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**Corrupt Practices in Bulgaria during the Transition Period and  
the Impact of the EU Accession**

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## **DECLARATION:**

I hereby declare that this thesis is my own work, based on the sources and literature listed in the appended bibliography. The thesis submitted is 120 206 keystrokes long (including spaces), 76 manuscript pages

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## **Abstract**

It is now widely recognized that corruption is harmful for economic growth, that it decreases enormously the effectiveness of aid and that it increases poverty. Corruption is a fundamental obstacle for economic development. In Eastern Europe, the radical shift in economic and political systems that occurred after 1989 made existing forms of corruption more visible and opened opportunities for new forms of corrupt practices. Bulgaria is a striking example of a country which was on the edge of economic and political collapse in the mid nineties because of the skyrocketing corruption practices in particular spheres of economic political and social life. Nowadays, ten years after the big crisis Bulgaria is a full fledged member of the European Union (EU) but even in this new reality the struggle against corruption remains the main challenge before the new governments.

This thesis will outline and analyze the genesis and uncontrolled growth of corruption processes in Bulgaria during the transition period. It will provide a vast theoretical framework of the issue with definitions spheres and forms of corruption as well as a view on the corruption as a phenomenon of the transition countries. Anticorruption strategies and measures to tackle and overcome corruption in Bulgaria will be examined together with institutional and legislative initiatives during the transition. And finally it will analyze the role of the European Union accession period and the new momentum it gave to the fight against corruption as well as the future challenges and perspective as a full fledged member of the Union.

## **Introduction**

The problem called corruption in Eastern Europe and particularly Bulgaria is widely renowned worldwide. The country suffers from lack of image in the eyes of Central and Western Europeans and one of the main reasons is called – corruption. Clichés like ‘corruption spreads through all areas of life in Bulgaria’ and ‘corruption is a common sense in Bulgaria’ became widely exploited in western media articles. In this way, it is important to know the threat of corruption and why it is so dangerous to society.

Analyzing the types, mechanisms and motivations for corruption behavior has not only theoretical value but is also a necessary step towards understanding and preventing those vicious practices. In this sense, the first chapter will deal with the theory and international debates and discussions on corruption prevention. The paper will also describe the period immediately after the break up of communist rule and the preconditions which led to the widespread corruption. Political corruption is a very touchy issue in Bulgaria as it is perceived as the ‘locomotive’ of the flourishing vicious practices among the political elite and the grey economy. The severe lack of adequate legislation for years let the people with low morals to use many of the loopholes and make a lot of money on behalf of the state and the regular citizens. These and some other events made the public disbelieve that the things can change and created high desire to obtain justice. The Civil Society participation in tackling corruption in the context of transition will be also covered in the fourth chapter.

What makes the topic relevant on the European context is the fact that after the entrance of Bulgaria in the European Union, the issue of corruption in the country becomes of high



concern not only for Bulgarian public and officials but for all the EU citizens as their tax money are being allocated for the sustainable development of the new member states.

## Chapter I

### Theoretical framework and the development of the anti-corruption debate

At the present day, corruption is considered one of the world's global problems together with poverty and terrorism. Anti-corruption, as a term of theoretical research, became influential in 1950/60 with the emerging of the new independent states in the global south. But the breakdown of Communism in Central and Eastern Europe and the Soviet Union marked the beginning of a new era for anti-corruption debates and discussions. Yet, in fact, rampant corruption in Eastern Europe, partly inherited from communist or Soviet times, partly caused by the post-communist restructuring in all spheres of political and economic life, has caught much of this attention. Corruption research, in contrast to anti-corruption research, has a relatively long and deep history of conceptualisation and theoretical debate. Essentially, these have centred on political corruption, issues in development, political economy, questions of norms, morals and ethics, and the development of quantitative methods and economic models. The scholars paid mostly attention on the forms, causes and consequences of corruption.<sup>1</sup>

This chapter will deal with the fundamental question for defying corruption, its spheres of influence, its forms as well as the specific characteristics for corruption practices in the countries in transition. It will also focus on the anti-corruption debates and initiatives and their development in the last twenty years. The period analyzed will be divided into three sub periods; before the breakdown of communism or the earlier scholarly debates on corruption, the first ten years after the changes and the new wave of discussions as the corruption is skyrocketing in Easter Europe and post 2001 with the reorientation and the latest anti-

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<sup>1</sup> Schmidt, Diana Anti-corruption: What Do We Know? Research on Preventing Corruption in the Post-communist World. *Political Studies Review* 5 (2), 202-232.

corruption debates. The second part of the chapter will concentrate rather on identifying trajectories with a relevance to political science and with a focus on the role of the post-communist world and of civil society rather than covering the expanding literature on 'anti-corruption strategies'.

## **Definitions of Corruption**

As it was noted above, the term corruption is known to people for centuries but in the last decades it became a hot topic for debates, discussions, conferences etc. In the last years, corruption practices can be observed in every sphere of the social life, although there are still many different visions about the true matter of corruption and a well structured characteristic of this phenomenon is still to be formed. The problem gets even deeper as a clear legislative definition still doesn't exist even though the term "corruption" is used as an official and law term. The fact that the concept of corruption is used in many different spheres as; economy, politics, ethics and especially journalism makes it even more vague. In this sense a more precise framework of the different interpretations (daily, law, international legislation, analytical) could be necessary.<sup>2</sup>

In the Bulgarian legislation a term which specifies corruption still does not exist but the Council of Europe's Civil Law Convention on Corruption, which was issued for signing in the year 1999, defines corruption as:

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<sup>2</sup> Нончев, Андрей (2003), Антикорупция: Дефиниции, ефери и форми на корупцията, Коалиция 2000 и център за изследване на демокрацията, 15-43.

*“For the purpose of this Convention, “corruption” means requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behavior required of the recipient of the bribe, the undue advantage or the prospect thereof.”<sup>3</sup>*

The theoretical and empirical researchers examine corruption as a complicated, multi-layer social, political and economic phenomenon. In this context the legislative definitions of corruption do not embrace enough variety of subjects. One of the definitions which is preferred by the majority of researchers and gives broader sense of the term is: ‘the abuse of economic, political, administrative, judicial power which leads to personal or group favor at the expense of the legal rights of the personality, a particular group of people or the whole society.’<sup>4</sup> Such a broad range of the definition is based on the notion that to tackle corruption not only on the national level but on a global scale, it is necessary to involve not only the state but every sphere of the social spectrum.

In the context of this definition one have to consider the four necessary elements which it is consist of; 1) a public servant or a group of public servants ( in the broad sense, including administrative workers, politicians, magistrates, etc. 2) Discretion power ( the power to take individual decisions). 3) The misuse of public power. 4) the derive of personal or group benefit (financial, material, etc) of the public servant/s.<sup>5</sup> Depending on the circumstances and the different variations of those elements one can define the different types, forms, spheres, scales and mechanisms of the realization of corruption practices.

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<sup>3</sup> Council of Europe, Strasbourg, 4.XI.1999, Civil Law Convention on Corruption, <http://conventions.coe.int/Treaty/en/Treaties/Html/174.htm>

<sup>4</sup> Нончев, Андрей (2003), Антикорупция: Дефиниции, сфери и форми на корупцията, Коалиция 2000 и център за изследване на демокрацията, 15-43.

<sup>5</sup> Ibid

## Typology of Corruption

Corruption practices can be usually observed in the interaction between the public sector, the citizens and the private sector. Usually the corruption practices can be divided into two types which differ in its scale, subjects, mechanisms of realization etc:

- Firstly, 'Large-Scale Corruption', involved in which are; high level magistrates, politicians, businessmen, who take decisions of the redistribution of important and sizeable resources.
- Secondly, 'Small-Scale Corruption', usually carried out by low level public servants, who have direct contact with the citizens and the representatives of the small and middle enterprises. This type of corruption can be observed in the everyday life and includes small scale bribes, 'gifts' and favors.

According to the subject of corrupt behavior one can usually distinguish 'active' and 'passive' corruption. Active would be when there is a promise, offer or giving of any kind of bribery to the official so he would do or not his professional duties. Passive corruption would be when the official is a seeking or taking bribes, directly or indirectly, in order to gain any kind of benefit in exchange of his "special services".<sup>6</sup>

There are few known mechanisms to commit corruption: giving the bribe personally to only one which is most preferable because it's hard to trace and prove, bribing more than one official, who are connected professionally, and using a mediator when the official prefers to

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<sup>6</sup> Икономическата цена на корупцията, Коалиция 2000/Център за икономическо развитие, 1999, София, с.34

stay anonymous.<sup>7</sup> The first two mechanisms are considered more relevant for the small scale corruption whether the third type with the use of mediator is a key factor for the large scale corruption practices where one can observe much more complicated and delicate mechanisms considering the large socio-economic consequences.

### **Causes and Factors of Corruption**

The causes for corruption practices can vary differently in the developed, transition and underdeveloped countries according to the culture, institutions, legislation and civil society involvement. Andrei Nonchev, a professor from the University of Sofia shows a simple model exposing the different factors which influence the scale of corruption mostly in the CEE context:

$$C (\text{corruption}) = M (\text{monopolistic rights}) + D (\text{range of discretion}) - A (\text{accountability})$$

According to the model of Nonchev corruption takes place in institutions where public officials:

- have great authority;
- can exercise discretion with respect to interpretation and application of regulations;
- are not required to be accountable to anyone

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<sup>7</sup> Ibid

In most of the countries of Central and Eastern Europe (CEE) including Bulgaria, the re-establishing of democracy was marked by such patterns. In the beginning of the 90s the one of the primary means of gaining access to wealth was the political office.

*“If corruption occurs on the top level and the political leadership of the country does not set a good example with respect to honesty, credibility, transparency, integrity and the persecution of offenders, citizens become disillusioned and offenders are not deterred from entering into corrupt practices.”<sup>8</sup>*

The lack of transparency (where tasks and functions are conducted in secret and are not open to examination by other government officers or the public) and accountability are another typical examples for the young democracies on transition. The culture that the conduct of the public servants must be open to examination by the media and the public was not well comprehended and expected by the civil society. The enforcement of rules, regulations and policies to make the institutions more effective in the respect of accountability was delayed with years. Without such institutional mechanisms civil servants involved in corruption couldn't be held accountable which lead to more people involved in such practices and rampant corruption which crippled many of the CEE states.

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<sup>8</sup> 2000, “Anticorruption in Transition: A Contribution to the Policy Debate”, The World Bank, Washington, D.C. p.17

## Spheres and Forms of Corruption

Corruption can be found in almost every sphere of the social life. As it was mentioned above it is a complex phenomenon determined by the socio-cultural history of a certain society, its political and economic development, bureaucratic and governing traditions.

The different corruption practices have their own specificities according to the sphere they have been realized. This chapter will provide a brief overview on the different spheres whether the second chapter will examine thoroughly each one of the spheres in the Bulgarian context.

1. Corruption in the sphere of the state administration (government, different state departments, local governments etc.)
2. Political corruption (parliament, political parties)
3. Corruption in the Judicial system and the law protecting institutions ( courts, prosecutor's office, investigating authorities, police)
4. Corruption in the private sector (transnational companies, local business organizations, media etc.)
5. Corruption in the sphere of the public services (health care, education, social services etc.)
6. Corruption in the third sector (civil society organizations, non-governmental organizations etc.)

The different spheres of corruption can be characterized by different forms corruption. Bribery is the most common and widespread form of corruption. Although there are many other forms, like embezzlement, fraud, intimidation, extortion, abuse of power, conflict of



interest, nepotism, favouritism etc. Throughout the next chapters these terms will be fully examined and connected to the different spheres with examples and analyzing.

### **Anti-corruption debates: the role of Eastern Europe and of civil society involvement.**

Anti-corruption debates and activities experienced a significant boom in the beginning of 90s. With the expansion of the global economy and foreign investment towards the developing countries corruption was the factor that threatened the quality of these investments. The breakup of the Soviet Union and the beginning of the transition period in Central and Eastern Europe was marked by rampant corruption in every sphere of the social life. The anti-corruption idea was becoming more popular among the scholars and the urgent need for increasing the anti-corruption measures together with the existence of a massive field for research such as CEE gave a new momentum for debates, discussions, conferences etc. Analysts agree on a significant increase of attention paid to 'corruption' in the political discourse throughout the 1990s. So as a major 'global problem', the anti-corruption efforts required collective counteraction in the form of international mobilization, agreement and regulation. Anti-corruption measures were initiated in a rapid and far-reaching way, including the emergence of new international and non-state actors, the organization of anti-corruption conferences and portals and the establishment of agreements, conventions, legislative acts and voluntary standards.<sup>9</sup>

Anti-corruption development in Eastern Europe can be characterized by three significant and quite different from each other periods. The first is the period before the 1990s which can be briefly called the calm period before the anti-corruption storm. The second is throughout the

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<sup>9</sup> Krastev, I. (2004) *Shifting Obsessions. Three Essays on the Politics of Anticorruption*. Budapest: CEU Press.

90s when the anti-corruption debates gained immense momentum and the third is after 2001 with the reorientation and the latest discussions on the topic.

### **Pre-1990s**

*“The corruption which has rotted the rulers of the country [Soviet Union] has had the terrible effect of also eating away the morals of the innocent, those who have not been party to corruption, but who have merely been living in an atmosphere of corruption and who have been forced to breathe its tainted air”<sup>10</sup>*

The pre-1990s literature focused mainly on domestic corruption. In this early period, analysts researched corruption as a domestic phenomenon and mostly concerned with the individual behavior. They paid most attention to understanding its forms, causes and consequences. The early analysts brought some contributions on anti-corruption research, concerning questions like the definition of corruption, counter-effects of anti-corruption, citizens' participation and non-democratic systems.<sup>11</sup>

The early international anti-corruption initiatives in practice had barely provoked any scholarly literature. An interesting development for this period was the United States government systematically to ban bribery in international business transactions through the 1977 Foreign Corrupt Practices Act (FCPA) – at that time regarded as ‘unenforced and

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<sup>10</sup> Simis, K. M. (1982) *USSR: Secrets of a Corrupt Society*. London: J. M. Dent and Sons Ltd. p.175

<sup>11</sup> Dobel (1978) and Huntington (1968); see also Klitgaard (1988; 1991); Rose-Ackerman (1987)

unenforceable'<sup>12</sup> – was a matter of discussions in a later stage when legal and economic experts dealt with the problem of its implementation in a wide-ranging anti-corruption context or regarding the apprehended disadvantages for American companies seeking business in the newly-opened but open to corruption markets in post-communist CEE.<sup>13</sup> The debates around the FCPA matters were in the context of the emerging international anti-corruption regime.<sup>14</sup> In the Soviet Union and the other communist societies in CEE, anti-corruption literature entered only since the 1990s.<sup>15</sup> A major disadvantage for the researchers was the lack of verified information on anti-corruption from the Soviet Union and the other communist countries in CEE was extremely difficult and was possible only in two ways. It could have happen either by smuggling materials and published in the western media or interviewing émigrés who escaped from the regime.

### **1990s: Anti-corruption as a Global Problem**

*“Possibly the most significant precondition for the renewal of multilateral efforts to curb corruption was the end of the Cold War. The collapse of the former Soviet Union and its economic allies related directly to the later development of the movement against corruption”<sup>16</sup>*

During the second period, which lasted throughout the 90s, authors paid mostly attention to the post-communist world in an effort to explain the striking amounts of corruption in this

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<sup>12</sup> Hotchkiss, C. (1998) 'The Sleeping Dog Stirs: New Signs of Life in Efforts to End Corruption in International Business', *Journal of Public Policy and Marketing*, 17 (1), p.108

<sup>13</sup> Dugan, C. F. and Lechtman, V. (1998) 'The FCPA in Russia and Other Former Communist Countries', *American Journal of International Law*, 91 (2), 378–88.

<sup>14</sup> McCoy, J. and Heckel, H. (2001) 'The Emergence of a Global Anti-corruption Norm', *International Politics*, 38 (1), 65–90.

<sup>15</sup> Coulloudon, V. (2002) 'Russia's Distorted Anticorruption Campaigns', in S. Kotkin and A. Sajó (eds), *Political Corruption in Transition. A Sceptic's Handbook*. Budapest: CEU Press, pp. 187–206.

<sup>16</sup> Hotchkiss, C. (1998) 'The Sleeping Dog Stirs: New Signs of Life in Efforts to End Corruption in International Business', *Journal of Public Policy and Marketing*, 17 (1), p.109

region. The issue of civil society came into the anti-corruption debate in a two sided way, regarding civil society involvement in both anti-corruption and democratisation efforts.

The end of the Cold War resulted in new strategic interests towards the former communist CEE and the Commonwealth of Independent States (CIS). The international players found the aid allocation as an appropriate method for the successful transition of these states. In this sense, anti-corruption became one of the main criteria for aid allocation. So with increasing attention to corruption, the World Bank, International Monetary Fund (IMF), United Nations Development Programme (UNDP), European Bank for Reconstruction and Development (EBRD) and European Union (EU) in 1996/7 revised their guidelines for relations with CEE and CIS countries and made loans conditional on anti-corruption efforts.<sup>17</sup> This act was a hint for suggestion that corruption affects the successful governance and enhanced the argument that anti-corruption should be one of the main priorities before the newly established democratic governments across Central and Eastern Europe.

The early transition period, marked by the radical differences in state establishment, major shift of values, the introduction of the market economy and the completely new international environment caused great confusion to both the societies and political elite. This resulted in the mentioned above vast spread of corruption across CEE. Hotchkiss in his article *'The Sleeping Dog Stirs: New Signs of Life in Efforts to End Corruption in International Business'* confirms these trends:

*"...academic work mostly started from linking prospects of democratisation to prospects of anti-corruption in Eastern Europe. (2) In the course of post-communist transformation,*

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<sup>17</sup> Schmidt, Diana Anti-corruption: What Do We Know? Research on Preventing Corruption in the Post-communist World. *Political Studies Review* 5 (2), 202-232.

*analysts raised concerns about new forms of corruption caused by extensive and rapid privatisation programmes and the 'complete breakdown of old rules and controls'"<sup>18</sup>*

In this complicated situation, the scholars analyzing the development of the CEE came up with the assumption that in states where 'the political commitment is lacking, the demands and protests emanating from civil society can induce reluctant political leaders to conduct anti-corruption purges'<sup>19</sup>

In the late 1990s the public surveys emerged as a strong methodological tool of the researchers focused on corruption. This was considered the most efficient way in gathering and interpreting data on the topic.

*"The survey-based studies, while ruling out investigation of the otherwise popular issue of grand corruption, have contributed valuable insights into anti-corruption by addressing concepts such as social embeddedness, informal institutions and communist legacies in an effort to understand street-level corruption within the post-communist cultural contexts. Comparative studies have been presented as attempts to recognize the problems without overdramatizing their significance and by focusing more on solutions. Importantly, they have initiated assessment of historical and cultural determinants, which may aid the search for generalizable as well as cultural/country-specific features with due attention to the many variations within the region.."*<sup>20</sup>

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<sup>18</sup> Williams, R. (2000c) 'Introduction', in R. Williams and A. Doig (eds), *Controlling Corruption*, Vol. 4. Cheltenham: Edward Elgar, pp. xi-xiii.

<sup>19</sup> Ibid

<sup>20</sup> Miller, W. L., Grodeland, A. B. and Koshechkina, T. Y. (2001) *A Culture of Corruption? Coping with Government in Post-communist Europe*. Budapest: Central University Press. p.21

The proposals made on the basis of this research method turned out to be more substantiated compared to the hypothetical recommendations from the beginning of the 90s. Essentially, this phase has established post-communist transformation and civil society involvement as central themes in anti-corruption.<sup>21</sup>

### **Post 2000: Reorientation and the latest discussions on the topic**

*“... free trade and integration into the global economy condemn post communist governments (both the executive and Parliament) to work permanently on anticorruption measures. This is a Herculean task assigned to Sisyphus. Every time antifavoritism measures get tougher, the ‘system’ (that is, the beneficiaries of the system) is mobilized. The more promising the measure, the less likely it will be implemented”<sup>22</sup>*

In the end of the 1990s and the beginning of the new millennium one could observe a significant shift in the interest towards anti-corruption. After the boom of during the 1990s, the beginning of 2000s was marked with decline in the interest towards the anti-corruption. The lack of progress and the still persisting rampant corruption provoked a number of questions and doubts. The lack of political will and the assumption that the post-communist countries ‘ostensibly [could] make institutions from scratch’ showed that the expectations were too euphoric and too high from the very beginning. And some of the supposed solutions

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<sup>21</sup> Schmidt, Diana Anti-corruption: What Do We Know? Research on Preventing Corruption in the Post-communist World. *Political Studies Review* 5 (2), 202-232.

<sup>22</sup> Sajó, A. (1998) ‘Corruption, Clientelism, and the Future of the Constitutional State in Eastern Europe’, *East European Constitutional Review*, 7 (2), 37-46.

of the problem, like the civil society involvement, turned out to be in quite a doubtful quality.<sup>23</sup> Still, scholars observe the period as a time of reorientation.

Regarding the civil society involvement in the domestic level, a number of doubts and inconsistencies emerged. Concerns about bad management and corruption inside civil society organizations surprisingly came on the agenda. After being given a huge amount of transfers, the Eastern European NGOs became the main suspects.

*“it seemed that the level of unethical practices was rising as their size and budgets were growing. Terms such as Mangos (Mafia-NGOs) or Quangos (Quasi-NGOs) came to be used for corrupt organisations, yet it was also argued that unethical behaviour can occur in authentic NGOs.”<sup>24</sup>*

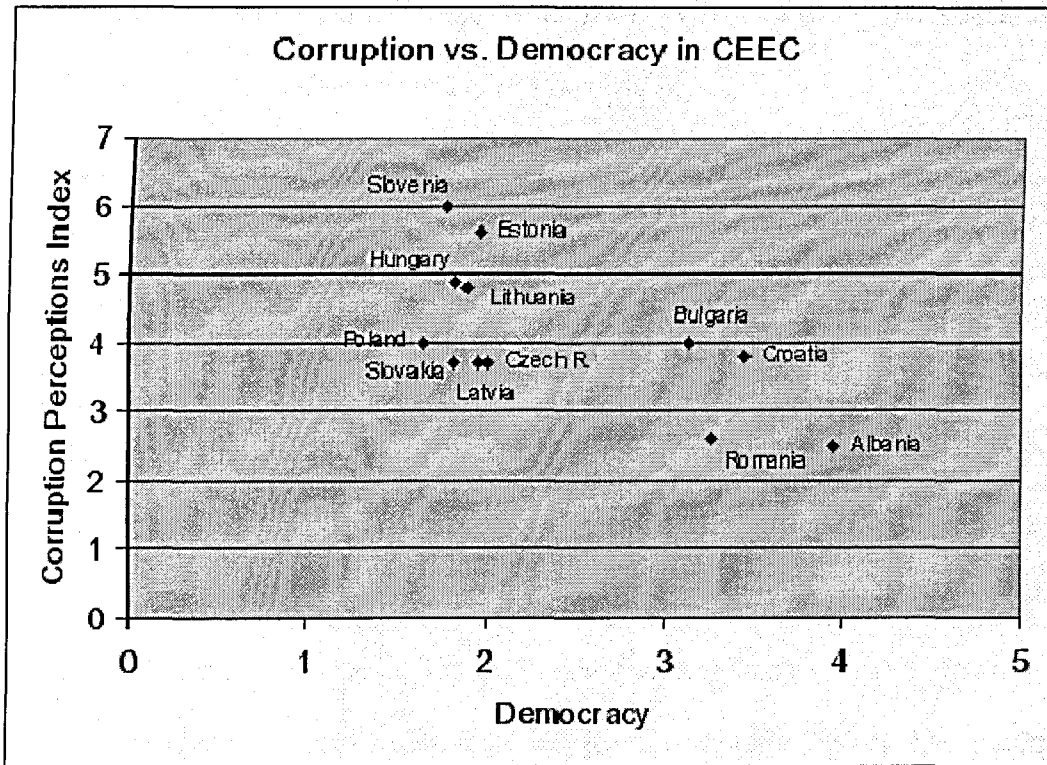
The destruction of the myth about the civil society as the main anti-corruption instrument in CEE shaped the discussions in a different direction. The level of state involvement in anti-corruption became a hot topic as the neoliberal anti-state rhetoric was challenged by supporters of the strong state involvement. The supporters of the anti-state rhetoric pointed cases like Russia, Ukraine and Belarus where the leaders used their authority against their political opponents.<sup>25</sup> On the other hand, scholars like Sorin Dan Sandor support the fully state involvement in the democratic context.

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<sup>23</sup> Michael, B. (2004b) In Linacre College Tallinn, Estonia October 2004. Available from: <http://users.ox.ac.uk/~scat1663/Publications/Presentations/Donor%20Sponsored%20Anti-corruption.ppt> [Accessed 13 April 2008].

<sup>24</sup> Sandor, S. D. (2003) ‘Great Expectations – Can Civil Society Tackle Corruption in Central and Eastern Europe?’, in EUMAP, Is Civil Society a Cause or Cure for Corruption in Central and Eastern Europe? EUMAP: EU Monitoring and Advocacy Program, Online Journal, Feature (2003/07/29): <http://www.eumap.org/journal/features/2003/july> [Accessed 13 April 2008].

<sup>25</sup> Savintseva, M. and Stykow, P. (2005) ‘Country Report. Russia’, in TI, Global Corruption Report 2005. London: Pluto Press, pp. 199–202.



According to this graph presented by Shandor, countries like (Slovenia, the Baltic countries, Hungary, Poland, the Czech Republic and Slovakia) have a better situation: a good degree of democratisation, and less corruption and countries like Bulgaria and Romania or Croatia and Albania are struggling with corruption in a less democratic context. In his conclusion words Shandor states:

*“The lessons from the last decade of reforms in former Communist countries show that the best results can be obtained when the state is fully involved (and in this case foreign pressure is the most important factor) and working in the same direction as the entire society. Political*



*accountability, institutional reforms, better public sector management and a sound private sector should accompany civil society involvement.*"<sup>26</sup>

Over the last decade, some of the countries in Eastern and Central Europe were pressured to impose certain measures, ratify and implement established European and international legal frameworks to tackle corruption in order to fulfil the Copenhagen criteria for full fledged membership in the European Union. This inevitably led to improvement and mostly in what the scholars called 'lack of political will to tackle corruption'. At the present moment, a significant gap can be observed between the CEE countries which are part of the European Union and the rest in the region. The 2007 Transparency International Corruption Perceptions Index shows that countries like Slovenia and Estonia which joined the EU in 2004 share 27<sup>th</sup> position and are the least corrupted countries in CEE. Countries like Bulgaria and Romania which joined the Union three years later are respectively 64<sup>th</sup> and 70<sup>th</sup> whether countries like Serbia, Albania, Ukraine and Belarus which are not part of the EU take respectively 80<sup>th</sup>, 105<sup>th</sup>, 122<sup>nd</sup> and 151<sup>st</sup>.<sup>27</sup>

In the last couple of years the anti-corruption issue gained new momentum as it was connected to the international security issue. Corruption was considered a factor which:

*"Increases unpredictability in foreign policy-making, interferes with economic relations, fosters transnational (organised) crime and facilitates terrorism"*. International actors have stressed that *"both terrorism and corruption come under the heading of organised crime, and*

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<sup>26</sup> Sandor, S. D. (2003) 'Great Expectations – Can Civil Society Tackle Corruption in Central and Eastern Europe?', in EUMAP, Is Civil Society a Cause or Cure for Corruption in Central and Eastern Europe? EUMAP: EU Monitoring and Advocacy Program, Online Journal, Feature (2003/07/29): <http://www.eumap.org/journal/features/2003/july> [Accessed 13 April 2008].

<sup>27</sup> The 2007 Transparency International Corruption Perceptions Index, <http://www.infoplease.com/world/statistics/2007-transparency-international-corruption-perceptions.html>, [Accessed 14 April 2008]

*that progress achieved in the fight against organised crime in the wake of "September 11" has also included actions against corruption"*<sup>28</sup>

Furthermore, now, with the existing of the he Global Programme against Corruption by the United Nations it is acknowledged that the identification of terrorist funds has become part of anti-corruption efforts.<sup>29</sup>

The situation in Bulgaria is very different from the CEE context of tackling corruption. Corruption in Bulgaria has been of interest for political researchers and academics as well. For the last 18 years the country has been included in a number of international surveys measuring corruption. The most well known and noted above is the Transparency International Corruption Perceptions Index.

The top-down approach adopted in Bulgaria was not new to the region and the political class was expected to be the major factor in implementing strategies against corruption. It was presumed that this process will be backed up by the European Union and will be supported in the local level by civil society groups and NGOs which would be funded by foreign donors. The expectations were that of high-profile public servants will be convicted of corruption and politicians would increase the general public confidence in the democratic system and make corruption a less attractive option.<sup>30</sup>

The next chapter will examine how this strategy worked in reality by analyzing the different spheres of corruption and focusing on facts and opinions of academics and researchers.

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<sup>28</sup> I (2003) Comments on the European Commission Communication on 'A Comprehensive EU Policy Against Corruption'. Brussels, 30 July 2003 (REV.1): Submitted by Transparency International – Brussels.

<sup>29</sup> United Nations (2004b) UN Anti-corruption Toolkit. The Global Programme Against Corruption. Vienna: United Nations Office on Drugs and Crime.

<sup>30</sup> SIXTH FRAMEWORK PROGRAMME OF THE EUROPEAN COMMISSION  
RESEARCH PROJECT: CRIME AND CULTURE, Perceptions of Corruption in Bulgaria  
A Content Analysis of Interviews from Politics, Judiciary, Police, Media,  
Civil Society and Economy, [www.csd.bg/en/vr/fileSrc.php?id=1391](http://www.csd.bg/en/vr/fileSrc.php?id=1391), [Accessed 14 April 2008]

## CHAPTER II

After the break-up of communism in Bulgaria and the new beginning of democratic existence in the country, the corruption became one of the main reasons for the development of critical processes in the political democracy, the parties and the institutions. If in the western democracies, the civil society is active enough to control the exercise of power, the market economy structures are well developed and root back in history, all the parties struggle not for the whole authority but for the political only, in Bulgaria none of these prerequisites existed. Moreover, the very word 'transition' in its economical context suggests the transformation of the public property to private and that by itself opens a vast field for possible corruption transactions.

This chapter will deal with the cause and impact of the rapidly developed corruption processes in Bulgaria during the period of transition. It will examine the premises which lead the corruption processes to become one of the main problems for the future of the country. Furthermore it will thoroughly examine the most problematic spheres of corruption in the country such as: corruption in the sphere of the public procurement, political corruption (parliament, political parties), corruption in the sphere of the public services (health care, police, customs etc.).

A case examples on the 1997-2001 rule of the United Democratic Forces (UDF) and 2001 – 2005 rule of National Movement for Stability and Progress (NDSV) will throw a light on the inside of making the political process towards establishing new institutions, legislation as well as patterns of corruption on a very high level. The surveys presented will be mostly from after 1997 due to the scarce resources and research from before as well as the lack of rules of the game and the weak control over the quality of information.

The high levels of corruption in Bulgaria in the 1990s were caused by complex combination of different factors of political, institutional, economic and socio-psychological matters.

Some of the important political premises for the rampant corruption in the country include:

- Preserving the inherited of the communism period lack of distinction and boundaries between the public and the private sector.
- The lack of political reforms and the continuing dependence of the prosecution and legislative authority upon the executive power.
- The use of political resources to create enterprise networks with doubtful quality.
- The underdeveloped third sector and in particular the lack of effective institutional cooperation between the civic society organizations and the private business on one hand and the state on the other hand.

The institutional premises include:

- Disintegration of the state controlled organs and the further emergence of jural-institutional vacuum, especially in the first years of the transition.
- The saving of hulking, over-burocratized and non transparent state administration characterized by the overlapping of functions between the different sections and the lack of coordination.
- The lack of civic control over the state institutions.

In this way, a report by the Bulgarian Working Group for the Partners in Transition outlines some of the most tangible effects of corruption included:

- Draining and subsequent collapse of state and commercial banks - a specific form of "privatization," – which involved open plunder with the tacit participation of state officials.

- “Entry-exit” economy - this is a corruption scheme where the profitable activities of state-owned enterprises (supply of raw materials and machines, realization of the production, etc.) are taken over by private companies, while the losses are covered by the state budget.
- Non-transparent privatization deals - lack of openness in privatization contracts and the prevalence of unclearly defined, opaque methods of divestiture.
- Participation of public officials in smuggling schemes (trafficking of drugs, weapons, and people, as well as smuggling of commercial goods). This is possibly the biggest corruption item in terms of bribes generated. At the same time, smuggling and trafficking also generate the most revenues for the “gray” economy and thus become the main source of financing for organized crime within both national and cross-border frameworks.
- Corrupt financing of political parties and election campaigns (anonymous contributions in return for immunity)
- Misuse of licensing and permits
- Lack of transparency of public procurements - public contracts are often assigned without public tenders (for example, in cases involving non-budgetary resources), or assigned in violation of rules of fair play under conditions promoting favoritism.<sup>31</sup>

Corruption and anti-corruption policy have been major political issues since the mid 1990s, when the new Governments which came to power, first the Bulgarian Socialist Party (1994) and then the United Democratic Force (1997), included on their platform the fight against corruption as one of their main priorities. The Governments took important measures to curb the influence of organized crime on the economy. A series of laws of high importance were passed, particularly the Acts on: Administration, Administrative Services to Natural and Legal Persons, Civil Servants, Asset Disclosure by Persons Occupying Senior Positions in the State,

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<sup>31</sup> A Report by the Bulgarian Working Group for the Partners in Transition II Conference, 2001, <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN012393.pdf> Accessed [22 April 2008]

and Access to Public Information, as well as amendments to the Criminal Code (see chapter 3).<sup>32</sup> However, some reforms have been with doubtful quality, particularly the reforms in the public administration and the laws concerning party funding (see next section). The coordination of anti-corruption efforts has been clumsy and largely ineffective, at least until recently, and the National Anti-corruption Strategy approved by the Government in October 2001 was the first attempt to place anti-corruption efforts within a systematic framework. However, the National Anti-corruption Strategy aims on corruption at the low levels, and almost no progress has been made in tackling corruption at the level of Government, the Parliament and in political parties. Most worrying, there are doubts about if the Government can undertake reforms in areas where powerful interests are involved, such as customs for example. (see section: Public Services)

### **Corruption in the public opinion**

According to surveys from April 2005 (see Table 1) the Bulgarian population considers the customs administration, senior politicians, and Parliament and occupations linked to the judicial system to be the most corrupted institutions. Perceptions of Members of Parliament and ministers have gone visibly worse. Surveys of experience with corruption show that bribery is mostly common among customs officers, doctors, police officers, higher education staff and judicial staff and judges (see Table 2).

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<sup>32</sup> Corruption and Anti-corruption Policy in Bulgaria, Open Society Institute 2002, [http://www.eumap.org/reports/2002/corruption/international/sections/bulgaria/2002\\_c\\_bulgaria.pdf](http://www.eumap.org/reports/2002/corruption/international/sections/bulgaria/2002_c_bulgaria.pdf), Accessed [2008-05-07]

Table 1. Opinion of the Bulgarian public concerning the incidence of corruption in specific groups

	Relative quota of the answers “almost all are corrupted” and “most of them are corrupted”						
	Febr. 1999	April 1999	Sept. 1999	January 2000	April 2000	Sept. 2000	January 2002
Customs officers	73.3	73.2	75.2	77.0	78.6	75.2	74.15
Members of Parliament	39.0	37.7	42.6	45.0	55.1	51.7	47.78
Police officers	51.5	49.2	55.8	51.9	50.5	54.3	47.0
Prosecutors	48.5	50.0	50.8	46.3	54.4	51.3	55.35
Judges	49.5	50.0	50.8	48.5	56.0	50.1	55.00
Lowers	55.5	55.4	55.6	54.8	51.9	52.9	55.53
Tax officers	47.1	45.2	56.4	53.9	51.0	53.7	51.26
Ministry officials	42.5	41.9	48.2	47.9	55.1	49.7	47.08
Business people	49.5	47.6	48.3	48.5	51.4	42.3	
Investigators	43.6	41.8	44.9	41.0	48.0	43.8	48.04
Political parties and coalition leaders	40.5	31.1	42.7	37.5	45.0	43.8	
Administrative officers in the Judiciary	43.8	40.5	49.7	42.0	45.2	40.2	41.17
Municipal	44.3	39.6	48.8	45.0	46.5	41.6	39.34

officers							
Doctors	56.9	46.0	47.3	42.5	40.9	43.6	
University officers	29.5	28.5	35.7	29.4	29.3	28.1	27.68

Source: Coalition 2000.

Table 2: Percentage of respondents experiencing requests for bribes from officials

Type of official	January 2000	April 2000	Sept. 2000	January 2001	October 2001	January 2002	May 2002
Custom officer	19.8	29.1	15.8	22.7	18.4	18.55	25.5
Doctor	20.0	18.6	22.1	6.1	22.3	17.96	20.2
Police officer	23.4	19.5	24.0	18.9	18.5	19.9	15.2
University official	10.1	12.6	13.9	13.2	8.8	14.29	12.0
Administrative staff from the Judicial system	18.5	10.4	11.5	13.3	11.3	9.38	11.0
Judge	6.9	7.7	9.1	5.8	6.8	7.8	10.7
Businessmen	13.7	11.9	9.7	11.6	13.4	10.77	9.4
Ministry official	3.2	3.7	7.0	8.9	5.6	4.92	9.3
Member of Parliament	1.9	4.5	6.4	4.2	2.1	2.08	3.5

Source: Corruption Indexes of Coalition 2000, April 2005, [www.online.bg/vr/crl/corr\\_ind\\_05E.htm](http://www.online.bg/vr/crl/corr_ind_05E.htm) Accessed [May 12, 2008]



Some notions about corruption became a stereotype among the population and almost half of the citizens of Bulgaria consider true without any examination – “the corruption spreads out mostly on the higher political and governmental areas” and “corruption reaches all the spheres of the social life”. These statements are a logical consequence of the highly exploited and generalized topic of corruption in Bulgaria. 70% of the respondents think that the Bulgarian politicians speculate with the topic of corruption only to compromise their political opponents (see next subchapter).<sup>33</sup> There is no clear view about the meaning of ‘corruption on the high levels of rule’ – 27% doesn’t know, 39% point out that this is corruption among the ruling elite without specifying how exactly would the high level corruption work. Only one third of the respondents give more specific answer: the abuse of social position for personal benefit (8.4%), bribes for high hierarchy officials (5.9%), stealing state assets (privatization, misappropriation of fund money etc.) – 5.7%, bribes for politicians – 3%, connections of officials with the mafia, profiteering etc.

Table 3

With which of the following statements do you agree?				
	Agree	Not agree	Cannot decide	overall
Corruption persists mostly at the high levels of authority	77.1%	10.8%	12.1%	100.0%
Corruption spreads in certain spheres of the social life	53.9%	29.2%	16.9%	100.0%
Corruption spreads in all spheres of the social life	74.3%	13.4%	12.2%	100.0%
Bulgarian politicians speculate with the topic of corruption to compromise their opponents	69.2%	10.6%	20.2%	100.0%

Table 4

What is in your opinion ‘corruption at high levels of authority’?	
Among the ruling elite – parliament, government, parties	39.3%
Abuse of power; the abuse of official position for personal benefits	8.4%
bribes for high hierarchy officials	5.9%
stealing state assets (privatization, misappropriation of fund money etc.)	5.7%
bribes for politicians, ministers etc	3.8%
connections of officials with the mafia	2.5%

<sup>33</sup> Национален център за изучаване на общественото мнение, Март, 2008 г., Коруptionта в обществените представи.

profiteering	1.8%
I cannot decide	17.1%
I don't know	9.9%

Source: Национален център за изучаване на общественото мнение, Март, 2008 г.,  
Корупцията в обществените представи

An interesting part of the survey shows the expectations for severe punishments for those accused in corruption. More than 90% of the people included in the survey give an opinion on what should be the punishment for corruption practices. A visible the tendency is that the people tend to suggest more severe punishment for those on higher hierarchy. Among the types of punishment for the different corruption practices, 82% support dismissal without the right for the official to take any post in the administration for the future. 72% would support the seeking of punitive duty by court – that would be a guarantee for heavy punishment. The anti-corruption feelings among the society are enhanced by the firm belief of 46% of the asked that even those who give the signals for corruption, but he himself took part, should be punished.

Table 5

How according to you, an official must be punished if corruption is being proven?	Dismissal without the right for the official to take any post in the administration	82.0%
	With disciplinary punishment, demotion in position, demotion in wage	26.3%
	With administrative punishment (imposing a fine)	20.4%
	Cannot decide	10.2%

How according to you, an official from the higher hierarchy must be punished if corruption is being proven?	With disciplinary punishment	6.5%
	Seeking of punitive duty by court)	72.4%
	Seeking of political duty (banning of political career)	12.3%
	Cannot decide	8.8%
Overall		100.0%

According to you, should a person who has signalled corruption, in which he was involved himself, should be punished?	Yes	46.3%
	No	31.9%

	<b>Cannot decide</b>	21.8%
<b>Overall</b>		100.0%

Source: Национален център за изучаване на общественото мнение, Март, 2008 г.,  
Корупцията в обществените представи

37% of the respondents are embarrassed to answer the question “What measures to curb corruption, according to you, would give fastest and positive for the society effect?”

Among those who pointed out concrete measures, most of the answers are connected with proving and punishment for those involved in corruption practices: court and guilty verdicts (14%), imposing of more severe punishments (9%), more immediate court action (9%), imprisonment (7%), legislative changes (6%), disciplinary dismissal (4%), better control over the work of the administrative officials (4%) etc.

From the answers given, one can say that the Bulgarian society is relatively familiar with the defects of the current system for tackling corruption and seeks for more clear signals that the declared intolerance towards the phenomenon called corruption will result in concrete measures – guilty verdicts, legislature changes, creating a field for procedural facilitations.

Table 6

<b>According to you, what measures should be taken to curb corruption with the fastest and most positive for the society effect?</b>	
<b>court and guilty verdicts</b>	14.4%
<b>imposing of more severe punishments /without pointing out what exactly/</b>	8.6%
<b>more immediate court action</b>	8.5%
<b>imprisonment</b>	7.2%
<b>legislative changes</b>	6.4%
<b>disciplinary dismissal</b>	4.0%
<b>better control over the work of the administrative officials</b>	3.8%
<b>More efficient investigation on the corruption signals</b>	3.4%
<b>To investigate the property of those accused of corruption</b>	2.1%
<b>Higher salaries for the officials</b>	1.8%
<b>Penalty in large scale</b>	1.4%
<b>Change of the political elite</b>	1.3%
<b>dismissal</b>	0.9%
<b>More transparency in the work of the institutions</b>	0.8%
<b>Return of the dead penalty</b>	0.4%

<b>Less burocracy</b>	0.2%
<b>Complex measures against corruption</b>	0.2%
<b>More active involvement of the media</b>	0.1%
<b>Cannot decide</b>	24.3%
<b>Don't know</b>	12.6%

Source: Национален център за изучаване на общественото мнение, Март, 2008 г.,  
Корупцията в обществените представи

According to most of the recent researches, people's perception of corruption is that it spreads across all the spheres of life and is especially problematic on the high administration and governance level. Most of the respondents realize that politicians sometimes speculate with the seriousness of the problem by compromising their opponents but this doesn't change the whole perspective of the corrupt political elite in the country. The lack of concrete and strict measures to tackle corruption, contribute to this belief.

The perceptions of corruption among the respondents create two types of social feelings connected to one another: on one hand, disbelieve that the things can change and on the other hand, desire to obtain justice and punishments. These social feelings are the core of the 'protest' vote and the sharp decline of voting overall (see next section).

The desire for more severe punishments is so strong that it shifts on second position the questions concerning the proving of corruption practices.

The perception for the administration officials is that they are untouchable and nobody holds them accountable for corruption practices. In this sense, the binding of this position with certain requirements and sanctions in cases of corruption meets very high approval. The adoption and introduction of such measures will probably be a bit late but at least will be a step in the right direction.

## **Party financing and political corruption**

Parties are one of the main and so far indispensable part of the democratic process. The expenses of the political parties are considered necessary for the normal functioning of the democratic political system.

The simple truth is that the parties cannot exist without financing. The election campaigns need to be financed as well. The urgent need of money usually forces the politicians to look for them in the 'financial market'. This makes the financing of the political parties one of the most controversial and potentially corrupted areas in the political process. Most often, the political leaders look not for personal profits but for provision of better positions of the party. But, firstly, these are positions which would benefit them personally in a later stage and secondly, and more importantly, this leads to a situation where the party could come to a situation of dependence which affects the whole political system and undermines its legitimacy. In this sense, the role of the parties can be twisted towards the will of the private contractors on first place on the expense of the voters.

Such practices can be observed in almost every country in the world and even in the most developed democracies. In the end of 1990s a huge scandal on the party financing of the Christian Democratic Party has shaken the whole nation:

*"The almost daily exposures highlighted facts that do not surprise Marxists but come as a shock to all those who wrongly believe that politicians who make and execute laws were really law-abiding. According to German laws on party financing, the names of all major donors have to be published. The system of black funds involving banks in Liechtenstein and*

*Switzerland has consistently been created under Kohl's leadership in order to avoid this obligation*"<sup>34</sup>

In Bulgaria, such scandals were totally absent in the first fifteen years of the transition period but the reason for that is by far not because of the lack of corruption practices in the field of political financing. The fact that before 2002 the financial reports of the political parties were almost absent and the accountability was in a level close to zero suggests the lack of political will to establish legislation to curb such a massive source of corruption.

Corruption is the keystone to the lack of trust towards the traditional as well as the new Bulgarian political parties and their representatives in the legislative, executive and judicial spheres. In this sense, the political results of the parties from the last four elections give us an idea of the negative effect of corruption on the democratic processes.

In 1997 UDF (United Democratic Forces) wins the parliamentary elections after a mandate of the BSP (Bulgarian Socialist Party) which took country into the verge of total economic collapse. UDF stated their mandate with absolute majority in the parliament and considerable trust among the population. During their mandate though, a numerous huge corruption scandals had shaken the country and the ruling elite:

- Former Executive Director of the Privatisation Agency Zahari Zheliazkov was fired in November 2000 and subsequently charged in connection with the privatization of Incoms Telecom Holding, which was cancelled in February 2001 amid accusations of corruption. Zheliazkov was under criminal investigation in connection with the privatization of several other companies, including Balkan Airlines.

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<sup>34</sup> Hans-Gerd Öfinger, March 14th, 2000, Corruption scandal shakes Germany's Christian Democrats, [http://www.marxist.com/Europe/germany\\_kohl\\_scandal.html](http://www.marxist.com/Europe/germany_kohl_scandal.html), Accessed [29 April 2008]

- Former Deputy Prime Minister and Minister of Industry Alexander Bozhkov was charged in three cases: the first in connection with the sale of an optical technology company for a very low price in 1998 (a deal he signed without receiving the opinion of the Privatization Agency); the second in connection with the privatization of a publishing company; and the third for allegedly exceeding his powers by signing an inflated issue of compensatory bonds to an individual. Then Deputy Minister of Industry Marin Marinov was also charged for his activities in connection with the liquidation of an electronics company.

- Former Minister of Health and Director of the National Health Insurance Company Ilko Semerdzhiev was charged in connection with a contract signed for the State insurer for an integrated information system with the US company AremiSoft, allegedly in violation of numerous provisions of the Public Procurement Act.

- In April 2000, former Minister of Interior Bogomil Bonev alleged that then PM Ivan Kostov had withheld from prosecution offices a number of materials pointing to corruption within the ruling Government coalition and by senior officials. At the same time, four of Kostov's advisors became embroiled in corruption scandals and were removed, one due to revelations that his company located at a border checkpoint was used for smuggling cigarettes.

The following changes in the government, 10 ministers, plus shift among the ruling elite of the party couldn't compensate the severe image damages caused by regular corruption practices. The most severe issues as it is noted above were concerning privatization and the way it was undertaken. Exposed were names of members of parliament and ministers personally involved in these schemes. The rule of UDF finished with a severe loss of the next elections in 2001. In addition, that was the beginning of heavy crises in the main right wing party which in later point caused its split into three smaller parties with marginal influence on

the future political process. Crisis caused by the corruption processes and the moral damages upon the society as a whole.

The next evident example is the rule of the newly established party National Movement for Stability and Progress (NDSV) around its charismatic leader and son of the last Bulgarian king - Simeon Saxcoburgotski. The beginning of their rule was marked by great expectations and hopes, with slogans like 'the new morals' and 'the new times'.

The new morals were quickly forgotten after the new portion of corruption scandals which erupted around the privatization of two of the biggest national companies 'Bulgarian Telecommunications Company' and the largest tobacco company 'Bulgartabak' as well as the building of the highway 'Trakia'.

NDSV entered a period of crisis and their results in the next parliamentary elections were 2.5 times less than 2001 elections. Recently the crisis got deeper with the split of the party and the parliamentary group. The corruption became the main reason for the development of critical processes in the political democracy, severe consequences for the parties and institutions.

These critical processes can be divided into two main periods during the transition period. The first stage is from the beginning of 1990s to 2001. This period was marked by distrust towards the governmental institutions (parliament, council of ministers) and the party representation in those institutions.

During this period the parties managed to keep the trust even though they failed to fulfil the promises they had given to the voters. The hopes and the expectation of the population towards the political parties are maintained in this first period and their ability to change and overtake the crisis. They accept the arguments that the vicious corruption practices will come to an end with the changes in the party management and the ruling elites. But this resource of trust was quickly drowned after 2001 when the distrust towards the institutions shifted towards the political parties. This resulted in apathy negativism, distance and even is some



rare cases - aggression. Clear symptoms of these processes were observed in the election campaigns and elections mostly with the low percentage of voting among the population.

Parliamentary elections	1991	-	83.95%	(5 699 960 from 6 790 006)
Parliamentary elections	1994	-	75.18%	(5 261 040 from 6 997 954)
Parliamentary elections	1997	-	58.86%	(4 291 066 from 7 289 956)
Parliamentary elections	2001	-	66.05%	(4 568 191 from 6 916 151)
Parliamentary elections	2005	-	54.78%	(3 670 773 from 6 701 060) <sup>35</sup>

An interesting fact are the main messages of most the traditional parties and new formations which guaranteed them considerable trust among the population. The new morals promoted by Simeon Saxcoburgotski or 'against the corruption and thievery' promoted by the pro-nationalist formation "Ataka" and the latest newly established party "GERB" with serious ambitions to win the next elections "guaranty against corruption". The processes in the legislative and executive power are an outcome of the processes in the political parties, especially the ruling ones. In this sense, one of the main problems is the dependence of the executive upon the ruling party. Most scholars consider that the main reason behind this dependence is the lack of accurate legislation to deal with the financing of the political parties and the realization of anti-corruption laws.

To fully comprehend the processes which characterize the political democracy in Bulgaria one need to take a closer look at the legislation concerning the control on party financing. The sources of financing of the parties and the financial control are some of the delicate parts of every democratic country's legislation.

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<sup>35</sup> Централна избирателна комисија, Парламентарни избори 1991, 1994, 1997, 2001, 2005, <http://www.is-bg.net/cik2005/resolve.php?sub=2&id=336>, Accrsted [May 14 2008]

Ten years after the passing of the Law on Political Parties, Bulgarian lawmakers, during the course of four legislatures, have established a new one. Bills for new legislation have been drawn up by every parliament, but it is only at the end of the fourth (the 38th National Assembly), in March 2001, that a new law was passed. The inadequacies of the existing law had been apparent for a long time – the lack of a clear vision regarding the forming of finance for the parties, the lack of control and opportunities for its application, and the lack of transparency to public scrutiny. This is hardly a result of mere oversight: it is evident that the political parties, and especially those who were in power during this time, have not felt the need to introduce clear and controllable rules regulating their financing.<sup>36</sup>

From all sources of financing the most problematic from the point of view of corruption are the donations from private contractors and firms. The problem about donations is the unknown motivation of the donators. Of course, if the donations are not significant such a problem would not exist cause they wouldn't affect the policies of a certain party. In this way, the legislation regulates the types of donations and donators the party can receive money from.

One of the most problematic is the anonymous donations. In most countries they are either forbidden by the law or strictly regulated; as such donations are the main tool for corruption processes.

In Bulgaria, the anonymous donations were forbidden by the first law on political parties from 1991<sup>st</sup>. The expectations were that this ban will be preserved in the new law adopted in 1998. After severe debates though, the ban was dropped and anonymous donations up to 25% of the annual state subsidizing were allowed. This amendment was immediately vetoed by the president Peter Stoyanov (a candidate of the ruling party at the time – UDF). The veto didn't succeed as the majority in the parliament voted pro the amendment. This opened new

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<sup>36</sup> Dobrin Kanev, The legislative aspects of party finance and political corruption in Bulgaria, South-East Europe Review 2/2001, <http://www.ceeol.com/aspx/getdocument.aspx?logid=5&id=0113EAAF-5687-4DFB-9A20-53C0B044A6F6m>, Accessed [1 May 2008]

loopholes for corruption practices. Basically what the new amendment meant is that if a party receives 2 million votes at the elections it can receive up to half a million BGN (1 BGN = 0.50 EUR) of anonymous donations. By the estimates of the Budget Committee, the anonymous donations reached more than a million BGN for the 2001 parliamentary elections. Four parties declared such donations and two of them formed the ruling coalition.

Another key question involving corruption practices concerns the donations from state firms and organisations. The old law forbade the donations of enterprises, organisations or corporations. The new law however came to be much more 'liberal'. It forbids donations only made by enterprises with more than 50% state share. This allows the ruling party to be subsidized by state money.

Another aspect of accountability is the control over it by society and by the state. In most of the European Union countries, the publishing of the financial account of the parties is mandatory. It is done either by the parties (Greece, Italy) or by the parliament (Germany, France, Belgium)

In Bulgaria, none of the two existing laws on the political parties binds them to provide an annual financial report. In 2002 for the first time the Budget Committee publishes some broad financial reports of the parties which submitted such. In 2003 for example only 55 from overall 275 registered parties submitted such reports. From this point of view, not surprisingly the Bulgarian population in its most part regards the party financing as non-transparent and unclear. An index provided by the association "Transparency without limits" shows quantities of transparency of 2.44 with maximum 10.<sup>37</sup> The widespread political corruption is one of the main boundaries before the development of Bulgaria. In its most part the transition was marked by one party government (BSP 1994-1997, UDF 1997 – 2001, NDSV 2001-2005). Each one of those parties concentrated the political power in their hands and isolated the

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<sup>37</sup> Агенция Прозрачност без граници, "Прозрачност без граници" представя данни за нивото на корупцията, [http://bulgaria.actualno.com/news\\_86703.html](http://bulgaria.actualno.com/news_86703.html), Accessed [May 16 2008]

political opponents which lead to political corruption and serving of private and party interests.

The English researcher Pol Lewis determines that period as a 'fragile' model of democracy in which the election win opens the way towards unlimited pursue of party and private interests. Party monopole over state resources is not included in their financial reports but in practice enhances the possibility for financial benefits of it.

At the same time, it must be borne in mind that even the most accurate legislation cannot deal by itself with political corruption, including that connected with political parties.

It is too complex and diverse, and is typified by wrongful conduct and also by attempts to establish control or even monopoly of the political arena through the nondemocratic use of power and influence. In such a context, political corruption does not necessarily lead to personal self-aggrandizement, but is much more harmful. The manipulation of access to public resources and various public positions is harder to differentiate with legal instruments. The ability to regulate this access aids the development of clientelism and of dependence on a certain regime or a certain form of rule.<sup>38</sup>

## **Public procurement**

Annually, the market of public procurement in Bulgaria is 1.8 – 2 billion BGN, which is roughly around 5% of the Gross Domestic Product (GDP). This is an immense resource for the country which needs special attention and monitoring in order to be transparent and effective enough. The guarantees for equal access and concurrency in the sphere of public procurement is essential for the formation of the business climate, improve the image of the

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<sup>38</sup> Dobrin Kanev, The legislative aspects of party finance and political corruption in Bulgaria, South-East Europe Review 2/2001, <http://www.ceeol.com/asp/getdocument.aspx?logid=5&id=0113EAAF-5687-4DFB-9A20-53C0B044A6F6m>, Accessed [1 May 2008]

country, enlarge the inflow of foreign and local investment, stabilize the Bulgarian firms and reach of sustainable economic growth.

By data of the State Internal Financial Control Agency, the breaches in the system of public procurement for the year 2007 are for 330 million BGN. Out of 5624 monitored procedures, in 1479, for the value of 210mil.leva, the breaches are 2154.

Corruption has been a serious problem in procurement, partly due to the absence of any law until 1997. The law remains widely criticized, even after amendments to the 1997 Act, and in a January 2001 survey, half of companies surveyed stated that additional payments and bribes are necessary to win public contracts and obtain licenses.<sup>39</sup>

One big corruption scandal surfaced in November 2000 when Jeilan, a Turkish construction company, claimed it provided €58.8m in bribes, some to senior Government officials, to secure large construction contracts, such as one making it the primary contractor for the Gorna Arda water cascade project in an inter-governmental agreement with Turkey. The company went public with the allegations when the Government decided to cancel the contract because the company went into bankruptcy proceedings.<sup>40</sup>

During the November 2001 presidential elections, the Central Electoral Commission had to terminate its contract with a private company that had been commissioned to process the election results after it emerged that the company lacked the technical capacity to carry out the task. A representative of the Civic Initiative for Free and Fair Elections publicly expressed suspicion that members of the CEC took bribes from the company.<sup>41</sup>

IT companies have also registered strong complaints about contracts for software through the Bulgarian Association for Information Technologies, which recently detailed allegedly

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<sup>39</sup> Vitosha Research and Centre for Economic Development, Global Competitiveness Survey, January 2001; cited in: Coalition 2000, Corruption Assessment Report 2001, p. 47.

<sup>40</sup> G. Alexandrova, "Cok Selam, Jeilan," Kapital, 13 November 2000.

<sup>41</sup> Sega, 13 November 2001.

“flagrant” violations of the procurement law by the Parliament and ministries of Finance, Agriculture and Public Health.<sup>42</sup>

From 1<sup>st</sup> of October 2004, new law on public procurement was adopted and since changed by additional amendments to be fully compliant with the *acquis* of the European Union in that field. The new norms though are not yet well developed and many of the entrepreneurs were not aware of how they function which created danger of opening new loopholes.

According to last surveys 64% of the public procurement was for the purchase of goods, 29% for purchase of services, and 7% for construction works.

In particular, improvements in the law may not have done anything to deter widespread collusion. According to the Chief Financial Officer of an international organization with offices in Sofia, rampant collusion raises the price of every contract the organization issues by around 20 percent on average.<sup>43</sup>

With the intention to collect information for violations in the public procurement procedures, the Public Procurement Agency (which was established after the adoption of the new act) opened a telephone line for corruption signals. After four months, the agency registered 170 signals. Most of them are in the sphere energy, construction works, delivery of sanitary-hygienic materials for hospitals, pharmaceuticals, deliveries and services for districts, schools etc.

In 30% of the cases the signals of corruption are at the level preparation for procedures. The violations included here are concerning the; preparation of the tasks, the announcements, the technical precision of the documentation, the choice of criteria and its significance in the final decision, the dead lines for accomplishment, the ungrounded ceasing of the procedures etc.

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<sup>42</sup> Troud, 16 November 2001.

<sup>43</sup> Corruption and Anti-corruption Policy in Bulgaria, Open Society Institute 2002, [http://www.eumap.org/reports/2002/corruption/international/sections/bulgaria/2002\\_c\\_bulgaria.pdf](http://www.eumap.org/reports/2002/corruption/international/sections/bulgaria/2002_c_bulgaria.pdf), Accessed [2008-05-07]

The largest scale of violations, according to the signals, are those concerning the estimation of the offers – around 50% of the cases. The violations here are mostly tied with the formations of the commissions for estimation and their proceedings, the estimation of the different offers for fulfillment of criteria, the announcement of the protocols prepared by the commission, the possibility to appeal against the decision of the commission etc.

Around 30% of the signals involve violations concerning the control of the realization of the public procurements. Most often they refer to negligence in the work process, bad performance and bad materials put on, demands for annexation of already signed contracts, lack of sufficient and adequate information in the register of public procurements etc.<sup>44</sup>

The main results and conclusions of the survey are:

- 70% of the firms have experienced improper attitude in public procurement procedures
- 85% of the business representatives note that improper attitude and corruption practices are common for the public procurement procedures in Bulgaria

The executors and the candidates for public procurement procedures (more than half of the participants of the survey) consider that the so far valid Register for public procurements doesn't give the necessary sufficient information, which by its publicity to save the candidates from possible corruption practices.<sup>45</sup>

Some of the recommendations made by the participants of the survey include: the request to make the price and technical components of the offers public, in the register of public procurements to be given information about all candidates who participated in the procedures,

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<sup>44</sup> Мониторинг на обществените поръчки, най-често срещани нарушения и корупционни практики, Април 2005 София, стр. 4-23.

<sup>45</sup> Ibid

to widen the possibilities to use the internet and the electronic procedures (e-Procurement), to publish the good practices and answers to the page of the Agency of Public Procurements.<sup>46</sup>

Considering the practices mentioned above and the loopholes which open possibilities for violations of the law and corruption, the following recommendations might be useful to improve the monitoring of the public procurement.

To avoid conflicts and arguments between the public and the private sector and to guarantee publicity and transparency in conducting the procedures one should involve the representatives of the field companies. Their involvement should be in all stages of the public procurement conduction: planning, preparation of the technical tasks and announcements, estimation of the offers, control and monitoring of the execution.

The controlling body – The Agency for Public Procurement should be independent from the executive body. This will increase the objectivity and the efficiency to the exercised control. So far there have been no reports on violations in procedures concerning the ministries which could be explained by the department dependence of the public procurement agency.

The introduction of electronic public procurement is highly recommended. This would be the best way to minimize the violations, corruption practices, decrease of expenditures and increase the efficiency. The absence of the direct contact between the candidate and the contractor would have a direct anti-corruption purpose.

## **Public Services**

Public services have always been a major concern in all the anti-corruption strategies in Bulgaria. During the 1990s the Bulgarian Customs Administration appears was the most seriously affected by corruption than any other public institution, and was identified by the

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<sup>46</sup> Ibid



Government as the number one priority in the fight against corruption. However, as it was noted above (party financing and political corruption chapter) there are indications that the Government may have been unable to push through meaningful reform against the influence of groups with a vested interest in the status quo. Licenses and permits have also been a major barriers to doing business, although the Governments went through the process of carrying out important licensing reforms.

### Customs

*Smuggling, which was already institutionalized by the secret services under the Communist regime, has become even more pervasive in response to the sharp rise in demand for imported goods after 1989. As a result, the Bulgarian customs service has been subject to more corruption pressure than any other sphere of public administration during the past decade...The symbiosis between corruption and smuggling has become endemic through criminal interactions between smugglers and civil servants at virtually all level.<sup>47</sup>*

Moreover, the Yugoslav oil embargo<sup>48</sup> led to immense and very profitable illegal exports of oil and other products in the 1990's,<sup>49</sup> supported by the active or passive role of senior Government officials. The interaction between corruption and smuggling has become regular practices through criminal actions between smugglers and civil servants at actually all levels. According to a report published in 2000 by the Centre for the Study of Democracy:

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<sup>47</sup> Corruption and Anti-corruption Policy in Bulgaria, Open Society Institute 2002, [http://www.eumap.org/reports/2002/corruption/international/sections/bulgaria/2002\\_c\\_bulgaria.pdf](http://www.eumap.org/reports/2002/corruption/international/sections/bulgaria/2002_c_bulgaria.pdf), Accessed [2008-05-07]

<sup>48</sup> In 1994 European Union ban the sale or supply of petroleum and petroleum products to the Federal Republic of Yugoslavia.

<sup>49</sup> Neicho Neev, former Deputy Prime Minister in Luben Berov's 1993-4 cabinet, was being investigated in January 2002 in connection with criminal violations of the Yugoslav embargo and suspicion of large scale corruption deals

*“Illegal imports fuel a grey economy that amounts to as much as 35 percent of GDP,<sup>67</sup> and according to statements to the media in 2001 by the highly respected former Director of the Customs Agency, goods worth some €1.08b are smuggled into Bulgaria every year – an amount equivalent to roughly one-quarter of the annual State budget.”<sup>50</sup>*

Most of the measures undertaken by the 1990s governments to tackle custom corruption were largely ineffective. According to the General Customs Directorate (now the Customs Agency):

*“between October 1997 and October 1999, 102 customs officers were fired on account of “proven grave offences” against customs legislation. One 2000 report calculated that 86 percent of foreign cigarettes imported into Bulgaria in 1998 were imported illegally, one of the authors of this report recently estimated the percentage at 90 percent in 2001. On the other hand, illegal imports of high-quality alcoholic spirits fell from nearly 100 percent to 20-30 percent, as a result of changes to the law mandating that duties be determined on the basis of alcohol content, rather than on declared value as previously.”<sup>51</sup>*

On 16 July 2004 the Bulgarian Minister of Finance, Milen Velchev, signed a contract with the international development services company, Crown Agents, for further assistance in modernization programme for the Bulgarian Customs Agency.

The main objectives of the Crown Agents’ Programme were to:

- *Enhance Government revenues.*
- *Reduce corruption.*
- *Improve the overall performance of the Customs Service.*

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<sup>50</sup>Center for the Study of Democracy, 2000, Corruption and illegal trafficking: monitoring and prevention, <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN019206.pdf>, Accessed [2008-05-10]

<sup>51</sup> Ibid

- *Increase the rate of modernization to meet the standards for accession to the European Union*
- *Facilitate and promote the movement of legitimate trade.*<sup>52</sup>

During 2004, Customs revenues totalled 4.1 billion BGN (more than € 2 billion). This compares with 2.7 billion BGN (approximately €1.35 billion) for the same period in 2002 and 3.2 billion BGN (€1.6 billion) during 2003. This progressive increase, in real terms, of more than 1.4 billion BGN (€700m) over the 2002 figure represents 52 per cent uplift in just over two years.<sup>53</sup>

Under these circumstances, it appears that the anti-corruption drive in the Government's top priority area may have gained momentum, and the prospects for reforming customs and breaking the links between powerful smuggling groups and smuggling channels involving customs officials are more certain in the recent years.

The impact of corruption within the customs causes a great threat to national security and the development of market economy. The assets gained through smuggling are being circulated in a vicious circle which plunges the economy in a semi-criminal or criminal direction. In this way, the shadow structures, rather than the honest entrepreneurs, become more competitive and predominant. This results in an uncertain investment environment which is unacceptable for the foreign businesses, which need to deal with unfair competition and lack of market rules. Moreover, illegal trafficking oppresses the domestic production through cheap import. It also threatens the normal environment for the development of small and medium enterprises. And last but not least the existence of smuggling channels under the control of certain groups protected and powerful holds up the stabilization of the

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<sup>52</sup> Custom Modernization Programme, Bulgaria 2004-2008, <http://www.crownagents.com/uploads/public/documents/downloads/Our%20Work/Public%20Financial%20Management/Bulgaria%20Customs.pdf>, Accessed [May 10, 2008]

<sup>53</sup> Ibid

democratic institutions, the regulations of political party financing, the reform of state structure, and the establishment of democratic government standards.<sup>54</sup>

An important condition which was frequently been neglected in the fight against corruption is the role of the civil society and its need to conduct long-term public monitoring and control over the risk zone in this sphere. Such an involvement will grant the independent evaluation of the process and tendencies in tackling corruption in this so problematic area.

### Police

According to surveys, the Bulgarian police is regarded as one of the most corrupt institutions in the country (see section one), and a particular important concern is the traffic police where the widespread bribes are the normal way to avoid fines. The law enforcement agencies in Bulgaria have started a campaign to develop internal control departments to fight corruption, although, these are still ad hoc measures and the coordination is in a very low level. The last two governments made serious efforts to adopt a number of anti-corruption priorities as part of the National Anti-corruption Strategy. Most particularly, within its Inspectorate the Ministry has established a special unit on internal corruption monitoring and prevention. The Ministry has also prepared a Draft Code for the Ethical Behavior of Police Officers with references to anti-corruption.<sup>55</sup>

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<sup>54</sup> Center for the Study of Democracy, 2000, Corruption and illegal trafficking: monitoring and prevention, <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN019206.pdf>, Accessed [2008-05-10]

<sup>55</sup> Corruption and Anti-corruption Policy in Bulgaria, Open Society Institute 2002, [http://www.eumap.org/reports/2002/corruption/international/sections/bulgaria/2002\\_c\\_bulgaria.pdf](http://www.eumap.org/reports/2002/corruption/international/sections/bulgaria/2002_c_bulgaria.pdf), Accessed [2008-05-07]

## Health

The results of the survey conducted by the Coalition 2000 showed that the Bulgarian population considers the health sector as one of the most corrupted in the country. (see Chapter 1). Results of victimization surveys of the population in April 2005 show an increase in doubts of corruption pressure in health services, with only custom officers ranked higher than doctors as the public officials most likely to obtain bribes.<sup>56</sup> The January 2006 United Nations Development Programme (UNDP) Report on Anti-corruption Initiatives in Bulgaria quotes perceptions by the local public that hospitals and doctors are easy amendable to corruption because of their subordination to the Ministry of Health and almost no accountability at the local level.<sup>57</sup>

The Government has acknowledged the problems of corruption in this area since July 2002 when the Minister of Health gave admit corruption in health care system in an interview for Standart daily.<sup>58</sup> Notably, however, considering the social importance of this public service the anti-corruption efforts are almost absent of the policies established by the Government in this area. Health services are not even assigned as a target area in the Government's anti-corruption strategy adopted in October 2001. Doctors are subject to the bribery provisions of the criminal code. There have been a few prosecutions but – according to available evidence – only one conviction, which resulted in a suspended sentence.<sup>59</sup>

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<sup>56</sup> Corruption Indexes of Coalition 2000, April 2005, [http://www.online.bg/vr/crl/corr\\_ind\\_05E.htm](http://www.online.bg/vr/crl/corr_ind_05E.htm), Accessed [May 08. 2008]

<sup>57</sup> Ibid

<sup>58</sup> Standart daily, 11 July 2002, <http://standartnews.com/archive/2002/07/11/interview/index.htm>, Accessed [May 09. 2008]

<sup>59</sup> Corruption and Anti-corruption Policy in Bulgaria, Open Society Institute 2002, [http://www.eumap.org/reports/2002/corruption/international/sections/bulgaria/2002\\_c\\_bulgaria.pdf](http://www.eumap.org/reports/2002/corruption/international/sections/bulgaria/2002_c_bulgaria.pdf), Accessed [2008-05-07]

## **Chapter III**

### **Institutions and Legislation**

The progress Bulgaria has made in adopting anti-corruption legislation and developing institutions to tackle corruption is significant but precious time lost in the 1990s and the low pace of these changes caused the massive spread and destructive impact of corruption. The important measures Bulgaria has undertaken in the end of 90s and beginning of 2000s include adopting anti-corruption legislation to adjust to the requirements of the international anti-corruption instruments. However, for full compatibility, the state needs to continue further with the changes and double its effort.

State financial control has gone through major reforms since the late 1990s, including new legislation on the National Audit Office (NAO) and on State Internal Financial Control, although the results of the NAO's findings are not profound. In the beginning of 2000s there are still no specialized anti-corruption agencies. However, progress was made towards the establishment of an Ombudsman.<sup>60</sup>

### **Anti-corruption legislation**

Bulgarian anti-corruption legislation has developed significantly in the last ten years, and is conformable to most international standards. Bribery is made an offence by the Bulgarian Criminal Code in the following ways:

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<sup>60</sup> Ibid

- Acceptance of a bribe by a public official in order for the official to perform or not perform his/her duties is punishable by one to six years' imprisonment. If the bribe is received in return for violation of official duties the penalty is up to eight years. Public officials can be sentenced to 10-30 years and have their property confiscated if the bribe is particularly large (as defined by court practice). Passive bribery of foreign public officials is not yet covered.<sup>61</sup>
- Offering or giving a bribe to a public official (including foreign public officials) is subject to up to six years imprisonment, or seven years in the case of violation of official duties.<sup>62</sup>
- A person who acts as a mediator in the process of giving or receiving a bribe is subject to up to three years imprisonment.<sup>63</sup>

Furthermore, there are a few articles in the Criminal Code gathered under the name of Malfeasances. For example:

- An official who uses his or her official position to acquire unlawful benefit for him or herself or for another is subject to imprisonment for up to three years.
- An official who violates or fails to fulfill official duties, or exceeds his or her powers or rights for the purpose of acquiring a benefit for himself/herself or for another, or to cause damage to another, from which significant harmful consequences may result, may be punished by up to five years imprisonment, deprivation of the right to hold a certain State or public office, and/or corrective labor. If there are major harmful consequences or the perpetrator occupies a senior official position the penalty rises to up to eight years, and for particularly grave cases from three to ten years.
- Penalties for the above crimes may be even higher in certain cases, such as if they are connected with privatization or management of state property.

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<sup>61</sup> Bulgarian Criminal Code, Article 301

<sup>62</sup> Ibid, Article 304

<sup>63</sup> Ibid, Article 305a

- An official who refuses or delays the issue of a permit beyond the terms provided by law may be punished by up to three years imprisonment, fined up to €255,000 and deprived of the right to perform certain official activities.
- An official who consciously allows a subordinate to commit a crime related to his/her office or work is subject to the same sanctions as the individual who committed the crime.

### **Asset declaration and monitoring**

In May 2000, the Act on Property Disclosure by Persons Occupying Senior Positions in the State came into power, introducing important changes to a previously no regulated sphere. Civil servants occupying senior official positions (MPs, President and Vice-president, ministers, Constitutional Court judges, senior magistrates, district governors, etc.) are since then obliged to submit declarations of their assets by 31 May each year. The declaration must include all income and property acquired during the previous year, and also the income and property of spouses and children less than 18 years of age.<sup>64</sup>

The register of asset declarations is held by the President of the National Audit Office. The law has also defines the group of persons entitled to have access to the data contained in that register and lays down the procedure for obtaining access.<sup>65</sup>

### **Control and Audit**

The Control and Audit institutions in Bulgaria were absent for the most of the transitional period. Today's successful institutions in tackling corruption like the Parliamentary Anti-

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<sup>64</sup> Bulgarian National Audit Office, Public Registry, <http://www.bulnao.government.bg/index.php?p=2345&lang=en>, Accessed [May 19 2008]

<sup>65</sup> Ibid



corruption Commission or the Ombudsman <sup>66</sup>(see chapter five: The Impact of EU Accession) were established in the mid 2000s. One of the few important well functioning institutions during the transition was the National Audit Office which was established in 2001.

### The National Audit Office

The auditing of public finances is performed by the National Audit Office (NAO). The NAO reports to the Parliament.

The National Audit Office is a non-enforcement control institution dedicated to oversee the spending and management of public money, and to report to the National Assembly and the broad public. Thus it makes transparent the proper spending of public resources and achieves the standards of best practices in managing public funds. In accordance to Bulgarian legislation and certain international agreements, the NAO is entitled to following primary functions:

- *Audit the spending of the central budget and other budgets adopted by the National Assembly;*
- *Audit privatization and post-privatization revenues;*
- *Audit the emerging, servicing, and management of the state debt;*
- *Supervise the activities of the Deposit Insurance Fund;*
- *Elaborate audit reports on the spending of EU pre-accession funds;*
- *Control the financial activities of political parties.*<sup>67</sup>

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<sup>66</sup> The institution of the Ombudsman has been created and operates successfully, in one way or another, not only in its native land - Sweden - but at a pan-European level as well, within the framework of the European Union. It also exists in almost all European countries and in the whole Balkan region, except for Bulgaria and Turkey.

<sup>67</sup> Ibid

An institutional self-assessment survey conducted in 2000 tested the attitude of the NAO staff towards corruption and identified some forms of corruption behavior, like the use of official standing for personal interest and the misuse of information access. It should be noted that approximately 75% of the interviewed staff believes that the NAO Act sets clear provisions for safeguarding from corrupt practices.<sup>68</sup>

In the first ten years of the transition Bulgaria hasn't done much in terms of anti-corruption legislation and institutions. In fact, it is hard to believe that the country was functioning without such laws as: The Law on financing the political parties, Conflict of interest legislation, laws on the acceptance of bribe, Law on Measures against Money Laundering, Law on State Financial Control, Law on Civil Servants, Law on Property Disclosure by Persons Occupying Senior Positions, Law on Access to Public Information etc. Although, a survey on the anti-corruption legislation in south east Europe, conducted in the beginning of 2001 claims that Bulgaria seems to have been the most active in developing legal framework against corruption:

*“Overall, despite numerous difficulties such as the flawed regulatory framework, the inertia of governmental structures, the conservative mentality of civil servants and the inefficient public support to the reform process, which all have impeded the enforcement of the laws passed in 1999, Bulgaria seems to be the country that has been the most active in its attempt to reform the public administration.”<sup>69</sup>*

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<sup>68</sup> CORRUPTION IN TRANSITION: THE BULGARIAN EXPERIENCE, A Report by the Bulgarian Working Group for the Partners in Transition II Conference, 2001, <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN012393.pdf>, Accessed [May 17 2008]

<sup>69</sup> BACKGROUND DOCUMENT ON CORRUPTION IN SOUTHEAST EUROPE, July 2001, Southeast Europe Legal Development Initiative, [http://www.seldi.net/background\\_doc.pdf](http://www.seldi.net/background_doc.pdf), Accessed [May 17 2008]

Nevertheless, regardless of the positive conclusions, the analyze also point out the weaknesses and loopholes in the stile fragile Bulgarian legislative framework:

*“Nonetheless, regardless of the formal progress concerning the development of the legislative framework, the sectors most exposed to corrupt practices have not yet been affected tangibly. For example, the efficient implementation of the Law on Administrative Services for Natural and Legal Persons as well as the Law on State Liability for Damages Caused to Citizens has been prevented by the slow pace of public administration reforms and the lack of clarity surrounding them. In addition, the Law on Personal Data Protection and the Law on Official Information has not been passed, and because of this, domestic legislation in force fails to offer protection of those data and information by virtue of the law.”<sup>70</sup>*

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<sup>70</sup> Ibid

## Chapter IV

### **The third sector in Bulgaria**

*“Civil society participation increases the effectiveness and efficiency of policy implementation and makes democracies more pluralistic, representative and responsive,”... expansion of international anti-corruption organizations and a growing number of similar national and local organizations indicate the great potential of civil society to lead the fight against corruption.”<sup>71</sup>*

The third sector in Bulgaria is one of the main pillars in formulating the public anti-corruption agenda. Bulgarian civil society organizations were among the first to evaluate the scope of corruption in the country, thus pointing out that the rise of corruption practices after 1990 was leading to deepening mistrust in the political institutions and parties. The established public standing of the civic sector in Bulgaria has gone through its hard period in the 1990s when the level of unethical practices in the third sector was rising as their size and budgets were growing.

This chapter will tackle the importance of the civil society in the fight against corruption and its development through the years of transition. During the first 7-8 years after the break down of the communist rule, the effectiveness of the third sector was put under serious doubts. Although, with the joint effort of several international organizations, a number of Bulgarian non-governmental organizations, representatives of state institutions and individual experts was brought a convincing evidence for the fight of the civil society against corruption -

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<sup>71</sup> Adolfo A. Franco, U.S. Agency for International Development [USAID], Civil Society Indispensable In Anti-corruption Fight, <http://usinfo.state.gov/ei/Archive/2005/Jun/08-441371.html>, Accessed [May 18 2008]

Coalition 2000. The chapter will also examine the important role of the media as a part of the fight of the civil society against corruption.

### **The development of the civic sector in Bulgaria**

As it was noted above the beginning of 1990s was the period when the third sector had to deal with structural weaknesses in the anti-corruption efforts. In a project called “Bulgarian NGO sector in the context of development”, the author Vera Dankova notes some of the prerequisites for the corruption practices and gives some hints why the Bulgarian NGO sector lacked sustainability:

- The absence of internal control in the presence of tax relief in the beginning of the 90ies. The availability of control-free relief in the cases of import by foundations brought a big increase in the import of cigarettes, alcohol, fuel and other products which are not nearly related to the development of civil society. This fact which is closely tied to the notorious Sapio affair<sup>72</sup> has led to the canceling of all relief. Furthermore the revoking of these bred another even worse result – strong distrust in the aims and usefulness of non-profit making organizations. For more than 10 years after this case it has been almost unthinkable to talk about more preferential tax treatment of non-profit organizations;
- The lack of unified stance in the sector until the end of 1990s. The strong opposition between different groups of organizations has brought to the fact that in reality the sector united for the first time in 1997 for the adoption of Coalition 2000 program

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<sup>72</sup> In the first half of 1992 r. The finance minister Ivan Kostov gives his permission of foundation “Sapio” to import goods with 52 custom declarations. According to the report of the temporary investigation committee the boss of “Sapio” Iasen Zlatkov managed to steal 338 498 022 BGN. / 13 540 000 USD/ from the state.

• The lack of a modern act regulating the NGO status. The Act on the Legal Not for Profit Entities ALNPE was adopted at the end of 2000. It made the way for the further development of the legal framework for the NGO since on the basis of the separation of the private and the public benefit the state can direct its resources towards public benefit organizations.<sup>73</sup>

Because of the large scale incidence of corruption especially in the transition societies, in the end of the 1990s it became visible that for the successful countering of corruption it is necessary: to improve the cooperation between the big number of non-governmental organizations, to develop network of broad-profile and more specialized organizations throughout the country, to establish good communications between NGOs and the mass media, the dynamic cooperation with international institutions, and the support from international donor organizations.

A positive evidence of the role of civil society in the fight against corruption in Bulgaria came with the Coalition 2000 process: *an innovative initiative of Bulgarian non-governmental organizations, which brought together for the first time representatives of state institutions, civil society organizations, and individual experts in the fight against corruption in the country.*<sup>74</sup>

The idea for developing the activities of Coalition 2000 lies upon several concepts which identify the aim of the process and the main target groups of the activities. The factors and preconditions which cause corrupt practises in Bulgaria make it requisite that anticorruption efforts should address the main aspects of the problem: the legislation, the administration, the existing perceptions and attitudes (public awareness), and the existing behaviour patterns.<sup>75</sup>

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<sup>73</sup> Vera Dakova, Dobrinka Valkova, *Bulgarian NGO sector in the context of development*, Sofia 2004, [http://www.ceetrust.org/files/Bulgarian\\_NGO\\_sector\\_in\\_the\\_context\\_of\\_development.pdf](http://www.ceetrust.org/files/Bulgarian_NGO_sector_in_the_context_of_development.pdf), Accessed [19 May 2008]

<sup>74</sup> Maria Yordanova, *THE ROLE OF THE CIVIL SOCIETY IN PREVENTING AND COUNTERING CORRUPTION IN BULGARIA*, <http://www.anticorruzione.it/Portals/altocommissario/Documents/maria%20yordanova.pdf>, Accessed [18 May 2008]

<sup>75</sup> Ibid

The desired result (tackling corruption) could be achieved following a three-level process, including: 'cognitive change (this involves problem diagnostics and formulation of a research-based impact strategy); inducing affect (this is the process of converting messages into emotional/moral commitments); behavioural change (this involves inducing people to change some aspects of their actual behaviour and transforming moral disapproval into a public action agenda).'<sup>76</sup>

Since the establishment of Coalition 2000, with the coordinated efforts of public and private sector, the main initiatives took place on the agenda:

- Creating a trustworthy anti-corruption agency through consensus and coalition building. One of the main components of consensus building is the Policy Forum: a policy design tool which starts at expert level with the identification of problems, and culminates in a public forum which involves representatives of all relevant institutions and organizations and which endorses a consensus policy document - Anti-Corruption Action Plan.<sup>77</sup>
- Getting relevant knowledge conducting a series of corruption assessment surveys and tracking progress through process monitoring (Corruption Monitoring System). The main objective of the assessment and the monitoring is to analyze the scope, intensity, types, and sources of corrupt behaviour in the public sector.
- The main objective was the development of an Action Plan (AP). The AP combines different mechanisms increase trust and transparency in different sectors of public life. Involving political elite and representatives of the business community and trade unions in the formulating process maximizes impact in this respect. Particularly important is the fact that the AP is a consensus document approved by the main actors in Bulgarian society. Moreover,

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<sup>76</sup> Ibid

<sup>77</sup> Coalition 2000, Policy Forum, <http://www.anticorruption.bg/eng/coalition/pf.htm>, Accessed [May 21, 2008]

based on the consensus reached, the implementation of the AP was mostly a result of the joint effort of all parties involved in the drafting process.<sup>78</sup>

The effective implementation of the AP was supported through different mechanisms:

*“a) building awareness of corruption and its various forms in Bulgarian society by using different forms of public education, public discussions and dissemination of the research findings and policy recommendations; b) transforming public awareness into an advocacy role, keeping the issue of corruption at the forefront; c) pressing government to implement anti-corruption strategy and reforms .”*<sup>79</sup>

Since the adoption of the Action Plan, the Coalition has undertaken a variety of activities focused on tackling corruption in the country.

A major component of the activities of Coalition 2000 is the Corruption Monitoring System (CMS). The CMS includes a system of empirical analyzes and analytical surveys and its main task is to present information, which will enable conclusions about the broadness of corruption in the country, as well the related public expectations and assessments. The other aims of the CMS are to give reliable information about the effectiveness of the anti-corruption initiatives of the Bulgarian society, as well as to estimate the impact of the anticorruption activities of Coalition 2000. The most valuable outputs of the CMS are the corruption indexes, made on the basis of research data. They are updated on a regular basis and reflect the scope and dynamics of the spread of corruption practices in different fields of public life.

Since 1999 Coalition 2000 publishes annual Corruption Assessment Reports which provides policy options and action plans for each of the analyzed levels: institutional and legal environment for curbing corruption, reform of the judicial system, fighting corruption in the

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<sup>78</sup> Ibid

<sup>79</sup> Ibid



economy, civil society and transparency, dynamics of corruption behaviour and public attitudes towards corruption, and international anti -corruption cooperation.<sup>80</sup>

The human resource capacity of Coalition 2000 also grew in importance through the years. Coalition 2000 experts and consultants issued important pieces of legislation such as the Law on the Ombudsman and the Law on Electronic Document and Electronic Signature, and were actively involved in the launching and implementation of reforms in important spheres like business registration, financing of political parties, countering trafficking and organized crime, etc.<sup>81</sup>

### **The role of media**

An important part of the anti-corruption efforts of the civil society is the successful involvement of the media in the country. The Bulgarian Constitution guarantees freedom of expression and press freedom.<sup>82</sup> Although, the Bulgarian Media with the successful cooperation of the NGOs exposed numerous cases of corruption practices, there are still important obstacles to greater media role in the anti-corruption efforts.

Firstly is the lack of experience and professionalism in spite of the trends towards greater professionalism and influence in recent years. Secondly and more important is the corruption in the media itself. It is ranging from the restriction of coverage of official State visits abroad to a limited number of journalists whose costs are paid by the State, to standard problems of hidden advertising. Journalists view a widespread media campaign against the contract between the Government and Crown Agents (see section: Customs) as an example of

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<sup>80</sup> The Anti-Corruption Action Plan of Coalition 2000, Bulgarian Anti-Corruption Portal, <http://www.anticorruption.bg/eng/coalition/maindoc.htm>, Accessed [May 21, 2008]

<sup>81</sup> Coalition 2000, Policy Forum, <http://www.anticorruption.bg/eng/coalition/pf.htm>, Accessed [May 21, 2008]

<sup>82</sup> Bulgarian Constitution, Articles 40–41.

“publication by order” and of the strength of the anti-reform customs lobby.<sup>83</sup> Nevertheless, in one of its recent publications, the SouthEast Europe Legal Development Initiative (SELDI) notes the positive development of the Bulgarian Media in the efforts to curb corruption and mobilize civil society.

*“In some countries, such as Bulgaria, Macedonia, Bosnia Herzegovina, and Albania to a much lesser extent, the independent media has brought to the fore numerous corruption cases, exposing high officials. It has also been a major force behind mobilizing public opinion against corruption, as in the case of Bulgaria. At the same time it has exerted indirect pressure on the respective governments to take steps to limit corruption practices. The Bulgarian independent media, which has been marked by intensified anti-corruption reporting, stands out with its permanent engagement in the public debate about corruption and the efforts to curb it. It is characterized by improved quality coverage of corruption issues, expansion of the public dialogue in the media through inclusion of opinions of other civil society sectors and individuals and increased follow-up of reported cases, all of which speaks for a trend towards greater professionalism in its anti-corruption efforts.”<sup>84</sup>*

An important conclusion of this chapter is that the state and population are overcoming their absolute negativism towards civic organisations and have started to use them as an important source of tackling corruption.

The effectiveness of the civic sector is perceived in terms of its achievements in the past years. Even though it went through hard period in the beginning of the 1990s, the successful

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<sup>83</sup> Corruption and Anti-corruption Policy in Bulgaria, Open Society Institute 2002, [http://www.eumap.org/reports/2002/corruption/international/sections/bulgaria/2002\\_c\\_bulgaria.pdf](http://www.eumap.org/reports/2002/corruption/international/sections/bulgaria/2002_c_bulgaria.pdf), Accessed [2008-05-07]

<sup>84</sup> BACKGROUND DOCUMENT ON CORRUPTION IN SOUTHEAST EUROPE, July 2001, Southeast Europe Legal Development Initiative, [http://www.seldi.net/background\\_doc.pdf](http://www.seldi.net/background_doc.pdf), Accessed [May 17 2008]

existence of the sector today is an achievement in itself; the structures, which the sector has realized as well as its activities in all spheres of social life; the current legal and fiscal development as the sector's own doing; the fact that the civil society established itself as an alternative and a partner to the state; the NGOs' share to a positive change in attitude and mentality; the successful NGO support, which has a part of the country's democratization and anti-corruption development; as well as the valuable information, analyses and strategies, which the NGO sector has encouraged through the years.

## CHAPTER V

### The impact of EU Accession Process

In the first ten years of transition to a democratic society and market economy, Bulgarian society has failed to cope with the corruption problem. The last eight years, however, gives sufficient reason to believe that Bulgaria have avoided the danger of turning from a society with corruption into a corrupt society. One of the main reasons for that positive development is the EU Accession process stated in the late 1990s the process has taken the country through significant improvement in the fight against corruption. The Bulgarian Government has explicitly cited EU accession as one of the most important reasons for the adoption of its national anti-corruption policy. The preamble to the National Anti-corruption Strategy (described below) states that, *“Efforts to introduce up-to-date international standards of transparency and publicity... are a significant prerequisite for... guaranteeing membership in the EU and NATO...”*<sup>85</sup>

This chapter will examine the positive effect of the EU Accession process on the fight against corruption in the country. The National Anti-corruption Strategy adopted in the beginning of 2000s marked the start of a new era in the prevention of this so problematic for the Bulgarian society phenomenon. The work of some of the important new institutions (Ombudsman, Parliamentary Committee to fight corruption) and the adoption and amendment of some significant legislation (Law on Political Parties), influenced by the reports of the European Commission and renowned European experts in the field of anti-corruption will be closely examined. The importance of the numerous assistant projects and allocation of huge resources will be analyzed as well as the danger those resources to be hijacked by private interests

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<sup>85</sup> National Anti-corruption Strategy, p. 1.

considering the still persistent corruption in the administration and the political elite. And finally it will deal with the future trends in anti-corruption in the context of the EU and the threat Bulgaria to be stripped of the funding due to corruption risks.

### National Anti-corruption Strategy

The Government of the Republic of Bulgaria adopted a National Anti-corruption Strategy in October 2001, complementing the National Strategy for Combating Crime adopted in 1998.

The strategy was divided into the following main headings:

- 1. Guaranteeing transparency in the work of the public administration*
- 2. Improvement of financial and fiscal control*
- 3. Anti-corruption reform in the Customs Agency*
- 4. Anti-corruption measures in the Ministry of Interior*
- 5. Combating corruption at local government level*
- 6. Anti-corruption measure in the financing of political parties*
- 7. Reform of the judiciary and criminal legislation*
- 8. Cooperation between Government, NGOs and the media<sup>86</sup>*

The Strategy itself is a short and very general five-page document and came after the first Progress Report on Bulgaria's preparations for EU membership when the country received considerable criticism and lack of concrete measures in tackling this phenomenon. However, the Government supplemented it with an action plan for implementation, which lists a number

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<sup>86</sup> NATIONAL ANTI-CORRUPTION STRATEGY, Republic of Bulgaria,  
[http://www.mvr.bg/NR/rdonlyres/F936D70E-34A5-44D5-AC5C-E7B409F1692E/0/01\\_NationalAntiCorruptionStrategy\\_Eng.pdf](http://www.mvr.bg/NR/rdonlyres/F936D70E-34A5-44D5-AC5C-E7B409F1692E/0/01_NationalAntiCorruptionStrategy_Eng.pdf), Accessed [May 23 2008]

of more specific measures with deadlines for implementation. An Implementation Commission was created at the end of 2001, chaired by the Minister of Justice.<sup>87</sup>

The action plan developed further the strategy, with the remarkable exception that reform of political party funding is missing entirely. On the other hand, it dedicates an additional section to reducing corruption in the economic sector and liberalising the conditions for private business development.

The necessity for the development of the National Anti-Corruption Strategy comes from the seriousness of this problem, as well as from the urgent need at the time for setting the efforts for its development in a long-term frame of political and socio-economic improvement of the country in the beginning of 21 century. On the other hand, the efforts for introducing of up-to-date international standards of transparency and publicity in social relations were a significant precondition for the speeding up of the process of integration of the country in the international community, for guaranteeing the membership in EU and NATO, and for the improvement of co-operation with the international financial institutions.<sup>88</sup>

### New Institutions and legislation

#### *Law on Political Parties*

Since the years after the beginning of the accession process, the state institutions focused mainly on fulfilling the urgent requirements for Bulgaria's accession to the European Union. Among the primary challenges of Bulgaria's membership of the Union was the fulfilment of specific results in preventing and fighting corruption. All the three branches of power had to take a serious effort in that respect, including the promise to achieve genuine interaction

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<sup>87</sup> EC Progress Report Summary, October 1999, Bulgaria, <http://www.ce-review.org/99/17/euupdate17.html#bulgaria>, Accessed [May 23 2008]

<sup>88</sup> Ibid

among the anticorruption units existing inside each of those branches and create new ones to increase the efficiency of dealing with the dangerous phenomenon.

The Law on Political Party funding has been a critical issue since the beginning of the new democratic existence of the country (see chapter two).

*“In 2006 the Law on Political Parties was amended to take on board the recommendations of the European Commission to Bulgaria formulated in the Commission’s Monitoring Report of 16 May 2006, and to meet the public expectations for wider transparency and control of political parties’ funding.”<sup>89</sup>*

The Parliament introduced a new requirement for members of the governing and supervisory bodies of political parties, and for the representatives of such parties, to reveal their property, income and expenditure, both within the country and abroad, following the procedure set out in the Law on Property Disclosure by Persons Occupying Senior Positions in the State can certainly be evaluated as a positive step.<sup>90</sup>

A series of amendments have been made concerning the property and funding of political parties. Consequently, a political party’s own income may now also include revenues from securities; the previous limitations on the level of donations that may originate from the same natural or legal person have been dropped off and the amount of government funding available to political parties has increased. Allowing political parties to gather income from securities, however, creates the risk of making the evasion of the ban on business operations

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<sup>89</sup> Anti-corruption reforms in Bulgaria, Key Results and Risks, Centre for the study of democracy 2007-2008, p.65-98

<sup>90</sup> Bulgarian Law on Political Parties, article 30(3)

easier. It could also instigate businesses to find new loopholes of influencing political parties.<sup>91</sup>

A remarkable sign of progress is the newly-introduced prohibition on political parties to receive funding from the following persons or entities:

- *commercial companies with over 5 % of government or municipal interest or related persons from companies where the state has shares providing for special rights, as well as from state-owned or municipal enterprises, and*
- *bidders and participants in a public procurement procedure which has not been closed, where the deadline for appeals under the Law on Public Procurement has not expired; the same prohibition applies to any contractor under a public procurement contract as well as to the legal entities involved in privatization procedures.*<sup>92</sup>

### *Conflict of Interest*

During the whole time of the transition there have been almost no rules on conflict of interest at the executive branch level, with the exception of some vague provisions in the Code of Conduct for Civil Servants. Apart from the ineffective Act on Asset Disclosure by Persons Occupying Senior Positions in the State (see chapter three), which does not apply to officials below the level of minister, there are no provisions for monitoring officials' assets. In the last few years there have been adopted some provisions and for the first time general rules of primary legislation have been enacted to affect the highest political levels of the administration:

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<sup>91</sup> Anti-corruption reforms in Bulgaria, Key Results and Risks, Centre for the study of democracy 2007-2008, p.65-98

<sup>92</sup> Ibid



- *By introducing incompatibilities for single-member bodies of the executive, members of collegiate bodies, district governors and their deputies*<sup>93</sup>
- *By setting up an Inspectorate General within the administration of the Council of Ministers*<sup>94</sup>

The Inspectorate General is directly subordinate to the Prime Minister and acts as a Secretariat of the Commission for Prevention and Countering of Corruption with the Council of Ministers. The key emphasis in the Inspectorate General's work is to examine reports of conflicts of interest or other breaches of official duty, as well as any received reports of corruption affecting an executive body or a civil servant with managerial functions.<sup>95</sup>

The Administrative Procedure Code (APC) is another piece of legislation to preserve a number of basic elements concerning the conflict of interest:

*“Provisions on the principle of impartiality. To ensure the implementation of that principle, article 10(2) of the APC prevents from participating in the proceedings any official who has a vested interest in their outcome or is related to an interested party in a way that may spark off well-founded doubts of his or her impartiality.”*<sup>96</sup>

*“General rules on recusation (article 33 of the APC). Wherever a ground for recusation exists, the removal of an official from participation in the proceedings should be done either of that official's own motion or at the request of a participant in the proceedings. Recusation should be invoked immediately upon the requesting party's becoming aware of the ground for such reculsion and should be decided on by the immediate superior.”*<sup>97</sup>

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<sup>93</sup> Bulgarian Law on Administration, article 19(6)

<sup>94</sup> Ibid, article 46a

<sup>95</sup> Anti-corruption reforms in Bulgaria, Key Results and Risks, Centre for the study of democracy 2007-2008, p.65-98

<sup>96</sup> Ibid

<sup>97</sup> Ibid

## *Anti-Corruption Committee of the 40th National Assembly*

The Standing Anti-Corruption Committee of the 40th National Assembly (2005-today) has proved itself as the most pro-active anti-corruption parliamentary committee to date. Within the borders of its powers, the Committee has been operating on three main lines: legislative amendments; parliamentary control; and inquiries into specific reports and allegations of corruption.

The Committee has worked on the handed proposals to improve eight laws relevant to areas disposed to considerable corruption risks, such as privatization and post-privatization control, state and municipal property, VAT, public procurement, etc. Furthermore, the Committee's agenda has been adapted to work on other proposed amendments concerning the financing of political parties, lobbying, the restriction on cash payments, the ratification of the United Nations Convention against Corruption, etc. Some of the important spheres in respect of which the committee exert its control powers were:

*“VAT-related corruption schemes and frauds; problems of privatization and post-privatization control; pricing and other problems in the marketing of medicinal drugs and substances; flawed case law of the State Commission for Gambling; corruption fuelling conditions embedded in the EU-funds allocation procedures; improper exchanges of state-owned agricultural lands and forests in return for private land; corruption environment at the State Reserve and Wartime Reserve Agency; operation of the customs authorities and corruption activities of customs officers; implementation of the National Anti-Drug Strategy 2003-2008 and its Action Plan, etc.”<sup>98</sup>*

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<sup>98</sup> Ibid

The Parliamentary Anti-Corruption Committee has strengthened its cooperation with the civic society and NGOs. The Civic Advisory Board created with the committee and bringing together representatives of lead NGOs involved in the fight against corruption has continued to actively contribute to committee's proceedings on most of the topics mentioned above. The Civic Advisory Board performed the creation of a mechanism to coordinate the actions of the three major anti-corruption bodies in the country which operate within the legislature, the executive, and the judiciary.

### *The Ombudsman of the Republic of Bulgaria*

As Bulgaria was going to become a full fledged member of the European Union and be the only country in the union without Ombudsman, one of the trends which were highly recommended was the introduction of Ombudsman who should be vested with monitoring the administration of social processes and the work of public authorities. The idea of introducing this institution has been on the agenda for some time but the lengthy debate about its pros and cons delayed the passage of the relevant law for years, the obstacles of the legislation and the predominance of political bargaining delayed the timely election and constitution of the institution.

Despite all the hindrances and delaying, since the early 2006 the ombudsman has been making ever more evident contributions to the efforts to protect human rights and to fight corruption. The following facts deserve particular attention:

- The ombudsman established cooperation with the Parliamentary Anti-Corruption Committee based on a Memorandum of Understanding between the Ombudsman and

the Committee signed on 16 February 2006<sup>99</sup>. The interaction between the two institutions has proved its efficiency in some important ways, e.g.:

- exchanging information on corruption-proofing of existing legislation and proposing the indispensable adjustments;
- cooperating in the examination of individual instances of corruption;
- Proposals from the ombudsman to place certain draft laws, including anti-corruption ones, on the Committee's agenda;
- Participation by the ombudsman in Committee discussions on various draft laws;
- Joint anti-corruption initiatives with the civil society.<sup>100</sup>

- The ombudsman has also been in close cooperation with the government Commission for Prevention and Countering of Corruption. The ombudsman is working in close cooperation with the institutions responsible for the implementation of the Strategy for Transparent Governance, Prevention and Countering of Corruption 2006-2008. He is equally involved in the establishment of the following measures:

- developing several draft laws of anti-corruption relevance, such as the laws on lobbying, on the declassification of the State Security files, on the energy supply, etc.;
- assessing the implementation of the Concept Paper on Enhancing Administrative Service Delivery based on the One-Stop Shop Principle;

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<sup>99</sup> Ombudsman Information Network, Bulgarian Parliamentary Ombudsman, [http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=2361&lang=en&t\\_style=te&l\\_style=default](http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=2361&lang=en&t_style=te&l_style=default), Accessed [May 23 2008]

<sup>100</sup> Ibid

– developing internal administrative procedures to provide assistance and encourage compliance with the recommendations of the national ombudsman;

- preparatory steps for devising a mechanism of interaction between the national ombudsman and the local public mediators with a view to preventing and countering corruption.

The ombudsman's firm efforts to protect human rights and to exercise independent control of the administration can also contribute a lot to tackling political and administrative corruption.

For that purpose, the following is deemed necessary:

*“ a more active cooperation with the civic organizations in the field of anti-corruption; full-swing operation of the newly-established Public Advisory Board with the ombudsman, a mechanism created to inquire into cases of maladministration, so as to identify the presets for corruption and ease its prevention and suppression, with the involvement of the civil society and of a vast range of experts; joining efforts with the local public mediators; adopting and strictly adhering to internal procedures obliging the administration to provide the ombudsman with any assistance and to abide by his recommendations. That would certainly contribute to affirming the institution of the ombudsman as a genuine guarantee of human rights and a shield against corruption trespasses to those rights.”<sup>101</sup>*

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<sup>101</sup> Anti-corruption reforms in Bulgaria, Key Results and Risks, Centre for the study of democracy 2007-2008, p.65-98

## EU Assistance

One of the most problematic issues in the EU Accession process and after the full fledged membership of Bulgaria in January 2007 has been the assimilation of funds and resources allocated for the development of the country. Experts from the EU Commission and western media have been accusing repeatedly the government that the allocated money is being 'hijacked' either by corrupted politician or the mafia.

The European Union has been providing different assistance for Bulgaria since the beginning of the accession process but not entirely for the development of the anti-corruption strategy. However, the PHARE programme<sup>102</sup> included some projects, which were indirectly related to corruption prevention:

<i>Objectives and projects</i>	<i>Total Phare support</i>	<i>Institutions building</i>	<i>Investment</i>
Implementing civil service reform	2,400	1,800	0,600
Recruitment and training strategy for the judiciary	2,000	2,000	-
Strengthening the national customs agency	1,300	1,300	-
Combating money laundering	1,200	1,200	-
Improving the management of EU funds	1,800	1,590	0,210

Source: PHARE 2001, Bulgaria National Programme

<sup>102</sup> The financing memorandum for the EU-Bulgaria PHARE programme for 1998 was signed in Sofia on December 22. The EU will provide ECU 149.5 million for Bulgaria's accession preparations. The Bulgarian National PHARE programme benefits from a budget of ECU 68 million, the Cross-Border Cooperation programme with Greece ECU 51 million, the Large-Scale Infrastructure Facility ECU 20 million, and the "catch-up" facility ECU 10 million.

Since the official accession in the European Union the international monitoring and its displaying effects on the government have declined. The capacity of Bulgarian state, civil society and business to tackle corruption turned out to be still insufficient. There have been numerous allegations that the management of EU funds haven't been effective and transparent. In any case, in the coming six years Bulgaria must receive over 10 billion euros from the EU budget - 3, 5 billion as agricultural subsidies and 6, 85 billion to support regional development. The worst fears for those who doubted the country's suitability for properly assimilating the EU funds were confirmed when the head of the Bulgarian roads agency was forced to resign in February after handing contracts worth €50 million to his brother.<sup>103</sup> Another problem is that even though there are obvious corruption cases and patterns in the administration and government no senior official has been convicted of corruption yet. In May 2007, Roumen Ovcharov, then minister of economy, resigned after being accused of accepting bribes and trying to influence investigations. The same happen to the interior minister Roumen Petkov who resigned in the beginning of April 2008 after a snowballing corruption scandal that exposed links between top crime-busters and suspected criminals. In this sense, the expectancies of the public for severe punishment (see chapter two) are understandable and probably deserve further attention.

The Bulgarian government and administration still lack sufficient capacity to design and deliver public policies as illustrated by the delayed and imprecise measures for the implementation of the 2007–2013 EU-funded operational programs. The ambiguousness of clear public policies and priority areas makes easier the emergence of corrupt networks of government officials, the administration and companies to channel EU money towards certain businesses and the creation of cartels in lucrative economic sectors. As an EU Member

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<sup>103</sup> The Times, 24 May 2008, We Ignored Corruption, Bulgarian Leader Sergei Stanishev Admits, [http://www.novinite.com/view\\_news.php?id=93436](http://www.novinite.com/view_news.php?id=93436), Accessed [May 24 2008]

Bulgaria has now fewer mechanisms available to regulate the business environment as any domestic anti-corruption effort will be contingent on the level of corruption among the country's main commercial and investment partners.<sup>104</sup>

The EU institutions have already made the first steps - the payments from the pre-accession programs PHARE and SAPARD were closed off in March 2008 over gross irregularities, a total of about 50 million euros.<sup>105</sup>

Bulgaria's current Prime Minister Sergei Stanishev admitted in a recent interview that there is a mentality of relaxation after the hard work to fulfil the EU standards:

*"The Government and parliament worked without any summer or winter holidays the year before our accession, because it was very important to prove to ourselves as a nation that Bulgaria, when mobilised, can achieve goals,"... 'We did everything well, we can relax', and this is a very substantial part of the problem now."*<sup>106</sup>

After the Prime Minister Sergey Stanishev has recognized the problem - in May 2008 he appointed Meglena Plugchieva, the respected Bulgarian Ambassador to Germany, as his deputy. She received the authority to dismiss at will corrupt administration officials. Yet, she does not have much time. The head of the European Commission on enlargement issues Michael Leigh has given Sofia a deadline:

*"the Bulgarian government needs to prove by June 16 that the rules for the allocation of EU funds are obeyed. In case this does not happen, the money transfers from Brussels worth*

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<sup>104</sup> Anti-corruption reforms in Bulgaria, Key Results and Risks, Centre for the study of democracy 2007-2008, p.7-15

<sup>105</sup> The Times, 24 May 2008, We Ignored Corruption, Bulgarian Leader Sergei Stanishev Admits, [http://www.novinite.com/view\\_news.php?id=93436](http://www.novinite.com/view_news.php?id=93436), Accessed [May 24 2008]

<sup>106</sup> The Times, We Ignored Corruption, Bulgarian Leader Sergei Stanishev Admits, [http://www.novinite.com/view\\_news.php?id=93436](http://www.novinite.com/view_news.php?id=93436), , Accessed [May 24 2008]



*billions of euros could be suspended according to comments in the Commission administration.*"<sup>107</sup>

In this sense Mrs. Plugchieva noted:

*"We have exactly one month to pull ourselves together, concentrate our efforts and perform a huge number of tasks to present the commission with evidence that we have at least begun to address the areas of concern."*<sup>108</sup>

In this fairly complicated state of affairs the government should focus on the importance of some of the recommendations made in previous Corruption Assessment Reports that 'soft' anti-corruption measures (awareness campaigns, training public sector employees, codes of ethics, etc) have exhausted their potential. Now, as it was noted above there are new challenges and efforts must shift to correcting the structural and institutional insufficiencies that breed corruption with a special focus on the efficiency of the new legislature and law enforcement, on a firm enforcement of anti-corruption rules, and on effective criminal sanctions for corruption.

The EU accession period was a keystone in the fight against corruption as the Bulgarian governments since 1998 made serious effort in adopting anti-corruption legislation, establishing key institutions to tackle corruption, enhanced the cooperation between the public and the private sector and improved the business climate in the country. The recent development shows though that the country still needs to struggle with the phenomenon corruption and the slightest decrease in effort could cost immense amount of funds and Euro scepticism.

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<sup>107</sup> Ibid

<sup>108</sup> Die Welt, Abuse of Funds - EU Threatens Bulgaria, [http://www.novinite.com/view\\_news.php?id=93320](http://www.novinite.com/view_news.php?id=93320), Accessed [May 24 2008]



## Conclusions

In this final section the paper aims at contributing to the better understanding and conceptualisation of the problems of corruption and anti-corruption in Bulgaria. Over the last ten years, continuous anti-corruption efforts and various attempts to study corruption has been conducted. In the beginning of the 1990s this process was driven and the corruption in Eastern Europe and Bulgaria was exclusively a priority for of Some Western scholars like Shmidt D. or Williams R., but over time a domestic, discourse on corruption determined by many factors (economic collapse, poverty, and most of all widespread visible corruption) has developed.

The Political corruption in the country through the years of transition had immense consequences. Major corruption scandals marked the rule of every government since the beginning of the transition. Being promised an increase of living standards, higher employment, better business opportunities, higher pensions and sharp decrease of corruption, all what the public was getting was skyrocketing inflation, more and more corruption scandals and more people living below the poverty line. This resulted in sharp decrease of the trust in institutions, political parties, administration, civic sector and judiciary. It affected the population in two ways. Firstly, it created a feeling of impunity among offenders and more people were getting involved in corruption practices and the grey economy. Secondly it created a high desire to obtain justice and anxiety for severe punishment for those involved in the vicious practices. One of the most sticking reasons such practices to become possible was the complete absence of adequate laws which would help in combating corruption and punish those involved. The lack of legislation in spheres like: Political parties, Conflict of interests, public procurement, Judiciary, civic society organisations, tax evasion made the conduct of corruption practices extremely easy.

When the political and economic situation in the country couldn't get any worse and Bulgaria was on the edge to become from a country with corruption to a corrupted country a distant light in the tunnel called European Union appeared. Just for the last decade Bulgaria achieved remarkable progress in her financial and political stability. Bulgaria has achieved sustained economic growth of over 4% annually during the past six years and the unemployment has been reduced to 8%.<sup>109</sup> Under the supervision of the European Commission experts a series of important laws have been adopted to increase accountability and representation in policy making. The equal provision of services has been improved by adopting Codes of Conduct and more severe punishments for corruption practices in the administration. The cooperation between the public and the private sector against corruption has been improving with the professional work of NGOs like "Centre for the study of democracy" and "Coalition 2000" which have undertaken series of important researches and anti-corruption strategies.

Today, more than a year after the EU Accession, it seems that the country still have a long way to go as per capita income is still about 30% of the EU average and unemployment and low living standards still persist. But the main problem is called again corruption. The massive European Union funds which are so needed and would help for the sustainable development of the state are about to be blocked because of still widely persisting corruption practices. To realize its potential and meet the aspirations of all, the country will need to continue to tackle the remaining challenges in its anti-corruption agenda such as: creating a more efficient legislation, finalizing second generation economic reforms, and creating better and more transparent government systems.

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<sup>109</sup> USAID Budget, Bulgaria, <http://www.usaid.gov/policy/budget/cbj2006/ee/bg.html>, Accessed [May 26 2008]

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