activity is very important for the success of the profession and due to that fact the Council pays special attention to it and exerts efforts for improvement of the supervising activity from the point of view of higher efficiency and transparency.

The Ministry and the Council of CPEA conduct independently of each other a policy of supervision and monitoring of the activity of the private enforcement agents and check if the law, the Statute and the Code of Ethics are observed. The checks are performed under specific complaints but also on the entire activity of the offices of private enforcement agents. The control over the branch exercised through the Ministry of Justice /legal and financial inspectors/ and the self-control exercised through inspections in the offices and review of complaints by the Chamber Council is strong and precise which is proved by the number of initiated disciplinary proceedings. For 2006 they are 5, for 2007 - four, for 2008 - 15, for 2009 - 21 and for 2010 - also 21. The imposed penalties vary from censure and fine, including to the maximum amount of 10 000 BGN, to deprivation of qualification of two private enforcement agents for a term of three and one year respectively.

After the adoption of the Code of Ethics of the private enforcement agents in January 2009, the Council of CPEA appointed a 9-member Committee on Professional Ethics /CPE/ and approved an organizational framework and regulations governing its activities. The main priorities in the activity of CPE in 2010 were: current monitoring and subsequent supervision over the activities in the offices of the private enforcement agents; monitoring and supervision over the offices; collection, systematization and analysis of the information obtained from the monitoring; inspections resulting from signals and complaints against private enforcement agents; the use of mediation as a means of solving disputes between colleagues as well as between private enforcement agents and parties to the cases. According to an elaborated and adopted schedule of inspections by CPE and the Council of CPEA, within the period 21 October 2010 - 10 January 2011 all offices of private enforcement agents in the country were inspected. All inspectors under Article 10, subparagraph 11 of the Statute of CPEA took part in the monitoring process. The results and conclusions from the inspections are still being summarized and due to that fact they cannot be enclosed to the current report. When the analysis and the conclusions from the annual monitoring for 2010 are ready they will be presented by the Chair of CPE at a meeting of the Council and will be used as source data for undertaking of activities on behalf of the Council of CPEA for synchronization of the work in the different offices and for limitation of practices which do not comply with the regulations and standards approved by the Chamber.

### **3.5. International cooperation**

The Chamber of private enforcement agents is a full member of the International Union of Enforcement Agents (IUEA). Currently 75 countries are members of IUEA. The newest members of the Union which were officially admitted in 2010 are Moldova and Georgia. In the near future several other countries will join the international professional organization which are now having the status of observers and associated members. Bulgaria has been a full member since 2005 and regularly pays its annual membership fee to the world organization.

From 20 to 22 October 2010 the Chair of CPEA took part in the annual meeting of the Member States of Eurodanube which was held in the Czech capital Prague. This year the conference's motto was "The position of the enforcement agent within the legal system". The participants were able to exchange information about the current status of the enforcement systems in their countries. Mr. Georgi Dichev presented before his European colleagues a report on the achievements /including figures/ of the Bulgarian Chamber of PEA during the 5 years from its establishment to now - a radical reform in the Bulgarian legal system which the World Bank placed among the ten most successful reforms in the world for 2006. However he informed his colleagues about the serious problems which have aroused in the past years from unsuccessful legislative amendments showing a different attitude on behalf of the state towards the private and the state enforcement agents. Practically these amendments are considerable withdrawal from the principles of the reform and instead of supporting it they are directed against it. The Bulgarian experience has shown that the liberal model is the best and it should not function parallel to state enforcement agents. For one more time the Member States of Eurodanube made the categorical conclusion that they have common history, present and future and face similar problems of their legal systems, and more specifically in the profession of the enforcement agent. Under the conditions of the current economic crisis the unification and strengthening of the enforcement process in these countries becomes essential. The ratification of enforcement as a main institution of justice should become a common objective, especially in the struggle and competition with the companies for collection of receivables and the intermediation agencies. And this can only be achieved through unification of the powers which is the main engagement and objective of the organization Eurodanube. As a result of this the delegates at the conference have drawn up a joint document called "General recommendations towards the enforcement agents from the countries from Eurodanube" - good practices which are useful and can be applied by the private enforcement agents in Bulgaria.

The Bulgarian Chamber of private enforcement agents was represented at the meeting of the world permanent council of the International Union of Enforcement Agents which was held on 25 and 26 November 2010 in Paris, France, at the head office of the international organization. Unfortunately the European Permanent council which was planned to take place on 6 and 7 May in Glasgow, Scotland was almost spoiled due to force majeure natural circumstances. Very few countries managed to send their representatives. Due to a cancelled flight the Bulgarian delegation was not able to attend the forum. The agenda of the Permanent council in Paris included the following main topics: adoption of the report on the activity of IUEA for 2009; association of the new Member States - Moldova and Georgia; connections of IUEA with the European and the world institutions on the issues of enforcement; reports on the activity of the subsidiary organizations Euronord, Euromed and Eurodanube; the activity of Jaque Isnard research institute; financial statement for 2009; speeches of the delegations; state and development of the activities under the current projects of IUEA - electronic jurisdiction, analysis of the tariffs of the different Member States, training, etc.

We must emphasize that the International Union of Enforcement Agents in the face of its new management again and more than ever declared its support for our country and its readiness to render any assistance for the further development of the reform into the right direction until its successful completion.

In 2010 the Chamber of private enforcement agents hosted two visits of foreign delegations.

A large group of colleagues - lawyers from Kosovo were our guests at the end of January and at the beginning of March we met a delegation from Holland.

The visit of the delegation from Kosovo was very useful for them having in mind that it was expected their country to adopt the Private Enforcement Agents Act any moment. During their visit it was very important for our guests to share with them our experience and the lessons which the Bulgarian private enforcement agents and their professional organization have learnt during the transition from state to liberal model of the profession. The most interesting topics were: the legislative process; the adoption and implementation of the Private Enforcement Agents Act; the advantages and disadvantages of the "mixed" model /since in Kosovo the idea about a parallel system is also a fact/; the role of the Ministry of Justice; the role and activity of the Chamber of PEA; the functioning of the PEA's offices; the structure and the Tariff of the fees and costs towards the PEAA; responsibility and insurance of the private enforcement agent; disciplinary proceedings; supervision and control over the activity of the enforcement agents; interaction with the court; the public opinion about the new model and many others. During this visit several offices of private enforcement agents in Sofia were visited where our colleagues from abroad had the opportunity to become familiar with the organization and the working processes in the office, with the automation and computerization of these processes, with the filing and archiving procedures; with the electronic access to information about debtors and with the real time serving of parties to enforcement cases. A very exciting event about the delegation from Kosovo was that during their visit in Bulgaria they were notified that their Act was voted by the Parliament and the private enforcement became a fact for them! Two months later a smaller expert group visited Bulgaria again and conducted conversations on specific topics with the Chair and the Administrative secretary of the Chamber of private enforcement agents.

From 9 to 12 March 2010 we had the pleasure of meeting our colleagues, friends and partners from the management of the Royal Dutch Association of the Enforcement Agents. The meeting had been expected for a long time and was planned as an activity under the project on Strengthening of the reform of private enforcement in Bulgaria under the Matra programme of the Dutch government. After a very useful training trip of a group of private enforcement agents and representatives of the Ministry of Justice to Holland in 2007, a new meeting and exchange of good practices, opinions and impressions three years later proved to be very useful for both chambers. Our guests were the Chair of the Dutch chamber, Mr. John Visborn, the administrative director Mrs. Karen Weisfelt, Mrs. Yos Uitdehaag - member of the Board, Mr. Jeroen Neinhuis - member of the Board and

Mr. Eric Vinken - director of Matra project. Within this visit we conducted a number of useful meetings and training sessions.

On 9 March our foreign guests visited offices of private enforcement agents in Sofia and became familiar with the reforms in the activity of their colleagues five years after the first steps in the new profession.

On 10 March a meeting between the management of both chambers was held. In the spirit of friendship and cooperation of mutual benefit our guests shared with their Bulgarian colleagues the way they allocate the roles, responsibilities and the performance of their tasks within the managing bodies and how they conduct efficient meetings of the Board; what type and amount of resources they use for the security of the activity of their professional organization; how they lobby and maintain relations with the institutions and what lessons have they learned in this process. The disciplinary process in Holland was also discussed. Practical experience was exchanged on the implementation of the international quality standards in the offices of the enforcement agents and the subsequent certification of the offices. It became clear that in Holland this is no longer a recommended activity for the members of the Royal association but a mandatory practice.

On 11 and 12 March the last seminar of the series took place with the participation of Dutch lecturers on European regulations in the sphere of enforcement - Part II. It was attended by 27 private enforcement agents and assistant - private enforcement agents from all over the country. From now on our Bulgarian lecturers, specially trained under Matra project will carry out this type of trainings for which the Chamber of private enforcement agents has already developed a methodology - a result from the project as well.

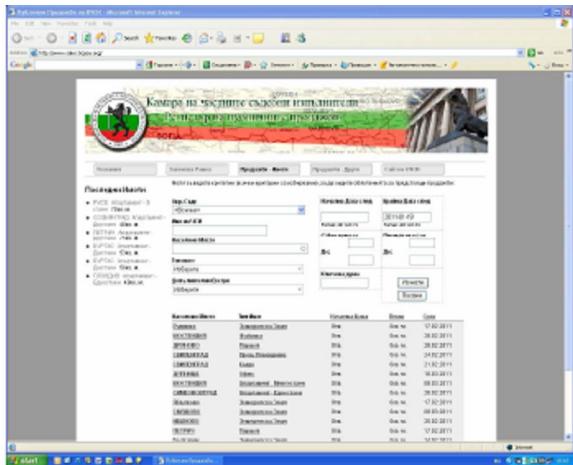
On 3 December 2010 the Chamber, together with the project on Strengthening of the private enforcement in Bulgaria under Matra programme of the Ministry of Foreign Affairs of the Kingdom of the Netherlands organized an international conference on Challenges before the improvement of the enforcement process in Europe. The event was attended by the Director and the deputy-director of the International Union of the Enforcement Agents Mr. Leo Neten, and Mr. Bernard Menu, as well as the directors of the European chambers of the private enforcement agents from Romania, Poland, Greece and Macedonia. They were our special guest on the occasion of the 5<sup>th</sup> anniversary from the establishment of the Chamber of private enforcement agents. The working forum was opened by Mr. Leo Neten and Mr. Georgi Dichev who later gave a press conference for the journalists. The forum focused mainly on the following: presentation of a short report by the working group on the analysis of the Bulgarian legal framework in the sphere of enforcement with the most important conclusions and recommendations for amendments; greetings and wishes on the occasion of the 5<sup>th</sup> anniversary of the Chamber of private enforcement agents from our foreign colleagues as well as their reports on the status /the achievements and the current problems/ of the enforcement in their countries. Many useful opinions were exchanged for joint actions connected with the improvement of the legal environment and the efficient enforcement in the conditions of economic crisis.

### **3.6. Services provided to the members of the Chamber**

#### **3.6.1. Competition for assistant - private enforcement agents**

At the beginning of April 2010 a competition for assistant - private enforcement agents was held. By virtue of an order of the Minister of justice of 26 January 2010 an examination date was fixed. On 4 February 2010 the Chamber started the statutory procedure for conduct of the examination which was attended by 153 regular candidates from all over the country. The examination was oral and was successfully passed by 121 candidates. Currently 55 of them have statutory powers to exercise the profession assistant - private enforcement agents and work in offices of private enforcement agents from all judicial regions in Bulgaria. Practically this allowed the offices to increase their capacity and quality of work which was one of the main priorities in the activity of CPEA throughout the year. At present the number of all acting private enforcement agents in the country is 104.

#### **3.6.2. Register of public sales**



The Register of public sales has been active since the middle of June 2009 or for more than 18 months. For this time span it proved to be the only successful method of announcement of public sales although it is not imperatively provided for in the regulations of the Civil Procedure Code. The realization of the Register of public sales was a very positive initiative and contributed to the rejection of the accusations that the

private enforcement agents deliberately do not announce the public sales for the purpose of property benefits for themselves or for third parties. As it was expected the Register of public sales provokes considerable interest among the citizens and its existence has been many times and is still a topic for discussion in most Bulgarian media. This contributes to the proper announcement and from there - to the multiple visits of the website. Even a short suspension of the website due to technical reasons results in an avalanche of inquiries on the e-mail or telephone from its users. So far the website has been suspended very few times and for not more than a few hours during the adjustment of the servers. Otherwise the website has been permanently online.

The Register has different functionalities. All announcements of property sold by the private enforcement agents are published there - movable and immovable, as well as all necessary instructions, legal acts and other pieces of useful information for the interested parties. There are search filters according to the territory of the relevant district court, towns, type and price of the property. A reference about the time limits within which the bids are submitted

can also be done. The reasons for establishment of a unified electronic Register of public sales of the private enforcement agents were two. First - transparency, strictness and clarity of the bids. The offers are submitted to the relevant court and this is why no enforcement agent can manipulate or influence the bid in any way. Second - better announcement of the information about public sales and attraction of more potential buyers. It is in favor of both the creditor and debtor more and more people to understand about the sale of a certain property in order for it to be sold as fast as possible and at the highest possible price.

For the past 19 months the website has been visited by over 380 000 unique IP addresses which means that at least two times more unique users have visited the website having in mind that many computers are used by more than one person /for example a corporate client with many computers and users/. The indicated number of users have visited the website almost 1 500 000 /a million and a half/ times and have visited over 30 000 000 /thirty million/ websites. The average number of websites visited by one user is 22 per each visit and the users have spent around 10 minutes in every visit. The website has been visited by around 3000 users per day and during the holidays their number is reduced by half but is still high.

For the previous year and a half since the establishment of the Register of public sales of PEA over 12 200 /twelve thousand two hundred/ announcements for public sales of real estates have been published as well as 2200 /two thousand and two hundred/ announcement for public sale of movable chattels. There is no data about the number of successfully completed sales, at which sale in row and at what price. Such a functionality is envisaged upon establishment of a new website for public sales in 2011. In the middle of January 2011 the Council of CPEA adopted a resolution and approved a budget for assignment of the development of a completely new website for public sales which should take into account the experience gained so far and the requirements for new functionalities and design. There will be a competition for assignment of the development of a new website.

### 3.6.3. Register of debtors



In 2010 the work on the project for creation of an online **Central register of debtors** /CRD/ continued though at low pace. This platform will contribute to the instant exchange of information among all enforcement agents for enforcement proceedings initiated in their offices against one and the same debtors. As a result of the access to such information the enforcement agents will be able to

carry out enforcement actions against the debtors more effectively and the creditors will have the opportunity to join under other cases initiated against the same debtor. This will increase the

chance for fast collection of the receivables and the saving of excessive costs in connection with them. The Register also enables the provision of references to third parties about the availability or unavailability of active enforcement proceedings against them on the territory of the country, in the offices of all active private enforcement agents. This functionality is believed to create a new source of proceeds for the Chamber and for each separate private enforcement agent. And last, but not least each enforcement agents will be able to check in a fast and efficient manner whether a debtor to an enforcement case has the quality of debtor with another enforcement agent. This will be useful in the course of the enforcement proceedings. After filling the Register by all private enforcement agents the certificate issued thereby will be much more trustworthy before third parties - creditors or state and municipal institutions since they will cover the activity of all private enforcement agents in the Republic of Bulgaria.

In October 2010 for the needs of CRD the Chamber purchased two computers - one main and one back-up computer which meet the technical needs of the registers maintained by CPEA. A contract for hosting of the newly purchased servers was concluded for their collocation. The two registers (the Central register of debtors and the Register of public sales) will be hosted on the main server. On 1<sup>st</sup> November a contract for donation was concluded between the Chamber and the software developers of the Register of debtors by virtue of which the Chamber acquired the rights on the software and the register. On the same date an agreement was signed for outsourcing of information technologies and technical maintenance of both registers for a period of one year.

On 5<sup>th</sup> November 2010 in Sofia the Chamber of PEA hosted a meeting with all software developers for private enforcement agents for the purpose of achieving the possibility for automation of the process of data entry into the register. After the meeting the software developers started working in the following direction - the automated data export to be achieved in short time limits for all available and future systems. As a result from this meeting the Chamber entered into a contract with these software developers for the development of the following types of additional functionalities for the Register of debtors: 1) WEB service for automated data entry into the Register of debtors at the Chamber of private enforcement agents; 2) WEB service for performance of automatic references from the Register of debtors using personal ID/foreigner's ID/UIC/BULSTAT or name/company name; 3) Elaboration of technical documentation of the previous two services for the purpose of using by the developers a software for the Register of debtors. The deadline for performance of the subject of this contract is 15 February 2011. According to a resolution of the Council of CPEA from October 2010 /Minutes 73/, in 2011 the Chamber is expected to appoint a system administrator /First Line Support/ for technical maintenance of the two registers. The newly appointed officer will be trained by the team developing the software of both registers.

Presently the Register of debtors contains over 384 000 /three hundred eighty four thousand/ enforcement cases by 121 private enforcement agents. Colleagues who have not uploaded any enforcement case are 38 and 10 of them are almost ready to fill the register

through their filing systems. We do not have information about the rest of the private enforcement agents about when and how they intend to fill the register with data. By the end of the time limit - 1 March 2011 the Central register of debtors will be functionally ready to issue certificates to third parties and currently it is already operating to the extent that any private enforcement agent may check whether a creditor of his is also a creditor of another colleague. The main problem before the Register remains its incompleteness due to the fact that many colleagues do not fill it and also that there is sometimes incorrect or untrue information. We believe that these omissions will be eliminated within short periods of time.

#### **3.6.4. Training**

Several main trainings were conducted by the Chamber of private enforcement agents during the reported period. To a large extent they continued already started projects from the previous reported period.

On 26 and 27 March 2010, immediately before conducting the examination for assistant-private enforcement agents a preparatory workshop was organized for them. The two-day course complied with the effective legislation and offered training on the practical aspects under Part V of the Civil Procedure Code - Enforcement. The training covered a general analysis of all primary and secondary pieces of legislation which are directly connected with the work of the private enforcement agents and their assistants. The participants /63 persons/ became familiar with the specification of the legal framework within which the private enforcement agents operate as well as with the good practices pertaining to enforcement of judgments. The lecturers of the workshop were qualified lecturers, representatives of the branch and the programme complied in full with the synopsis ratified by the Minister of Justice for the purpose of conducting examinations for assistants.

On 8 and 9 September in Pomorie the series of courses conducted under Matra project continued with the organization and conduct of a seminar on European legislation in the sphere of enforcement - second part. For the first time the lecturers were only Bulgarians - a regional judge, a lecturer from the National Institute of Justice and two private enforcement agents - especially trained within the project frameworks, whose methodology will be used for future trainings of the members of the Chamber, their officers and external interested parties. The idea of this course was the 26 participants to acquire knowledge on this topic, which is so important for the work of the private enforcement agents. The workshop was very successful. An emphasis was put on the following elements of the European enforcement practice: Regulation Brussels I and II; the European grounds for enforcement on unquestioned receivables; Procedure for European payment order - Regulation EC No. 1896/2006; Regime of personal relations and children's support after the divorce; Serving papers - judicial practice and training; Green cards for liens on bank accounts and information about debtors' property, etc.

On the following day - 10 September, the open seminar in Pomorie was also very successful. Its topic - Practical aspects of enforcement as well as the good lecturers attracted over 140 participants - private enforcement agents, assistant - private enforcement agents, lawyers, bank legal advisers, etc. The programme included 3 main modules: 1) practical aspects of enforcement on real estates and competition of methods of enforcement, with lecturer Dr. Valentina Popova, Assoc. Prof.; 2) practical issues related to enforcement on chattels - lecturer Borislav Belazelkov and 3) tax and legal aspects of enforcement, interaction with the authorities of the National Revenue Agency in case of public receivables, VAT on public sales - lecturers were experts from the National Revenue Agency. The results from the analysis of the feedback after the end of the training were very positive as regards to the usefulness of such operating and practical sessions.

On 6 and 7 December in the resort of Pchelin bani a joint seminar took place on the Disciplinary process planned for the members of the Council, the Disciplinary committee, the Committee on professional ethics of the Chamber of PEA and Dutch experts. This meeting was planned within the activities under the Matra project at the beginning of 2010 and was carried out with the financial support of the project on Strengthening of the private enforcement system in Bulgaria. The need of such training and exchange of practice on the initiation and progress of disciplinary proceedings with the Dutch colleagues was very urgent for the members of the Disciplinary Committee. Mr. Jos Uitdehaag followed the process from the inspections to the ascertainment and the initiation of disciplinary proceedings in Holland. On our part Chief Assistant Ralitsa Ilkova was the lecturer and moderator - a lecturer of criminal law at Kliment Ohridski Sofia University. Mrs. Ilkova interpreted and encouraged the discussion towards the disciplinary responsibility and the disciplinary proceedings under PEAA in Bulgaria. The practical trainings related to "cases and disciplinary dilemmas" were also very useful for the participants. They were conducted by Mr. Jeroen Neijnhuis - a member of the board of the Royal Dutch Association. The Chair of the Disciplinary court in Amsterdam, Mr. Huus Stille clarified the grounds for disciplinary responsibility and the procedures connected with appellate appeal of the judgments of this court in Holland.

As a natural continuation of the work related to the training strategy of the Chamber /vision, priorities and objectives/, at the end of 2010 the Training Committee at the Council of CPEA made a plan and a schedule of the trainings for 2011 for the members of the branch. After a discussion, corrections and adoption of the financial substantiation of the planned courses, the plan and the schedule were adopted at a meeting of the Council held in October 2010. As a result, the planned training programme and the schedule of the seminars for 2011 are much more diverse and frequent compared with the previous years. There will be more than 13 courses on various topics pertaining to the work of PEA, APEA and their officers - one training per month on average till the end of the year. Immediately after their adoption, the plan and the schedule were sent to all private enforcement agents with the request for common orders for the number of their employees willing to be trained, allocated in months and types of courses. In January 2011

we already conducted two of the planned seminars and the extremely successful results give us the hope that this ambitious task we have set will lead to increase in the quality and satisfaction with this service offered by the Chamber to its members.

In general, there is more to be done regarding the trainings organized by CPEA /as seen from the opinions of the colleagues who have filled in the questionnaires/. However, the type and frequency of the training courses by the Chamber is determined depending on the interest of the members of the branch as well as of external users. This is why we appeal to our colleagues to be active and committed to this idea and to feel free to make proposals to the training committee with new and interesting ideas about their professional training.

### **3.6.5. Information and administrative services**

As a consequence of the analysis of the results from the previous year we report a positive evaluation of the methods of use of communication instruments for provision of information to the members regarding the activities of CPEA and the provision of feedback. An important role in this process was played by the conducted national meetings throughout the year. Every member of the Chamber is responsible for the building of the image of the profession. The members are entitled to request updated information and high-quality services but are also obliged to observe the rules and policies adopted by the managing bodies of the Chamber.



We are trying to update the webpage of the Chamber of private enforcement agents on a regular basis. However, there is a lot more to be done in this respect. We hope that the appointment of a new officer of the Chamber in charge of the information technologies only, First Line Support of the Registers and the website of CPEA, the quality and quantity of the offered service will considerably improve.

As regards to the use of the means of communication between the members and the administrative staff on the one part and between the Chamber of PEA and the general public on the other part, we can say that they are at a very good level. The results from this year's questionnaire come to show a very high degree of satisfaction on behalf of the private enforcement agents with the obtaining of timely and exhaustive information on issues related to their activity as well as with the overall attitude of the administrative staff of the Chamber towards its members.

For the purpose of maximum extent of information provision to its members about all publications in the media reflecting the activity of the private enforcement agents, this year the Chamber also renewed its contract with Focus information agency - our media partner in a number of projects and events of the Chamber of private

enforcement agents. The subject of the contract is web based daily media monitoring on Enforcement. The main page of Focus info contains links to all bulletins for which we offer subscription and their relevant sub-topics. After entering a user name and a password available to all members of CPEA, the members are able to see the contents of all publications on the topic for the last three months. In this way the colleagues may be daily and sufficiently informed in a concentrated manner about the national and regional media articles related to their activity. The management of the Chamber truly hopes that we will be useful to our members with this service in 2011.

During the reported period the Chamber continued to perform standard administrative services for its members - entries and deletions from the Register of private enforcement agents, changes in circumstances related to the Register, issuing certificates, memoranda and other documents, issuing official cards, cases and signs, distribution of the publications of CPEA, subscriptions for legal editions and software/ the magazines Legal world, Apis - products - /document flow, administration of complaints, organization of national and regional forums, trainings, etc. In order to be informed to a maximum extent about the decisions adopted by the Council of CPEA during its sessions as well as the results from their fulfillment, all members of the Chamber receive regular emails containing the minutes of the meetings.

### **3.6.6. Other services**

#### **3.6.6.1. "Enforcement practices" Collection**



The collection, summarizing and synchronization of the enforcement practice are of great importance for the Chamber; the main way for this is the issuing of the Enforcement Collection. In 2007 the Chamber of private enforcement agents initiated the publishing of the collection which comprises comments on judgments, opinions and articles of judges, lawyers, lecturers and enforcement agents on enforcement issues.

The objective of the Enforcement Collection is to help for the unification of the judicial practice in Bulgaria which is very diverse in the country in its part related to enforcement. This would also lead to equalization of the practice of the acting

enforcement agents who are forced to roam between the different interpretations of the law which is neither in their interest nor in the interest of the parties to the cases. The main users of the edition are the private and state enforcement agents and the district court judges but the contents of the collection provokes serious interest also among lawyers and other legal profession and among the general public.

Due to the fact that the control over the activities of PEA is exercised by only one institution and ends up with the judgment of the relevant district court, the enforcement process in Bulgaria lacks clear and strict rules and instructions on the implementation of the law - just as the interpretive judgments of the General meeting of the Civil college at the Supreme Cassation Court and of the departments under separate cases. This is why the idea of issuing a collection which includes diverse judgments and a competent comment became a priority in the activity of the Chamber in the last four years.

Another positive effect is the opportunity for identification of the possibilities for improvement of the enforcement process by using the analysis of the collected judgments and the relevant legislative proposals to be drawn up towards improvement of the legislation and more specifically - the Civil Procedure Code. The new Civil Procedure Code reflects a large number of our proposals but there is still a lot to be done. At present we are analyzing the implementation of the code by both the private enforcement agents and the court. On the basis of this analysis in 2011 we will make our proposals for amendments.

In the middle of 2010 the new issue of Enforcement Collection was released. In this issue our authors have practically developed topics as the serving under the new Civil Procedure Code; a comment on the provisions of Regulation EC No. 4/2009 Brussels III regarding the competence, recognition and enforcement of judgments and the

collaboration on issues related to the obligations for support; enforcement of public receivables, etc.

We hope that this issue will be useful for the parties to the enforcement process in the Republic of Bulgaria. The need of such an issue has been dictated by the necessity of precision and unification of the practice of the private enforcement agents in the separate judicial regions in the first place and in a further perspective the purpose is the issue to reach a maximum number of interested parties (judges, lawyers, legal advisers, students, etc.). The chamber of private enforcement agents will continue working in close cooperation with the institutions and its partners because we believe that exactly this method of acting is the only correct one for the protection of the supremacy of the law, the interests of the public and the Bulgarian citizens.

### **3.6.6.2. The Matra Project of the Dutch government**



The Project for strengthening of the private enforcement system in Bulgaria started on 1<sup>st</sup> September 2008. Its duration is two and a half years.

The project is funded by the government of the Kingdom of the Netherlands under the Matra programme and is managed by the International Legal Cooperation Centre (ILCC) - a non-profit organization which represents the entire legal society of the Netherlands and ensures broad and consistent expert assistance. The main beneficiary and partner under the project in Bulgaria is the Chamber of private enforcement agents. The Matra project is directed towards the Chamber, the separate private enforcement agents and their personnel, the legal professions and the general public.

The objectives of the project are harmonization of the legislative framework, increase in the professional competence of the private enforcement agents and their employees and improvement of the knowledge and understanding of the private enforcement system among the other legal professions and the public. The project also works for provision of information to the general public. The International Legal Cooperation Centre - Holland provides consulting assistance by engaging leading legal experts in the harmonization of the legislation.

During 2010, the partners performed the planned activities under the project in compliance with the initially adopted and updated annual plan. A lot of work was successfully finished and with very good results. Two meetings of the program committee under the project were held - on 9 March in Sofia and on 10 September in Pomorie.

On 10 March another planned activity under the project took place - a meeting between the management of the Royal Dutch Association of the private enforcement agents and the Chamber of private enforcement agents. Three days later, on 13 March the project on Strengthening of the enforcement system supported us at the seminar organized for the managing bodies of the Chamber for their work with the media. As a result of this interesting training the participants became more confident in their abilities to create effective messages to various target audiences, to conduct successfully

planned and unplanned interviews, to apply more successfully the communication strategy of the Chamber of private enforcement agents and to become knowledgeable of the philosophy and instruments for work with the media.

A very pleasant and useful element complementing the ideas of the Matra project for promotion of our profession among the general public was the film "The Debtor, the Law, the Private Enforcement Agent" created with funds under the project. The makers of the film present to the public in a popular and simple language the specifications and difficulties in the work of the private enforcement agents, his status and powers by law; the most correct and successful steps which the parties to the cases must do in order to complete successfully the enforcement of a judgment of a Bulgarian court. Later on the film was presented to the members of the Chamber during the National conference in Pomorie, multiplied on DVD and given to all guests during the jubilee concert and uploaded in the Bulgarian and English version on the website of the Chamber of private enforcement agents.

In April 2010 the traditional annual seminar announced many positive results for the representatives of the media. The results from the seminar were expressive enough - more than 50 published and broadcasted through the media positive and clarifying materials about the Chamber and its members, intended for the general public.

In the middle of the year a special work group was formed by three members of the Committee on Professional Ethics in order to work hard for the completion of the report with proposals for harmonization of the legislative framework. The report will include not only proposals for amendment of the Civil Procedure Code but also relevant references to the PEAA, an evaluation of the procedures pertaining to disciplinary proceedings, etc.

In the summer of 2010 active work was undertaken on one of the other main activities under the project - update of the Manual for quality management in the offices of PEA. The main causes which imposed the amendments and the optimization of the first version were two: 1) The new Civil Procedure Code effective as of 1 March 2008; 2) The actual practice in the offices of PEA accumulated for several years. The results from the first annual monitoring of the offices of the private enforcement agents were used as source data for the update. They gave clear indications about the procedures applicable in the work of the private enforcement agents, the good practices and the deviations in the offices which contradict the regulations and standards ratified by the International standard ISO 9001:2008 and the Chamber of PEA. The new version of the Manual was ready at the end of August 2010. The Council of CPEA adopted it by virtue of a resolution at its regular meeting held on 10 September. Training of private enforcement agents for its application in their activities is forthcoming.

The sequence of seminars on European legislation in the sphere of enforcement, carried out under Matra project, continued in the reported period - on 11 and 12 March in Sofia and on 8 and 9 September in Pomorie. Our Bulgarian lecturers were specially trained within the project and with the help of the Dutch experts elaborated a methodology which would be used to train the members of the

Chamber, their employees and external interested parties. The seminar in Pomorie was conducted only by them and during the training Mr. Jos Uitdehaag was an observer.

A lot of serious work was carried out by representatives of the project for the elaboration of the second analysis of the results from the study on the opinion of the clients of private enforcement which was completed by the consultants under the Matra project and presented in its preliminary version to the colleagues at the National conference in Pomorie and later - at the international conference at the beginning of December.

With the methodical and financial aid of the project the long-expected seminar on Disciplinary proceedings took place at the beginning of December in Pchelin bani. Our Dutch partners provided us with precious help with the organization, conducting and funding of the international conference on Challenges before the improvement of the enforcement process in Europe which was held at Grand Hotel Sofia on the occasion of the 5<sup>th</sup> anniversary of the Chamber of private enforcement agents.

The project on Strengthening of the private enforcement system in Bulgaria was planned to end at the end of February 2011. However, due to objective reasons the completion of some activities was delayed in time. At the end of September 2010 the director of the project, Mr. Vincken obtained permission from the Dutch government through the Matra Programme for continuation and bringing to an end of the activities started during the accounted period until the end of June 2011. The evaluation report of the Bulgarian legislation in the sphere of enforcement is to be finished by the working group. The report will be officially presented at the international conference in May 2011. Two more round tables on the problems of enforcement will be held - with the banks and the district judges as well as a conclusive press conference in June for the final presentation of the results and closure of the project.

The partners under the project hope that the execution of the activities during the past two and a half years have managed to improve the private enforcement system in Bulgaria as an instrument for ensuring efficient implementation of the law, its stability and sustainability through the broad announcement of the results from the project and increase of the public trust in the benefits from the liberal model of the profession.

### **3.6.6.3. Celebrating 5 years from the establishment of the Chamber of private enforcement agents**

In 2010 the Chamber of private enforcement agents (CPEA) celebrated its 5<sup>th</sup> anniversary. The introduction of the institution of the Private enforcement in Bulgaria was placed by the World Bank among the ten most successful reforms in the world for 2006. Prior to the start of the reform the opinion of the European Commission was that the enforcement is among the worst functioning procedures in Bulgaria and an obstacle for the economic development. The liberalization of the enforcement system in our country became possible due to the will and common efforts of the professional society of the enforcement agents, the state and the business.

Despite the continuing debates on the legislative framework, private enforcement is stable and managed to gain and keep the trust of creditors, business and citizens. Five years later private enforcement is self-regulated successfully and is based on competition, quality and the law.

In September 2007 the Council of the Chamber of private enforcement agents, at its regular meeting officially declared 26 November as the Day of the private enforcement agent. Since then each year around this date the members of the Chamber celebrate their professional holiday. These celebrations turned into a wonderful tradition for the representatives of the branch as well as for all Bulgarian and foreign partners and friends of the Chamber of private enforcement agents.

2010 passed under the sign of our 5<sup>th</sup> anniversary which we started to celebrate in the early autumn under the accompaniment of various projects and events.

At the beginning of August the Chamber of private enforcement agents assigned by a contract to club "Journalists against corruption" the elaboration of a 30-minute documentary film, dedicated to its 5<sup>th</sup> anniversary and reflecting the history of planning and execution of the reform in the enforcement system in Bulgaria. Journalist Reneta Nikolova and her television team worked on the film until the end of November 2010. They shot interviews with ambassadors, members of parliament from the 39<sup>th</sup> and 41<sup>st</sup> National Assembly, the Minister of Justice, key business partners and friends of the Chamber. The film was translated with subtitles in English. Its official premiere took place during the jubilee concert "5 years CPEA".

On 16 November 2010 in Sofia, hotel Arena di Serdica a discussion with representatives of Bulgarian business organizations took place on Private enforcement - problems and opportunities. Representatives of the Association of Banks in Bulgaria, the Deputy-Executive Director of the National Revenue Agency - Mrs. Dimana Miteva, the Bulgarian Industrial Association, the Ministry of Justice and the Bulgarian Chamber of Commerce. As a balance for the past five years the persons attending the forum presented their view about the efficiency of the work of the private enforcement agents in a clear and categorical manner. However the continuing debates on the legislative framework of the private enforcement imposed reporting of the evaluations and positions of the state administration and the business organizations as well as the problematic areas in their joint work with the private enforcement agents. The meeting was very useful because of the exchange of opinions regarding current problems facing each institution with respect to the enforcement and specific measures for joint activities were outlined. Immediately after the discussion a press conference was held, organized by the Chamber of PEA. The Chair of the Chamber, Mr. Georgi Dichev and Mrs. Zhasmina Sazdova - expert at the National Revenue Agency answered the journalists' questions.

The official jubilee concert "5 years Chamber of private enforcement agents in Bulgaria" was held on 3 December at 07:00pm in Sofia, at the Central Military Club. Prior to the concert there was an international conference on Challenges to the improvement of enforcement in Europe.



The event was attended by the Chair and the deputy - Chair of the International Union of Enforcement Agents, Mr. Leo Neten and Mr. Bernard Menu as well as the presidents of the European chambers of private enforcement agents in Romania, Poland, Greece, Macedonia and our partners under the Matra project.

They were our special guests on the occasion of the 5<sup>th</sup> anniversary from the establishment of the Chamber of private enforcement agents. There were over 220 guests to the concert - official guests, private enforcement agents, business partners and friends of the Chamber.

Are five years a long or a short time period? It depends on what has been done throughout those years. For the private enforcement agents these were years of creation, construction, development and overcoming of many difficulties and challenges. However, there is no doubt that the new profession consolidated and proved its unquestionable efficiency; it occupied its place in the public and economic life of the country. It is an important factor for the investment process. Of course, development never stops. There are new challenges and new horizons before the private enforcement agents in Bulgaria!

### **3.7. Services in process of development**

Initiation of the Central Register of Debtors is among the main priorities of the Chamber for 2011. The Register is a unified centralized computer database in compliance with Decree No. 4. Practically the entire information necessary for the creation of the Register is contained in the registers of initiated claims. The colleagues are only obliged to finalize the synchronization of the used filing software in their offices with the required information volume for the Register.

The Chamber will exercise permanent control over the strict and timely update of CRD on behalf of all users. This is the only way to secure the correctness and actuality of the data in the Register in order to strengthen its position as a precious information source for all interested persons in the enforcement process.

In 2011 it is envisaged the Enforcement Collection to be issued in circulation of at least two books for the calendar year with a view to accumulation of practice and problems related to the enforcement in connection with the implementation of the provisions of the Civil Procedure Code. The edition will be distributed exclusively by the Chamber of private enforcement agents as before. The topics and authors for the next issue have already been selected and the

editorial team has already been determined – judges and lecturers, distinguished lawyers in the country.

Some joint activities with our partners under the Matra project are forthcoming. Officially the project was expected to end by the end of February 2011 but the board of managers obtained permission from the Matra programme for continuation until June 2011 for the purpose of final execution of some of the activities started in 2010, namely:

- Elaboration of an extensive evaluation report of the Bulgarian legislation in the sphere of enforcement including proposals for legislative amendments. As of the current moment the working group consisting of three members of the Committee on Professional Ethics is working on the finalization of the report;
- Organization of an international conference for presentation of the results from the report – 17 and 18 May 2011;
- Two round tables – with the banks and the judges from the district courts;
- Conduct of training for the purpose of introducing to the PEA the new version of the Manual for quality management of the offices adopted at a meeting of the Council held in September 2010 – 13 and 14 May;
- The final press conference for presentation of the results from the project on strengthening of the private enforcement system in Bulgaria – 18 May 2011.

The issuing of the Information newsletter of the Chamber is also a service in process of development. The members of the Chamber have approved a project and a budget for preparation of the edition. The editorial team has also been selected. We plan to issue two books in the coming year. We hope that all colleagues from the country will welcome this initiative, as they feel as an integral part of the whole and will contribute depending on their desire and abilities by providing us with interesting and useful materials for publication in the information newsletter.

## R E P O R T

### **On the activity of the Disciplinary Committee of the Chamber of private enforcement agents for 2010**



Dear Colleagues,

In 2010 were initiated **21** (twenty one) disciplinary cases in total. **9** (nine) - at the decision of the Council of CPEA and **12** (twelve) - at the request of the Minister of Justice. The analysis of the activity of the Committee during the reported period shows:

1. Considerable increase in the number of disciplinary proceedings initiated by the Minister of Justice - (for comparison - in the previous year (2009) the ratio was just the opposite - 21 disciplinary cases, 15 of which at the request of the Chamber Council and 6 at the initiative of the Minister of Justice);
2. Diversity of the type of violations;
3. Establishment of a practice is case of a new type of disciplinary violation - incompliance with a resolution of the Chamber Council and more specifically -

decision No. 26, minutes No. 58/30 October 2009, namely: In the cases when the Council of the Chamber of private enforcement agents has been approached by virtue of a complaint and the PEA is requested to provide not only a reference on the initiation and progress of the specific enforcement case but also a copy of the latter, if such a copy is not received at the office of the administration of CPEA within the 7 days' term envisaged in the working regulations for the Committee on Professional Ethics, the Council adopts a resolution for initiation of a disciplinary proceeding on the grounds of art. 59, par. 1, subpar. 6 of PEAA, in connection with Art. 30, Subpar. 11 and Art. 6, Subpar. 3 and 5 of the Statute of CPEA with the request for imposition of a penalty under Art. 68, Par. 1, Subpar. 2 of PEAA - a fine at the amount of 1 000 (one thousand) BGN. The sanction imposed under one case has not been appealed by the PEA and on another case - the Supreme Cassation Court confirmed the decision of the Disciplinary Committee.

During the accounted period meetings were held on 14 (fourteen) cases and 7 (seven) more are to be carried out or appointed. In 2010 **12** (twelve) decisions were announced, 4 (four) of which have become effective and 8 cases are pending before the Supreme Cassation Court. During the reported period 10 (ten) decisions of the Disciplinary Committee were appealed under Art. 73, par. 2 of PEAA. 9 (nine) complaints were filed by PEA and one by the Minister of Justice.

The penalties imposed by the disciplinary committee are as follows: there is no penalty under 1 case; there is one case for which the penalty is censure; 9 fines at the amount from 500 to 10 000 BGN; one penalty - warning for temporary deprivation of qualification.

During the reported period 1 (one) of the imposed fines was paid at the amount of 5 500 BGN, other 3 (three) fines have not been paid and are as follows: one at the amount of 1000 BGN under an effective decision without being appealed by PEA; one at the amount of 500 BGN under a case which has been appealed and confirmed by the Supreme Cassation Court and one at the amount of 10 000 BGN under a decision appealed by PEA but the complaint has expired and the case - terminated. The remaining fines were appealed and the decisions thereto have not become effective yet.

In 2010 the Chamber of PEA has filed **321** complaints (for comparison in the preceding year their number was **282**). The Council of the Chamber of PEA has decided that 9 of them are substantiated, and the ascertained violations are a reason for imposition of a disciplinary penalty.

The violations are different and they can hardly be classified or enlisted within the present report. The main violations performed by PEA which have resulted in complaints and initiated disciplinary proceedings respectively, include:

- Violation of article 455, par. 2 of the Civil Procedure Code - the performed settlement payments are not reflected on the writs of execution - a mass and systematic violation;
- Violation of the provisions of Art. 79 of PEAA - accounts for charged fees are not drawn up as well as unlawful and inappropriate charging and collection of fees on enforcement cases - a systematic and mass violation;
- Lack of authorization under Art. 18 PEAA;
- Violation of Art. 449, Par. 2 and Art. 465, Art. 483 of CPC - upon inventory and imposition of lien it is not clear whose property the chattels are;
- Incompliance with the decisions and judgments of the District courts;
- Violation of Art. 507, Art. 508, Art. 512 of CPC engaging with obligations and responsibilities persons who are not third liable parties;
- Violation of Art. 484 of the Civil Procedure Code;
- Violation of the provisions of Art. 432 CPC - performance of enforcement despite the suspension of the enforcement proceedings;
- The prepared announcement for immovable property sale does not indicate whether there are burdens on the property and for what amount;
- Undue or lack of complaint administration; unlawful calculation of fees and financial burdening of the debtor;

- Violation of the provisions of art. 80 PEA and failure to charge the advance payable fees for the performance of enforcement activities;
- Violation of Art. 22, Par. 2 PEAA and Art. 9, Par. 1 and Par. 2 of Decree No. 4/6 February 2006 on the official archive of PEA. Articles 22, Par. 2, Subpar. 1 and 4 PEAA are also violated.

In 2010 the Supreme Cassation Court announced judgments on disciplinary cases initiated in previous years. The first one is under disciplinary case No. 3/2009 by reducing the amount of the fine imposed. Under disciplinary case No. 4/2009, DC No 6/2009, DC No. 8/2009; DC No. 9/2009; DC No. 16/2009; DC No. 18/2009 - confirmed the decision of the Disciplinary committee; on DC No. 7/2009 nullified the decision of the Disciplinary Committee and on DC No. 19/2009 cancelled the decision of the Disciplinary Committee. The general conclusion is that the Supreme Cassation Court leaves effective and agrees with the conclusions and sanctions imposed by the disciplinary teams.

A very worrying tendency is noticed in the reported year 2009 that some PEA perform systematic violations of one and the same type and on the other part - they make multiple violations. This tendency is increasing. Another conclusion is that the Chamber Council has received a large number of complaints against one and the same private enforcement agents, most of the complaints are substantiated; the circumstances are able to engage their disciplinary liability which preconditions the fact that there are several proceedings initiated against them.

Polya Ruycheva,  
Chair of the Disciplinary Committee

## R E P O R T

### **on the activity of the Control Committee of the Chamber of private enforcement agents for 2010**



Dear Colleagues,

The Control Committee believes that in 2010 **the work of the Chamber Council was lawful and useful.** 12 regular meetings were conducted at which 391 decisions were adopted, 310 of which under complaints and 91 on operative and economic issues.

The review of the minutes of meetings shows that the meetings were conducted on a regular basis and with the necessary quorum; the decisions were adopted in compliance with the Statute and the internal regulations of the Chamber. Five protocols were drawn up on the grounds of Art. 60, par. 2 PEAA. The resolutions adopted without requiring presence at a meeting are 8. At each meeting an analysis and evaluation of the performance of the tasks and the adopted previous decisions are made.

The Chamber continues working for **the improvement of the profession and supporting the activity** of PEA. Unfortunately, this year two private enforcement agents were deprived of qualification and had their powers suspended. These are examples which are not added well to the image of the private enforcement agent and question the quality of our work. It seems that the national and regional forums, the common seminars and meetings on current topics of the enforcement are not sufficient for the increase of the professionalism of the private enforcement agent. This is why it is logical that this year more funds are envisaged for seminars and trainings.

**The relations and interaction** of the Chamber with the Ministry of Justice are not at the desired level. The attempts to meet with the new minister were not successful. The meeting with the Deputy-Minister did not lead to adequate activities in the interest of the private enforcement. At the celebration of the 5<sup>th</sup> anniversary from the establishment of the Chamber there were no representatives of the Ministry. Our activity was more appreciated by the foreign guests.

**The financial activity** of the Chamber is relatively stable. The main financial resources come from internal sources. The proceeds of the Chamber for 2010 are 398 933 BGN. The main financial source is the membership fee - 191 866 BGN. Currently the funding is planned on the basis of 159 private enforcement agents. As of the time of elaboration of the annual report 67% (106 PEA) have paid their annual fee. One of our colleagues has not paid a membership fee for three years and owes the Chamber 3600 BGN. Difficulties with the payment of the membership fee are experienced by other PEA as well. This is an index that in the conditions of a crisis we should not

increase the membership fee but to continue our efforts towards its timely collection - until January of each calendar year, i.e. until the conduct of the annual general meeting. We remind once again that the Chamber is a financially independent organization and it is not funded by state or other institutions. The timely collection of the membership fee will continue to be a very important mechanism for the normal functioning of the Chamber.

The efforts for seeking **new sources of funding** have been successful. In the past year the proceeds from sponsorship, donations, advertising, fees, economic activity, interests and reserves increased. The proceeds from fines on disciplinary proceedings are 21 180 BGN, i.e. almost 57% of the expected proceeds from the effective violations. The outstanding fines and the remuneration for advisory services amount at 15 860 BGN. It is obvious that remittal of the fines is inconceivable. We urge our colleagues - debtors to be more correct and responsible.

The costs in the past year exceed the envisaged ones by 80 590 BGN. They result mainly from over expenditure for celebration of the Day of PEA. During the present year we envisage an increase in the costs for seminars and trainings, the Register of Debtors, maintenance of websites, advertising and office equipment, office rentals and consumables, remuneration and insurance. The increase in the remuneration by 29% is due to a new system organizer; another legal advisor and an accountant. The increase corresponds to the increase in the salary of the personnel of CPEA. The Control Committee entirely supports the proposal for reduction of the funds for celebration of the Day of PEA and welcomes the efforts of the Chamber for implementation of the project for construction of children's playgrounds and continuation of the tradition for helping the orphans of officers of the Ministry of Interior.

**The accounting documentation** is kept in compliance with the requirements of the national accountancy. In 2010 13 contracts on economic issues were concluded, as well as 2 donation contracts - for an office car and for the Register of debtors, 2 annexes to existing contracts - with DSC Bank and Focus Agency and one agreement for cooperation with Sofia Municipality.

In the past year the Control committee tried to work in accordance with its powers envisaged in Article 64 of PEAA. The positive practice related to participation of the Chair of the Control Committee in the meetings of the Chamber Council as well as in the working meetings of the management of the Chamber during the national conferences is still preserved.

As a conclusion we can surely say that in the past year another decisive and considerable step was made for ratification of the image of the private enforcement. The analysis of our activity shows that we need to work harder for the increase in the professionalism and our responsibility before the public. We are **private** enforcement agents but we should never forget that the achievement of our **private interests is connected with the public interests and that our private success depends on our common efforts, on the success and image of the Chamber.**

Valentina Ivanova, Chair of the Control Committee

**PROFIT AND LOSS ACCOUNT (bilateral)**  
**OF THE CHAMBER OF PRIVATE ENFORCEMENT AGENTS**  
**as of 31 December 2010**

<b>Types of expenditures</b>	Amount in thousands of BGN		<b>Types of incomes</b>	Amount in thousands of BGN	
	current year	previous year		current year	previous year
a	1	2	a	1	2
<b>I. OPERATING ACTIVITY EXPENDITURES</b>			<b>I. OPERATING ACTIVITY INCOME</b>		
<b>A. Expenses for regulated activity</b>	<b>160</b>	<b>168</b>	<b>A. Income from regulated activity</b>		
1. Donations			1. Income from conditional donations	73	11
2. Other expenses	160	184	2. Income from unconditional donations	283	346
<b>Total A:</b>			3. Membership due	192	192
<b>B. Administrative expenditures</b>	160	68	4. Other income	91	154
<b>Total I:</b>	<b>320</b>	<b>252</b>	<b>Total I:</b>	356	357
<b>II. FINANCIAL EXPENSES</b>			<b>II. FINANCIAL INCOME</b>		
3. Expenses on interest payable			5. Interest income	21	12
4. Negative value adjustments resulting from operation on financial assets and instruments			6. Revenue from participation		
5. Foreign currency exchange rate loss			7. Positive value adjustments resulting from operation on financial assets and instruments		
6. Other financial expenses		1	8. Foreign currency exchange rate profit		
<b>Total II:</b>		<b>1</b>	<b>9. Other financial income</b>		
<b>III. EXTRAORDINARY EXPENSES</b>			<b>Total II:</b>	21	12
<b>IV. OPERATING LOSS</b>			<b>III. EXTRAORDINARY INCOME</b>	21	12
<b>V. TOTAL EXPENSES</b>	<b>320</b>	<b>252</b>	<b>IV. OPERATING PROFIT</b>		
<b>VI. RESULT</b>	<b>78</b>	<b>129</b>	<b>V. TOTAL INCOME</b>	398	381
<b>Total (V + VI)</b>	<b>398</b>	<b>381</b>	<b>VI. RESULT</b>		
			<b>Total (V + VI)</b>	398	381

Date: 21 January 2011

Drawn up by: /sgd. ill./

Manager: /sgd. ill./

**BALANCE SHEET  
OF THE CHAMBER OF PRIVATE ENFORCEMENT AGENTS  
as of 31 December 2010**

ASSETS			LIABILITIES		
APPORTIONS, GROUPS, ITEMS	Amount in thousands of BGN		APPORTIONS, GROUPS, ITEMS	Amount in thousands of BGN	
	current year	previous year		current year	previous year
a	1	2	a	1	2
<b>A. Subscribed outstanding capital</b>			<b>A. Equity</b>		
<b>B. Non-current (long-term) assets</b>			<b>I. Subscribed capital</b>		
<b>I. Intangible assets</b>			<b>II. Capital premium</b>		
1. Products of development activities			<b>III. Reserve of subsequent valuations</b>		
2. Concessions, patents, licenses, trade marks, program products and other similar rights and assets			<b>IV. Reserves</b>		
3. Commercial reputation			1. Legal reserves	159	159
4. Advanced payments and intangible assets in process of building			2. Repurchased own shares		
<b>Total of group I:</b>			3. Reserve according to Constituent act		
<b>II. Long-term tangible assets</b>			4. Other reserves	78	129
1. Land and buildings, including:			<b>Total of group IV:</b>	237	288
- land					
- buildings			<b>V. Accumulated profit (loss)</b>		
2. Machines, equipment and apparatuses	14	3	From previous years, including:		
			- Undistributed profit		
			- Uncovered loss		
<b>Total of group V:</b>			<b>Total of group V:</b>		
3. Facilities and others			<b>VI. Current profit (loss)</b>		
4. Advanced payments and long-term tangible assets in process of building			<b>Total of apportion A:</b>		
			<b>B. Provisions and similar liabilities</b>		
			1. Provisions for pensions and other similar liabilities		

			2. Provisions for taxes, including		
			- deferred taxes		
<b>Total of group II:</b>	<b>14</b>	<b>3</b>	3. Other provisions and similar liabilities		
<b>III. Long-term financial assets</b>			<b>Total of apportion B:</b>		
1. Shares and participation in group enterprises			<b>C. Liabilities</b>		
2. Loans to group enterprises			1. Debenture loans with a separate indication of convertible ones, including:		
3. Shares and participation in associate and mixed enterprises			up to 1 year		
4. Loans to associate and mixed enterprises			over 1 year		
5. Long-term investments			2. Liabilities to finance enterprises, including:		
6. Other loans			up to 1 year		
7. Repurchased own shares			over 1 year		
Face value ...thousands of BGN	X	X	3. Advance payments, including:		
<b>Total of group III:</b>			up to 1 year		
<b>IV. Deferred taxes</b>			over 1 year		
<b>Total of apportion B:</b>			4. Liabilities to suppliers, including:		
<b>C. Current (short-term) assets</b>			up to 1 year		
<b>I. Inventory</b>			over 1 year		
1. Raw materials and materials			5. Liabilities to bills, including:		
2. Uncompleted production			up to 1 year		
3. Production and goods, including:			over 1 year		
- production			6. Liabilities to group enterprises, including:		
- goods			up to 1 year		
4. Advance payments			over 1 year		
<b>Total of group I:</b>			7. Liabilities to		
<b>II. Receivables</b>			associate and mixed		
1. Receivables from clients and suppliers, including:			enterprises, including:		

over 1 year			up to 1 year		
2. Receivables from group enterprises, including:			over 1 year		
over 1 year			8. Other liabilities, including:		
3. Receivables from associate and mixed enterprises, including:			up to 1 year		
			over 1 year		
over 1 year			- payables to employees, including:		
4. Other receivables, including:			up to 1 year		
over 1 year			over 1 year		
<b>Total of group II:</b>			- payables to security enterprises, including:		
<b>III. Investments</b>			up to 1 year		
1. Shares and participation in group enterprises			over 1 year		
2. Repurchased own shares			- tax liabilities, including:		
Face value ...thousands of BGN	X	X			
3. Other Investments			up to 1 year		
<b>Total of group III:</b>			over 1 year		
<b>IV. Cash, including:</b>			<b>Total of apportion C, including:</b>		
- Cash	2	2	up to 1 year		
- Cash in demand accounts	391	311	over 1 year		
<b>Total of group IV:</b>	393	313	<b>D. Financing and deferred income, including:</b>	170	28
<b>Total of apportion C:</b>			- financing	86	28
<b>D. Deferred expenses</b>			- deferred income	84	
<b>AMOUNT OF ASSET (A+B+C+D)</b>	407	316	<b>AMOUNT OF LIABILITY (A+B+C+D)</b>	407	316

Date: 21 January 2011

Drawn up by: /sgd. ill./

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