CORRUPTION IN TRANSITION: 
THE BULGARIAN EXPERIENCE

A Report by the Bulgarian Working Group for the Partners in Transition II Conference, 2001

I. The Issue of Corruption

Corruption has become a world phenomenon with immediate implications not only for the economic development of individual countries and their international relations, but also for the world economy and politics in general. In the political realm, it undermines democracy and good governance by subverting the formal processes. Corruption in legislative bodies reduces accountability and representation in policy making; corruption in the judiciary suspends the rule of law; and corruption in the public administration results in unequal provision of services. In all cases, corruption comprises the various forms of abuse of power - economic, political and administrative - which all result in obtaining personal or collective benefits to the detriment of the rights and lawful interests of individuals and society. In this sense, corruption has grown into one of the most serious development challenges facing the transition countries of Central and Eastern Europe.

In the course of its transition to a market-based democracy, Bulgaria has not been spared from this experience. Opaque privatization procedures, rampant petty corruption, excessive hurdles to entrepreneurship, perceived lack of political will to address corruption “at the top”, have all contributed to increased domestic and international consideration of corruption as a major reform issue.

In 1997, a reformist government of the Union of Democratic Forces (UDF) was elected to power, which brought financial and political stability to the country. At the same time, the issues of corruption were emerging in the domestic debates and at international fora. Early positive steps were taken to introduce good governance mechanisms in legislation as well as to enhance institutional efficiency and transparency in Bulgaria. The initial momentum was, however, lost towards the end of the government’s mandate, giving rise to criticisms of the lack of political will to address corruption. As a result, the UDF lost the June 2001 parliamentary elections to the newly established National Movement Simeon II, running on a predominantly anti-corruption platform.

Corruption is neither a feature of a certain political system or development stage, nor is it a characteristic of the Central and East European countries in transition only. Looking back to Bulgaria’s legislation from the end of the 19th century, it becomes clear that the political leaders of the time have also been trying to find a legal cure for the misuse of public office for private gain and the use of political power for developing clientelist networks. In 1895, the Bulgarian Parliament promulgated the Act for Prosecution of Illegally Enriched Persons, representing the first piece of legislation of such nature in Bulgaria’s contemporary history. This legislative development was later followed by the adoption of the Act for Confiscation of Illegally Acquired Property, promulgated in 1919.

Despite this historical evidence for the incidence of corruption in the past, today corruption seems to be taking multiple forms and expanding to multiple governance levels. By
undermining economic growth and the legitimacy of democracy, corruption is transforming itself into one of the most serious challenges facing Bulgaria in the transition to a market-based democracy.

To give particular examples of this phenomenon, it should be noted that especially during the first half of the 1990s, numerous factors contributed to the entanglement of corrupt practices with semi-legal forms of privatization. In this way, corruption was becoming a characteristic of a semi-legal transition to democracy and a market economy. Thus, corruption became a part of a larger process where – as earlier with public attitudes to state-owned property – self-serving, anti-social behavior was directed toward the state itself, undermining trust in public institutions. To a certain extent, this shift was inevitable at the stage characterized by the dismantling of some communist structures and the redefinition of the functions of state institutions. At the same time, such attitudes made it possible for independent public institutions to become politicized, for public interests and functions to be “privatized”, and for the judiciary subsequently to become subordinated to leading political and economic interests. In this way, some of 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.

While this paper does not seek to provide comprehensiveness and in-depth analysis of the issues at stake, it aims to identify the most problematic areas with regard to the incidence of corruption; review recent developments; offer some of the country’s best practices; and delineate a set of future priorities.

II. Main Problem Areas of Corruption in Bulgaria and Recent Developments

1. General legal and institutional environment
1.1. Public administration

Problems
- Weak democratic tradition in Bulgaria;
- Lack of stability of the newly established administrative structures;
- Inefficient and over-bureaucratized administrative structures;
- Lack of transparency in the work of the state administration;
- Poor inter-agency coordination and overlapping institutional functions;
- Delayed adoption of appropriate legislative measures aimed at better organization and structure of the public administration;
- Sluggish implementation / enforcement of appropriate legislation;
- Lack of clear distinction between the role of the public and private sector;
- Excessive preservation of discretionary powers at all levels of the state administration (see example with NSSI, Box 1).

Developments
The last 2-3 years have been marked by the adoption of a great portion of legislative measures on the organization and functioning of the public administration. Some of these developments have been motivated by external factors, such as Bulgaria’s aspiration to EU accession; others have been triggered by pressure from civil society.

International cooperation in the field of anti-corruption has been a major impetus to reform of domestic legislation. Bulgaria has acceded to all major international conventions in the fight against corruption. It has also been among the few non-OECD members to sign and ratify the convention on combating bribery of foreign public officials in international business transactions. Nevertheless, despite the prevailing “legal optimism” – the belief that because a law has been enacted it will be put into effect – serious enforcement challenges remain.

After establishing regulations for civil servants to announce their property, a Law on Property Disclosure by Persons Occupying Senior Positions in the State was enforced as of May, 2000. The Bureau for Financial Intelligence has been established as an anti-corruption control unit at the Ministry of Finance. Although not yet adopted, a draft law on the establishment of a national ombudsman institution was introduced to Parliament in 2000, and a number of pilot local initiatives were undertaken. In May 2001, The Municipal Council of the City of Sofia approved Regulations on the Election of a Local Ombudsman.
The National Social Security Institute (NSSI) is the Bulgarian government institution responsible for operating the public pay-as-you-go pension system. It also collects all social contributions for health, unemployment, disability, private pension funds etc., and is responsible for transferring the funds and information on individual contributors to the respective institutions.

The main corruption risks at the NSSI are associated to:

- Use of surety measures at the discretion of the competent authority to guarantee receivables at the NSSI (e.g. false analysis of the need for surety measures);
- Freezing bank accounts of default clients (e.g. clients informed in advance of measures, some discretionary reading of regulations);
- Failure to act in the process of collecting information on the part of the respective control authority;
- Discretionary power of local NSSI branches to re-schedule due payments by clients in “dire financial situation”;
- Potential corruption when findings of violations are filed.

Some of the measures for reducing these risks include:

- Detailed analysis of applicable secondary legislation to identify possible loopholes associated with these risks;
- Increased number of auditors assigned to control revenue at the NSSI;
- Enhanced internal control with the introduction of “super-audits” (audits of an audited period);
- Increased disciplinary and property penalties in cases of favoring corruption either through a specific action or through failure to act;
- Funds are regularly assigned for additional material incentives of the NSSI employees;
- A wide campaign has been carried out in the mass media; press conferences have been organised; a hotline has been established and explanation leaflets published as to familiarize the physical persons and legal entities with their rights and responsibilities in the field of mandatory public insurance;
- It is necessary to change certain legal provisions, as well as provide NSSI with a stronger role in the process of law drafting.

1.2. Anti-Corruption Legislation

Problems

- Lack of a uniform legal base for fighting and preventing corruption, owing to the slow pace of adoption of new legislation, ad hoc reforms to existing laws and regulations, and the existence of contradictory legal norms and procedures.
- Lack of adequate distinction in the existing legislation between the types of liability for corrupt activities -- administrative, disciplinary, and penal.
- Emphasizing enforcement at the expense of prevention. Lack of appropriate legislation aimed at preventing corruption and allowing for civil confiscation in cases of reverse burdening of proof.
Lack of effective regulations on the non-penal freeze and confiscation of assets acquired as a result of criminal activities, including corruption.

**Developments**

1) Amendment to the Penal Code allowing for increased penal measures in the area of drug trafficking; criminalization of new felony crimes such as drug abuse; replacing imprisonment with the levy of fines for libel and insult (March, 2000).

2) Amendment to the Penal Code allowing for increased penalty for bribery. The law provides for more severe punishment and penal accountability for officials holding immunity. Two additional crimes have been incriminated -- the acts of promising and offering a bribe, as well as the provocation to bribery. Invitation or agreement to receive a bribe is also being considered a crime, as well as the act of bribery of foreign governmental officials. (June, 2000)

Although the above measures represent significant improvements in the fight against corruption, the issue of impunity still dominates the anti-corruption debate. Further penal measures need to be introduced not only to sanction the individuals guilty of corrupt activities, but also to prevent the incidence of corruption and serve as society’s moral lesson to such individuals.

2. The Judiciary

2.1. Administration of justice

**Problems**

- Court proceedings for both civil and criminal cases are too slow. (The average case takes 3-5 years to go through the courts. And in perhaps as many as 70% of civil cases, the ruling is not enforced until an administrative judge intervenes.)
- There is also room for deliberate backlogging of cases by participants with powerful vested interests in influencing the judicial proceedings;
- Insufficient publicity and transparency in administering justice;
- Shortage of qualified staff within the judicial system;
- Lack of a comprehensive penal policy and strategies to corruption control;
- Lack of coordination and dialogue among the three agents of the judicial branch -- judges, prosecutors, and investigators;
- Inadequate staffing mechanisms and magistrate education / training.

**Developments**

The Bulgarian Judicial Reform Initiative, an activity uniting the efforts of eight non-governmental organizations and representatives from both state and international organizations, has largely contributed to the judicial reform in Bulgaria. Under this initiative, a Program for the Judicial Reform in Bulgaria has been developed and adopted at the Policy Forum in May 2000, delineating the priorities for reform of the judiciary, and proposing concrete steps for enhancing the functioning of the judicial system in Bulgaria.

In October 2000, a Draft Amendment to the Judiciary Act was developed at the initiative of the Ministry of Justice and a number of non-governmental organizations. The Draft Amendment envisioned the introduction of magistrates appointment on a competitive basis; major innovations with regard to magistrates’ qualifications; introduction of a magistrate status similar to that of public servants; and institutional strengthening of the Supreme Judicial Council and
enhanced coordination with the Ministry of Justice. Although the act has successfully been passed through the process of public hearings, the draft amendment has not been appropriately moved to Parliament.

2.2. Court administration

Problems
- The judicial system still works under primitive conditions and on the basis of outmoded principles. Working conditions for both judges and their administrative staff are generally poor. This situation, combined with judges’ insufficient pay and relatively low public esteem, contribute to low morale within the profession and makes it difficult to maintain the most qualified staff.
- Lack of uniform secondary legislation as to the work of judges, prosecutors, and investigators.
- Multiple registers are being maintained, mostly handwritten, which hinders prompt response to citizens’ and lawyers’ reference requests;
- Lack of qualified court personnel;
- Unclear role and functions of the employees working at the auxiliary divisions of the courts, prosecutor’s office, and investigation services.
- Lack of internal anti-corruption mechanisms developed.

Developments

1) Court Administration Reform: A court administration reform project funded by USAID is currently being implemented, targeting: the formation of a uniform system for case handling and tracking, upgrading of the court filing systems, automation of the archives, facilitated access to court rulings, and information systems networking among courts and between courts and other institutions so as to facilitate data exchange. The project has concentrated much of its initial effort on effecting change through a series of model pilot courts. These courts, located in various regions of Bulgaria, are working with the project to reorder their administrative operations. These changes are designed to improve transparency and efficiency through shifting responsibility for administrative tasks away from judges and to trained administrative staff. Court records and case files are rapidly being transferred from cumbersome compilations of paper (literally hand-sewn together) to uniformly numbered and coded file folders organized on tailor-made shelving units.

2) Human Resources / Judicial Training: In 1999, the Magistrate Training Center was established as the only specialized entity providing continuing legal education for newly appointed and sitting judges. Further efforts are, however, needed to build the institutional capacity of the Center so as to deliver a broad curriculum of courses, as well as ensure its long-term sustainability. (see Chapter on Best Practices)

3. System of political parties

Problems
- The political party system is not yet organized according to principles and models conducive to transparency and autonomy from the state sphere.
- The overlap between state and party interests is particularly tempting for the imposition of private party interests as public ones, with the financing of political parties and election campaigns remaining as one of the primary factors for corruption in Bulgaria (see Box 2).
- Delayed legislative action with regard to the financing of political parties.
Box 2
Access to Parliamentary Democracy since 1989

In 1991, the Bulgarian election system was amended from a 50% one-man-one-vote structure to a total party-list system (with a 4-percent threshold). Since 1991, there has also been a tradition for the prime minister to be the winning political party’s chairperson as well. As a party chairperson, he/she controls the apparatus, the pre-selection of candidates, and the eventual compilation of party lists for the next elections. At the end of the day, although elected by the majority of the legislature, the prime minister is in a position to significantly limit the legislature’s control over the executive branch. This mix of election rules and tradition, plus regulations on the “government ownership rights in state-owned enterprises” creates preconditions for gravitation towards centralization and central government involvement in the day-to-day management of the economy. An underlying factor here is the inadequate financing of political parties and election campaigns. Lack of transparency on this front creates noise in any concerted attempt to influence the economic policy agenda.

During the Round Table Talks (January-March 1990) between incumbent ex-communists and upcoming democrats, the Law on Political Parties (LPP) was one of the laws that allowed for the organization of the first post-communist free elections of June 1990. The LPP did not limit the sources of party financing, and listed four of them: membership fees; donations and wills; for-profit activities; and government subsidies. Enterprises, institutions and organizations were prohibited from sponsoring political parties. Financial activities of the political parties were said to be public, with the obligation to publish annual financial statements before March every year or two weeks before elections; the rules were subject to the control of “a standing parliamentary-and-civic body of the National Assembly”.

Nevertheless, the above provisions have not been implemented for the past eleven years. Not a single political party financial statement has ever been published. Foreign organizations have actively been financing political party activities. Election campaigns have not been financed directly, but through think tanks and foundations that receive the money.

Election campaign experts estimate that the minimum sum to put 10 MP’s in the legislature is at least USD 2 million and this figure has not changed since 1994. The largest pre-election budget subsidy of USD 4,500 was allocated to presidential candidates for the elections of 1996. One minute of prime time TV ads would cost USD 10,000 on the public channels. Rules of financing parties and MPs (both campaigns and parliamentary duties) are hardly sufficient and leave little freedom to undertake individual initiatives and to develop opinions outside those of the party or faction.

The period between April 1990 and 2000 was characterized by the lack of reform of the rudimentary and poorly observed formal rules of political financing. Three stages of informal but widespread party and electoral finance could be distinguished as a factor of pro-corrupt political behavior:

- **1990-1991.** The new political establishment and interest groups were still taking shape at that time, but there was a sentiment to prevent misuse of public and societal positions for a given party gain, and to attempt fair competition for public office. At this stage the incumbent (socialist/ex-communist) party was using cash and in-kind support from the government agencies to benefit “offspring” firms established by fellow party-members as well as candidates for seats in the parliament. The party was also entitled to government subsidies. Rival parties of newcomers (democrats, non-communists) were running their campaigns on government subsidies and through donations (often foreign) to fellow civic groups not registered under the LPP. The ex-communist victory in the 1990 elections set a wrong pattern to follow. The coalition cabinet of 1991 allowed democrats to have access to privileged transactions with the then emerging private sector and state-owned enterprises, thus building up their election financing for the fall of 1991.
• **1992-1997.** Financing of election campaigns and political parties (both incumbent and rival parties, left or right of center) was secured through the “tradition” of privileged contracts with the government. It was mediated by circles which controlled private banks and private contract enforcement agencies (the so called “wrestlers”). In this period, the legislative agenda was managed by ad-hoc majorities in the Parliament and individual MPs sitting on the payrolls of given companies.

• **April 1997 to date.** The incumbent party (democratic reformers) enjoyed support from government and private monopolies, previous state-owned enterprise managers and current enterprise MEBO-owners. Rival parties (socialist and allies) sought support from their ex-clientele of 1991-1997.

**Developments**

The recently adopted Law on Political Parties, effective as of March 2001, contains several anti-corruption provisions, including: a ban on political parties to get involved in commercial activities or owning shares of organizations involved in commercial activities; an exhaustive list of admissible own-revenue sources and regulation of the annual state subsidy (granted to parties represented in the National Assembly in proportion to votes cast for the respective party at the latest elections, as well as to parties not represented in Parliament but which have received at least one out of every hundred actual votes in the latest parliamentary elections); and full control of political parties’ financial revenues and expenses assigned to the National Audit Office. Despite serious objections during the parliamentary debate and subsequently imposed presidential veto, the right to anonymous donations were partially maintained in the law.

**4. Local government**

**Problems**

- Lack of transparency in municipal policy decision making. Decisions are usually taken behind closed doors. Municipal property management, public contracts and procurement actions represent areas of particular vulnerability to corruption at the local government level (see Box 3).
- Low income / low social status of the municipal administration. Seeing that corruption is viable at the higher levels, lower level employees seem to adopt the practice and take advantage of their position in government for personal enrichment. This makes citizens even more confident that corruption exists at all levels, thus reinforcing their belief that only corrupt methods can get their job done.
- Legislative loopholes allowing for impunity of corrupt activities;
- Sluggishness of the judicial system in convicting public officials for corrupt activities;
- Complex bureaucratic procedures and numerous licensing and permission regimes, enabling municipal employees to blackmail citizens for solving their issues;
- Lack of clear rules of administrative activity (terms, control, sanctions), as well as strict internal administrative control;
- Lack of tradition and experience in citizen participation in local government decision making;
- Non-transparent dialogue and unclear distinction between the public and private sector.
Box 3
Local Government Activities with Highest Corruption Risk

- **Municipal property management**: privatization, sale, exchange, lending, etc. Since management decisions are mainly in the competence of the legislature, (i.e. the municipal council), the risk for corruption is relatively reduced. Horizontal control mechanisms are being applied. In bigger municipalities, however, specialized municipal companies are often established to maintain and manage municipal property, which significantly weakens the mechanisms for collective control.

- **Public contracts and procurement actions**: Awarding public contracts for the construction / repair of municipal sites or the procurement of goods (fuel, medicines, foodstuffs) also presents certain risks for deformed application of the legal regulations and procedures.

- **Management of commercial companies with prevailing municipal participation**.

- **Provision of local services related to licensing**: issuing construction licenses, approval of designs, licenses and requirements to business activities, etc.

**Developments**
An increasing number of Bulgarian municipalities have undertaken progressive steps in increasing transparency and allow for increased citizen participation in local government decision making. A number of positive practices could be singled out in this regard:

- 15-20 Bulgarian municipalities have established citizen information and service centers (“one-stop-shops”);

Special mailboxes and hotlines have been created for signals about cases of corruption. (It should be noted, however, that citizen signals have been quite rare. This raises some questions as to the level of civil society development in Bulgaria, as well as to the issue of impunity. Without any real cases of convicted public officials, citizens do not feel that they could make any difference by informing the respective authorities about cases of corruption).

- A Register of Administrative Structures and Executive Power Acts has recently been established, providing public access to information about the role and structure of the administration and about the process of administrative restructuring.

- Open meetings of municipal councils, committees and other local executive bodies are being held;

- Municipal decisions, regulations, orders, etc. are being published, including online;

- Collective means of decision making are being applied;

- Employees serve on tender/bidding evaluation committees on a rotational basis; and

- Ethical codes of municipal councilmen and administration have been adopted.
5. Barriers to business

Bulgaria’s transition to a market-based economy has been marked by an increasing number of licensing, permit and registration regimes. These, coupled with overly bureaucratized procedures, unclear regulations, and excessive discretionary powers of public employees, have opened room for corrupt practices at all levels of the public administration.

In 1999, the Working Group on Analysis of Regulatory Regimes with the Ministry of Economy reviewed the existing rules and regulations on licensing, permit and registration regimes and their impact on markets. The group analyzed over 520 regimes presented by 30 government institutions. More than 330 regimes closely related to entrepreneurship development were reviewed in detail. As a result, the group proposed that about one third of the regimes be reviewed, more than 60 of them discontinued, and the remainder amended or simplified. Despite these positive developments, the results of this analysis have not been shared and discussed with businesses, the most affected party to these regulatory regimes. As showed in Box 4 below, the number of newly introduced permits for business activities has been rising progressively since 1989. The new administrative hurdles have most frequently been attributed to the process of EU accession.

Box 4

<table>
<thead>
<tr>
<th>Year</th>
<th>Newly enforced permits</th>
<th>Number of permits in place</th>
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<tbody>
<tr>
<td>1989</td>
<td>2</td>
<td>2</td>
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<tr>
<td>1990</td>
<td>4</td>
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<td>15</td>
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<td>1994</td>
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<td>21</td>
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<td>1995</td>
<td>21</td>
<td>42</td>
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<tr>
<td>1996</td>
<td>13</td>
<td>55</td>
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<td>1997</td>
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<td>1998</td>
<td>21</td>
<td>86</td>
</tr>
<tr>
<td>1999</td>
<td>20</td>
<td>106</td>
</tr>
<tr>
<td>2000</td>
<td>20 (-26)</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: IME

A certain form of government, which might be called the “license-requiring state”, deserves special attention here. It exercises controls over entrepreneurship and investment within the country via non-financial constraints. Above some critical mass of artificial entry barriers, established on dubious legal grounds, government bureaus have started functioning as agents for collecting rents, or quasi-taxes. Entry barriers (licensing, permit procedures and other requirements) induced by discretionary policies incurred high costs for the private sector, which was motivated to avoid compliance.

The costs of compliance and non-compliance in Bulgaria (1999-2000) were as follows:

- Compliance cost of an average firm: 168 man-days and US $5,556; the cost of non-compliance: 50 man-days and US $2,105.
• Compliance is 2.4 times more costly in cash, and 3.4 times more costly in-kind costs, than non-compliance.
• In-kind costs of compliance for all enterprise sectors for 1999 would equal 12% of GDP.
• The same costs for the small and medium-size enterprise (SME) sector were 4.2% of GDP.

6. Dynamics of public opinion

In a quarterly public survey conducted in January 2001 by Coalition 2000, corruption was ranked among the most serious problems facing Bulgaria, preceded only by unemployment, crime, low incomes, and poverty. Customs officers, MPs, police officers, and representatives of the judicial system are among the professional groups perceived as most prone to the use of corrupt practices. Corruption is seen as least widespread among NGO representatives, journalists and teachers. A 16% decrease in society’s perception of doctors as exerting strongest corruption pressure on society has been noted for the period September 2000 – January 2001. Customs officers, municipal officials, business persons and bankers are seen as the professional groups which have most frequently asked people “for something extra” to get their problem solved. The weakest corruption pressure has been exerted by teachers and municipal council members.

The past few years have been marked by increased public concern as to the issue of corruption and identification of a broader range of corrupt practices. The following public attitudes and citizen actions deserve mentioning as having undergone the most notable changes in this period:

• A shift in public criticism from “petty” to “grand” corruption. This points to the fact that corruption is increasingly being perceived as a problem of politics and the efforts to curb corrupt practices are considered an inherent part of society’s democratic priorities.

• Consequently, there has also been an observable broadening of the scope of public criticism so as to include the more amorphous forms of corruption such as nepotism, trade in influence, and other instances of a “barter type” corruption. Topics and problem areas that used to be taboo until recently - such as privatization of large enterprises; political and economic clientele practices; government institutions budgets; the private lives of public figures, etc., have come to generate civic pressure for transparency and public access to information.

• Realization of the gravity of the problem, on the one hand, and the considerable divergence between the declared intentions and real actions of the authorities, on the other, have leveled the index of the positive tendency towards lower public tolerance and increasing moral inadmissibility of corruption.
Box 5: Susceptibility to Corruption

This index measures citizens' inclination to compromise on values and principles under the pressure of circumstances. Source: Coalition 2000 Corruption Monitoring System (CMS).

Continued decline has been observed in the values of this index since mid-1999, stabilizing public susceptibility to corruption at a lower level. Despite this change, the index is still twice as high as the Acceptability in Principle index, implying that corrupt behavior is sustained by the pressure of circumstances rather than by society's value system.

Box 6: Acceptability in Principle

This index reflects the extent to which various corrupt practices are tolerated within the value system. Source: Coalition 2000 CMS.
A positive development has been registered with regard to public employees’ pressure exerted over citizens to pay bribes, implying that corruption pressure has decreased considerably from September 2000 to January 2001. This favorable tendency confirms the assumption that corrupt behavior is more rarely an outcome of open coercion. It is frequently an issue of personal choice related to the pragmatic interests connecting the different social actors.

7. Media

The role of the media is of particular importance for informing the public about corruption and how it affects the lives of ordinary citizens. Journalists should play the role of “crusaders against corruption”. They should investigate, name sources, inform the public, and cover the whole judicial process.

However, this is not entirely the case in Bulgaria. Corruption stories are often based on rumor and innuendo rather than on solid evidence. On the other hand, although journalists do show to the public the huge houses of a number of public officials, their signals are not followed by any adequate reaction on behalf of the prosecutor’s office. On the contrary, the prosecutors often react against journalists, thus putting them in a very difficult situation. A number of legislative acts also seem to impede journalists from informing the public about corruption in an informed and objective manner:

- The Civil Servants Act seems to inhibit journalists from using civil servants as sources of information since civil servants are liable for disclosing information about crimes committed within their offices, including corruption.
- The Law on Access to Information does not allow access to the so called “office information”, thus locking administrative information away from journalists.
- According to recently amended legislation, it is very easy to prosecute journalists for libel.

### Box 7
**Excerpts from News Items in the Bulgarian Media**

- November, 2000. The Turkish Firm “Jaylan” Maintains That It Has Provided 30 million Deutsche Marks in Bribes for the Implementation of Its Mega-Projects. Without any bidding, the Turkish holding has been selected as primary implementor of the Gorna Arda Cascade Project in an inter-governmental agreement with Turkey two years ago. A portion of the funding has gone for bribing superior Bulgarian government officials.
- December, 1999. 226 is the number of corrupt government officials in 152 cases of corruption at the central and local government level, notifies a report submitted to the Prime Minister. Four of the officials have been convicted for corruption.
III. Best practices

1. Public-private partnerships

Launched in April 1998, Coalition 2000 is an initiative of a number of Bulgarian non-governmental organizations aimed at combating corruption through a process of cooperation among governmental institutions, NGOs and individuals. Its primary objective is to promote the awareness and adoption of democratic values such as transparency, trust, and integrity. Coalition 2000’s activities include:

- Promoting public awareness of corruption and establishing mechanisms to support anti-corruption efforts through public education, advocacy and information sharing;
- Assisting democratic institution building, promotion of democratic values, and elaboration of an Anti-Corruption Action Plan by organizing panels of experts and legislators to develop amendments to the institutional arrangements and regulatory framework that help deter corruption, particularly among public officials.
- Serving as "watchdog" of the transparency and integrity of the reform process.

The factors and circumstances which generate corrupt practices in Bulgaria make it necessary that anti-corruption efforts address several aspects of the problem: legislative framework, administrative set-up, existing perceptions and attitudes (public awareness), and existing behavior patterns. In this respect, Coalition 2000’s anti-corruption effort is parallel to the social marketing model developed by the World Bank. The model includes three basic targets for an anti-corruption campaign, addressing the principal factors of corruption: monopoly (which in the case of Bulgaria is the predominance of the state in the economy and other sectors of social life); discretionary power (i.e. the lack of clear administrative rules and regulations); and accountability (i.e. poor functioning of the watchdog agencies or a lack of such agencies).

Coalition 2000 is based on the principle of public private partnership under the following institutional structure:

- A Policy Forum of leading public and private institutions and prominent personalities, which convenes annually to review past results and provide guidelines for future priorities. Members of the Forum are prominent public personalities with established integrity and reputation, and representatives of public and private institutions. The mandate of the Forum is based primarily on its role as a representative public body overseeing process, reviewing progress and adopting the agenda for the future;
- A Steering Committee as a means of coordinating the Coalition’s activities.

Coalition 2000’s Major Achievements:

Anti-Corruption Action Plan for Bulgaria
The Anti-Corruption Action Plan for Bulgaria was drafted and subsequently endorsed by the first Coalition 2000 Policy Forum. Convened in November 1998, the Forum was attended by over 150 government officials, business leaders, NGOs and international organizations. The Action Plan provides an overview and specific policy recommendations in a number of anti-corruption areas, including: institutional and legal environment, judiciary, the economy, civil society and media, public opinion and international cooperation.
Public Awareness Campaign
The Coalition 2000 anti-corruption awareness campaign has aimed to produce attitudinal changes built on the premise that anti-corruption attitudes translate into mechanisms rewarding appropriate or punishing inappropriate behavior, thus reducing the level of societal acceptance of such practices. This is achieved primarily by raising public awareness about the costs of corruption, raising concerns about corruption within the national institutions, increasing the general understanding of the causes of corruption, and influencing public behavior. The process has focused on three main target groups considered to be of key significance for the success of anti-corruption efforts: (1) the general public, (2) the policy decision makers and elite professionals, and (3) the international community. The awareness program has included the utilization of a mix of national and local print media, national radio, private radio networks, television channels and the Internet. Over 70 anti-corruption information days and community round tables with over 1,500 participants have been organized throughout the country by local NGOs. In addition, over 15,000 copies of anti-corruption awareness materials have been published.

Corruption Monitoring System
The Corruption Monitoring System (CMS) consists of a set of quantitative and qualitative studies, generating information about the structure and dynamics of corrupt behavior in Bulgaria, including spheres, scale and evolution of corruption; attitudes, assessments and expectations of the general public, public sector officials, and specific social and professional groups. CMS features the following products:

- The Coalition 2000 Corruption Indices (CI) are a basic product of the system. Published on a quarterly basis, the CIs summarize the general dimensions of corruption and corrupt behavior. The indices include the following categories:
  ✓ Attitudes towards corruption;
  ✓ Personal involvement in corrupt practices;
  ✓ Assessment of the effect and scope of corruption;
  ✓ Expectations of the ability of the Bulgarian society to overcome corruption.
- Qualitative analysis on the basis of focus groups with representatives of occupations associated with the so-called “gray zones” of higher corruption risk; and a
- Quantitative survey of corruption attitudes towards public officials.

2. Local Government: One-Stop-Shops
The "One-Stop Shop" Services Center in Vidin (Northwest Bulgaria) represents a best practice that significantly reduces the barriers to entry and makes corruption almost impossible. One-stop-shops are expected to reduce costs for both entrepreneurs and the administration, i.e. the costs of compliance with the regulations for the former and the costs of regulation implementation and monitoring for the latter. Presumably, further establishment of one-stop-shops throughout Bulgaria would imply removal of any institutional redundancies, less waste of time and resources for new businesses entering markets, as well as less incurring of administrative costs, thus saving taxpayers’ money. In addition, one-stop shops could simplify coordination among the institutions, as well as lower the ranks of decision-making (and consequently the costs for payroll and training).

The “declaration principle” lays the legal foundation for the effective operation of one-stop-shops. Key to this principle is the applicant’s declaration that he/she will comply to the
established regulations. The respective administration has the right to check the correctness of this statement within a certain period. If the “permitting” agency fails to issue a justification for refusal within the established statutory deadline, it is "silent consent" that is assumed to be the agency’s official position. In other words, if no written comments have been issued to justify refusal of a certain permit, it is assumed that the agency grants the requested permit. Certificates proving the existence of a permit could later be obtained (as is currently the case with tax registration certificates).

3. The National Audit Office (NAO): Bulgaria’s Public Finance Supervisory Body

The National Audit Office (NAO) 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.

The National Register established under the Publicity on the Property of Higher State Officials Act is held with the President of the NAO. To ensure conformity to the publicly established rules, the NAO has adopted eleven Auditing and Reporting Standards, as well as a Code of Auditors’ Conduct so as to restrain auditing personnel from overpassing its powers. 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.

4. The Magistrate Training Center

The Magistrate Training Center (MTC) is the only major provider of judicial training in Bulgaria, working to uphold the image and increase the professionalism of judges. Since 2000, the MTC has trained over 1,700 judges in over 60 seminars. Topics have ranged from criminal and civil procedure (utilizing solely indigenous instructors) to multinational workshops on topics such as judicial ethics (involving instructors from Bulgaria, the United States, and Europe). With regard to judicial ethics, the Bulgarian Union of Judges is currently in the process of drafting a comprehensive code of judicial conduct.
IV. Future priorities

1. Public administration and public services. Transparency and institutional issues.

- Accompany any measures for strengthening the status and professional qualifications of public servants with preventive conflict-of-interest mechanisms and increased internal control.
- Modify the mechanisms for protection of civil servants in a manner allowing for uncomplicated removal from office of corrupt public employees.
- Transfer of some of the current functions of the state to non-governmental organizations. This could also have positive impact on the relationship state-civil society, thus reinforcing the anti-corruption model of democracy.
- Complete the process of establishing a uniform customs information system.
- Promote the fight against corruption as a priority of the law enforcement agencies. Strengthen organizationally the internal control divisions (inspectorates) within the public administration as to develop internal mechanisms for prevention and investigation of cases of corruption.
- Establish an anti-corruption agency modeled on the Anti-Corruption Commission set up by the British authorities in Hong Kong.
- Amend the Access to Information Act in the part related to the so called “office secret”.
- Amend the Civil Servants Act. Currently, civil servants are subject to penalty for disclosing information about crimes committed or being committed within the public institution to which they serve. In this way, a public employee who is witness of corruption cannot alert the public by informing the media, for example.
- Provide for transparency on privatization deals and post-privatization control and reduce the use of the privatization method known as “negotiations with potential buyer”.

2. Legislation

- The applicable criminal legislation – mainly related to bribery – needs to be developed along the following lines:
  - Differentiate liability for the various types of involved parties in a corruption transaction in harmony with the provisions of the Council of Europe Criminal Law Convention, e.g. heavier punishment could be envisaged for passive bribery committed by magistrates, and bribery related to municipal officials should be criminalized (the latter should also apply to foreign officials);
  - Criminalize the demanding of bribes;
  - Criminalize the trade in influence but not before lobbying is regulated adequately;
  - Criminalize acts by legal entities when they have assets acquired through crime or corruption.
- Decriminalize the provocation to bribery in cases of special cooperation with the investigation and prosecution services;

- Civil procedure legislation should be amended to allow for speedier and efficient guarantees for redemption of citizens’ rights infringed by the public administration, for defining and preventing conflict of interests and general enhanced transparency in the work of the public administration;

- Adopt legislation allowing for civil confiscation of property acquired as a result of criminal activities by reversing the burden of proof.

3. Judiciary

- Endorse a system for education of both new and sitting judges, prosecutors, investigators and court personnel, as well as clear criteria for service promotion, as a way of improving magistrates’ professional qualifications.

- Make the appointment and promotion of judicial staff to management positions on a competitive basis; introduce performance evaluations for magistrates holding office for less than three years, as after that period they receive tenure for life. Introduce psychological tests for magistrates entering the profession.

- With regard to the work of the Supreme Judicial Council:
  - Development and adoption of transparent criteria for the appointment, promotion and administrative punishment of judges, prosecutors and investigators;
  - Development of a system for control and professional behavior standards for magistrates, including through improvements in the procedures for immunity elimination in cases of criminal pursuit;
  - Creation of a specialized division for investigation of corruption cases in all branches of the judicial system.

4. Political parties

- Reduce sources of funding to membership fees, donations and budget electoral campaign support, eliminating (or limiting) for-profit activities of the political parties;

- Introduce a requirement for publicizing donor lists, including for individual campaigns; explicitly prohibiting government monopolies in financing political campaigns of parties and individual members of parliament;

- Effective implementation of the provision for political parties to publicize annual financial reports;

- Enforce sanctions for not complying with the law;

- Introduce a majority element in the election system, e.g. a return to the election law of 1990 (50/50 majority/party list system).
5. Local government

- Delineate the spheres of municipal activity mostly exposed to corruption pressure and develop internal procedures and regulations reducing any favorable conditions for corruption.
- Introduce clear and reliable financial procedures;
- Prevent any opportunities for corruption in the process of computerization of the municipal administration;
- Organize both internal and external audits of the municipal administration;
- Enhance control and clearly formulate the responsibilities of each municipal employee;
- Require municipal employees to declare the existence or lack of personal and/or business interest in resolving of a particular issue; expand the circle of the persons required to publicize their income;
- Promote among municipal employees a “customer” attitude towards citizens rather than behavior towards “petitioners”;
- Significantly reduce the number of permit and licensing regimes; alleviate the existing procedures; eliminate any arbitrary / discretionary decision making by the administrative bodies;
- Establish clear rules and criteria for cooperation with the private businesses; and promote an active stance on behalf of municipal authorities to put the local “gray economy” in the daylight;
- Provide access of information to citizens, civil society organizations, businesses and the media on the activities of local governments;
- Attract non-governmental organizations, trade unions and business associations in the efficient implementation of civic control and participation in the activities of the municipal councils and the municipal administration (and particularly in municipal property management);
- Widely disseminate among Bulgarian municipalities any existing best anti-corruption practices;
- Establish independent bodies for control of violations committed by the local governments, and develop the ombudsman institution; and
- Coordinate local government anti-corruption activities with those of other authorities and institutions.

There is an increasing need to seek ways of utilizing the potential of the “other” three agents of anti-corruption activities: the *businesses* that stand to lose as a result of corruption; *civil society*, which happens to be the ultimate victim of corruption; and the *media*, which has the power to ring the bell and make concrete cases of corruption known to the public.