



ON THE EVE
OF EU ACCESSION:
ANTI-CORRUPTION REFORMS
IN BULGARIA

This is the seventh consecutive Corruption Assessment Report providing an overview of the state and dynamics of corruption in Bulgaria and Bulgarian anti-corruption policy. It analyzes the main opportunities and challenges of the anti-corruption process in the context of Bulgaria's approaching accession to the EU.

The report builds on regular monitoring of the spread of corruption, its trends, evaluations of the anti-corruption efforts and initiatives implemented by government institutions and by civil society, as well as a number of suggestions and recommendations on anti-corruption measures. 2005 marked a reversal of the positive trend in the decline of corruption since 1998, while still remaining at half the level of seven years ago. This development suggests that "soft" anti-corruption measures have exhausted their potential and more effective approaches to counteract and prevent corruption must be found, especially at the administrative and political levels. These should be supported through a corruption monitoring and assessment by civil society of the public sector, particularly the agencies administering EU's structural funds. The report also refers to external risks which could emerge after Bulgaria's accession to the EU.



This report is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents are the responsibility of the CSD and do not necessarily reflect the views of USAID or the United States Government.

ISBN-10: 954-477-138-7
ISBN-13: 978-954-477-138-6

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CONTENTS

INTRODUCTION	5
1. SPREAD OF CORRUPTION IN BULGARIA – NEW CHALLENGES	9
1.1. Levels and Dynamics of Actual and Potential Corruption . . .	11
1.2. Perceptions of the Spread of Corruption	13
1.3. Public Values and Attitudes to Corruption	16
1.3.1. Ranking of Corruption among Public Concerns	16
1.3.2. Public Intolerance of Corruption	17
2. CORRUPTION IN THE ECONOMY	19
2.1. Political Corruption: Loops of Companies and State Capture	20
2.2. Administrative Corruption in the Economy	25
2.2.1. Public Procurement and Corruption	26
2.2.2. Tax and Administrative Services to Businesses and Corruption	28
2.3. Corruption in the Private Sector	33
2.4. Corruption and Hidden Economy	34
2.5. Corruption and Organized Crime	37
3. GOVERNMENT INSTITUTIONS IN THE FIGHT AGAINST CORRUPTION	47
3.1. The Legislature	47
3.1.1. Anti-Corruption Legislation and Law-making	47
3.1.2. Parliamentary Committees against Corruption	51
3.1.3. Powers of Constitution	53
3.2. Specialized Anti-Corruption Structures in the Executive Branch	54
3.3. Judicial and Law Enforcement Bodies against Corruption . . .	57
3.3.1. Effectiveness in the Enforcement of Anti-Corruption Criminal Legislation	62
3.3.2. The Role of the Investigating Bodies in Counteracting Corruption	65

3.3.3. The Role of the Public Prosecution Office in Counteracting Corruption	66
3.3.4. Cooperation between the Judiciary and Law Enforcement Bodies in Counteracting Corruption	69
3.3.5. Countering internal corruption within judicial bodies . .	70
BULGARIA AFTER 2007 – NEW CHALLENGES	73

INTRODUCTION

Corruption, particularly in the high echelons of power, is **one of the most critical problems faced by Bulgaria on the eve of its accession to the European Union**. With the stabilization of the political system and the establishment of market economy in Bulgaria in the process of European integration the public tolerates less corruption and is increasingly concerned by it. An important role in this respect has been played by the *Coalition 2000* initiative, which, with the support of US and European partners, pioneered the advocacy of anti-corruption reforms and policies and has been promoting the standards of transparency, good governance, and integrity embraced by the international community.

One element of this newly emerging public sensitivity regarding corrupt practices has been the **adoption of verifiable criteria and instruments for assessing the spread of corruption in this country**, more notably, the Corruption Monitoring System (CMS) of *Coalition 2000* and its regular corruption indexes. These allow insight into the forms, scale, and trends in the dynamics of corruption and anti-corruption policies, thus leaving less room for political speculations on the subject. This is the seventh consecutive report providing an overview of the state and dynamics of corruption in Bulgaria and Bulgarian anti-corruption policy. It analyzes the main opportunities and challenges of the anti-corruption process in the context of Bulgaria's approaching accession to the EU. The report builds on regular monitoring of the spread of corruption, its trends, evaluations of the anti-corruption efforts and initiatives implemented by government institutions, by civil society as well as a number of suggestions and recommendations on anti-corruption measures.

The main tendency of the 1998-2004 period was the gradual decline in both actual and potential corruption in the country. In the past year and a half, however, there have been some alarming indications of an increase in the number of corruption deals. The level of petty (administrative) corruption rose between April 2004 and November 2005. So did the number of cases when citizens came under pressure by public sector officials to engage in corruption deals. **In 2005, the incidence of pressure exerted by officials and of actually executed corruption deals reverted to the higher rates characteristic of the 1999-2001 period.** In addition to other factors, the reversal of the trend reflects the fact that the public is decreasingly tolerant of corruption, as well as the prevalent public perceptions that corruption is widespread in all spheres of life, at all levels of state governance, and among various professional groups. It is further sustained by the public's low trust in state authorities and poor opinion of their effectiveness.

The analysis of anti-corruption efforts in Bulgaria in 2005 and early 2006 leads to a number of conclusions about anti-corruption policies seen in the context of the country's successful EU integration:

- **The potential of the “soft” measures against corruption is being exhausted** (awareness campaigns, training public sector employees, codes of ethics, etc). These are appropriate and indispensable for success in the early stages of an anti-corruption drive. Currently, there is a need for **more effective and consistent political and institutional mechanisms** to curb corruption. These should be complemented by a **national system for monitoring and assessment** covering not only the legislative and institutional measures adopted, but also **the results achieved**.
- Reforms have thus far affected mostly administrative graft but not large-scale, political corruption. A particular challenge to anti-corruption policy in Bulgaria is posed by the **institutionalization of political-cum-business networks** which came to be popularly known as “friendly circles” or “loops of companies”. Their public flaunting by leaders of governing political parties further erode the already low public confidence in democratic institutions. The “circles” monopolize important markets in the Bulgarian economy and the opportunities arising from the country's accession to the EU. With the advancement of the accession process, **political corruption gradually shifts from privatization and illegal trafficking to the spheres of concessions, public procurement, and the use of EU funds**. The economic cost of political corruption, i.e. misused public funds, is far greater than in the early stages of the transition although its relative proportion in the economy has been declining. Yet, the political and institutional checks against this type of corruption remain inadequate. Further, the institutionalization of political corruption makes it easier for criminal interests to capture state institutions, thus allowing organized crime to enter the legal economy of Bulgaria and the EU with impunity.
- An alarming trend over the past year has been the effort by government institutions to mask reluctance and incapability for coherent action against political corruption behind **operations** that are highly visible to the public but of little substance. Such an approach risks, however, damaging the reputation of innocent people and organizations at the expense of continuing impunity of corruption. It does not allow the consistent and proper use of the enforcement and preventive potential of penal policy. The first publicly announced actions of the newly elected prosecutor general are a strong positive signal for the start of urgently needed reform in one of the weakest links in the enforcement of criminal justice against corruption – **the prosecution**. Reinforcing accountability, impartiality, and professionalism, as well as the will and resolve of prosecutors are indispensable for a breakthrough in the fight against corruption and crime. These developments would open up the way for further reforms in the remaining bodies of

the judiciary and law enforcement agencies and in the longer term, for greater transparency of the political process in general.

Prevention and counteraction of administrative and political corruption require closer coordination among public institutions and effective anti-corruption bodies. At the same time, anti-corruption should bring together the efforts of government, civil society, and business, which should interact within the framework of **public-private anti-corruption partnerships**. The opening of the executive, legislative, and judiciary branches of power to systematic and sustained cooperation and coordination with civil society is an essential indicator of transparency. Valuing the continuity and the specific results of this cooperation, the Center for the Study of Democracy is contributing towards the reinforcement of European values and the country's speedier integration into the European Union.

1. SPREAD OF CORRUPTION IN BULGARIA – NEW CHALLENGES

The period between mid April 2004 and the end of November 2005 was marked by an increase of the level of administrative corruption. This increase goes parallel to the increase of the number of corruption pressure cases (public sector employees exert pressure on citizens in order to engage them in corruption transactions).

In 1998-1999, the average monthly frequency of self-reported involvement in corruption transactions was fairly high; it ranged between 180,000-200,000 cases a month. In the period July 2003-March 2004 it reached its lowest level, dropping to 80,000-90,000 transactions per month (Chart 1). The lowest frequency of cases of corruption pressure by public officials was registered in March 2004.

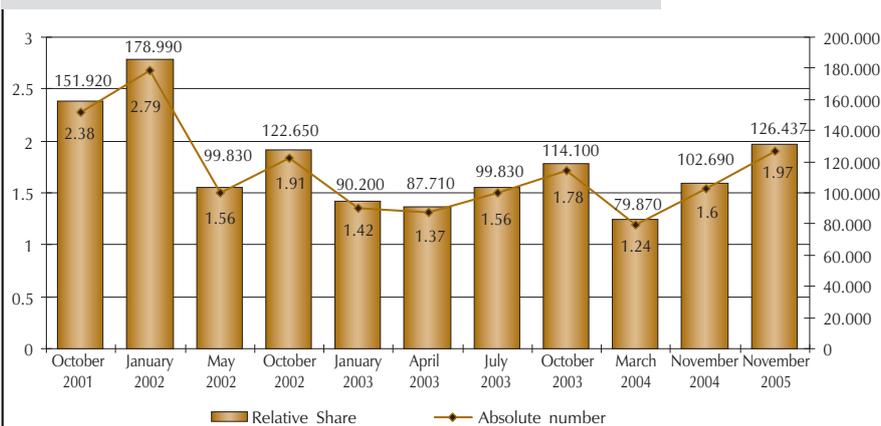
In 2005, however, the pressure and the number of concluded corruption transactions reverted to the higher average values characteristic of the 1999-2001 period. Compared to March 2004, the number of corruption transactions has increased from about 80,000 per month to about 130,000 per month. Whether this will prove to be a lasting negative tendency or a short-term fluctuation resulting from temporary factors (for instance,

the recurrent increase in corruption by the end of each electoral cycle) should be determined through regular corruption monitoring.

In order to adequately interpret the increase of corruption transactions and corruption pressure, some clarifications of the methodology of data measurement and analysis are needed:

(a) The conclusions about the level of corruption are based on a series of national representative surveys of the public and the business sector in Bulgaria.¹ In the period 1998-

CHART 1. AVERAGE MONTHLY NUMBER AND RELATIVE SHARE OF CONCLUDED CORRUPTION TRANSACTIONS



Note: The calculations regarding the number of corruption transactions are based on the population census (March 2001), according to which the country's population aged 18 and over totals 6,417,869, and 1 % of the sample corresponds to 64,180 people.

Source: Vitosh Research /CMS of Coalition 2000

¹ This system has become known as Corruption Monitoring System (CMS) of Coalition 2000. The first description of the CMS methodology, as well as the first results of its implementation, were published in *CLEAN FUTURE. Anti-Corruption Action Plan. Monitoring. Corruption Assessment Indexes*, 1998.

2005, a total of 19 national representative surveys of the population were carried out, covering about 21,000 respondents. In the same period, 9 surveys of company managers were conducted, covering a total of 4,000 company managers.

(b) The surveys conducted include a system of **indicators** measuring various aspects of corruption and are based on the following assumptions and **definitions**:

1. The surveys used in the present analysis measure the **level of petty (administrative) corruption** registering the number of corruption transactions which citizens admit to have been involved in over a certain period of time. Corruption transactions, which for the most part constitute criminal acts, are commonly referred to as **corruption victimization**.² The possibility of using sampling methods to gauge crime levels (in particular, the number of administrative corruption transactions) is based on the assumption that the incidence of such phenomena is sufficiently high; this allows a random sample to identify an adequate number of victims who can be subject to statistical analysis. Such a method is not applicable to grand (political) corruption which cannot be studied with statistical research methods and instruments. The existence of political corruption is deduced largely based on indirect data: 1) high rates of administrative corruption usually exist, if they are implicitly or explicitly tolerated by the higher ranks of government; 2) the state of a number of socio-political and economic processes in the country (gray economy, organized crime, customs violations, VAT fraud schemes, drug traffic, controversial privatization transactions, political party financing, etc.) is impossible without the involvement of senior state officials (the legislature, the executive, and the judiciary); 3) statements by numerous politicians and magistrates openly refer to a multitude of corruption transactions.

“Petty” and “Grand” Corruption

Grand (political) corruption refers to instances when high-ranking government officials, magistrates, and politicians abuse their power and use their position to secure major gains serving personal, party, or corporate interests. It involves decision-makers operating with significant financial and other assets. **Petty (administrative) corruption** is generally perpetrated by lower-ranking officials interacting directly with citizens and small and medium-sized business representatives. It typically implies abuse of administrative powers and though the bribes, favors, and gifts involved may be smaller, it is of a more universal and everyday nature and the volume of the “corruption turnover” could be quite significant.

² In general, the term victimization presupposes a perpetrator and a victim. In corruption-related crimes, however, both parties (the giver and the taker of the bribe or gain) are considered perpetrators. For the purposes of the present analysis, **the term victimization is used to refer to the initiation and carrying out of a corruption transaction.**

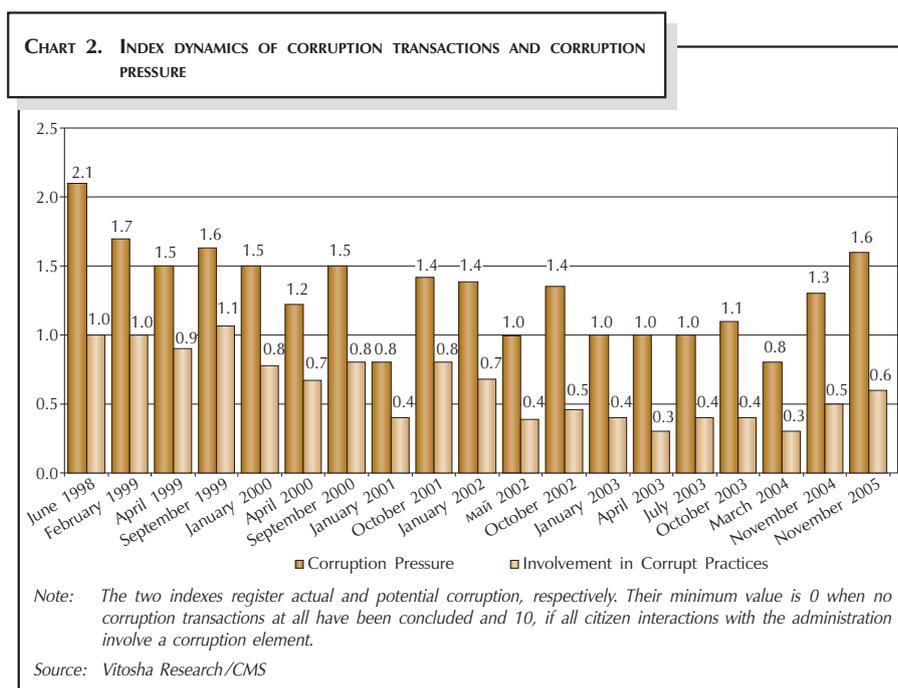
2. Actual and Potential Corruption. Each corruption transaction goes through at least two stages. First, negotiating the conditions (potential corruption) and second, conducting the transaction (actual corruption). Measuring the incidence rates in both stages of the corruption transactions is essential since even the presence of the first stage (offering/soliciting a bribe or other type of unlawful gain) constitutes a violation of the law. **The indexes measuring the dynamics of potential and real corruption victimization** used in the present analysis are, respectively, **“corruption transactions”** and **“corruption pressure”**. The **corruption transactions** index accounts for the frequency of self-reported cases when citizens and business organizations provided money, gifts, or favors in order to have a problem solved. The index reflects the level of **actual corruption** based on a period of one month. The **corruption pressure** index records the frequency of cases when citizens and businesses were asked for money, gifts or favors in order to have a problem of theirs solved. It reflects the level of **potential corruption**.

TABLE 1. INDICATORS AND INDEXES MEASURING THE LEVEL OF ADMINISTRATIVE CORRUPTION

	<i>Indicators</i>	<i>Indexes</i>
Corruption victimization	Potential corruption	Corruption pressure
	Actual corruption	Corruption transactions

1.1. Levels and Dynamics of Actual and Potential Corruption

There was a gradual decline in both actual and potential corruption in the period 1998-2004 (Chart 2). Over the past year and a half, however, alarming indications of increased numbers of corruption transactions have been identified.



Police Officers, Doctors, Customs Officers, and Lawyers – Administrative Groups of High Corruption Risk

The levels of corruption victimization and corruption pressure are unevenly distributed among the various occupational groups. Some of them are characterized by a stable downward trend; others, by a rise; and still others show little change.

For some occupational groups (e.g. university teachers, customs officers, local government representatives), substantial fluctuations were identified depending on the time of the survey. Favorable changes were registered to a varying extent for the groups of the politicians, NGO representatives, and teachers.

On the whole, corruption pressure has been on the decline in the judicial system over the past year. It has dropped for the magistrates (judges, prosecutors, investigators) and for the judiciary administrative staff. The change is due mainly to the reforms (even if only partial) in the judiciary and to internal anti-corruption measures. Such a trend is not observed for political corruption. The prevailing opinion of citizens that corruption in the judiciary is unacceptably high has not changed.

TABLE 2. CORRUPTION PRESSURE BY OCCUPATIONAL GROUPS* (%)

	October 2002	October 2003	October 2004	October 2005
Police officers	22.3	13.9	22.2	27.7
Doctors	20.3	16.6	22.5	26.2
Customs officers	19.4	15.3	13.8	22.1
Lawyers	26.5	13.8	16.5	22.0
University teachers	11.9	16.6	12.6	15.3
University employees	5.6	9.0	9.0	10.1
Municipal officials	10.9	6.4	10.3	9.5
Ministry officials	5.6	8.2	6.3	8.2
Tax officials	4.2	5.9	5.1	8.1
Mayors and municipal councilors	5.3	3.3	6.6	6.5
Teachers	7.4	5.6	6.2	6.0
Judges	16.6	8.5	5.8	3.4
Politicians and political party leaders	7.1	4.1	5.0	2.5
NGO representatives	5.0	1.4	1.3	1.5
Investigators	8.3	9.6	5.0	1.3
Prosecutors	12.3	4.2	5.1	1.2

Note: (*) Proportion of those who have interacted with the respective group in the past year and have been asked for money, gifts, or favors.

Source: Vitosha Research/CMS

When assessing the corruption pressure exerted by magistrates, it is important to take into account **the role of attorneys-at-law** as intermediaries between their clients and the institutions of the judiciary. Data indicate that **potential corruption levels for this group are high and decrease slowly**. This is due to the fact that a number of attorneys-at-law act as corruption mediators under pressure from the magistrates or on the initiative of their clients. There is also reason to assume that, in some cases, attorneys-at-law take advantage of being better informed than their clients to secure immediate gains for themselves. In terms of the public visibility of judiciary corruption the focus tends to shift towards attorneys-at-law, rather than towards magistrates. It is, however, difficult to separate the actual amount of corruption pressure exerted by the magistrates and judiciary administrative staff through attorneys-at-law from pressure initiated by attorneys-at-law themselves. Often the judiciary also comes under political pressure. Regardless of how successful such attempts are, it is a process that generates speculations, undermines the independence of the judiciary, and adversely affects public trust.

In the past two years, police officers and doctors have topped the administrative corruption pressure ranking (Table 1). The fact that potential corruption for both groups is on the rise is alarming. Increased corruption pressure has also been registered for ministry officials, tax administration officials, university teachers and employees. Registered corruption pressure values should be seen in perspective as a serious warning for the existence of corruption problems in the respective area calling for serious anti-corruption efforts.

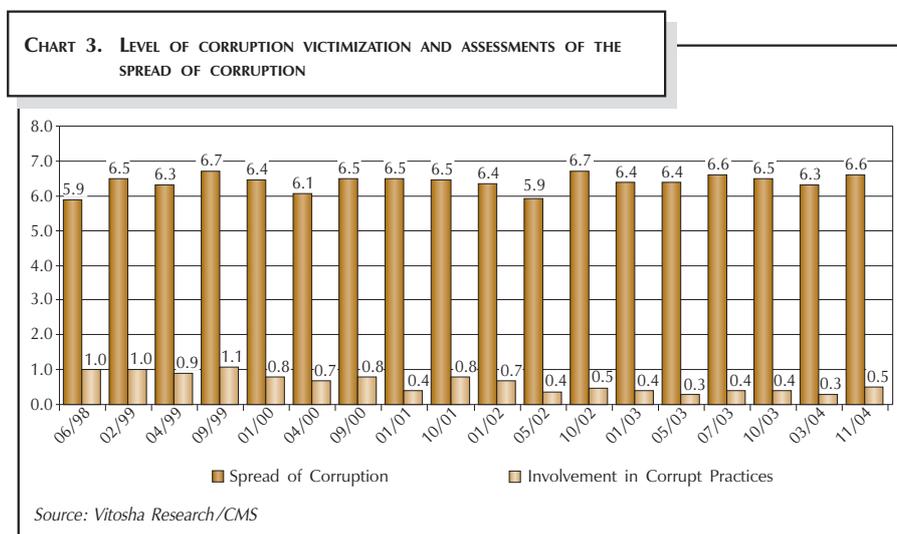
1.2. Perceptions of the Spread of Corruption

Regardless of the fact that the **overall level of corruption victimization in 2005 dropped by nearly half compared to 1998, public perceptions of the level of corruption in society practically have not improved** (Chart 3).

The data since 1998 shows that perceived spread of corruption by far exceeds the level of actual corruption victimization. This means that

the subjective perceptions reflect **people's ethical assessment of the observed levels of corruption**, showing whether observed corruption levels are perceived as too high or normal; i.e. perceptions are a qualitative assessment of the social and moral acceptability of the corruption situation in the country and not a measure of the number of corruption transactions.

When citizens believe they live in a highly corrupt environment



where corruption not only remains unpunished, but is also perceived as an effective means of solving problems, their own inclination to engage in corrupt practices increases. In Bulgaria, the predominant public perception is that corruption is widespread in all spheres of public life, at all levels of state governance, and among the various occupational groups (Table 3).

TABLE 3. PERCEPTIONS OF THE SPREAD OF CORRUPTION AMONG THE VARIOUS OCCUPATIONAL GROUPS* (%)

Relative share of those who answered "Nearly all, or most, are involved in corruption"				
	October 2002	October 2003	November 2004	November 2005
Customs officers	79.2	74.5	70.3	71.8
Judges	63.0	57.3	56.1	59.3
Prosecutors	63.0	55.7	55.3	57.1
Police officers	59.6	59.2	58.8	56.1
Lawyers	62.3	55.8	54.9	54.7
Doctors	54.9	52.9	55.4	54.5
Tax officials	58.0	49.3	49.9	53.5
MPs	56.2	54.5	50.7	53.4
Politicians and political party leaders	54.0	47.6	50.5	51.6
Ministers	50.8	52.6	45.4	51.1
Investigators	57.5	49.2	51.7	50.5
Mayors and municipal councilors	48.3	43.4	47.0	47.5
Ministry officials	48.3	40.1	42.6	44.4
Municipal officials	49.1	36.5	44.3	43.4
University teachers	33.4	36.5	33.1	29.9
NGO representatives	21.4	22.3	23.7	26.6
Teachers	13.9	11.0	14.0	14.4

Source: Vitosha Research/CMS

Perceptions of the spread of corruption among different occupational groups show that perceptions differ substantially from the data about actual acts of corruption and corruption pressure exerted. For instance, despite the registered drop in corruption pressure exerted by magistrates and judiciary administrative staff this fails to find confirmation in citizens' subjective perceptions of the spread of corruption in those groups. **Politicians, MPs, ministers, and tax officials are perceived to be far more corrupt than data on corruption transactions and direct corruption pressure they exert actually show.** In terms of perceptions, the stable negative attitudes about these groups tend to intensify—

perceptions of the spread of corruption marked a slight increase in late 2005.

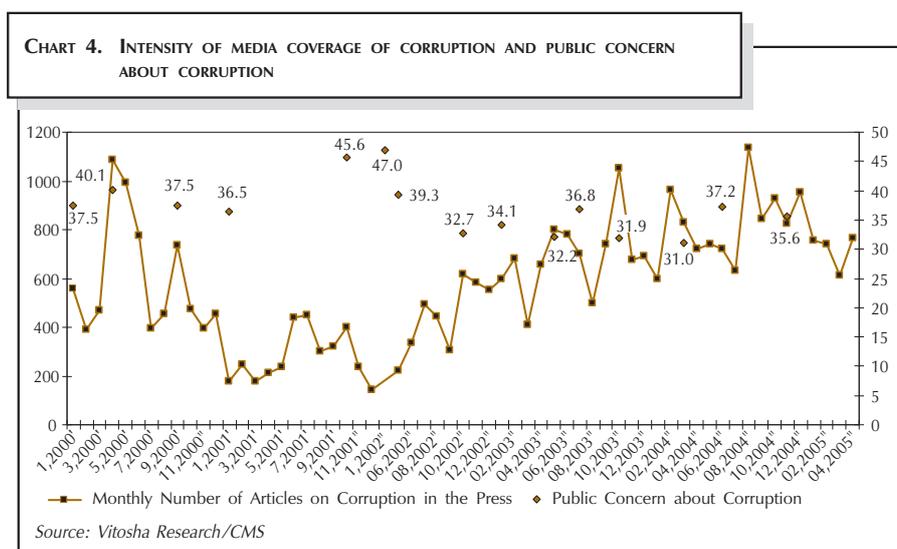
The possible reasons for the **divergence between registered levels of corruption victimization and the predominant negative public perceptions** of the spread of corruption may be sought in several directions:

Firstly, as already noted, the data on real corruption and citizens' subjective assessments refer to different social phenomena. **Perceptions of the spread of corruption** are strongly influenced by moral, ideological, and political factors. They **rather reflect citizens' trust in the institutions of the state and citizens' overall assessments of the effectiveness of governance**. Low levels of confidence in state institutions makes citizens' perceptions of the corruption situation more negative.

Secondly, the public exposure of corruption scandals without any tangible results (consequences) affects adversely public perceptions of the will of the government to counteract corruption. The lack of political will **does not influence** corruption victimization but has direct impact on the growing public mistrust in high-rank state officials and politicians. That is why even **while the corrupt practices registered among MPs, members of government, top state officials, and political leaders are relatively few**, the population's perceptions of the spread of corruption in the high ranks of state power and among the representatives of the political class are disturbingly unfavorable.

Thirdly, the ranking of corruption among public concerns³ is not influenced by the intensity of media exposure (number of corruption-related publications in the media). More intensive media coverage of corruption neither increases its perceived spread nor heightens concerns about corruption (Chart 4). The dynamics of this indicator is rather associated with changes in society's political agenda as set by the political class.

Corruption tends to be high on people's minds not when the level of corruption victimization is high, but when public expectations about resolving of this problem are high.



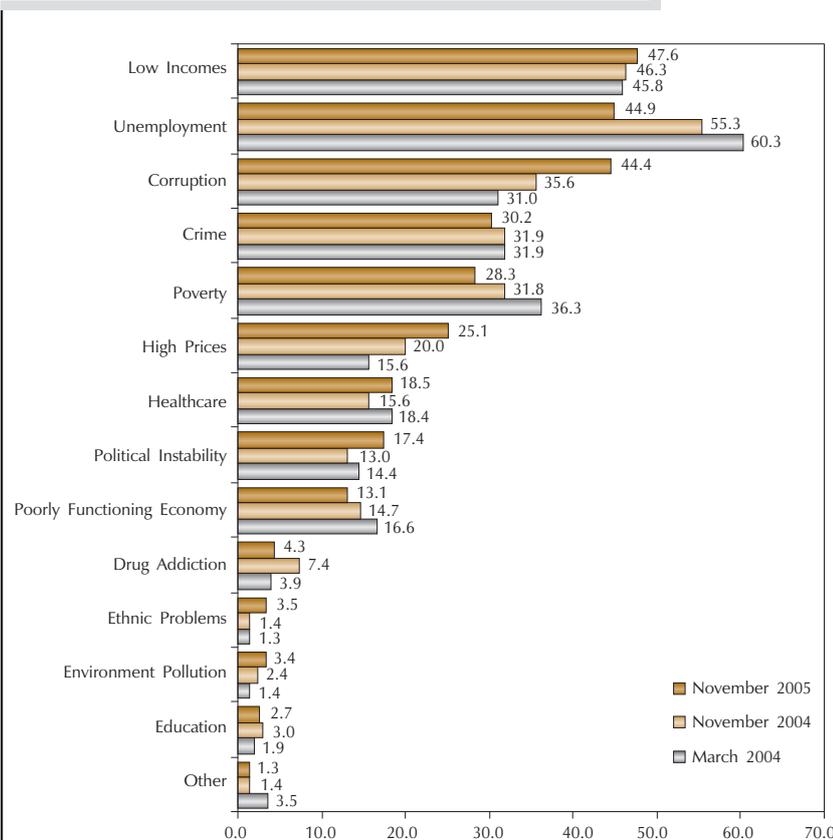
³ This indicator reflects the relative proportion of people ranking corruption as one of the top three most important problems faced by Bulgarian society.

1.3. Public Values and Attitudes to Corruption

1.3.1. Ranking of Corruption among Public Concerns

In the period since 1998, corruption has persistently been perceived as one of the most serious problems of Bulgaria. It is always among the top five social problems, usually taking up the fourth or fifth position. In 2004-2005, it rose making it the third most important problem. The overriding concerns of the Bulgarian population were low incomes (first place) and unemployment (second place).

CHART 5: RANKING OF CORRUPTION AMONG PUBLIC CONCERNS (%)



Note: The chart presents the ranking (relative shares) of the three major problems faced by Bulgarian society.
Source: Vitosha Research/CMS

The dynamics of these rankings clearly show that Bulgarian society considers corruption one of the most important elements of the country's political agenda. Expectations related to the countering of corruption tend to rise in the periods of transition from one government to another. A new government usually heightens the priority of the problem and raises the performance standards for the political class. Overall, the data covering the 1998-2005 period suggest that public expectations remain unmet. Set against the rising expectations for good governance, realities have been rather disappointing. The discontent stems from the actual status of the problem (the level of corruption victimization) and from the performance of the political class and the administration. In this sense, there is reason to believe that the public considers:

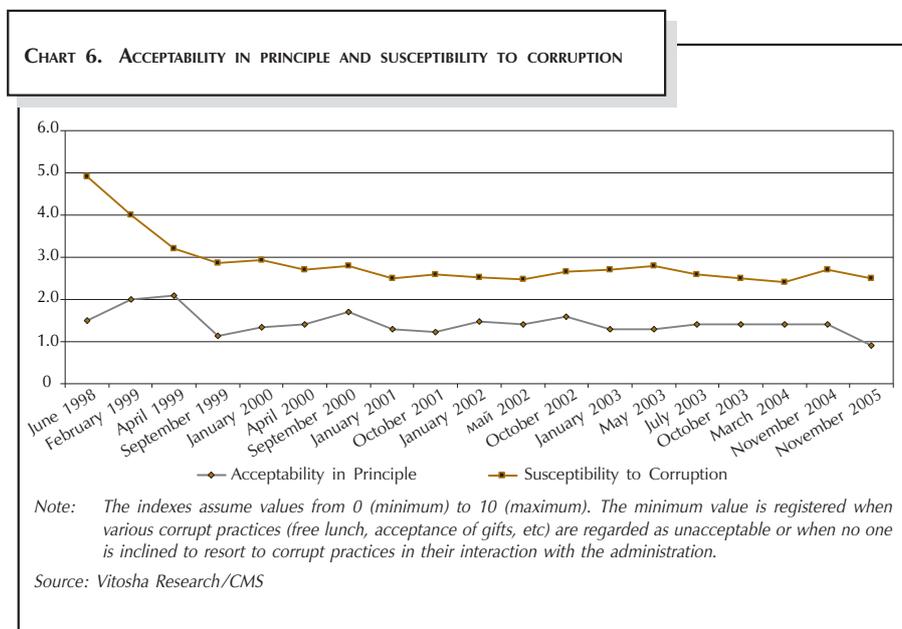
- The tendency towards decline of the level of corruption victimization as not radical enough;
- The government policies as failing to meet public expectations and standards. In addition, these actions are not considered effective enough.

The significance of subjective perception of corruption is often downplayed with the argument that they do not provide an accurate view of the level of corruption. While this is essentially true, it is also true that public perceptions relatively closely follow the actual achievements and failures in various sectors of society. Thus, for instance, the actual progress in countering unemployment and poverty runs parallel to the decline in their perceived social importance. The dynamics of the corresponding indicator concerning corruption, however, follows clearly the dynamics of

political will to deal with the problem: **the rank of corruption among major concerns** is high in the periods before and after the coming into office of a new government and tends to decline when its actions fall short of public expectations. In this sense, to Bulgarian society, late 2005 was a period of heightened expectations with respect to countering corruption – both in terms of the presence of political will and its effective practical realization in the policies of the administration.

1.3.2. Public Intolerance of Corruption

In 2005 **the positive tendency** to see acts of corruption as unacceptable has continued. This refers both to the perception of the public and the perceptions of the business community (Chart 6). Though at a slower rate, Bulgarian citizens' inclination to engage in corrupt practices has also been on the decline.

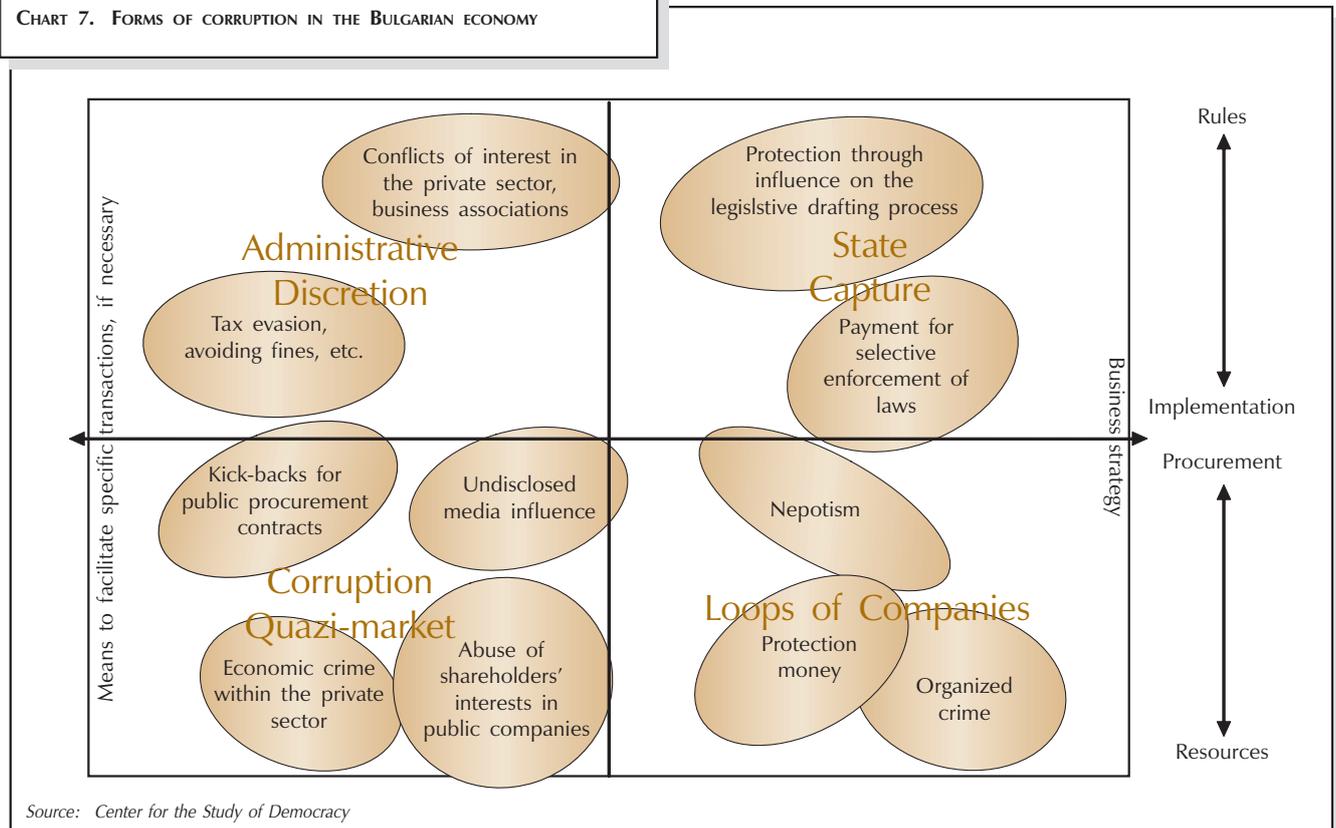


The values of the susceptibility to corruption index reached their lowest levels in late 2005. Citizens are increasingly beginning to feel victimized when they come under corruption pressure and the number of those willing to pay the sums requested is decreasing. The already predominantly private nature of the Bulgarian economy reinforces the perception of corruption as theft. This contributes towards higher awareness on the part of citizens of their own rights and fosters growing intolerance of the practice of paying extra for public services which they are entitled to.

2. CORRUPTION IN THE ECONOMY

The involvement of the government in the economy generates a number of points of potential conflicts of public and private interests in the business sphere. The legal and institutional deficits in the beginning of the transition, coupled with the lack of traditions for openness and transparency and the unstable situation in Southeastern Europe, created broad opportunities for corruption and spread of organized crime in Bulgaria. Conversely, **the progress of the country in the EU accession process and the related legal and administrative harmonization restrict and narrow the available channels for corruption and crime.** As the delivery of administrative services gradually improves and the income level of Bulgarian citizens grows, **administrative corruption** in the business sphere connected with regulatory inefficiency tends to decrease. However, in order for the general corruption potential in the country to be reduced on a sustainable basis, special attention should be paid to the manifestations and remaining opportunities for **political corruption** in the economy.

CHART 7. FORMS OF CORRUPTION IN THE BULGARIAN ECONOMY



2.1. Political Corruption: Loops of Companies and State Capture

The informal political and economic networks which evolved over the years in Bulgaria (commonly referred to as “friendly circles” and/or “loops of companies”) and the existing criminal networks and capital will seek to continue their economic and/or political monopoly under the new conditions of EU membership. This is particularly relevant to the sphere of political corruption. In the beginning of Bulgaria’s transition, political and economic corruption networks and organized criminal groups had numerous opportunities to redistribute national wealth, by siphoning state-owned enterprises and banks, bogus privatization, tapping into smuggling channels, etc. As these channels are gradually drying off, **the efforts of these networks currently refocus on control over public procurement, concessions, EU funds, VAT fraud and appointments to the executive and the judiciary intended to facilitate corruption schemes and to ensure their impunity from prosecution.**

Politically favored companies and organizations in Bulgaria are typically financed through public procurement contracts and concession agreements. In return, they reward their patrons through direct or indirect financing of party activities, hiring of party functionaries or their associates, payment of scholarships for overseas studies to children of senior party leaders, etc. The fact that on the eve of the 2005 general parliamentary elections the leader of one of the governing political parties admitted that such practices are commonplace corroborated the multitude of journalist investigations and NGO analyses of their existence and **reinforced the Bulgarian public’s conviction that political corruption and impunity were rampant.**

It is difficult to make an accurate assessment of the operations of the loops of companies in the absence of judicial prosecution and punishment of their actions; moreover, the transfer of resources between the public and private sector within such loops is typically carried out through perfectly legitimate channels. Nevertheless, on the basis of the available data on parties’ election campaign spending, sociological surveys and official statistics, the conservative estimates of the Center for the Study of Democracy of the **rent, - i.e. the resources deviated from the public procurement process by all parties’ loops of companies, ranges between 320 million and 370 million Bulgarian leva⁴ in 2005.** The total direct rent is much greater, taking into account also other possible payment channels such as concession agreements. Considerably larger, much more negative and difficult to calculate are the indirect effects on the Bulgarian economy of the existence of the clientele companies – unfair competition, disheartening of entrepreneurship, brain-drain of the best and brightest young people, low corporate citizenship standards, etc.

The phase of the political cycle in Bulgaria and the nature of the governing majority determine the time and amount of rent received and the number of loops of companies in operation. Although available data do not allow for any firm conclusions, usually the rent is received at the end of the political cycle and its amount increases as the chances

⁴ €164 mln and €190 mln respectively.

for a defeat of the governing majority in upcoming elections grow. In a strong government with one or two centers of political power, there is a limited number of “mega-loops of friends/companies”, while in coalition governments, such as the incumbent with a host of centers of political power, the number of loops is greater. For instance, the 2003 local elections were accompanied by a substantial increase of the number of companies which believed that corruption in party financing was widely spread. That growth was likely to be partially generated by the real pressure exerted on businesses by newly emerged local political interests.

The linkage between the political cycle and the distribution of rents among the party loops of companies is confirmed also by the statistically significant correlation between the peaks in awarding public procurement contracts and elections in Bulgaria in 2001, 2003 and 2005. It was

particularly pronounced **in 2005 when the number of public procurement contracts signed by state institutions rose disproportionately high on a year-to-year basis** without any specific underlying reasons. The ostentatious government discretion in the allocation of a part of the substantial budget surplus accumulated in 2004 and 2005 without prior endorsement of the Bulgarian Parliament and in violation of the existing fiscal policy agreements with the International Monetary Fund created a favorable environment for the nourishment of party rings of companies. Examples to this effect are the establishment of the state-owned Public Investment Projects company, the election raffles intended to boost voter participation, the non-transparent functioning of the Agricultural Fund and the Tobacco Fund, the national grain reserve, etc.

Whereas the formation of loops of companies is seen primarily as a strategy of politicians, the second manifestation of political corruption—**state capture**—is a strategy of the business. Generally, it takes three forms:

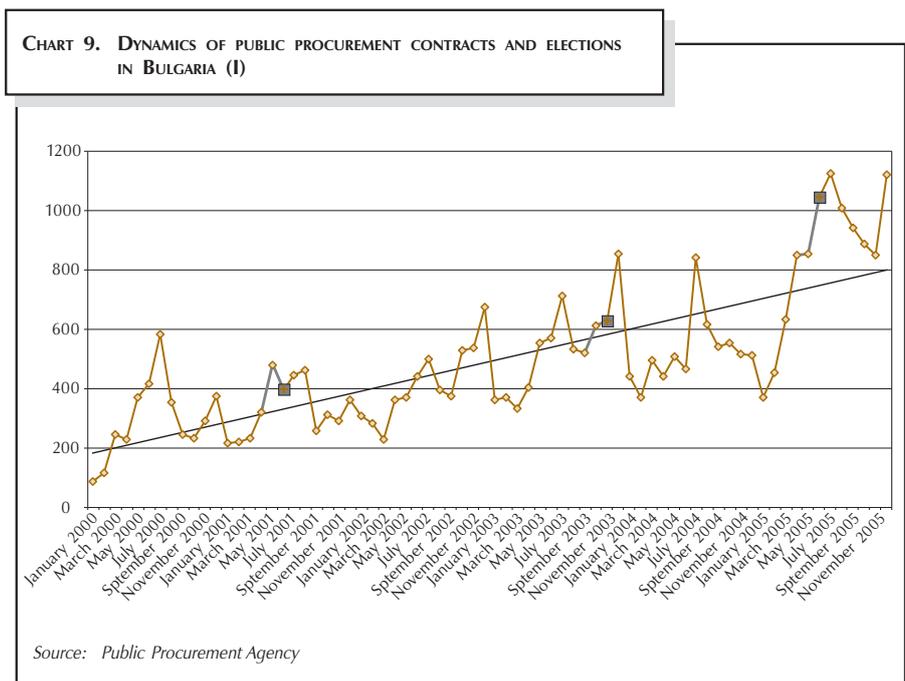
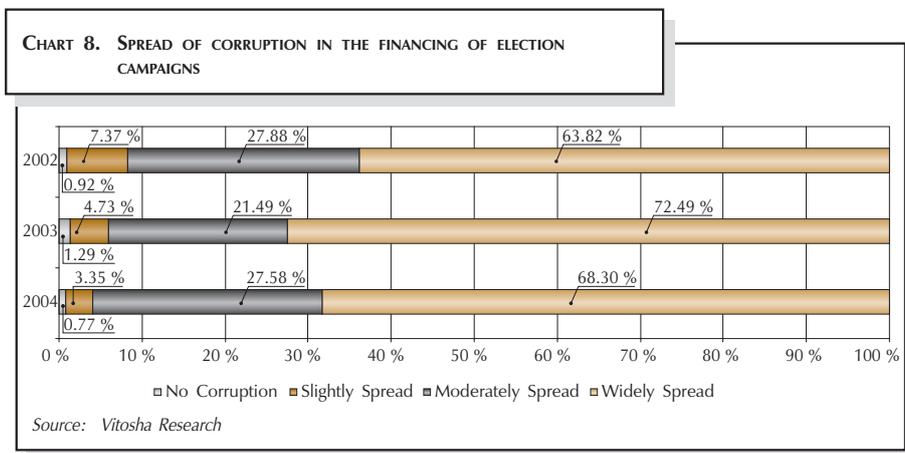
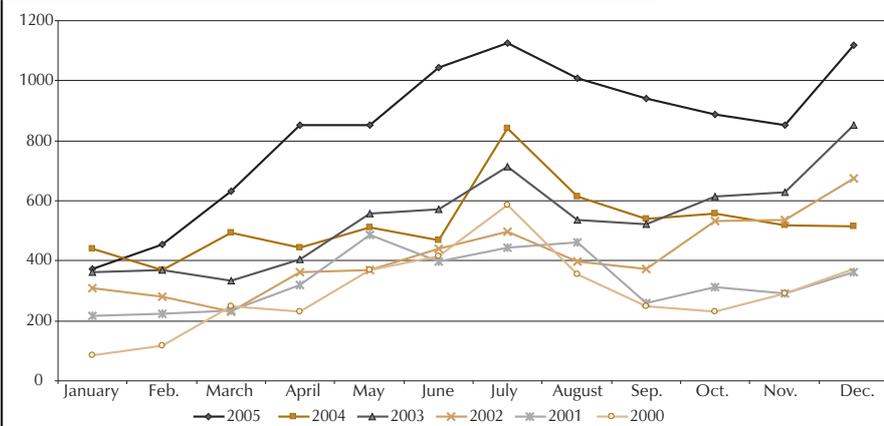


CHART 10. DYNAMICS OF PUBLIC PROCUREMENT CONTRACTS AND ELECTIONS IN BULGARIA (II)



Source: Public Procurement Agency

First, lobbying for the adoption of laws and enforcement of specific regulations to the benefit of certain market players, in which neither lobbyists nor Members of Parliament disclose their interests;

Second, leaving deliberate loopholes in the legislation to benefit certain businesses whose lobbyists have taken part in the legislative drafting process; and

Third, “purchase” of selective application of certain laws to the detriment of competitors. The third type (although almost invariably complemented with the first two types) is often characteristic of the strategies of organized crime and is particularly difficult to counter.

Examples of such practices can be found in many gray sectors of the Bulgarian economy like the import of and trade in excise goods (oil products, cigarettes, etc.), the trade in antiques, gambling, etc. They are also employed by organized crime to gain political protection for continuing its illicit operations. In this sense, the loops of companies create opportunities for legitimization of criminal business activities and for clearing of the public name of persons associated with corruption and crime. **These are some of the services, which politicians provide in return for the financing they get.** In fact, criminal business cannot thrive in Bulgaria without political protection and organizational and technical support coming from legitimate business structures and public administration officials. Thus racketeering groups, which sprung to life in the beginning of Bulgarian transition, have gradually merged or transformed into political and economic networks.

Duty-free shops – an example of state capture

Both experts and politicians have repeatedly stated that **duty-free shops at the land border crossing points of Bulgaria are an effective tax evasion instrument**, which is a key component of the smuggling channels for oil products, cigarettes and alcohol worth hundreds of millions of leva annually. Nevertheless, practical measures for shutting them down have always been blocked by top politicians, Members of Parliament, and senior government officials.

As part of the government package of measures to reduce hidden economy and corruption, the Council of Ministers approved an amendment to the *Law on Excise Goods* in July 2003 whereby duty-free shops at the land borders of Bulgaria were scheduled for closure. However, after **the Movement for Rights and Freedoms party blocked the amendments in the Bulgarian Parliament**, the Minister of Finance was compelled to renew the licenses of 14 companies (36 shops in operation as of March 2006).

Source: Transport, Smuggling and Organized Crime, Center for the Study of Democracy, 2004

Another widely spread practice in Bulgaria, which is closely related to political corruption and state capture is the transition of senior administrative and political appointees (ministers, deputy ministers, chairs of independent regulatory committees, etc.) to businesses in the private sector directly or immediately after they have taken important decisions concerning the development of these companies. This practice is most common in telecommunications, the energy sector, and defense in Bulgaria. **In advanced democracies, such practices invariably attract the attention of the prosecution and the conflict of interests is strictly regulated in the legislation.**

The wide spread and even the public flaunt of the capabilities of political corruption in Bulgaria produce long-term adverse effects on the development of democratic institutions in the country, undermine the trust and confidence of citizens and entrepreneurs in democratic governance and generate an environment conducive to administrative corruption and organized crime. Limiting this negative phenomenon calls for urgent measures by the government and civil society in this country, as well as active support from international partners.

It is extremely difficult to counter political corruption because it requires active measures to be undertaken precisely by representatives of those political elites which benefit from it. EU membership and the related pressure for political and economic reforms make it easier to move against political corruption in Bulgaria. Undoubtedly, **the most important first step in this direction should be to unveil at least one loop of companies and to hold the politicians and senior government officials involved in its establishment and functioning criminally liable.** This

would be almost impossible at present because the methods used to redistribute resources and influence from the public to the private sector within the loops are legal. Therefore, what can and should be done initially is to adopt measures to promote transparency and political accountability in public spending:

- Discontinue the existing practice for the Bulgarian government to artificially lower budget revenue forecasts in order to achieve subsequent **budget surplus**. The latter is a sign of inefficient management of public finances and it also generates a substantial risk of increased political pressure to redistribute the accumulated resources and to increase the corruption potential accordingly. The budget surplus, which is not spent on repaying external government debt, should be distributed only upon public debate and endorsement by the Bulgarian Parliament. Surplus government expenditure should be an integral part of formal budget rules, avoiding the establishment of special funds, state-owned companies, etc.⁵ In the end of 2005, under pressure from the International Monetary Fund and Bulgarian civil society organizations, the Parliament amended the *Law on the Structure of the State Budget* which increases parliament's control over government's surplus spending. The changes only partially address the problem since even after the application of the new budget rules the government would have been able to spend more than 500 million leva at its own discretion in 2005.
- Introduce fiscal **decentralization** much more decisively through strengthening the administrative capacity and promoting transparency in the management of financial resources at the municipal level in Bulgaria. The existing centralization in public finances makes it possible for the central government to use budget subsidies for municipalities to "reward" or "punish" local governments depending on the political behavior of local voters and/or their leaders. Furthermore, political accountability for spending of public resources is diluted due to the increased distance between decision-makers and the most direct level of political representation – the municipality.
- Establish special monitoring in the government sectors with the highest volume and quantity of public procurement contracts and the least level of transparency such as energy (mainly with regard to power generation and supplies) and defense (in the management of resources earmarked for the modernization of the armed forces). The corruption risk in these sectors is particularly high because they are burdened with the existence of natural monopolies and they often seek the disguise of national security regulations to fend off public scrutiny.

Alongside these measures, many other opportunities exist to curb political corruption related to the financing of political parties, the disclosure of conflicts of interests and other issues which are covered in the next part of this report.

⁵ The International Monetary Fund has made similar recommendations to the Bulgarian government for improving fiscal transparency in its Report on the Observance of Standards and Codes (ROSC), Fiscal Transparency Module, 2005.

2.2. Administrative Corruption in the Economy

Political corruption nourishes the development of administrative corruption in the economy, especially where their channels coincide as is the case, for instance, in public procurement and the administering of tax revenues. The spread of corruption in the economy continues to be a major problem of the business and investment environment in Bulgaria. As a whole, **actual corruption and corruption pressure experienced by the business are twice as high as the ones experienced by the public and they have been sustained for the last five years.** Moreover, as in the case with individuals, corruption pressure on businesses somewhat increased in 2005.

CHART 11. DYNAMICS OF THE INDEXES OF CORRUPTION OF THE BUSINESS SECTOR (OCTOBER 2000 – NOVEMBER 2005)⁶

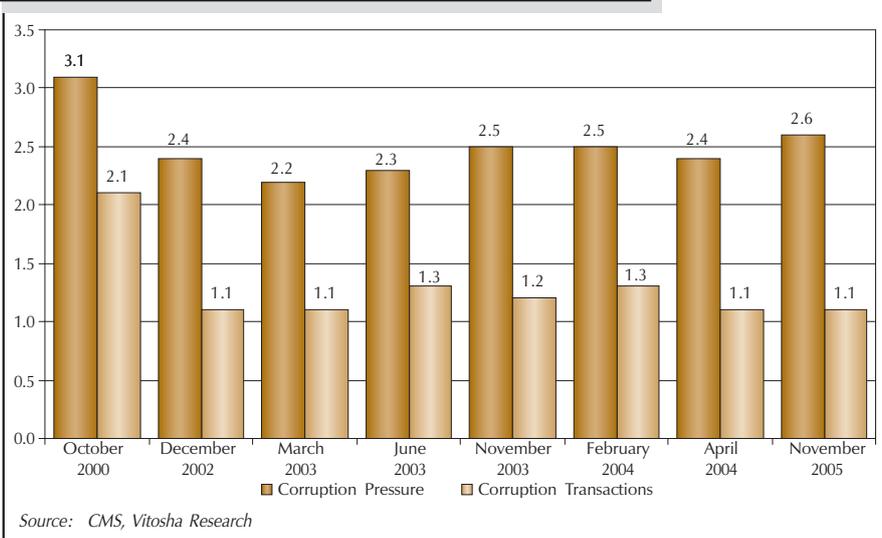


TABLE 4. CHANGES IN THE SHARE OF COMPANIES WHICH PAID BRIBES

Area	Change (2005 compared to 2004)
To obtain permits	▲
To avoid fines/penalties	▼
To reduce tax/customs duties	▼▼
To win public procurement contracts	≈
In the private sector	▼▼
In relations with the judiciary	▼
Total number of companies which have paid bribes	▼

Note: ▲ – increase, ≈ – no change, ▼ – average decline, ▼▼ – more substantial decline than the average

Source: Vitosha Research

There are some positive signs of a reduction of the share of businesses paying bribes in comparison to 2004. This is most tangible in the avoidance of customs duties and in the private sector and, more specifically, the access to financing. However, the growing share of bribes associated with the issuance (or renewal) of permits and licenses is alarming. A deeper analysis shows that these are predominantly cases of companies in the construction sector and the overall process of obtaining (or being refused) permits pending the completion of construction works. In the public procurement sphere the level of corruption practices has remained flat but this has been accompanied by a negative trend of a concentration of bidding companies, i.e. only companies that enjoy certain level of political support bid for public tenders.

What brings all these types of corruption together is the unpunished violation of rules or the preferential treatment, i.e. the obtaining of illegal or undue benefit in the administrative services and the enforcement of the legislation by the public administration. The objective is to gain time or money or to avoid losses, while the reasons lie in the poor rules and

⁶ The 2005 corruption transactions index has been drawn up by preserving one of the aggregate data inputs from the survey conducted in April 2004.

excessive regulation, the corporate aspirations for profiteering, or the quality of competition.

2.2.1. Public Procurement and Corruption

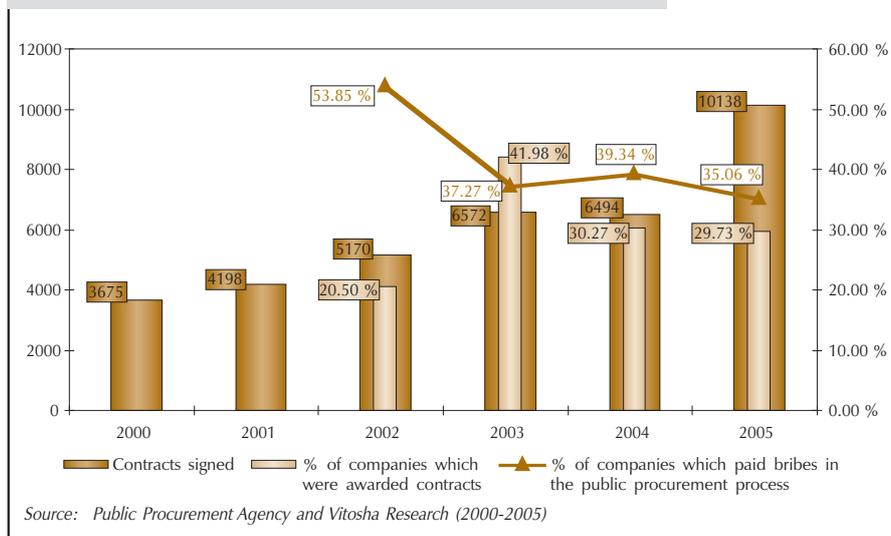
As the process of harmonization of the Bulgarian legislation with the *acquis communautaire* is moving on, some substantial corruption channels of the past like smuggling and privatization have been discontinued while there is increasing corruption pressure and risks in other areas such as public procurement and concessions. The use of the latter for political pay-backs makes them highly vulnerable to administrative corruption, too. This is confirmed also by the latest report on the economies in transition of the European Bank for Reconstruction and Development which pointed out that corruption payments for awarding public procurement contracts were the only type of corruption in the business sphere in Bulgaria which worsened in 2005 in comparison to 2002⁷. In fact, Bulgaria is the only South-east European country which reports deterioration in comparison to the previous survey and in terms of the level of public procurement bribery is running now second only to Albania.

The public procurement market has grown substantially over the last five years both in terms of number of contracts and total value of contracts. Experts estimate public procurement contracts at 1.5 billion leva in 2003 (19.6 % of the consolidated state budget) and double that amount and number of contracts in 2005, at 3.3 billion leva (31.3 % of the consolidated state budget). Since 2003, the public procurement tenders have been won by a decreasing number of companies. On the one hand, this is a natural consequence of the market specialization of certain companies in working with the central and local administration. On the other hand, companies obviously do not consider bidding for public procurement contracts if they do not have any form of political protection beforehand.

Thus, the share of companies paying bribes to win a public procurement contract decreased from 54 % in 2003 to 35 % in 2005. However, their level remained alarmingly high and even increased slightly in 2005. Administrative corruption in public procurement might be defined as a quasi-market, on which the quasi-price (the kickback) goes to political entrepreneurs from the central and local government administration. Although real competition might exist on such markets and the contract might be awarded to the most efficient bidder, the losses to the budget and the illegal benefit remain. The quasi-price of **administrative corruption in public procurement** in Bulgaria accounted for an average of 7 % of the total value of the contract in 2005, i.e. some 55 million leva worth of public resources were siphoned to private benefit in 2005. This amount does not include the far more excessive losses of market efficiency and the potential risks of poor procurement performance (e.g. the quality of construction works and the risks in the case of an earthquake, the quality of infrastructure, etc.).

⁷ Transition Report 2005, Business in Transition, European Bank for Reconstruction and Development. The EBRD data are based on Business Environment and Enterprise Performance Surveys of 2002 and 2005.

CHART 12. PUBLIC PROCUREMENT CONTRACTS AND TENDERS

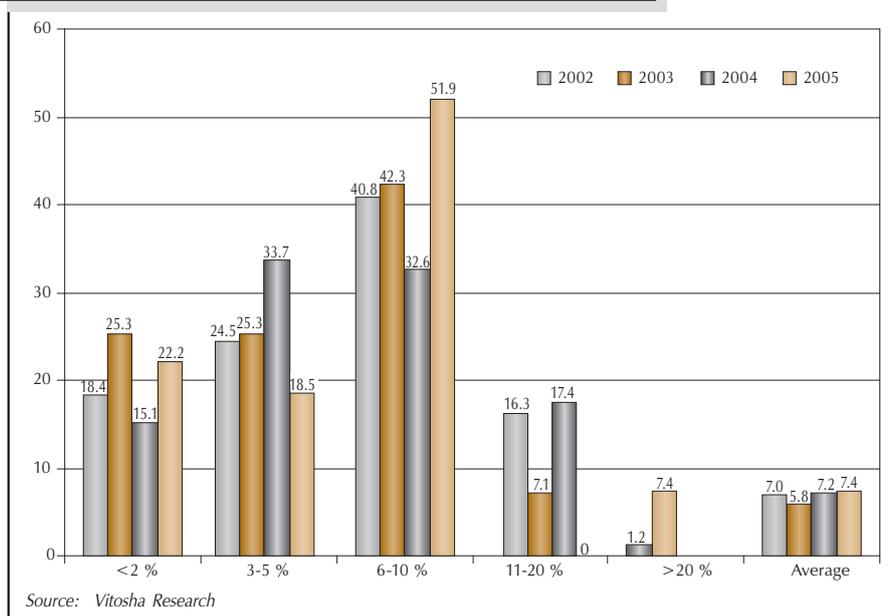


Corruption risks in the public procurement process in Bulgaria exist throughout its life cycle—from the stage of the call for tenders (e.g. artificial fragmentation of public procurement tender into several smaller bits to allow the application of less transparent procedures under the *Law on Public Procurement* (LPA)) through the preparation of the tender documentation (terms of reference, technical specifications, documents required, etc.) and the functioning of evaluation committees (e.g. appointment of preferred appraisers, information leaks, etc.) to actual contract changes in the implementation phase, re-negotiating elements, which were significant in winning the bid.

Various measures can be applied at each stage to reduce their corruption risks:

- The electronic market for small public procurement⁸ developed by the Ministry of Finance ensures greater transparency, promotes competition, and creates conditions for enhanced accountability among all participants in the public procurement process. This best practice should be **relatively easy to reproduce in other government institutions, including local governments, etc.**

CHART 13. PORTION OF THE TENDER WORTH PAID FOR GETTING PROCUREMENT CONTRACTS



- In its effort to cope with corruption challenges in the preparation of tender documentation, the Public Procurement Agency has introduced model public procurement forms to be used by all contracting authorities in the public procurement process. The objective of these forms is to **standardize the existing public procurement procedures**, make contracting authorities more accountable for their actions, and reduce transaction costs for companies. The documents and

⁸ <http://smallsrv.minfin.bg/>

recommendations have been published in a *Public Procurement Manual* and disseminated widely. The extent to which the Manual would be introduced by the contracting agencies would reveal their genuine will to foster transparency in the public procurement process.

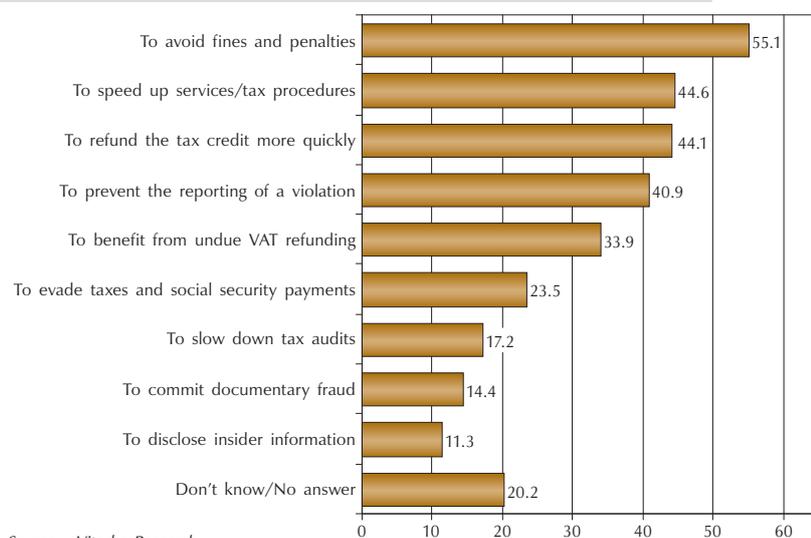
- Public agencies still only rarely use **public–private partnerships** with business associations when developing the technical specifications to make sure these are made out in a way impartial for the potential bidders. The same applies for selecting appraisers recognized as independent professionals in the respective business sector as tools for reducing corruption risks. Notwithstanding some positive results over the recent years, this mechanism is not used effectively for the time being. To be effective it has to be accompanied by a system of indicators which clearly demonstrate the anti-corruption results of its application. For example, a relevant indicator could be the reduction of claims against public procurement decisions taken by such partnerships.
- **The establishment of the Electronic Public Procurement Register (EPPR)** was an important step forward in the improvement of accountability in public procurement in Bulgaria. The fact that about 5,000 public procurement bidders used the Register in 2005 is a sign of enhanced transparency. Its anti-corruption value could be improved substantially if it allows for the generation of deeper and more diverse statistical data on the calls for tenders and awarded contracts. **In its present form, the EPPR does not allow many forms of risk analysis related not only to the number of contracts but also to their value and other key indicators on public procurement.**
- The introduction of **special regulation on procurement in areas of particular public sensitivity and which command substantial public resources** such as the supply of medicines and the financing of hospitals in the healthcare sector. In 2005, the National Health Insurance Fund paid a total of about 300 million leva for medicines only. According to expert estimates about one-sixth of that amount was siphoned out of the system for corruption payments.

Bulgaria's accession to the EU should be used to curb the all too frequent changes in the national public procurement legislation and to ensure maximum observance of the general rules of the EU internal market.

2.2.2. Tax and Administrative Services to Businesses and Corruption

More often than not in corruption related to administrative services and the enforcement of regulations in Bulgaria bribing is the result of administrative pressure. However, corrupt transactions based on **the mutual benefit** of the parties involved are also still common. In the latter cases, it is the competition, the budget or consumers that suffer, rather than the specific company involved in bribery which usually gets in profits much more than it pays in bribes.

CHART 14. WHAT DO TAXPAYERS PAY BRIBES FOR TO THE REVENUE ADMINISTRATION
(% OF COMPANIES WHICH GAVE THE RESPECTIVE ANSWER)

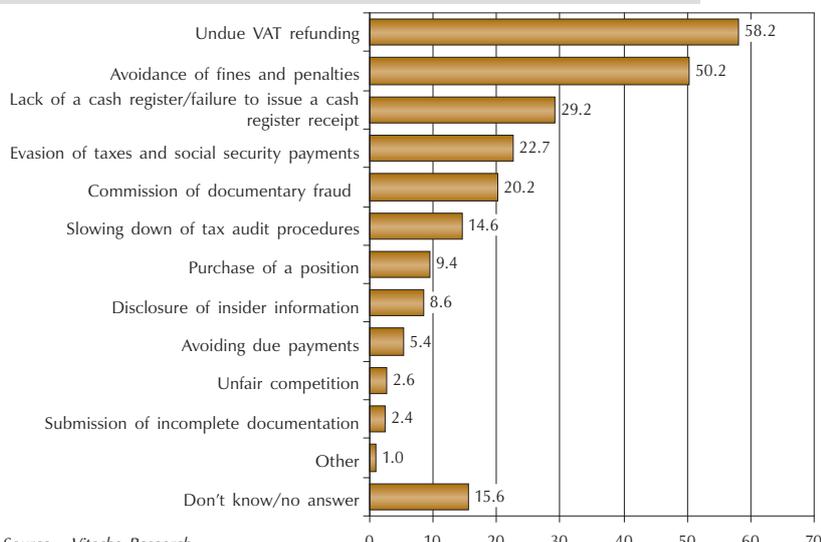


Source: Vitosha Research

Quite indicative in this respect are corruption practices in the revenue administration. **The typical reasons for bribing tax officers are to avoid penalties and to evade taxes.**

The list of cases where tax fraud was made possible through a bribe includes mostly VAT fraud, avoidance of penalties, failure to register turnover, evasion of taxes and social security payments. **Corruption is most widely spread in the Audit and Operational Control functional units of the revenue administration.**

CHART 15. TAX VIOLATIONS AND FRAUDS FOR WHICH TYPICALLY BRIBES ARE PAID
(% OF COMPANIES WHICH GAVE THAT ANSWER)



Source: Vitosha Research

Thus, Bulgarian businesses not only suffer from **unfair competition** because of political corruption but also sustain considerable losses due to widespread corruption in administrative services and control in the business sphere. This is still a serious obstacle to market competition based on equality and clear and predictable business rules. Therefore, its reduction should remain among the top priorities of Bulgarian economic policy for competitiveness, investment, innovation, and growth.

The measures for restriction of administrative corruption in Bulgaria traditionally rely on instruments of deterrence: criminal and administrative liability, stricter internal control, regulation of professional ethics. Although **legal norms** are important groundwork for fighting corruption, their potential is rather limited due to the inefficient criminal or administrative process, the weaknesses of material tax laws or of the organization of control and audit. In fact, the share of corrupt practices which are disclosed and proven is insignificant. This in turn greatly undermines the deterrent effect of penalties. Furthermore, the low incomes level in the country makes **ethical norms** a very weak deterrent for public adminis-

tration employees. For example, some 43 % of tax officers have income which is over 40 % less than their anti-corruption minimum.⁹

Therefore the improved application of legal and ethical norms in Bulgaria should be coupled with more emphasis on two other major tools for reducing corruption in the provision of services to businesses:

- **reduction of direct personal contacts** between customers and administrative officers; and
- **adoption of standards for the duration and quality of various services.**

The most efficient way to curb the opportunities for corrupt interactions is to **expand electronic and internet-based services**. They increase labor efficiency, reduce queues, and limit the direct contact of customers with the administration. However, in Bulgaria electronic services cannot fully replace personal contacts in the provision of services to businesses on a medium-term basis due to the existence of numerous constraints in the introduction of e-government such as the lack of sufficient qualifications in the public administration, especially at the local level, the limited computer training at schools, etc. For this reason, it is necessary to reduce the prerequisites for corruption in the delivery of non-electronic services. The main tools in this respect are **one-stop-shop services and the regulation of the time it takes to provide a service**.

The one-stop-shop principle is quite recent in Bulgarian administrative practice and it is often reduced to simply “one queue”. This does not always mean that the waiting time for businesses is shorter. The anti-corruption effect comes mainly from the establishment of front office and back office, which separates business customers from the officials on whom the duration and quality of the service depend. **Thus even in the non-electronic services direct contacts and opportunities for corruption pressure on either side are reduced.**

The other tool for achieving efficiency of electronic services and one-stop-shops is to regulate the time various services take through **the introduction of service standards**. For instance, the Code of Ethics of the Bulgarian revenue administration contains a chapter entitled *Standards for Services to Customers*. Instead of service standards, it spells out only some general principles: equal treatment in the application of the law, respect for the taxpayers’ rights, obligation to give competent answers in good faith to inquiries, prohibition of abuse and pressurizing, etc. One should not underestimate their importance and, at the same time, they cannot replace the standards for time and quality of services. In countries with well-developed administrations, service standards are laid down in Standard Operating Procedures which even assign personal responsibilities, specify names, and establish time limits.

⁹ The income which according to tax officials would remove corruption incentives.

TABLE 5. GAP BETWEEN THE ANTI-CORRUPTION MINIMUM ASSESSMENT AND THE ACTUAL INCOME LEVELS*

Lower Limit BGN	What is the lowest limit of remuneration (BGN) that would minimize the prerequisites for corruption?									Total
	300	400	450	500	550	650	800	1 000	Don't know/ No answer	
% No answer	3.6 %	5.7 %	3.4 %	14.0 %	7.2 %	12.4 %	16.7 %	25.8 %	11.2 %	100.0 %
Actual Family Income										
Up to BGN 149	4.0 %	0.0 %	0.0 %	0.0 %	0.0 %	1.1 %	0.9 %	1.1 %	1.3 %	0.9 %
BGN 150-199	8.0 %	0.0 %	0.0 %	2.0 %	2.0 %	1.1 %	3.4 %	2.2 %	0.0 %	2.0 %
BGN 200-299	12.0 %	15.0 %	25.0 %	10.2 %	10.0 %	6.9 %	6.8 %	6.1 %	11.5 %	9.2 %
BGN 300-399	20.0 %	27.5 %	12.5 %	18.4 %	22.0 %	20.7 %	15.4 %	14.4 %	11.5 %	17.0 %
BGN 400-499	28.0 %	17.5 %	33.3 %	21.4 %	16.0 %	24.1 %	16.2 %	11.7 %	12.8 %	17.5 %
BGN 500-599	12.0 %	15.0 %	16.7 %	20.4 %	18.0 %	10.3 %	15.4 %	11.1 %	16.7 %	14.6 %
BGN 600-699	12.0 %	15.0 %	4.2 %	9.2 %	14.0 %	13.8 %	13.7 %	15.0 %	9.0 %	12.6 %
BGN 700-799	0.0 %	0.0 %	0.0 %	7.1 %	10.0 %	5.7 %	10.3 %	12.8 %	7.7 %	8.3 %
BGN 800-899	4.0 %	5.0 %	0.0 %	1.0 %	2.0 %	5.7 %	4.3 %	10.0 %	3.8 %	5.2 %
BGN 900-999	0.0 %	2.5 %	0.0 %	4.1 %	2.0 %	4.6 %	5.1 %	5.6 %	9.0 %	4.7 %
Over BGN 1 000	0.0 %	2.5 %	0.0 %	1.0 %	2.0 %	4.6 %	4.3 %	6.7 %	6.4 %	4.1 %
No answer	0.0 %	0.0 %	8.3 %	5.1 %	2.0 %	1.1 %	4.3 %	3.3 %	10.3 %	4.0 %
	100.0 %	100.0 %	100.0 %	100.0 %	100.0 %	100.0 %	100.0 %	100.0 %	100.0 %	100.0 %

* Highlighted boxes stand for the percentage of respondents who specify the respective anti-corruption minimum remuneration and actually have such family income levels.

Source: Vitosha Research (2004) and CSD

The opportunities for **reducing corruption in the regulation and control of business activities**—licensing and permits, inspections for consumer protection and observance of standards, enforcement of the

tax and customs legislation and others—lie in **deregulation**. However, deregulation has its natural limitations because of the responsibilities of the government to introduce specific standards for the safety and protection of consumers and for the equal application of the law to all business entities. Notwithstanding the great number of initiatives to reduce the burden of permit and licensing regulations over the recent years, **Bulgarian businesses still perceive administrative services as too much government intrusion in the economy and too little public benefit**. In this context, the main challenge to the Bulgarian economic policy is to improve regulations through reduced opportunities for administrative discretion and exertion of corruption pressure.

Some of the most common forms of administrative discretion and corruption pressure in Bulgaria are the **frequent and lengthy audits and inspections**. Coupled with the inefficient system of internal control and accountability, this type of control, which allows considerable discretion, creates good opportunities for corruption pressure. Besides, **from the perspective of administrative efficiency, the costs for each additional lev in revenue (from penalties, fines or collection of due payments) are typically far above optimal levels**. Such problems are most often identified in the tax and customs administrations and some controlling authorities like the Hygiene and Sanitary Inspection, the Chief Labor Inspectorate, the National Construction Supervision Directorate, etc. Possible **measures to streamline the process of targeting, assigning and reporting control and audit activities** should focus on:

- Reduction of the opportunities for instituting audits and operational control for other, improper purposes by introducing a high-tech risk assessment system;
- Improvement of the system for reporting audits and inspections;
- Rotation of control and audit teams in order to prevent the establishment of corrupt links and corruption pressure methods within the teams;
- Rotation of auditors by regions and sectors in order to prevent the establishment of corrupt links between teams and businesses;
- Establishment of an effective system for monitoring of the individual efficiency in control and audit activities.¹⁰

Last but not least, it is necessary to optimize the number **and interaction of administrative bodies involved in fighting administrative corruption in the business sphere**. Combating tax and customs corruption, for instance, is a task assigned to internal control units (Inspectorates) at the National Revenue Agency and the Customs Agency, as well as the Customs Investigation and Intelligence Unit (assisted by the British consultants Crown Agents for the last few years). Besides, controlling functions are assigned also to the Public Internal Financial Control

¹⁰ For further details see *Corruption in Taxation. Challenges to the Tax Policy and Administration*, Center for the Study of Democracy, 2005.

Agency (PIFCA) at the Ministry of Finance, the Financial Intelligence Agency (FIA), the Economic Police, the National Squad for Combating Organized Crime, and the National Investigation Service. Although most of these structures belong to the Ministry of Finance or Ministry of the Interior, the information exchange and coordination among them are still the weakest link in the institutional infrastructure for fighting tax violations and the related corruption.

An important element of the policy for restriction of administrative corruption, which is making its way in Bulgarian administrations, is **the commissioning of public services to the private sector**. This process has to be accompanied by the introduction of adequate monitoring and controlling tools for the regulatory authorities and the creation of conditions for maximum competition in the provision of the respective service. Otherwise there is a risk similar to what has already happened in some spheres in Bulgaria (e.g. notary services, construction supervision, cadastral services, etc.) to increase the incidence of fraud and/or change the agent of the corrupt transaction rather than change the action itself or its size. In the new context, the administrative official “directs” the customer to selected companies, which subsequently may give him/her kickbacks or payoffs. Thus, **the transformation of the bribe into a fee** actually does not make any difference to the users of the respective administrative service if there is no free competition on this market.

2.3. Corruption in the Private Sector

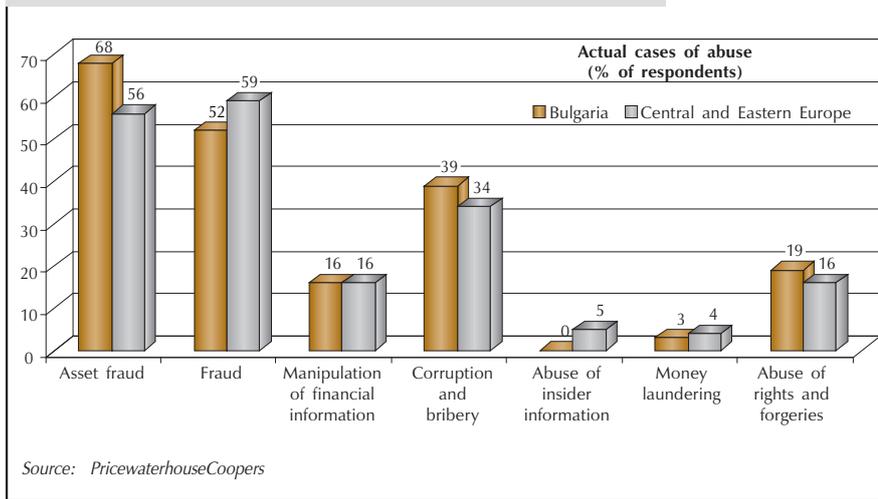
The lack of efficient institutions and traditions of transparency and openness in Bulgaria, matched with the wide spread of corruption in the public sector and the lack of effective law enforcement and punishment, especially with regard to political corruption, have generated corruption-friendly environment in the private sector as well. Although corruption in the private sector is perceived as a lesser problem mainly because it does not involve abuse of public resources, it has equally negative effects on the economy and prosperity of the country. In times of economic recession or crisis, corruption in the private sector leads to much greater vulnerability of business entities and likelihood of bankruptcy and unemployment.

Corruption in relations between private entities in Bulgaria is **less prevalent** in comparison to the public sector but **it is equally systemic**. The most typical manifestations of corruption in the private sector are related to bribing mid-level managers in larger companies by smaller suppliers of goods or services, as well as to information leaks, insider trading, abuse of the rights of minority shareholders, etc.

The share of businesses which paid bribes to win a contract with a large company in Bulgaria was reduced more than twice over a three-year period from 45 % in 2002 to 21 % in 2005. Even more substantial was the reduction of bribery for obtaining bank loans. The enhanced bank competition in the country in the past two years and the better awareness of customers led to a reduction of the share of companies, which paid bribes to obtain a loan from 8.6 % in 2003 to 2.6 % in 2005.

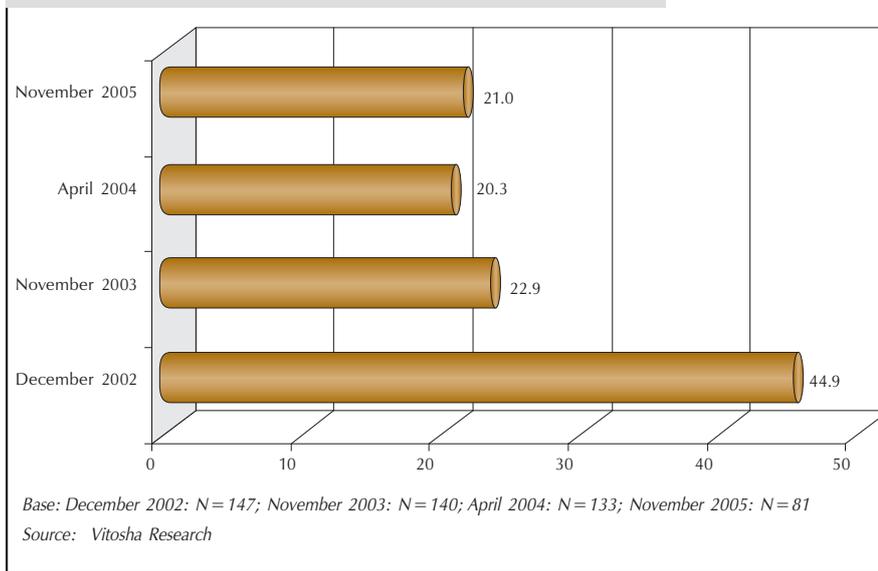
Nevertheless, many businesses in Bulgaria suffer from corruption and bribery. A survey of big companies conducted by PricewaterhouseCoopers in 2005 revealed that 39 % of the surveyed companies in Bulgaria had cases of corruption and bribery, which was above the average level in Central and Eastern Europe.

CHART 16. CORRUPTION IN THE PRIVATE SECTOR



Limiting corruption in the private sector is linked to the reduction of corruption pressure in the public sector. A lot is yet to be achieved in respect to the establishment and operation of corruption-restricting institutions in the private sector, such as sound corporate governance and social corporate citizenship, independent and representative business associations, etc. Notwithstanding that some progress has been made in the last few years, **businesses in Bulgaria are still relatively passive in terms of corporate citizenship and the introduction of standards for transparency and mechanisms for their application** against the background of the growing importance of the private sector in the national economy. *Bona fide* entrepreneurs suffer most by unfair competition and possess the most reliable information on corruption practices in their sectors of the economy, but the cooperation of sectoral business associations with the administration and NGOs to limit administrative corruption is still unsatisfactory.

CHART 17. SHARE OF BUSINESSES WHICH MADE INFORMAL PAYMENTS TO WIN CONTRACTS BY A LARGE COMPANY (%)

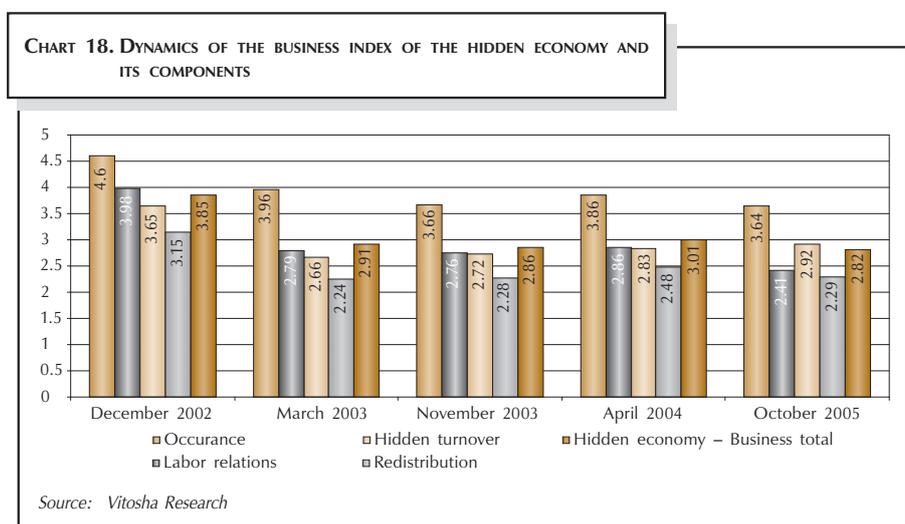


2.4. Corruption and Hidden Economy

There is a direct link between the share of hidden economy and corruption in Bulgaria. The larger the hidden economy, the greater the number of unreported transactions and resources to be used for bribery in business and the higher the possibilities for corruption pressure on the side of the enforcement administration to hide the unlawful business

practices. Within the hidden economy, the gray economy plays the role of a buffer and shelter for hiding, when required, business activities of organized crime and for gradual legalization of criminal proceeds.

Sound economic growth and enhanced bank lending as well as the joint efforts of the Ministry of Labor and Social Policy, the Ministry of the Economy and the Ministry of Finance in 2003 to introduce special measures for curbing the hidden economy in Bulgaria have reduced its various manifestations by one-third to one-quarter. The gradual adaptation of the business in Bulgaria to the new environment, the inconsistency of some measures because of high enforcement costs (e.g. increased labor inspections by the Ministry of Labor and Social Policy) and the failure of others (most notably of the Ministry of Finance to close down duty-free shops at land borders) have allowed the hidden economy to regain ground in some spheres for the last two years.



Although the total amount of informal payments in the hidden economy has decreased over the last two years, in some spheres directly related to organized crime, such as the hiding of turnover and VAT fraud, they tended to increase. The General Tax Directorate (GTD) reported that over the period 2000 to 2004 **the registered violations of the Law on Value Added Tax (LVAT) were worth on the average some 280 to 300 million leva annually or 10 to 12% of the VAT revenues.**

However, the Bulgarian revenue administration admits the actual size of VAT fraud was most probably four times as big, i.e. the average annual amount ranged from 600 million to 1.2 billion leva (20 to 45% of VAT revenues).¹¹ According to Canadian experts, losses amounted to 605 million leva or 31.5% of the VAT revenues in 1999 and 454 million leva or 19.4% in 2000, respectively.¹² The World Bank estimates point to VAT fraud worth close to 900 million leva or over 33% of the VAT revenues.¹³ This threatening scope of VAT fraud led to the establishment of an *ad hoc* parliamentary committee at the end of 2004, while the Standing Anti-corruption Committee of the National Assembly held special sessions to discuss VAT fraud.

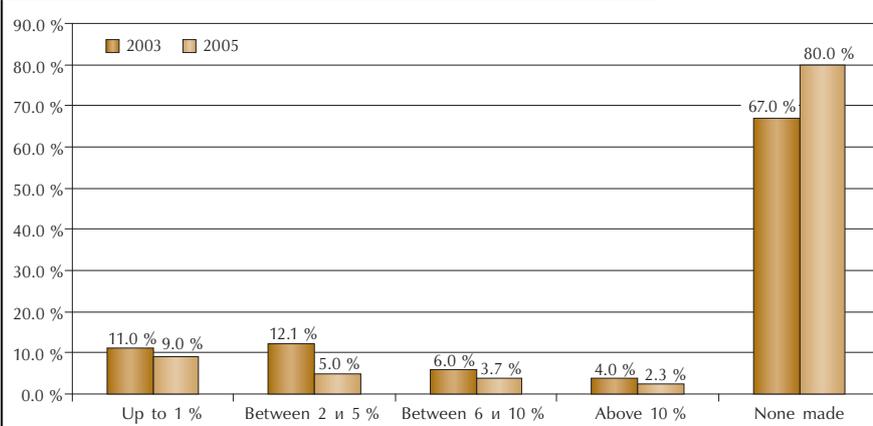
VAT fraud and related corruption will be some of the greatest challenges which the revenue administration in Bulgaria faces after EU accession. **The “missing/**

¹¹ Report of the *ad hoc* committee to investigate VAT fraud at the 39th National Assembly.

¹² SG Group Consultants (2002) “Study of Taxpayer Compliance and Law Enforcement”, Final Report, June 28, mimeo.

¹³ World Bank (2003), “Project appraisal document on a proposed loan in the amount of EUR 31.9 million to the Republic of Bulgaria for a Revenue Administration Reform Project”, Report No: 25010-BUL, May 9.

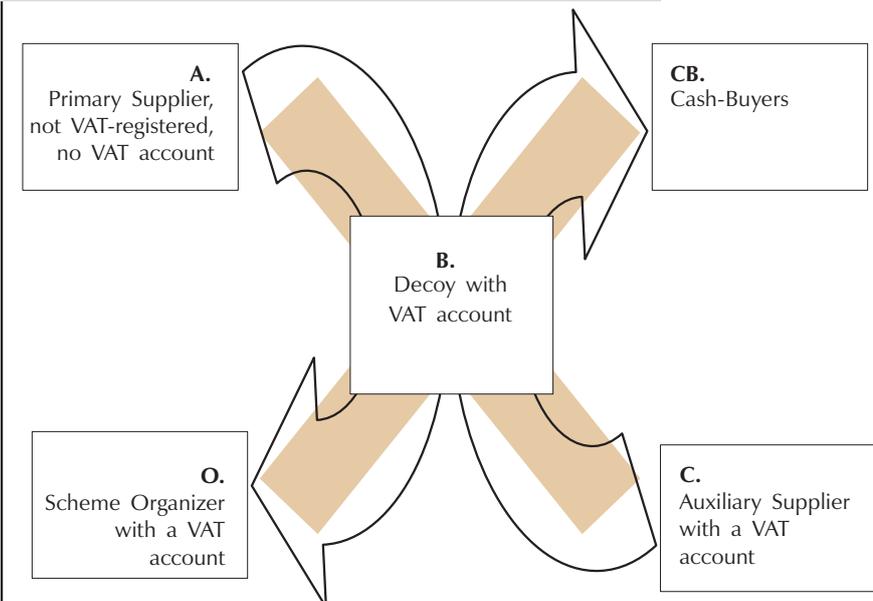
CHART 19. INFORMAL PAYMENTS (PERCENTAGE OF TOTAL COMPANY TURNOVER)



Source: Vitosha Research, 2005

insolvent trader¹⁴ schemes and especially their cross-border version (carousel schemes) represent a serious problem in all European countries. The efforts to combat them are focused primarily on the optimal application of the joint liability principle and the close operational interaction between the tax administrations of the Member States in order to trace out the flows of goods and cash in the absence of customs checks within the European Union.

CHART 20. X-SHAPED VAT ACCOUNT FRAUD SCHEME IN BULGARIA



Source: Center for the Study of Democracy

Bulgarian tax practice is characterized by an attempt to reduce VAT fraud through a specific solution introduced as an alternative to the joint liability principle — the VAT account. **The VAT account could not provide reliable protection against VAT fraud because it may be siphoned out rather easily without any credible threat of penalties.** Thus, the VAT account arrangement increased the costs of compliant businesses, failing to restrict substantially the opportunities for VAT fraud from undue tax credit. For all practical purposes, it rather relieves fraudsters from the burden of the joint liability principle. Therefore the experience with the VAT account should be reviewed critically. If

the cost and benefit analysis confirms that it generates more costs for compliant businesses than barriers to VAT fraud, this practice should be abandoned. Instead, more fair versions of the joint liability principle should be sought. More specifically, **the opportunities to restrict VAT fraud could be identified along three main lines:**

- Restriction of the opportunities for registration or transfer of companies to fictitious or phantom owners;

¹⁴ In its various modifications, this type of fraud relies on a chain of fictitious transactions which concentrate a large portion of the VAT liability in a phantom undertaking, thus making it uncollectible.

- Restriction of the opportunities for increased refundable tax credit through registration of transactions at prices deviating from market levels;
- Restriction of the opportunities for the person receiving the tax credit to avoid liability.

Equally important is the introduction of criminal liability for VAT fraud. At present, *the Criminal Code* does not treat VAT schemes as a special type of tax or financial offence. In terms of its mechanisms and scale, it comes closer to the forms of organized crime, rather than to conventional tax evasion. The pumping out of VAT, especially in big amounts, needs the involvement of organized criminal groups with the participation of senior tax officials. The small number of effectively convicted persons compared to the size of VAT fraud is indicative that these schemes often use political protection.

2.5. Corruption and Organized Crime

Organized crime and the related corruption are among the most serious obstacles to the establishment of the rule of law and a competitive market economy. The organized criminal structures redistribute large portions of the national wealth in an unlawful way, thus undermining fair competition, free private enterprise and economic growth. Organized criminal groups' activities threaten the stability of democratic institutions by exerting strong influence on them through corrupt practices.

Corruption is a major tool used by organized crime to pursue its activities. Globally, it continues to be "an effective method through which organized criminal groups carry out their activities successfully" and its importance in this respect is expected to rise.¹⁵ In Bulgaria, the susceptibility of the public and private sector to corrupt practices is increasingly used by organized crime to perform various illicit operations as well as to further legalize some of its operations.

The seriousness of the problem with organized crime and the related corruption is corroborated also by the negative assessments which various international institutions and organizations give regularly.

The Threat of Organized Crime in Bulgaria

"[Bulgarian] organized criminal groups involved in trafficking in human beings are highly mobile, making use of existing communities throughout Europe and transferring both individual group members and victims across borders.

The counterfeit euro banknotes made by Bulgarian organized criminal groups are especially distributed in France, Greece,

¹⁵ Europol, 2004 European Union Organized Crime Report, Open Version – December 2004, p. 8.

Italy and Spain after entering the Schengen area via Austria or Germany. The banknotes are imported by small groups who return to Bulgaria immediately after making delivery.

Although there is cooperation with other ethnic organized criminal groups, the money couriers, middle men and distributors are almost always Bulgarians. Distributors are often recruited through newspaper advertisements and are briefed about the legislation of the country they are sent out to and trained how to react to the police in case of an arrest.”

Source: Europol, 2004 European Union Organized Crime Report, December 2004

Over the last 15 years, the national wealth redistribution process has been extremely fast and huge in scale. The privatization and restitution have been used to transform substantial economic resources from state-owned into private property. Due to the lack of transparency and accountability, however, **the privatization process has created preconditions for spread of corruption** and generated justified suspicion as to the lawfulness of the capital acquired by many business entities.

Not all economic offences, however, are linked to organized crime. In many cases, the unlawful activities of businesses like evasion of taxes or social security payments, even when they are accompanied by corrupt practices, are not related to organized crime.

To assess **the actual level of organized crime in Bulgaria** and related corruption is difficult due to the lack of generally accepted tools for measuring the dynamics of its spread. Unlike conventional crime where various well established systems for official registration of offences (police and court statistics, indictments, etc.) and independent sources of information (victimization surveys) exist, the opportunities are much more limited in the case of organized crime.¹⁶

Official court statistics in Bulgaria shows that **the number of cases of offences related to organized crime is negligibly small—it accounts for only 0.08 % of all cases brought to court**. But this statistics cannot be accepted as a reliable basis to assess the efficiency of courts and law enforcement authorities in combating organized crime. Due to the difficulties in proving the links among the participants in a criminal group the authorities often start proceedings against individuals for conventional offences while avoiding proceedings for offences involving an organized criminal group the investigation of which is slower, more complicated and with little guarantees of success.

¹⁶ Various methods and indicators are suggested and discussed in criminology to assess the spread and dynamic pattern of organized crime, but most of them are still far from any practical implementation.

Organized Criminal Groups in Bulgaria

The data on organized criminal groups and their membership, which the Ministry of Interior (Mol) publishes, are contradictory. According to Mol information, in 2002 295 organized criminal groups comprising 1,720 persons were registered in the country; in 2003 there were 365 groups with 2,105 members, and in 2004 their number was 230 (data from the National Service for Combating Organized Crime). The big fluctuation in the numbers from one year to another (compared to the lack of any substantial increase of the number of persons convicted for offences related to organized crime) is a sign more of the lack of clear criteria for the registration and reporting of this specific type of crime, rather than an illustration of some dynamic pattern in the activities of organized criminal groups.

TABLE 6: PRE-TRIAL PROCEEDINGS FOR OFFENCES RELATED TO ORGANIZED CRIME (JANUARY - SEPTEMBER 2005)

Offence	Total pre-trial proceedings supervised	Pre-trial proceedings started	Pre-trial proceedings concluded	Pre-trial proceedings terminated	Prosecution taken to court	Persons indicted
Offences related to the participation in, formation and leadership of a criminal group						
Participation in, formation or leadership of a criminal group; conspiracy to commit crime in this country or abroad, for which the envisaged punishment is imprisonment for more than three years and which is intended to bring financial benefit or to exert unlawful pressure on the activities of a central or local government authority (Art. 321 of the <i>Criminal Code</i> [CC])	31	10	17	3	8	52
Participation in the leadership of an organization or a group using violence or threatening to conclude transactions or elicit benefits (Art. 321a)	0	0	0	0	0	0
Organization, leadership and/or financing of or participation in a criminal group raising plants of opium poppy or cocaine bush or plants of the cannabis type in violation of the rules laid down in the <i>Law on Narcotic Drugs and Precursors Control</i> ; or in a criminal group for the extraction, production, preparation or processing of narcotic drugs (Art. 354c, paras 2 and 3 CC)	0	0	0	0	1	-

**TABLE 6: PRE-TRIAL PROCEEDINGS FOR OFFENCES RELATED TO ORGANIZED CRIME
(JANUARY - SEPTEMBER 2005) (CONTINUE)**

Offence	Total pre-trial proceedings supervised	Pre-trial proceedings started	Pre-trial proceedings concluded	Pre-trial proceedings terminated	Prosecution taken to court	Persons indicted
Offences committed by a person acting at the instructions or implementing a decision of an organized criminal group						
Murder (Art. 116, para 1, subpara 10 CC)	22	20	6	0	6	14
Bodily harm (Art. 131, para 1, subpara 8 CC)	0	0	0	0	0	0
Kidnapping (Art. 142, para 2, subpara 6 CC)	0	0	0	0	0	0
Inducement to prostitution or bending fornication or copulation (Art. 155, para 5, subpara 1 CC)	12	6	8	0	7	14
Production, exhibiting, presentation, broadcasting, supply, sale, lease or any other distribution of materials of pornographic content (Art. 159, para 4 CC)	2	1	1	0	0	0
Recruitment, transportation, hiding or acceptance of individuals or groups of people to be used for lewd activities, forced labor, deprivation of organs of the body or to be kept in forced subordination regardless of their consent (Art. 159c CC)	4	4	1	0	1	3
Appropriation of another person's movable property with the intent of misappropriation, using violence or threat (Art. 199, para 1, subpara 5 CC)	13	7	7	0	6	24
Threat of violence, defamation, damage of property or other illegal activities with grave consequences for the person or his relatives with the intent to compel the person to dispose of property or rights or to undertake a pecuniary obligation (Art. 213a, para 3, subpara 3 CC)	1	1	1	1	0	0
Felling, collection, taking or transportation or any trees from the forest stock or parts thereof, including cut or fallen trees, without proper regular permit or with a regular permit but outside the places, terms, quantities and trees specified therein, where this has caused damage of material significance (Art. 235, para 4 CC)	0	0	0	0	0	0
Carrying of goods across the border of the country without the knowledge and permission of the customs authorities (Art. 242, para 1, item (g) CC)	7	5	2	1	2	2

TABLE 6: PRE-TRIAL PROCEEDINGS FOR OFFENCES RELATED TO ORGANIZED CRIME
(JANUARY - SEPTEMBER 2005) (CONTINUE)

Offence	Total pre-trial proceedings supervised	Pre-trial proceedings started	Pre-trial proceedings concluded	Pre-trial proceedings terminated	Prosecution taken to court	Persons indicted
Carrying out of a financial operation or transaction with property or concealing of the origin, location, movement or actual rights to property for which the perpetrator is aware or assumes that it has been acquired criminally (Art. 253, para 3, subpara 1 CC)	21	6	13	0	2	2
Taking of individuals or groups of people across the border of the country without permission by the competent authorities or with permission but outside the places designated for this purpose (Art. 280, para 2, subpara 5 CC)	2	1	2	0	2	11
Arson of a building, inventory, goods, farm produce or other products, a forest, machines, a mine or another asset of material value (Art. 330, para 2, subpara 4 CC)	1	0	1	0	0	0
Theft of another person's motor vehicle with the intent to use it (Art. 346, para 6 CC)	5	5	3	0	2	2

Source: Supreme Prosecution Office of Cassation

The process of transformation of Bulgarian organized crime led to transition from the hierarchical structures typical of the 1990's to flexible and adaptive networks of persons and companies involved also in legal activities. This process is accompanied by **the establishment and use of recurrent corruption schemes and techniques which gradually replaced the massive violence and threats used in the beginning of the transition period.**

The analysis of the stages of development of Bulgarian organized crime (Table 7) shows that corruption is increasingly resorted to. Following the 1996-1997 crisis, corrupting the middle and senior officers in the Ministry of Interior and the prosecution became commonplace. As a result, law enforcement officers conveniently "forgot" to investigate violent crimes and violations of the embargo regime against Yugoslavia. After 1998, corrupt purchase of lucrative privatization deals and concessions change organized crime but also eroded trust in democratic institutions and government. Thus, by the late 1990s organized crime managed to enjoy access to all levels of government.

Relevant to the analysis of corruption related to organized crime in Bulgaria over the recent years is the conditional distinction between two major types of organized crime.

The first type comes very close to **traditional black markets** (drugs, prostitution, trade in weapons, counterfeiting of currency and valuables, etc.). Usually these are international networks where the Bulgarian participation is confined to ensuring links in the chain of illegal transactions. As a rule, it is perpetrated by small structures operating in relative isolation.

TABLE 7. EVOLUTION OF BULGARIAN ORGANIZED CRIME

Stage Characteristics	Violence	Corruption	Organization	Market
Origin 1988 – 1991	Sporadic and chaotic	None	Neighborhood groups	Not involved
1991 – 1992	Wide-spread and chaotic	Low level - policemen	Primitive hierarchy	“Protection” from competition
Private security companies 1992 – 1994	Wide-spread, coordinated	Middle level - prosecutors, police, investigators	National level	Control of selected markets (oil-mostly to former Yugoslavia, cigarettes, alcohol, electronics)
Violent insurance companies 1995 – 1997	Attempts at reducing violence	High level government officials (<i>ad hoc</i>)	Large hierarchical structures, legal companies models used, international links	Control of 70% of smuggling, oligopoly on some markets and initial legal investments
Closure of violent insurance companies 1997-1998	Abandoning of protection racket	All judicial and law enforcement bodies with priority of Mol middle and senior levels and prosecution	Large hierarchical structures fragmented, networks emerging	New income sources sought – black markets (drugs and counterfeiting) and legal investments in catering and entertainment
Legalization 1999-2000	Selective violence	The whole range of judicial and law enforcement bodies + political elites	Three market levels, internationalization	Privatization deals, oligopoly and monopoly markets
Redistribution 2000-2005	Demonstrative executions at the highest level and intimidation of the administration and business elites	The whole range of judicial and law enforcement bodies, political clientele, advances to the judiciary	Redistribution among the three market levels	Monopolization and oligopolization of markets, domestic and international investments through international networks
EU Integration 2005-		The whole range of judicial and law enforcement bodies, political clientele, advances to the judiciary, the first EU-related lobbies	Three levels of networks, redistribution	

Source: Center for the Study of Democracy

For example, in most of the cases of detected trafficking in heroin the Bulgarian participants were dealing with the logistics between Turkey and Western Europe. Individual customs and border police officers were corrupted in those cases. Similar is the situation with the production of synthetic drugs and trafficking in people, the production of false money and documents where corruption again involves individual officers at local police structures and low levels of special security services. Due to their leakage-proof, conspiratorial nature such organized crime structures do not maintain regular contacts with public institutions. The experience over the last few years has shown that once detected these persons or criminal groups are given severe sentences while the attempts at corrupting judges, prosecutors and investigation magistrates are not massive.

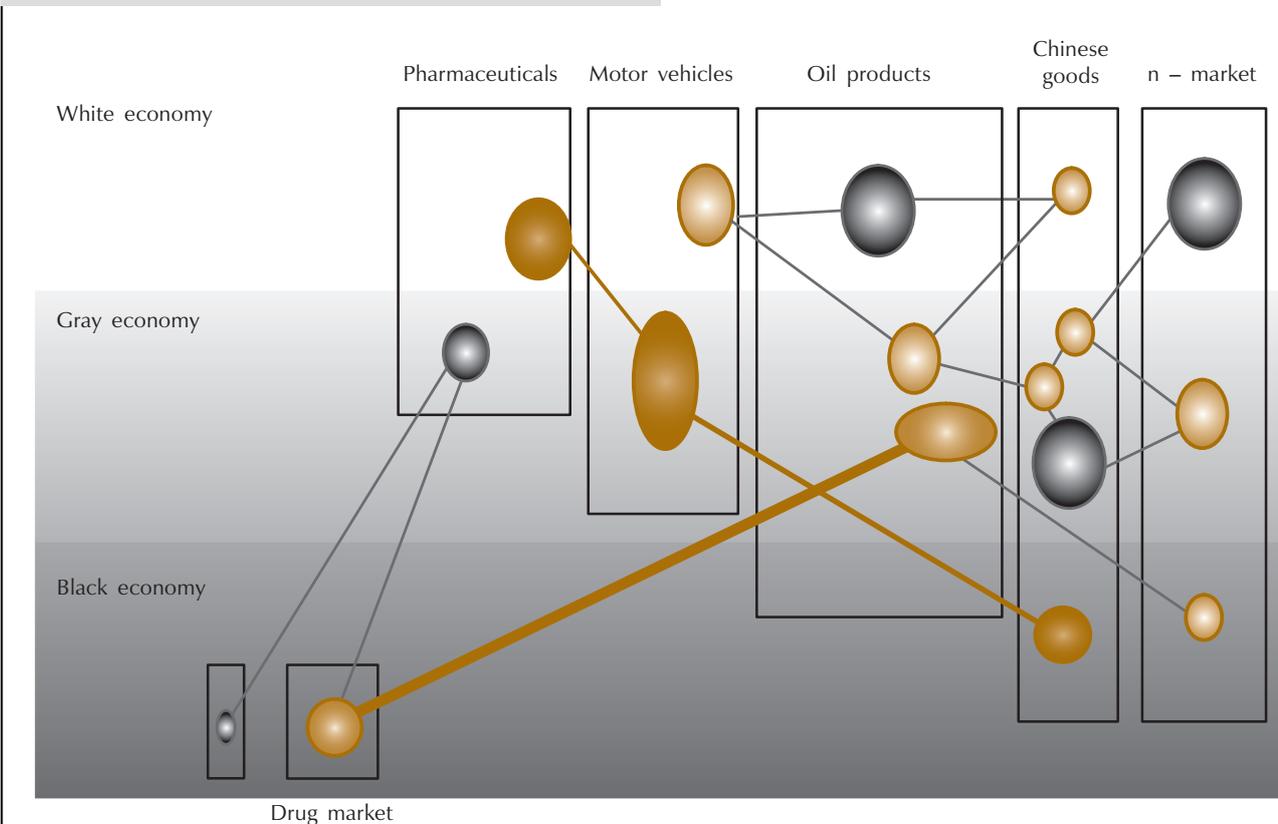
The second type of organized criminal structures has much greater negative significance for Bulgaria. It includes organizations involved in criminal, other unlawful - but not criminal - and perfectly lawful activities. In this **“three-layer” model** older and more influential structures of organized crime tend to gradually migrate to legal businesses,¹⁷ while more recent members who are less known to the public take over the control of the gray and black sectors of the hidden economy. In the functioning of the networks on the three types of market (white/legal, gray and black) they employ **the strategy of migrating from one type of market to another, depending on the circumstances**. When the government pressures a specific structure, the activities on the black market are strongly reduced or even suspended for a certain period of time. For example, a group could participate in the heavily regulated market of pharmaceuticals - which allows excessive profit margins - through legal companies, while its subdivisions trade in legally and illegally produced medicines in the gray sector. These medicines are produced by still other subdivisions and they are typically knockoffs of well - known pharmaceutical brands. Thus the core of the group usually consists of people with good contacts, positions and recognition in society, often enjoying good reputation as professionals, sponsors and benefactors.

Organized crime in Bulgaria is adaptive and capable of quick shift from one sector to another, e.g. from trade in automobiles and transport to energy and health. Since the organization of this type of crime requires high operational costs, it always tries to be the first to capture sectors with excessive profit margins. In this way, organized crime retains its monopoly profits longer by restricting the entry of competitors on the respective market.

A specific feature of corruption used by this type of organized crime lies in **the opportunity to act simultaneously at all levels of the state**. Thus, for instance, petty smugglers are allowed to cross the border, protection is ensured against inspections on the territory of the country and even laws related to the restriction of duty-free trade are politically blocked. This **“vertically-integrated corruption”**

¹⁷ In 2003, the 50 best known names connected with organized crime (according to the media) paid record-high taxes for the first time in Bulgaria.

CHART 21. THE THREE-LAYER MODEL OF ORGANIZED CRIME IN BULGARIA



The three-layer model

The chart illustrates the three main layers of the Bulgarian economy – legal (“white economy”), semi-legal (“gray”) and illegal (“black economy”). The rectangles signify specific markets at which agents from all three layers are operating. Organized crime is depicted as a network of interconnected nodes. The network model allows organized crime to operate at all layers simultaneously.

Source: Center for the Study of Democracy

model is carried out by various organized criminal networks, involving ordinary police and customs officers, heads of regional police services, as well as senior government officials, magistrates and leaders of political parties. An illustration of this model is the market for distribution of drugs within the country and the trafficking in Chinese and Turkish goods.¹⁸

Since the mid 1990s and especially since 2001, **the importance of international black and gray markets for the Bulgarian organized crime has increased substantially.** There have been numerous cases in which criminal structures take their activities outside the country (mostly to Spain, Italy, the Netherlands and Greece). As a result of its international activities, Bulgarian organized crime has become a very difficult target for the law enforcement authorities in the country. After the accession to the EU there will be even greater opportunities for Bulgarian organized crime for investing also in transnational corruption schemes.

¹⁸ See *The Drugs Market in Bulgaria*, Center for the Study of Democracy, 2003, *Transportation, Smuggling and Organized Crime*, Center for the Study of Democracy, 2004 and *Partners in Crime*, Center for the Study of Democracy, 2004.

Organized crime invests a large portion of its proceeds in corruption in order to obtain new revenues and impunity. **The adjustment of organized crime** to the new conditions in the late 1990s and its increasing involvement in corrupt practices for the last few years ensure its **sustainability and make it more resistant to detection and counteraction.**

3. GOVERNMENT INSTITUTIONS IN THE FIGHT AGAINST CORRUPTION

The anti-corruption reform agenda of Bulgaria still includes the need for serious commitment by all three branches of government to the prevention and fight against corruption, as well as for closer interaction among anti-corruption units established in each of them.

3.1. The Legislature

An evaluation of the effectiveness of legislature in the prevention and fight against corruption in 2005 – 2006 covers the end of term of the 39th and the beginning of term of the 40th National Assembly. It is based on anti-corruption aspects in the discharge of key functions of the National Assembly (law-making and parliamentary scrutiny), on the setting up and operation of specific parliamentary mechanisms, such as interim and standing committees, and of specialized institutions with control and monitoring functions.

3.1.1. Anti-Corruption Legislation and Law-making

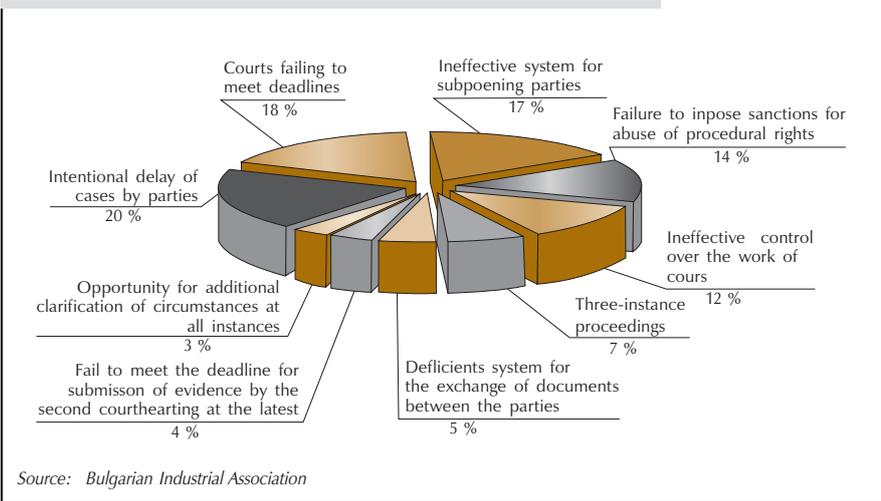
- A radical reform was initiated in 2005 in one of the most ineffective spheres related to corruption practices, i.e. **judicial enforcement proceedings**. This clumsy and slow procedure, often lasting for years, required for the forced collection of claims has been criticized for a long time. According to a survey carried out in the beginning of 2006 by the Bulgarian Industrial Association, only 11 % of companies with overdue uncollected claims stated they would go to court for their collection, and only 19 % of those who decided to make use of judicial services managed to collect the awarded claims. Companies have listed out-of-court agreements with the debtor (36 %), the sale of claims (25 %), the transformation of claims into property (30 %), etc., as alternative means to enforce claims. Overall, 57 % of the companies point out ineffective judicial enforcement proceedings to be the main reason why they would not go to court to obtain a commercial trial judgment. The *Law on Private Enforcement Agents*¹⁹ established the preconditions for tackling well entrenched corruption in this area. The law, providing for combined public and private enforcement agents operating simultaneously, has created optimistic expectations through the business community, which still have not been justified. In order, however, to minimize corruption

¹⁹ The law was promulgated in State Gazette No 43 of May 20, 2005, and is in effect as of September 1, 2005. Similar legislation has been adopted in a number of countries including the Netherlands, Belgium, Hungary, the Czech Republic, Estonia, etc.

practices in this area, changes in the procedure for collection of claims are required, which are expected to be made with the adoption of the new *Civil Procedure Code*.

- The latter is also expected to help speed up the procedure for hearing **civil cases**. At present, its duration creates preconditions for corruption and is among the main factors for the low trust of the citizens and the business community in the work of the courts. One of the reasons for this problem is the lack of flexible procedures for hearing different types of cases. Thus, cases for insignificant property disputes are examined following the same complicated procedure that is applied for cases concerning considerable financial interest. There are no special procedures for hearing specific types of cases such as labor disputes, small city planning cases, etc. There is no opportunity for filing class action either.

CHART 22: MAIN REASONS FOR THE SLOW PROGRESS OF CIVIL CASES ACCORDING TO THE BUSINESS COMMUNITY



- The reform of **business registration** is still in its initial phase. The commercial register continues to be kept by the courts, unduly burdening them with work that is not judicial in nature, and also engaging qualified human resources for applying simple administrative procedures. Despite the big delay, in the beginning of 2005 the government adopted a *Strategy for Establishing a Central Register of Legal Persons and an Electronic Registries Center of the Republic of Bulgaria* and in the beginning of 2006

developed and submitted to the parliament a *Draft Law on the Commercial Register*. The draft, which is based on the principles and recommendations suggested by the Center for the Study of Democracy,²⁰ envisages the establishment of a central electronic commercial register and administrative procedures for registration of companies and for entering changes in the registered information. The timely adoption of the draft law by the National Assembly and the beginning of the practical operation of the new commercial register would tangibly improve the business environment and will decrease corruption in this area. However, even at that stage when there is a pending legislative procedure in parliament, the opponents of the registration reform, including Members of Parliament who are prominent lawyers, are still trying to hamper the process.

- The new *Law on Political Parties*, adopted as early as the end of 2004 (in effect as of April 1, 2005), envisaged a number of anti-corruption

²⁰ See further *Opportunities for Establishment of Central Register of Legal Persons and Electronic Registries Center in Bulgaria*, Center for the Study of Democracy, Sofia, 2004.

measures, such as stricter requirements for the establishment of a political party (including a prohibition for membership in more than one party), tying the existence of parties to their participation in elections (including a procedure for the dissolution of parties, which have not participated in elections for more than 5 years), binding the amount of state subsidy to the number of votes received at the latest parliamentary elections, making an exhaustive list of the allowable sources of funding for political parties, strict rules on donations, including a prohibition of anonymous donations, increased control by the National Audit Office, and harsher sanctions for violations. Additional measures are nevertheless needed to ensure transparent financing of political parties and a clear distinction between their role in public governance and the management of their internal affairs, such as: better financial control over the activities of political parties and the spending of their state subsidies, including through financial inspections; effective **sanctions**, including dissolution of parties which do not ensure transparency in their operations or which provide false information about the sources and amount of their funding; a legal framework for **lobbying** drafted in accordance with the best practices of European Union member states.

- In the beginning of 2005, the controversial *Law on the Forfeiture to the State of Property Acquired through Criminal Activity*²¹ was adopted. Anti-corruption effect of the law is seen in eradicating the economic causes of crime, including corruption, such as possible forfeiture of the property of legal entities, applicability if criminal proceedings are terminated or cannot be initiated, and international cooperation in the fight against corruption and organized crime. The law also gives rise to some fears of possible abuse in its application: the use of envisaged measures to settle accounts with political opponents or business competitors, the lack of adequate mechanisms to protect the rights of affected parties, a quite low threshold of the amount of property which could be forfeited potentially leading to an unjustified expansion of envisaged sanctions, etc.

In addition, although constituted, the Commission for Identification of Property Acquired through Criminal Activity is not working yet and there is no practical experience whatsoever in the enforcement of the law.

- No progress has been made in detailing and expanding the scope of laws and regulations prohibiting certain activities by state bodies and administrative staff during their terms of office or time in civil service (also known as “incompatibilities”), including the consequences of non-compliance. So far, the legal framework is targeted mainly at lower and middle level civil servants. A step ahead was only made with the *Law on Amending and Supplementing the Law on the Administration*, adopted at first reading in the beginning of 2006. General restrictions are envisaged for heads of state agencies and their deputies, for members of government commissions, for executive directors of agencies, as

²¹ The law was promulgated in State Gazette No 19 of March 1, 2005, and is in effect as of April 29, 2005.

well as for regional governors and their deputies. These, however, cover only conflicts related to commercial activities and there is no regulation of deputy-ministers' incompatibilities.

As regards regulations on **conflicts of interest by Members of Parliament**, the majority at the 39th National Assembly **did not have the will to pass effective decisions**. The present National Assembly has not adopted any such decisions so far, either. The short provision concerning the conflict of interest in the *Rules of Organization and Procedure of the National Assembly*²² does not cover a large number of possible conflicts of interest for Members of Parliament—such as simultaneous practice as a lawyer or unregulated quasi-lobbying activities—and does not provide for control mechanism or prevention. For example, there is a prohibition for the Members of the National Assembly to receive remuneration under any other labor contract but there are no restrictions on receiving remuneration as fees or honoraria. A Member of the National Assembly has no right to sit on any managing or supervisory bodies of companies or cooperatives, but as regards incompatibility with occupying another position in state institutions or other activity there is only a general reference to other pieces of legislation.

There is still no legal regulation of the incompatibilities of members of the Council of Ministers,²³ and in accordance with Article 113 of the Constitution, they may not hold another government office or engage in activities incompatible with the status of a Member of the National Assembly. This is due to the fact that incompatibilities of Members of the National Assembly have no legal regulation. There is a lack of legal regulation in respect to the incompatibilities of the President and the Vice-President.

Legal Framework for the Prevention of Conflicts of Interest

- *In respect to civil servants*

Incompatibilities in respect to public administration officials are regulated by the *Law on Civil Servants* (for officials working as civil servants) and the *Labor Code* (for the rest who work under labor contracts). Typical spheres of conflict of interest are covered, i.e. family relations, party affiliation and business activities, as well as incidental conflicts of interest.

- *In respect to individuals in regulatory and supervisory bodies*

Specific rules exist in a number of special laws, setting out incompatibilities in respect to individuals in regulatory and supervisory bodies, i.e. members of the Telecommunications Regulation Com-

²² Article 103. When submitting bills or speaking at a plenary session or in a Committee meeting, Members having a direct financial interest in the issue under consideration shall be obligated to reveal such interest.

²³ Only in the end of December 2005 the government adopted *Ethics Code of High Ranking Officials in the Executive*.

mission (*Law on Telecommunications*); bodies of the Public Internal Financial Control Agency (*Law on Public Internal Financial Control*); members of the Commission for the Protection of Competition (*Law on Protection of Competition*); members of the Financial Supervision Commission (*Law on Financial Supervision Commission*), etc. The main weak point in this type of regulation is the lack of harmonization as varying levels of restriction are applied to the same activity (e.g. family relations) for different institutions.

- *In the judiciary*

The regulation of incompatibilities for judges, prosecutors and investigators in the *Law on the Judiciary* covers typical conflict of interest areas, i.e. another government office, commercial activity, work under civil contracts, and practice as a lawyer. However, no legal regulation is found with regard to family relations. Since there are no provisions in the *Law on the Judiciary* concerning the incompatibilities of court clerks, the rules for public administration officials working under labor contracts, provided in the *Labor Code*, should be applicable to them.

- *For local government and local administration*

Incompatibilities of mayors and deputy mayors with political and business activities are provided for in the *Law on Local Self-Government and Local Administration*. As for municipal councilors, only incidental conflicts of interest which could arise from decisions, concerning interests of persons related to the respective councilor by matrimonial or family relations are regulated.

As far as **corruption is always preceded by a conflict of interest** at the intersection of private and public interests, effectiveness in countering corruption depends to a great extent on the existence and adequacy of regulation for these types of cases. The spread and impunity of corruption at the highest levels of government result to a great extent from the lack of rules for the prevention of conflicts between personal and other private interests of high-ranking representatives of state authority and the public interest, in the name of which authority is exercised. That is why the applicable rules contained in special laws need to be harmonized and **all spheres generating conflict of interest need to be brought under the incompatibility principle**. In the long run this would imply the creation of unified incompatibility rules for all government office holders, all state bodies and the staff in their administration.

3.1.2. Parliamentary Committees against Corruption

The first Standing Parliamentary Committee for Counteracting Crime and Corruption, set up during the term of the 38th National Assembly (1997-2001), could not make any lasting and effective anti-corruption decisions.

The Standing Anti-Corruption Committee in the following 39th National Assembly (2001-2005) laid the foundations for closer interaction with non-governmental organizations and anti-corruption initiatives but did not prove to be a functioning mechanism for cooperation. Despite a great number of alerts received from citizens, Members of Parliament, state authorities and civic organizations, no analysis or summary of the most common cases of corruption was made. The opinions generated by the Committee in respect to bills considered by the National Assembly were also very few. The Committee did not even form an opinion on cases that were widely discussed in the media and were at the centre of public scrutiny.

The Anti-Corruption Committee in the 40th National Assembly set up on August 24, 2005, demonstrated the intention for a more serious and consistent work, defining in due course and acting on its top priorities:

- **A legislative program**, including suggestions for amendments and supplements to laws pertaining to the effective countering of corruption (including the *Law on Privatization and Post-Privatization Control*, the *Law on State Property*, the *Law on Municipal Property*, the *Law on Public Procurement*, the *Tax Procedure Code*, etc.). Among more than 100 **complaints and alerts** examined in the period September – November 2005, the Committee paid special attention to cases directly related to the state of the respective legislation and needs for changes.
- **Monitoring of and control over** a number of agencies in areas with high corruption risk:
 - The Ministry of Finance (National Revenue Agency, Financial Intelligence Agency, Customs Agency) in relation to VAT fraud;
 - The Post-Privatization Control Agency in relation to privatization transaction contracts, the terms of which are not implemented (1,117 contracts);
 - The Ministry of Health in relation to corruption practices in policies for medical supplies.

The Committee also uses the materials collected in the course of operations of the former National Assembly (for example, the report of the Ad-Hoc Fact-Finding Committee on the Investigation of VAT Frauds).

A **Consultative Civic Council** was established with the Committee, the main task of which is to coordinate the interaction between the Committee and civil society structures by discussing, developing and proposing specific measures to counter and reduce corruption; contributing to and providing support for the committee's legislative activity through proposals for amendment to and supplement of statutory acts in force; informing the Committee of specific corruption cases for the purpose of effecting parliamentary scrutiny and action by the Committee, approaching executive and judicial bodies, etc. The creation of the Consultative Civic Council institutionalized the cooperation with civil society and was an important step in allowing for better transparency and effectiveness in the future work of the Committee, a trend that needs to be sustained.

The newly created **Parliamentary Ethics Committee** of the 40th National Assembly is rarely in session and has not accomplished one of its main tasks, i.e. to prepare a *Draft Code of Parliamentary Conduct* (Code of Ethics).

Ad Hoc Fact-Finding Committees

The Ad Hoc Fact-Finding Committees established by the 39th National Assembly to inspect suspicions of corruption and abuse of power by members of the executive were routinely used for partisan ends and did not accomplish their purpose (for example, the Committee for Inspection of the Operations of the Ministry of Regional Development and Public Works in respect to the use of EU funds). The Committees' reports, conclusions and recommendations were not given sufficient publicity with only the list of Committee members being published. No action has been taken even in cases where these Committees had registered violations in the reports sent to the Prosecution Office. There was no reaction by the National Assembly to obvious conflicts of interest in the work of a number of ministers, which reinforces public perceptions of the existence of corruption at the highest levels of government.

3.1.3. Powers of Constitution

The National Assembly has the authority to constitute and, through its quota, participate in the formation of a number of institutions, whose activity could have an anti-corruption effect—the National Audit Office, the Ombudsman, the Constitutional Court, the Commission for Protection against Discrimination, the Commission for Personal Data Protection, the Commission for Identification of Property Acquired through Criminal Activity, the Supreme Judicial Council, etc. However, the 39th National Assembly unreasonably delayed the establishment of a number of these institutions, and at the end of its term adopted some decisions resulting from behind-the-scene arrangements. The situation became even worse due to the disinterested attitude of the executive branch which was to provide appropriate working conditions for them. A clear example is the institution of the Ombudsman. The first Ombudsman in Bulgaria was elected with a significant delay after the deadline envisaged in the *Law on the Ombudsman* and was kept without appropriate premises for a long time which has hampered its work. A similar approach has also hindered the work of the Commission for Identification of Property Acquired through Criminal Activity.

Constitutional Provisions for the Ombudsman Institution

A constitutional status for the institution of the Ombudsman is necessary both to heighten its authority and to provide for powers

that could not be regulated in a law. Among the most important constitutional amendments which should be adopted are the following:

- set out stricter criteria for the election of the Ombudsman, as well as clearer incompatibility provisions;
- introduce a qualified majority for the election and recall of the Ombudsman;
- expand its powers, giving it the right to refer cases to the Constitutional Court and vesting it with legislative initiative concerning issues in the area of human rights.²⁴

3.2. Specialized Anti-Corruption Structures in the Executive Branch

Four years ago an **Anti-Corruption Coordination Commission** (ACCC) chaired by the Minister of Justice was created²⁵ as a specialized central government structure. The main task of the Commission was to collect, analyze and summarize information about anti-corruption measures and to supervise efforts in combating corruption. Its reports up to 2005 abounded in findings, rather than in a future-oriented analysis of the existing problems.

ACCC held only five meetings in 2005 compared to 13 in 2004. In 2005, the Commission registered some effectiveness of government anti-corruption measures on the basis of monitoring information produced by *Coalition 2000*, the Transparency International Corruption Perceptions Index, the Heritage Foundation Index of Economic Freedom and the assessment made by the Group of States against Corruption within the Council of Europe (GRECO) and the World Bank, but interpreted statistical data in a rather biased and superficial way.

The latest ACCC report on the implementation of the program which specifies the 2004-2005 National Anti-Corruption Strategy tasks referred to a “lack of employees and resources (money to carry out policies)” as a reason why the measures against corruption at the highest levels of government failed to materialize. There was no thorough analysis of the wider reasons underlying this finding. The reports contain information mainly about the anti-corruption operations of ministries, agencies and of municipal administrations, but not about the Commission’s own contribution to such operations.

The various anti-corruption initiatives included setting up mailboxes and hotlines for corruption alerts, citizen polls, anti-corruption training for

²⁴ See also the Draft Law on Amending and Supplementing the Constitution of the Republic of Bulgaria prepared by a task force of the Center for the Study of Democracy, published in *The Ombudsman Institution in Bulgaria*, Center for the Study of Democracy, Sofia, 2005 (available only in Bulgarian).

²⁵ The Commission was created by virtue of Resolution No. 77 of the Council of Ministers of February 11, 2002.

staff, introducing systems for registration of conflicts of interest, and distributing anti-corruption materials. At the same time, the Commission did not make an analysis of the impact of all these measures on the specific anti-corruption situation.

Data about specific violations registered and disciplinary sanctions imposed, including cases of violation of ethical rules, are only to be found in the information supplied by the Ministry of Interior and the Ministry of Youth and Sports.

Violations and sanctions imposed

- Inspections among **police officers** exercising road traffic control on the territory of Sofia and 4 regions in southwest Bulgaria found 33 cases in which 59 officers failed to discharge their official duties in compliance with regulations. Disciplinary measures were taken in respect to them.
- At the **Ministry of Youth and Sports**, three officials were dismissed for violating the provisions for declaration and avoidance of conflicts of interest, and another 20 aligned their participation in different companies with legal requirements.
- The Ministry of Finance reported that in 2005 disciplinary sanctions were imposed on **tax officers** as a result of infringements on ethics rules, without specifying the number of sanctioned individuals.

The *Strategy for Transparent Governance, Prevention and Countering of Corruption 2006-2008* adopted by the government on January 12, 2006, replaced the ACCC with a new Commission for Prevention and Countering of Corruption (CPCC) to coordinate the implementation of the strategy. The main functions of the Commission will be **“the preparation of the government anti-corruption policy, Strategy implementation control, and the monitoring of basic parameters of corruption dynamics in the country”**. For the first time the Strategy points out that the prevailing practice so far was to mainly direct activities at limiting petty corruption, and to a lesser extent at **corruption at the highest levels of government**, an intention to shift away from this approach being clearly declared.

Administrative Capacity for Countering Corruption

“By virtue of Resolution No. 61 of February 2, 2006, the Council of Ministers created a Commission for Prevention and Countering of Corruption, chaired by the Minister of Interior. Deputy Chairs of the Commission are the Minister of Justice and the Minister of Public Administration and Administrative Reform. Members of the Commission include the Minister of Finance, the Minister of

European Affairs, the Deputy Minister of Education and Science, the Deputy Minister of Health, the Directors of the Public Internal Financial Control Agency, the Financial Intelligence Agency, the National Revenue Agency, the Customs Agency and of the competent directorates of the Council of Ministers' administration, as well as the Secretary of the Security Council with the Council of Ministers. The national Ombudsman shall participate in the Commission's meetings.

...

The practical implementation of the Commission's decisions shall be carried out by the heads of inspectorates within the administrative structures of the executive. The heads of inspectorates within individual ministries as well as the directors of competent directorates of the Council of Ministers shall meet as a task force with the Commission, chaired by the Director of the Chief Inspectorate Directorate of the Council of Ministers. The Commission shall report for its activities before the Council of Ministers."

The Bulgarian Contribution to the Monitoring Report of the European Commission, Update for the Period September 26, 2005 – February, 2006

- The following measures against **corruption at the highest levels of government** are envisaged: first, introduce mechanisms for accountability and control of persons at high positions of state, and second, guarantee accountability and transparency for political parties financing mechanisms.
- A number of guarantees for transparency and accountability in the activity of public administration at central and local level are envisaged to counter corruption in **the public sphere**, as well as an increase in transparency of decision making at government level.
- A priority in the government's anti-corruption policy would be the prevention and counteraction of corruption practices in the areas of **public health and education**, where major public finances are concentrated and which are of great importance for the social development of the country.
- Anti-corruption measures related to the economy are quite detailed and are aimed at promoting **transparent government and control of public revenues and expenditures** at the central and local level (including European Union funds) in public procurement, concessions, tax and customs services, public-private partnership projects, as well as of mechanisms for transparency in the private sector, etc.

With a view to ensuring effectiveness of Commission operations, it is of utmost importance that the latter works in cooperation with civil society

and other specialized anti-corruption commissions—at the National Assembly and the Supreme Judicial Council. Currently, there is lack of sufficient coordination among different anti-corruption institutions and organizations. The Strategy itself declares the intention to improve the dialogue with **the legislative and judicial branches of government** in carrying out criminal policy against corruption, and a closer cooperation and coordination of efforts among **anti-corruption units in all three branches of power**, to institutionalize civic control, and step up civil society cooperation in the evaluation of trends in the evolution of corruption practices, as well as the effectiveness of anti-corruption policies implemented.

The Center for the Study of Democracy took part in the preparation of the Strategy and its Program for Implementation and will be involved in the monitoring of their implementation.

3.3. Judicial and Law Enforcement Bodies against Corruption

A key indicator in evaluating state efforts to counter corruption is the **effectiveness of judicial and law enforcement bodies** in detecting and punishing this type of crime. Criminal policy remains potentially the strongest instrument at the disposal of the state to fight crime in general and corruption in particular, while it also has a significant preventive potential. Nonetheless, outcomes in the area of detection and punishment of corruption-related crime still remain unsatisfactory.

The evaluation of the work of judicial and law enforcement bodies in the detection, prosecution and punishment of corruption crimes in the country is still hindered by the **lack of uniform statistics about the initiation and progress of criminal cases on corruption related offences**. On the one hand, the lack of such information is an impediment to the exercise of effective civic control over the anti-corruption activities of government bodies, and on the other hand, it hinders the identification of existing problems and thus the formulation and implementation of adequate reform measures.

To overcome this problem, as early as the beginning of 2003 the Center for the Study of Democracy, in cooperation with all interested institutions, designed a system of indicators for the collection of statistical information about the operations of the bodies of the judiciary and the Ministry of Interior for the detection and punishment of corruption criminal offences. The proposed indicators were presented to the then Anti-Corruption Coordination Commission, but were not applied as expected in its operations for the collection, analysis and summary of information about anti-corruption measures.

PROPOSAL**By****The Center for the Study of Democracy
for****the collection of statistical information about the work of
Judicial and Ministry of Interior bodies in detecting and
prosecuting corruption criminal offences****(Articles 282 – 283a, Art. 224, Art. 225b, Art. 225c and Art.
301 – 307a of the Criminal Code)****1. Ministry of Interior**

Total number of instituted police proceedings, including:

- Summary police proceedings (Article 408b, Paragraph 2 CPC [Criminal Procedure Code])
 - number of ordered preliminary detentions rescinded by the prosecutor
 - number of ordered preliminary detentions upheld by the prosecutor
 - number of ordered preliminary detentions extended by the prosecutor
- Police investigations (Article 408b, Paragraph 3 CPC)
- Summary police proceedings transformed into police investigations (Article 409, Paragraph 2 CPC)

Period for conclusion of the police investigation

- Number of police investigations concluded within 2 months (Article 410a, Paragraph 2 CPC)
- Number of police investigations for which the term has been extended up to 3 months (Article 410a, Paragraph 3 CPC)
- Number of police investigations for which the term has been extended up to 6 months (Article 410a, Paragraph 3 CPC)

2. Investigation Service

Total number of preliminary proceedings instituted by an investigator in presence of urgent investigation activities (Article 191, Paragraph 1 CPC)

Total number of preliminary proceedings handled by investigators, including:

- Number of preliminary proceedings where preliminary detention was ordered (Article 202, Paragraph 1 CPC)
 - number of ordered preliminary detentions rescinded by the prosecutor
 - number of ordered preliminary detentions upheld by the prosecutor
 - number of ordered preliminary detentions extended by the prosecutor
 - number of ordered preliminary detentions followed by presentation of an indictment

- Number of preliminary proceedings where the investigator issued a decree to press charges (Article 207, Paragraph 1 CPC)
- Number of preliminary proceedings completed by an accusation decree (Article 219, Paragraph 1 CPC)
- Number of preliminary proceedings completed with an opinion to suspend criminal proceedings (Article 220, Paragraph 1 CPC)
- Number of preliminary proceedings closed with an opinion to terminate criminal proceedings (Article 220, Paragraph 1 CPC)

Period for conclusion of preliminary proceedings

- Number of preliminary proceedings concluded within 2 months (Article 222, Paragraph 1 CPC)
- Number of preliminary proceedings for which the term has been extended up to 6 months (Article 222, Paragraph 3 CPC)
- Number of preliminary proceedings for which the term has been extended up to 9 months (Article 222, Paragraph 3 CPC)

3. Public Prosecution Office

Total number of preliminary proceedings instituted by public prosecutors, including:

- Number of preliminary proceedings instituted by the competent prosecutor (Article 192, Paragraph 1 CPC)
- Number of refusals for institution of preliminary proceedings (Article 194, Paragraph 2 CPC)
- Number of preliminary proceedings instituted by superior prosecutor (Article 194, Paragraph 3 CPC)
 - upon complaint of interested party
 - upon his/her own motion

Total number of concluded preliminary proceedings and police proceedings submitted to public prosecutors, including:

- Number of indictments presented to court and number of accused individuals (Article 235, Paragraph 1 and Article 411, Paragraph 1, Item 2 CPC)
- Number of cases remitted by prosecutor for further investigation (Article 236, Paragraph 1 and Article 411, Paragraph 1, Item 4 CPC)
- Number of criminal proceedings terminated by prosecutor (Article 237, Paragraph 1 and Article 411, Paragraph. 1, Item 5 CPC), including:
 - not appealed
 - appealed and upheld by court
 - appealed and modified by court
 - appealed and rescinded by court
- Number of criminal proceedings suspended by the prosecutor (Article 239, Paragraph 1 and Article 411, Paragraph 1, Item 6 CPC), including

- not appealed
- appealed and upheld by court (including by the appellate review court)
- appealed and modified by court (including by the appellate review court)
- appealed and rescinded by court (including by the appellate review court)
- Number of police proceedings transformed into preliminary proceedings (Article 411, Paragraph 1, Item 8 CPC)
- Number of criminal proceedings terminated by plea bargaining approved by the court (where admissible)
- Number of pending (instituted, but not concluded) criminal proceedings

4. Court

Total number of indictments presented by prosecutor

Total number of trials with pronouncement by the judge-rapporteur, including:

- Number of trials terminated by the judge-rapporteur (Article 246, Paragraph 1 CPC)
- Number of trials terminated by the judge-rapporteur remitting the case to a prosecutor for further investigation (Article 246, Paragraph 2 CPC)
- Number of criminal proceedings terminated by the judge-rapporteur (Article 247, Paragraph 1 CPC)
- Number of criminal proceedings suspended by the judge-rapporteur (Article 247a, Paragraph 1 CPC)

4.1. First Instance

Total number of trials at first instance, including:

- Number of trials terminated, the case being forwarded to the relevant prosecutor (Article 287, Paragraph 1 CPC)
- Number of criminal proceedings terminated by the court of first instance (Article 288, Paragraph 1 CPC)
- Number of criminal proceedings suspended by the court of first instance (Article 288, Paragraph 4 CPC)
- Number of convictions
- Number of acquittals
- Number of cases terminated by plea bargaining (where admissible)

4.2. Second instance

Total number of sentences appealed or protested before the appellate review court (possible consideration: who has filed an appeal against the sentence), of which:

- Number of appeals and protests sent back by the first-instance court (Article 322, Paragraph 1 CPC)
- Number of appeals sent back by the appellate review court
- Number of withdrawn appeals and protests (Article 323, Paragraph 1 CPC)

- Number of sentences repealed, the case being remitted for another examination by the public prosecutor (Article 332, Item 1 CPC)
- Number of sentences repealed, the case being remitted for another examination by the first-instance court (Article 332, Item 1 CPC)
- Number of sentences repealed with a new sentence being issued (Article 332, Item 2 CPC)
- Number of modified first-instance sentences (Article 332, Item 3 CPC)
- Number of sentences repealed with termination of the criminal proceedings (Article 332, Item 4 CPC)
- Number of suspended criminal proceedings (Article 332, Item 5 CPC)
- Number of upheld first-instance sentences (Article 332, Item 6 CPC)

4.3. Third instance

Total number of sentences appealed or protested before the cassation instance (possible consideration: who has filed an appeal against the sentence), of which:

- Number of appeals and protests sent back by the appellate review court (Article 354, Paragraph 4 CPC)
- Number of appeals and protests sent back by the court of cassation
- Number of withdrawn appeals and protests (Article 355 CPC)
- Number of sentences left in effect (Article 357, Paragraph 1, Item 1 CPC)
- Number of sentences repealed with termination of the criminal proceedings (Article 357, Paragraph 1, Item 2 CPC)
- Number of sentences repealed with suspension of the criminal proceedings (Article 357, Paragraph 1, Item 2 CPC)
- Number of modified sentences (Article 357, Paragraph 1, Item 3 CPC)
- Number of sentences, repealed wholly or partially, the case being remitted for another examination (Article 357, Paragraph 1, Item 4 CPC)

4.4. Re-opening of criminal cases

Total number of re-opened criminal cases

- Number of sentences repealed upon re-opening, the case being remitted for another examination (Article 364, Item 1 CPC)
- Number of sentences repealed upon re-opening with termination of the criminal proceedings (Article 364, Item 2 CPC)
- Number of revoked sentences upon re-opening with suspension of the criminal proceedings (Article 364, Item 2 CPC)

5. Execution of sentences

Number of effectively executed sentences and number of individuals who have already served/are serving their punishment

Sofia

October 2005

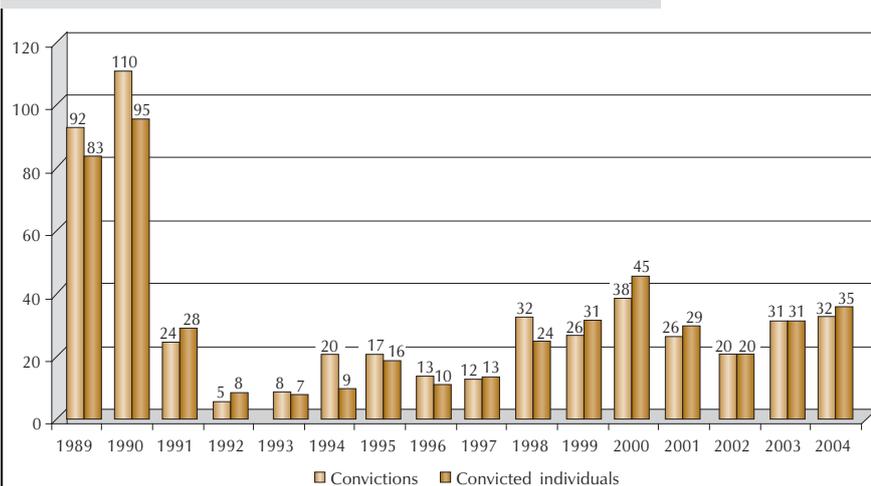
Thanks to the active role of civil society, however, certain measures to this effect were included in the *Strategy for Transparent Governance and Prevention and Countering of Corruption 2006-2008*. In order to increase the efficiency of criminal anticorruption policy, the strategy provides that the government should undertake active measures to secure “the collection of uniform statistics on the filing and the progress of criminal proceedings for corruption crimes and their regular updating based on a uniform system of indicators”.

3.3.1. Effectiveness in the Enforcement of Anti-Corruption Criminal Legislation

Results against corruption depend mainly on the quality and effective enforcement of the relevant criminal legislation. In recent years, a great number of amendments have been made to the criminal law and procedure that helped considerably update and align it with European standards. The enforcement of this legislation, however, remains unsatisfactory, the proof of which is the lack of a considerable change in the number of criminal cases and convicted individuals related to corruption.

The number of criminal cases, convictions and convicted individuals in relation to corruption crimes continues to be negligible in comparison to the total number of criminal cases concluded by the courts, as well as against the background of the level of corruption, as demonstrated in the outcomes from the implementation of the CMS of *Coalition 2000*.

CHART 23: NUMBER OF CONVICTIONS AND NUMBER OF CONVICTED INDIVIDUALS FOR BRIBERY (1989 – 2004)

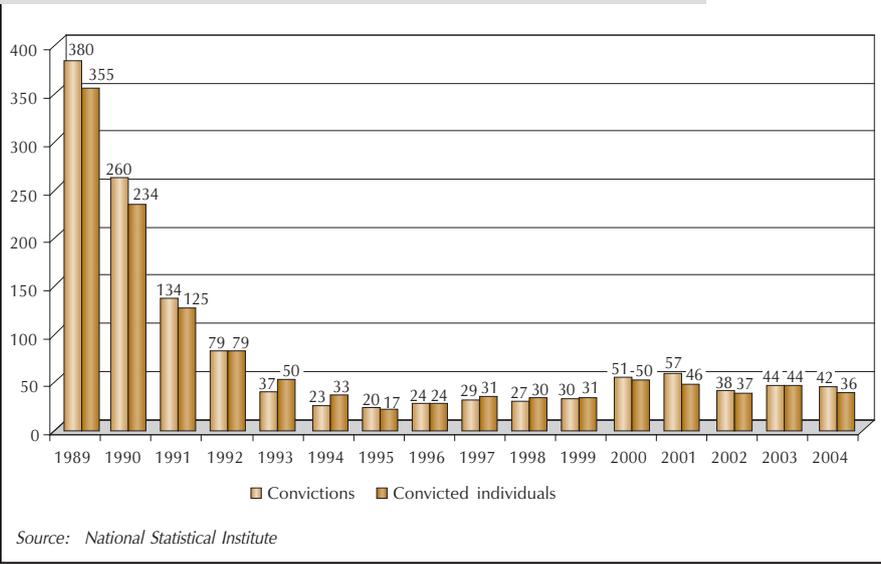


Source: National Statistical Institute

Based on data available through the CMS, the average monthly number of corruption transactions in 2005 was about 120-130,000, while the number of convicted individuals for bribery and crimes related to official capacity in the first half of the same year was barely 72. The lack of specific results in the prosecution of perpetrators of corruption offences not only decreases public trust in the work of the judiciary and law enforcement, but also creates an environment of impunity for these acts, which in turn helps corruption.

The series of legislative amendments in the field of substantive criminal law made in the last few years, led to an almost complete harmonization of the national legislation with international anti-corruption instruments. It did not result, however, in the expected increase in the number of criminal proceedings against corruption crimes.

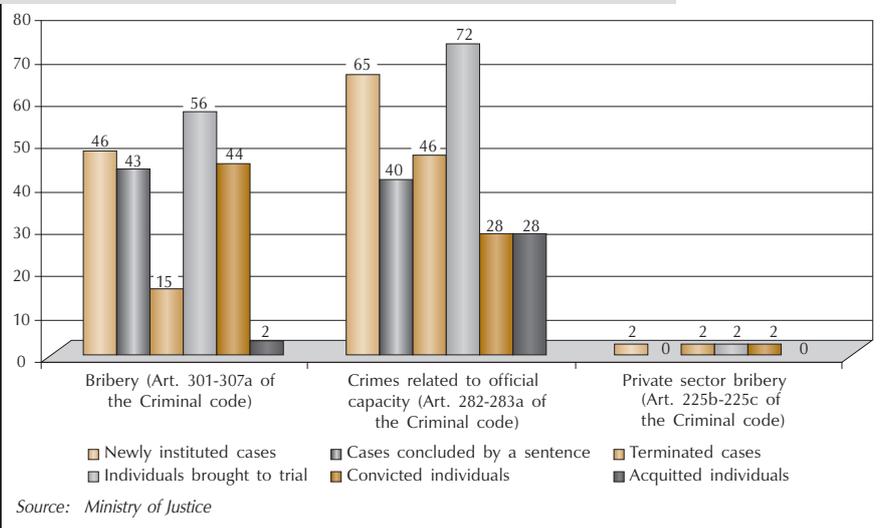
CHART 24: NUMBER OF CONVICTIONS AND NUMBER OF CONVICTED INDIVIDUALS FOR CRIMES RELATED TO OFFICIAL CAPACITY (1989 – 2004)



Although part of the Criminal Code amendments, especially those of 2002, introduced criminal liability for a larger number of corruption-related practices (e.g. trade in influence, bribery of a foreign official etc.) there has been no tangible change in the number of convicted individuals for such crimes. On the contrary, some provisions of the *Criminal Code* concerning serious corruption crimes in fact find very little practical enforcement.

- According to the Ministry of Justice, in the first half of 2005 there was not a single newly instituted case against **intermediaries of bribery**. This practice constitutes a considerable threat to society and is widespread among specific professional groups.
- Over the same period, only four cases were instituted, one of which ended by a conviction and there was one individual convicted for **bribery of a foreign official**—an act, incriminated in 2002 in accordance with the requirements of the *Criminal Law Convention on Corruption of the Council of Europe*.
- There is a similar situation with **trade in influence**, an act also incriminated by virtue of the *Criminal Code* amendments of 2002. In

CHART 25: NUMBER OF CRIMINAL CASES AND NUMBER OF INDIVIDUALS BROUGHT TO TRIAL FOR BRIBERY AND ABUSE OF OFFICIAL CAPACITY (JANUARY 1 – JUNE 30, 2005)



the first half of 2005 there were only three newly instituted criminal cases, four cases were concluded by a conviction and 5 individuals were convicted of the above crime.

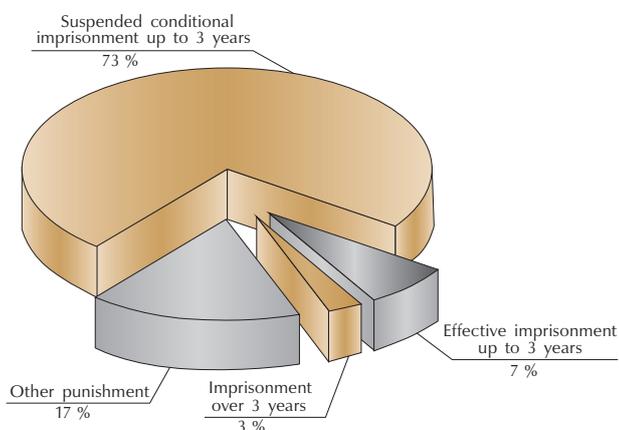
One of the reasons for the low level of detection and punishment of corruption is that both parties benefit from the transaction. Even if one of the parties to the deal decides to “defect” and turn to the authorities, he/she would also incur criminal liability. For that reason the conventional means for investigation of

crimes most of the time appear to be inapplicable with regard to corruption-related acts.

- In order to overcome these weaknesses, the new *Criminal Procedure Code* (adopted in October 2005, in effect as of April 2006) provided for the implementation of **new techniques for collecting evidence** in criminal proceedings (investigation by an agent under cover, controlled supply and confidential deal). These are instruments adopted and applied successfully in many democratic states and since 2004 they have also been part of international legal assistance in criminal matters.
- The extent to which it is justified to preserve the *Criminal Code* provision envisaging criminal liability for **provocation to bribery** (the premeditated creation of an environment or appropriate conditions which provoke offering, giving or receiving a bribe with the aim of harming the individual, who gives or receives such bribe) is still under discussion. Similar techniques are used in the so-called integrity tests which are control mechanisms for uncovering illegal practices, including corruption. Presently, the criminal liability stipulated for provocation to bribery prevents such tests from effective application; hence, it is necessary to reconsider the need to preserve the text in its current wording.
- The provisions incriminating the **crimes related to official capacity** need to be reconsidered. Created in a different socio-economic environment, these rules have lost to a great extent their initial purpose and currently are liable to be used as pressure on business and political opponents.
- The predominant **punishment imposed** for corruption crimes is imprisonment for a period of up to 3 years. On the one hand, this shows that it is mostly corruption cases of little significance that are penalized in Bulgaria, while serious corruption crime is left unpunished. On the other hand, Bulgarian courts continue to give preference to imprisonment as a punishment, which is not always the most effective counteraction means, especially regarding crimes involving significant material and financial interest. Financial sanctions, such as fines and confiscation of property, should be imposed more often in order to deprive the perpetrators of corruption crimes of the benefits obtained through their illegal acts as well as of assets that help them engage in graft.

The unsatisfactory results in detecting and punishing corruption suggest that simply harmonizing the laws with international legal instruments is not enough to effectively counter corruption. The *Criminal Code* still contains out-of-date provisions, for instance as regards the communist-era “economic crimes” which have been slightly re-worded but are inadequate for successfully countering serious economic crime. It is, therefore, necessary to perform a **comprehensive assessment of the criminal legislation** in order to clearly identify the areas in need of further reform, and prepare proposals for legislative amendments, including—in

GRAPH 26: PUNISHMENTS IMPOSED FOR BRIBERY AND CRIMES RELATED TO OFFICIAL CAPACITY (JANUARY – JUNE 2005)



Source: Ministry of Justice

the long run—the development and adoption of a completely new *Criminal Code*.

In Bulgaria, the main problems in detecting and punishing corruption are still concerned, above all, with the practical enforcement of legislation by the competent authorities and especially the judicial and law enforcement bodies.

3.3.2. The Role of the Investigating Bodies in Counteracting Corruption

Until the entry into effect of the new *Criminal Procedure Code* (April 2006) the main authorities competent to carry out investigation of corruption crimes are still the **investigation services**. The work of the investigation services in 2005 on corruption-related offences was by and large as in previous years.

TABLE 8: INSTITUTED PRELIMINARY PROCEEDINGS FOR BRIBERY, CRIMES RELATED TO OFFICIAL CAPACITY AND GENERAL ECONOMIC CRIMES IN THE FIRST HALF OF 2004 AND 2005

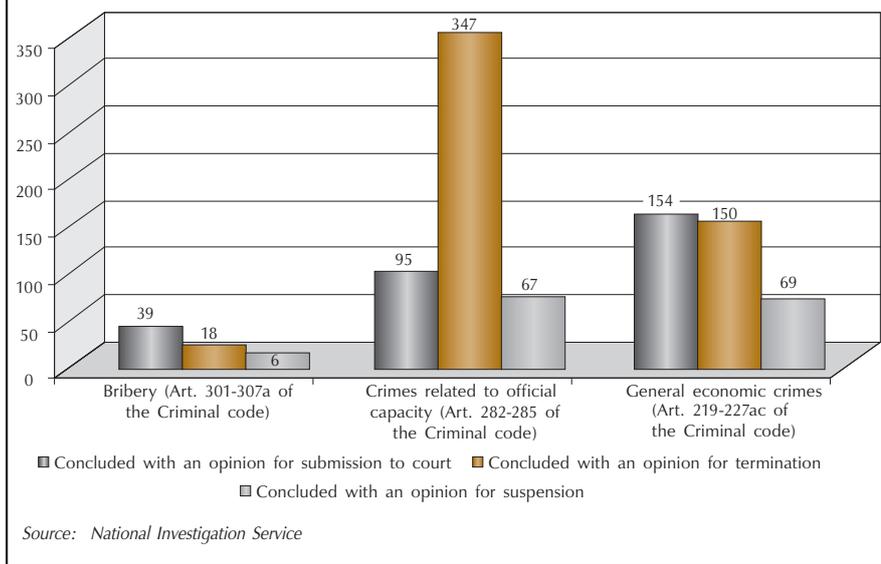
Year	Bribery (Art. 301-307a of the Criminal Code)	Crimes related to official capacity (Art. 282-285 of the Criminal Code)	General economic crimes (Art. 219-227 of the Criminal Code)
First half of 2004	61	205	252
First half of 2005	65	129	322

Source: National Investigation Service

In the first half of 2005, investigation authorities completed 63 preliminary proceedings for bribery (compared with 68 in the same period of 2004), 509 for crimes related to official capacity (compared with 501) and 373 for general economic crimes (compared with 304). The number of preliminary proceedings for bribery continues to be significantly smaller

compared to the number of proceedings for crimes related to official capacity and general economic crimes. The perseverance of this trend once again illustrates the low effectiveness of the competent bodies in the investigation of the most typical corruption offence, i.e. bribery.

CHART 27: CONCLUDED PRELIMINARY PROCEEDINGS FOR BRIBERY, CRIMES RELATED TO OFFICIAL CAPACITY AND GENERAL ECONOMIC CRIMES (JANUARY 1 – JUNE 30, 2005)



In 2005 a number of reforms implementing the *National Concept for Reform in the Criminal Proceedings in the Republic of Bulgaria* (adopted at the end of 2004) were instituted in the field of criminal justice. Put in place also because of commitments under the EU accession process, these reforms (adoption of the new *Criminal Procedure Code*) had most powers of investigation of corruption transferred from the investigation services (part of the judiciary) to police investigating officers (part of the Ministry of Interior). In practice, **almost all crimes, including corruption-**

related ones, which investigators have been competent to investigate until now, **will be transferred to police investigating officers.**

The range of crimes, which would still be investigated by judicial investigators, has been reduced to crimes against the republic, the defense of the country, state secrets, peace and humanity, as well as to crimes, committed by persons covered by immunity, members of the government and civil servants in the Ministry of Interior, and to crimes, committed abroad. All of these represent about 3% of the total number of crimes. From the perspective of corruption-related crimes, **the role of the investigation services, in practice, will focus on the investigation of cases of political corruption** involving individuals holding high government positions (Members of Parliament, magistrates, members of the Constitutional Court, ministers), as well as on corruption acts committed by officers of the Ministry of the Interior.

3.3.3. The Role of the Public Prosecution Office in Counteracting Corruption

The efficiency of the public prosecution against corruption, especially political, remains low. As the sole institution which implements state indictment policy, it has the exclusive power to press and maintain charges in corruption-related crimes. At the same time, the concentration of so much power is not tied to any mechanisms of accountability. This applies to the greatest extent to the Prosecutor General.

As a whole, the actions of the public prosecution office against corruption at the highest levels of government are inconsistent, often motivated by *ad hoc* political or personal considerations and directed mainly at politicians outside government, who lack or have limited power. **Procedural opportunities for investigation and punishment of political corruption** are wasted when response is delayed or lacking completely (especially regarding moves for lifting the immunity of MPs). This trend, observed most clearly at the end of the former Prosecutor-General's term of office, reveals unlimited potential for a **direct or indirect manipulation of the political process** at the "right" moment. In turn, the work of the investigation authorities and the court is affected. Moreover, deficiencies in their work, including the demonstration of political bias, as well as internal corruption, additionally complicate the detection and the punishment of corruption.

***Criminal Proceedings against Officials at
the Highest Levels of Government
(Political Corruption)***

"The Public Prosecution Office of the Republic of Bulgaria introduced indictments for corruption against individuals at the highest levels of government (political corruption), which are currently pending at the trial phase. Some of them have been concluded by a final court ruling. A total number of 35 indictments have been submitted to court, nine cases are at the pre-trial phase of proceedings. Thirteen of the presented indictments are against MPs in the 39th and 40th National Assembly and the remaining 22 are against the Chief Architect of Sofia, mayors of other municipalities and magistrates."

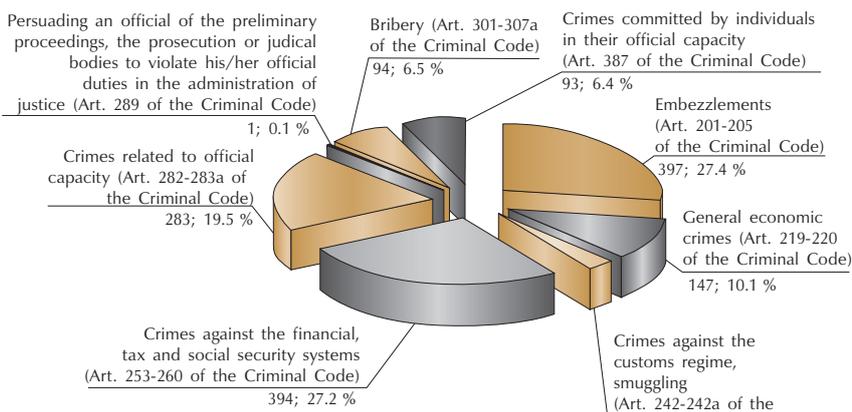
The Bulgarian Contribution to the Monitoring Report of the European Commission, Update for the Period September 26, 2005 – February, 2006

Although corruption is under a special file at the Supreme Prosecution Office of Cassation, their statistics for these crimes are based on criteria which do not allow an adequate assessment of the effectiveness of the public prosecution office. The range of crimes which the Supreme Prosecution Office of Cassation includes in the concept of corruption crimes is too wide. It encompasses, other than typical corruption crimes such as bribery, offences like embezzlement, smuggling, etc., which are not corruption crimes per se, although quite often their commission is accompanied by corruption practices.

According to the Supreme Prosecution Office of Cassation, in the first nine months of 2005 public prosecutors initiated a total of 1,452 preliminary proceedings for corruption crimes, 1,916 proceedings were concluded, and 961 – terminated. 604 indictments were submitted in court, where the total number of defendants was 735.

The relative share of typical corruption crimes in this group, however, is comparatively small.²⁶ For example, more than half of the total number of preliminary proceedings instituted was for embezzlement (27.4 %) and for crimes against the financial, tax and insurance systems (27.2 %), while the share of instituted investigations for the most typical corruption crime, bribery, was barely 6.5 %.

**CHART 28: INSTITUTED PRELIMINARY PROCEEDINGS FOR CORRUPTION CRIMES
(JANUARY 1 – SEPTEMBER 30, 2005)**



Source: Supreme Prosecution Office of Cassation

One of the purposes of the adoption of the new *Criminal Procedure Code* was the consolidation of the public prosecution office's role in criminal proceedings, making the public prosecutor *dominus litis* in the pre-trial phase of proceedings. Improving the procedural rules which regulate the participation of public prosecutors in criminal proceedings is not sufficient to increase the effectiveness of the public prosecution office. Above all, **the public prosecution office needs considerable organizational reforms**, which should substitute the existing communist-era model with modern European one and lead to increased transparency and accountability in its work and control over its effectiveness.

Possible measures in this respect are:

- Putting in place clear mechanisms for checks and balances of the branches of power by making **the Prosecutor General, the heads of the Supreme Court of Cassation and the Supreme Administrative Court elected by the National Assembly** by a qualified majority and a term of office longer than four years. The National Assembly should have the right to remove those officials before their term expires and decide on lifting their immunity only under conditions and following a procedure strictly defined in the Constitution; a logical follow-up to this principle would be **the possibility to make these magistrates (in view of their administrative responsibilities) answer parliamentary questions in explicitly stipulated circumstances.**
- **Decentralization, transparency and accountability of the public prosecution** by changing the hierarchical model to which it is confined at present. Better guarantees need to be put in place for the independence of prosecutors when they decide on individual files or

²⁶ According to the Supreme Prosecution Office of Cassation, the number of submitted indictments for the most typical corruption crime of bribery (Art. 301-307a of the Criminal Code) over the last three years was as follows: in 2003 – 46 indictments against 51 individuals, in 2004 – 77 indictments against 92 individuals and in the period 01 January – 30 September, 2005 – 79 indictments against 100 individuals.

cases. This concerns mostly independence from any superior prosecutor or the administrative manager and would include requirements that any instructions should be given in writing, giving the prosecutors the right to object against the instructions given by a senior prosecutor or withdraw from the case in the event of disagreement; introducing stringent sanctions to put an end to the unlawful practice of giving oral instructions to prosecutors down the line, etc; **regular and *ad hoc* reporting by the Prosecutor General** to the Supreme Judicial Council, **or alternatively to the National Assembly, should the proposal to have the Prosecutor General elected by parliament be accepted.**

- In case the constitutional model is changed—**move the investigation and the prosecution out of the judicial branch**, while adopting a model based on a wide consensus. Should the current constitutional model be maintained—separate the organizational, personnel and financial governance of the investigation and the prosecution from those of the courts within the Supreme Judicial Council (SJC).²⁷

3.3.4. Cooperation between the Judiciary and Law Enforcement Bodies in Counteracting Corruption

Weaknesses in the coordination and effective cooperation between judicial (the courts, the prosecution office and the investigation service) and law enforcement bodies are among the main reasons for poor efficiency in uncovering and punishing corruption. At the end of 2004, right after the government adopted the *Concept for Reform in the Criminal Proceedings in the Republic of Bulgaria*, the Prosecutor General, the Director of the National Investigation Service and the Minister of Justice signed a joint declaration in support of the concept, expressing their willingness to cooperate for its implementation. The rest of the institutions which have a certain role in carrying out the reform, as well as in countering crime, should also demonstrate their will for cooperation. At the same time, despite the declarations, there are still shortcomings in the practical cooperation between judicial and law enforcement bodies in the process of detecting and investigating corruption crimes. A pertinent example is the long expected **Unified Information System against Crime** which failed to materialize even in 2005. The development of the system, which should improve the exchange of information between the competent bodies involved in detecting and investigating crime, began nine years ago. Only in the beginning of 2006 it was announced that a mini information system might be launched linking the Ministry of Interior, the Investigation Service and the Prosecution Office, allowing them to exchange online information in relation to specific pre-trial proceedings, including matters of organized crime and corruption. This, however, does not include the courts and constitutes only a first step in the development of the unified information system.

²⁷ For details, see *Judicial Reform: The Prosecution Office and Investigation Authorities in the Context of EU Membership*, Center for the Study of Democracy, Sofia, 2005.

3.3.5. Countering internal corruption within judicial bodies

As judicial and law enforcement bodies are the main institutions intended to fight corruption within the state and society, their internal corruption to a greater extent vitiates the effectiveness of anti-corruption policy.²⁸ In the period 1998 – 2005, the CMS of *Coalition 2000* regularly registered high levels of corruption pressure within the system, despite a relative decrease in 2004 and 2005. This undermines their overall impact in countering crime, corruption in particular.

The Anti-Corruption Commission, created at the Supreme Judicial Council in the beginning of 2004, was intended to become one of the main mechanisms to counter internal corruption in the judiciary. In 2005 however, upon the initiative of public prosecutors at SJC, the commission was deprived of one of its main powers—to examine specific alerts and complaints of corruption within the judiciary. The pretext was that the public prosecution office would thus be “divested” of its powers. Thus, the work of the Commission in implementing the *Strategy for the Fight against Corruption in the Judiciary* was reduced mainly to analyses and recommendations regarding corruption patterns in the judiciary, as well as to informing the public about anti-corruption measures.

The SJC adopted *Organizational rules for receiving alerts from citizens about corruption within judiciary—investigation, public prosecution bodies and the courts* developed by the Commission. The Commission decides whether to inform the competent authorities and/or to answer alerts and complaints from citizens. In 2005, 36 complainants addressed the Commission. It undertook at its own initiative examinations into inconsistent jurisprudence or acts of magistrates that facilitate corruption, e.g. regarding the enforcement of procedural rules when civil registration data of individuals is changed, regarding automobiles used by magistrates, etc. A register of disciplinary and a register of criminal proceedings against magistrates were created (maintained by the SJC administration) on the basis of a proposal by the Commission.

As regards anti-corruption cooperation, specific measures were undertaken for joint activities of judicial bodies and non-governmental organizations for the prevention of crime and the fight against corruption – upon proposal of the Commission, SJC approved a model for such cooperation at a regional level. Cooperation between the Anti-Corruption Commission at the SJC, the Parliamentary Anti-Corruption Committee and the professional organizations of magistrates also improves. Thus, although within its limited competence only, the **Commission opts for a more active and effective role in countering internal corruption in the judiciary.**

The prosecution office, which had the SJC Anti-Corruption Commission’s powers limited, did not itself undertake any active measures for detecting

²⁸ For details on the anti-corruption reforms in the judiciary and law enforcement bodies, see *Anti-Corruption Reforms in Bulgaria*, Center for the Study of Democracy, Sofia, 2005.

and punishing cases of corruption within the judiciary. In discharge of its powers, granted by the *Law on the Judiciary*, in the first nine months of 2005 the prosecution office instituted only 11 files in relation to corruption actions by magistrates, five of which were against investigators, four against judges and only two against public prosecutors.

Thus, **in effect, acts of corruption within the judiciary remain unsanctioned.** The 2003 constitutional amendments which limited magistrates' immunity were expected to result in increased effectiveness of the criminal prosecution of magistrates. The fact that these expectations did not come true indicates that immunity alone is by far not the main obstacle to uncovering and punishing corruption amongst magistrates.

The inability of the judiciary to handle internal corruption suggests the need to consider other measures. One appropriate reform would be to establish an **institution of a public official empowered to exercise prosecutorial functions**, or alternatively a team of such officials, outside the hierarchical structure of the prosecution as it stands currently. Those officials should be elected by the National Assembly to perform specific functions, including the institution of preliminary proceedings, investigation and indictment of cases of corruption within the judiciary. Similar powers could also be granted to a special anti-corruption unit reporting to the Prosecutor General.

BULGARIA AFTER 2007 – NEW CHALLENGES

Bulgaria's accession to the European Union will unquestionably step up the process of curbing corruption, the gray economy, and organized crime in the country, but it cannot be expected to automatically do away with the internal factors that bring them about. At the same time, membership in the fairly complex political and institutional structures and procedures of the EU will bring the country up against **new challenges**.

The **internal risks** have already been identified by Bulgarian society and by our European partners: political corruption and organized crime, and the impunity from criminal prosecution of the members of the corrupt political-cum-business networks. The influence of some **external factors** should, however, not be ignored as they are of key importance, if the country is to make the most of the benefits associated with EU membership. Some of these factors include:

- ongoing reforms of the institutional dynamics of the EU and in particular, overcoming the constitutional crisis;
- the absence of a comprehensive European anti-corruption policy;
- the lack of tradition of collaboration of the European Commission with civil society in the member countries on developing and monitoring the policies aimed at improving democratic governance, enhancing transparency, and reducing corruption.

There are **two main problem areas** associated with this—on the hand, the admission of countries like Bulgaria into United Europe without the implementation of adequate anti-corruption instruments might heighten the corruption risk to European business. Risks also run in the opposite direction and are associated with the end of pre-accession anti-corruption monitoring of Bulgaria by the European Commission following membership.

The European Union itself is undergoing a **period of transformation**, further complicated by the rejection of the European Constitution by the Netherlands and France. As noted by British Prime Minister Tony Blair, “for Europe to succeed, it needs to reconnect its priorities and pre-occupations with the challenges its people face; demonstrate visibly the 21st century relevance of Europe; and give the policy answers to these challenges first and then let institutional change help deliver them”.²⁹

²⁹ Tony Blair, Speech on Europe, St. Anthony's College, Oxford, 2 February, 2006.

The European Union still does not have a comprehensive anti-corruption policy. Moreover, in its ambition to curb corruption the European Commission has adopted complicated bureaucratic procedures whose negative effect is commensurate with that of corruption. Priority is often given to “input” indicators (regulations, procedures, etc) rather than “output” indicators (actual impact), as done by a number of international financial institutions.

Without adequate and consistent actions to tackle the internal challenges and the external constraints on Bulgaria’s anti-corruption policy, the benefits of enlargement for both Bulgaria and the EU - are bound to be limited. Unless adequate internal and external monitoring measures are taken the major instruments for social cohesion and regional development of the EU – the European structural funds – may actually reinforce the corrupt effect of the existing political clientele and thus considerably reduce the positive impact of accession.

An important element of the formulation and development of a consistent anti-corruption policy within United Europe, as well as domestically, is the active involvement of **civil society and business**, which have an equal stake in the adoption of clear-cut and transparent rules in the process of forging the new European identity of the countries in transition. These sectors need to play a stronger role in the implementation of modern standards of transparency and visibility, which include effective civic control over the public sector, and specifically, over the government agencies in charge of European funds’ distribution. The near future will show **to what extent the European Union has the vision and political will** to genuinely involve civil society in addressing these anti-corruption tasks.

