

## E. THE ROLE OF CIVIL SOCIETY

### E.1. Non-Governmental Organizations

#### E.1.1. Public-Private Partnership against Corruption

The past year was again marked by a tendency towards ever-increasing role of civil society in **formulating the public anti-corruption agenda**. The involvement of the various NGOs and mass media in establishing the priorities of public counteraction of this phenomenon was driven by both the activeness or (in their role of facilitating civic involvement) failure to act of state institutions. In this respect the anti-corruption potential of civil society in turn reflects the elevated status of corruption-related issues in the context of the country's EU and NATO integration.

The anti-corruption priorities of civil society generally coincide with the goals set in the *National Anti-Corruption Strategy* adopted by the government in October 2001. In the course of 2002 representatives of the non-governmental anti-corruption initiative *Coalition 2000* and other independent experts took part in a Working Group to discuss the *Program for the Implementation of the National Strategy to Fight Corruption* and to outline an Action Plan with specific proposals and forms of cooperation between state institutions, non-governmental organizations, and the media. Measures were envisioned to create a favorable environment and conditions for broad public commitment against the manifestations of corruption, to elaborate joint plans for extended cooperation, special programs for involvement of national and private media in anti-corruption awareness-raising activities, etc.

These intentions, however, were not followed up by specific action. The clearly formulated task of securing proper channels to inform the institutions and the public about the results of the anti-corruption efforts failed to be implemented. This comes as yet another argument in favor of **reinforced civic control not only at the stage of defining the anti-corruption objectives, but equally over the real actions of the respective state institutions**.

**Civic anti-corruption initiatives using monitoring and independent assessment** are becoming an established social practice. One positive implication of the otherwise alarming fact that 90% of the funds raised from donors for the „third sector“ come from abroad is that, on the one hand, Bulgarian NGOs have managed to assert their autonomy *vis-a-vis* the state, and on the other hand, that they have become part of a transnational mechanism to monitor the reforms and respectively, to assess the anti-corruption actions of the authorities in this country. Despite the limitations of their scope, these initiatives and the respective projects help set standards of transparency and accountability in certain particularly high-risk sectors and activities in terms of civic rights and interests.

The focus on human-rights implications of anti-corruption, along with a

sustained critical distance from the authorities, has been characteristic of the Bulgarian Helsinki Committee, a member of the International Helsinki Federation for Human Rights. The civic organization Transparency without Borders is in turn part of the international network specializing in the anti-corruption sphere, Transparency International.

Another, more ambitious type of partnership could be defined as „trilateral partnership“ - i.e., **anti-corruption partnership between international donors, their Bulgarian non-governmental counterparts, and the respective state institutions in this country**. One instance of such partnership has been USAID's three-year Open Governance Initiative project, launched in 2002, which brings together the efforts of the *Coalition 2000* and state institutions. What is characteristic of this type of public-private partnership is that it unfolds in the context of the anti-corruption reforms in state structures, such as the National Audit Office and the Public Procurement Directorate with the Council of Ministers. Furthermore, it aims at harmonizing, to the extent possible, the priorities of state institutions and those of civil society. Such „trilateral cooperation“ reflects the common anti-corruption interests of civil society, state institutions, and foreign partners, who support the strategic areas of the reform in Bulgaria. It should be noted that the partnership is not solely confined to funding, but also involves drawing on the experience and know-how that a structure of the scale of USAID is in position to mobilize.

Leading non-governmental organizations such as the Foundation for Local Government Reform and the National Association of Municipalities in Bulgaria have been instrumental for the implementation of a number of **pilot projects on transparency, accountability, and good governance** (such as the establishment of Municipal Information Centers, the computerization of municipal administrative services, and the introduction of comprehensive service at one office).

Another positive outcome of partnership has been the establishment of the mandatory financial accountability procedure, which proceeds in line with European standards and comprises auditing of the projects by international auditors. Thus the anti-corruption projects are themselves implemented in accordance with the accountability standards established in the practice of the advanced democracies and in this sense, constitute a model of transparency in this important sphere.

### E.1.2. *Coalition 2000* Activities

In 2002 the non-governmental anti-corruption initiative *Coalition 2000* carried out a number of activities to expand the transparency and accountability of the public sector and enhance the anti-corruption potential of civil society:

- The **monitoring of public perceptions and attitudes to corruption** continued. The quarterly Corruption Indexes of *Coalition 2000* enjoy unswerving interest on the part of the public, the media, and the political elites. Their announcement becomes a media event with a tangible impact.
- In terms of the **anti-corruption public awareness campaign**, the past year was marked by a shift of the emphasis to specialized publications dealing with specific problems related to corrupt practices and anti-

**TABLE 10. COALITION 2000 ACTIVITIES  
IN THE PERIOD 1999 - 2002**

<i>Coalition 2000</i> Activities	Total 1999-2002
Information days	19
Radio broadcasts	25
TV programs	5
Clean Future Newsletter	7
Round Tables	60
Anti-corruption readers	9
Other publications	13
Public discussions and seminars on the introduction of the Ombudsman institution, international conferences	19
Public discussions on anti-corruption draft laws, codes of ethics, and anti-corruption projects	8
Monthly electronic newsletter	38
Corruption Assessment Report	4
Policy Forum	4

corruption activities.

- At the same time, the **educational component of anti-corruption** has been assuming increasing importance in its own right. Preparing the second edition of the *Anticorruption* handbook and the training of experts for the needs of the higher education system will help incorporate anti-corruption topics and lectures in the system of secondary education and in civil society lecture series.

- The expert and consultative capacity of *Coalition 2000* was drawn on in the preparation and implementa-

tion of **awareness campaigns on the new laws on the electronic signature, on political parties, on the newly adopted amendments to the Criminal Code and the Law on the Judiciary**. In this way, and as a result of anti-corruption cooperation with a number of European and international organizations, public pressure was exerted to adopt the principles of transparency and accountability in political life in this country.

- What proved most successful was the long-term cooperation between experts from the third sector and from state institutions within the framework of **working groups on crucial problem areas of corruption and its counteraction**. In the course of the year a Task Force on the Gray Economy and Corruption was set up in addition to the already existing Task Force on Trafficking and Corruption. Thus a **consultative mechanism is emerging for assessment and estimation of the entire cycle of the economy of crime**: from the gray and black (illegal) imports, through the shadow economy and the corrupt redistribution of criminal money, to its reintegration in the official economy using money-laundering mechanisms.

#### **Results of the Mechanism for Assessment of the Economy of Crime**

Two *Coalition 2000* studies dealing with the connection between trafficking and corruption were published in the course of the year.

*Smuggling in Southeast Europe* examines the processes of transborder crime in the context of the Yugoslav conflicts. More specifically, it explores the evolution of state/party monopoly over trafficking in

the post-Yugoslav states to secondary privatization of the trafficking channels by those who were initially the executors of the political will of their party and military leaderships. The alarming fact is pointed out that a tacit alliance seems to be emerging in the Western Balkans between the shadow structures of the individual states and national communities. Within this scheme Bulgaria plays the role of an intermediary in international trafficking, connecting the Middle East and Asia with the Western Balkans, and from there, with Central and Western Europe.

*Corruption, Trafficking, and Institutional Reform* is a study that further explores a number of topics considered in an earlier publication of 2000. It contains the first classification of corruption levels and practices in customs. There is also an expert assessment of the scope of trafficking by product category. The study finally assesses the anti-corruption reform within the system of the Ministry of Interior and in customs and makes recommendations about ways to improve coordination and enhance the efficiency of the measures to intercept transborder crime.

Both studies have been published in Bulgarian and English and are available at [www.anticorruption.bg](http://www.anticorruption.bg).

- The new stage in the implementation of **anti-corruption initiatives at a municipal level** included monitoring of the gray areas of corruption risk in local government and in the municipal administration of a number of Bulgarian towns (public procurement, use of municipal property, processing of citizens' complaints about corrupt practices, municipal privatization, and others).
- The active involvement of *Coalition 2000* in the public debate on one of the most topical issues in domestic and international politics - **the fight against terrorism and organized crime** attracted considerable public attention. Public discussions were initiated focusing on the correlation between organized crime and corruption and on the need for new models of counteraction. There was broad public response to a number of forums organized by *Coalition 2000* with the participation of representatives of state institutions, independent experts, and the media. These included the public discussion of the draft law for the amendment to the *Law on the Judiciary*, the presentation of the *Draft law on measures against the financing of terrorism*, the discussion on the *Draft law on asset forfeiture*, round tables with the participation of emblematic figures in the fight against corruption and organized crime, such as European Parliament Member Antonio Di Pietro, French Investigating Judge Eva Joly, and others.
- In the course of 2002 the efforts of *Coalition 2000* to **introduce the ombudsman institution in Bulgaria** acquired a new dimension. Whereas in the previous phase the Coalition focused on the elaboration of a draft law, in 2002 it made successful efforts to implement mechanisms of the ombudsman type on a local level. On the initiative of *Coalition 2000*, a number of Municipal Councils decided to introduce local ombudsmen or civic mediators. The practical implementation and experience on a local level are of great importance for the adoption

of this democratic institution in Bulgaria and for the adoption of the respective legislation.

- Relatively recent are the efforts of non-governmental organizations to launch **public-private partnership in the sector of security reform**. Anti-corruption is becoming an issue that brings together the interests of the reforming law-enforcement authorities, some non-governmental organizations such as the Center for the Study of Democracy, and their international partners.

### E.1.3. Problems and Challenges Facing Civic Organizations

Along with the good practices, the third sector is also faced with certain **structural weaknesses in its anti-corruption activity**:

- The poor coordination between the analytical centers and foundations in the anti-corruption sphere.
- The limited duration of a number of anti-corruption projects, which is not conducive to making these issues a strategic priority of the respective non-governmental organizations.
- The inadequate coordination between the international organizations sponsoring anti-corruption projects, which impedes the more effective support of the third sector, and others.

**The non-governmental sector itself continues to generate corrupt practices.** In the course of the year under review there was a succession of publications in the media containing allegations against certain foundations dedicated to supporting the Roma communities in Bulgaria. The articles criticized the redistribution of donor funds, a considerable portion of which have allegedly not been spent on the implementation of the respective project goals.

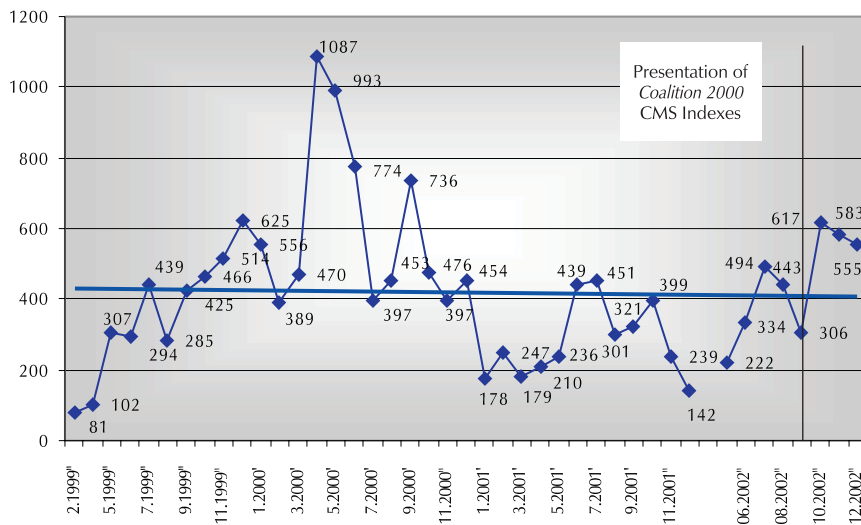
It should be equally noted that some civic organizations make use of their platforms and professed public goals in the self-interest of their members while achieving minimum social impact with the projects they work on. There is a continuing tendency towards token activities by some NGOs, which skillfully adjust to the priorities of the financing organizations and are becoming ever more expert in the bureaucratic jargon when reporting their otherwise quite modest activities. In the absence of sufficiently effective control over project implementation by the financing organizations, there emerge conditions for corruption-related abuse in this sector.

## E.2. Media, Information Environment, and Anti-Corruption

In 2002 the media covered a number of corrupt practices, which were the subject of journalistic investigations, analyses, and commentaries. A great many of the cases exposed and investigated actually started from and through the media. What is more - **investigative reporting continues to prove more effective in exposing corruption-related crimes** than the competent authorities, despite its limited instruments and capabilities.

In the sphere of **political corruption**, attention was largely focused on the investigations of privatization deals initiated by the prosecution, as well as assumptions of corruption in connection with the activity of the government.

**FIGURE 31. MONTHLY NUMBER OF ARTICLES ON CORRUPTION IN THE PRESS\***



Source: CMS - media monitoring  
 (\*) Note: No monitoring has been carried out in the period January - April 2002.

More specifically, the media stressed the following problems of systematic corruption:

- the enduring influence of organized crime over the mechanisms of power;
- the corrupt practices sustained by the very authorities bound to intercept, investigate, and punish acts of corruption (law enforcement and the judiciary);
- the continuing existence of a multitude of registration and licensing regimes;

- the practice of legitimate personal gain by public officials, including from the top ranks, through participation in state owned company boards of directors;
- the adoption of legislation that gives rise to doubts about outright lobbying or even „clientelism“.

In addition, the media were also concerned with the **reasons for the poor impact of the government’s anti-corruption activities**, among which:

- the coordination problems between the different bodies counteracting corruption;
- the discrepancy between the declared intention to expose large-scale corruption crime and the modest achievements of the executive in this respect;
- certain appointments raising doubts about corruption.

Most of the publications and programs, however, dealt primarily with corrupt practices in the lower ranks of public officials (about corrupt police and customs officers and others). This may actually indicate an objective decrease of the instances of political corruption. At the same time, there are additional reasons for the reorientation of a number of journalists towards exposure of cases of abuse of public office in the lower ranks of the administration, and more notably:

- fear of criminal prosecution;
- lack of support from law enforcement, the administration, and the judiciary;
- shortage of resources, time, and funds;

- concerns about possible pressure and covert reprisal against the media themselves;
- lack of transparency in the top ranks of power.

In addition to these obstacles, the **work of the reporters is still impeded by the poorly regulated and obscure legal and institutional environment** in which the media operate and develop. The more notable **problems** in this respect are:

- Impeded access to information, often labeled „classified“ and „official or state secret“ without sufficient grounds.
- The possibility still exists to compel reporters to disclose their sources of information.
- Administrative obstacles to obtain the information needed;
- Deficiencies in the registers.
- Poor interaction with both the law enforcement authorities and the judiciary system - the two basic units in counteracting and punishing corrupt practices.
- Continuing inertia on the part of the competent authorities, who rarely initiate proceedings themselves based on journalistic reports and revelations despite the possibilities offered by the *Criminal Procedure Code*.
- The practical application of the *Law on the Access to Public Information*, which was adopted two years ago, has proven controversial. This piece of legislation is supposed to help remove some of the obstacles before investigative and anti-corruption reporting, all the more that it explicitly lays down journalists' right not to disclose their sources. However, journalists come up against a number of difficulties when invoking this Law and in some situations are confronted with even greater obstacles than before. One emblematic case was the government's failure to promptly allow access to the transcripts of Council of Ministers sessions. There have been dozens of other cases when requests for access to public information actually led to court action.
- The remaining two legal acts on public information were adopted in 2002 - *Law on the Protection of Personal Data* and *Law on the Protection of Classified Information*. Neither of the two laws or some of the by-laws regulating their application were implemented effectively in 2002. There are warranted fears that the two laws and the accompanying by-laws could actually impede even further the access to information and pose yet another obstacle before investigative reporting.
- The *Law on Radio and Television* still contains a provision allowing the **disclosure of a source of information**. Another problem in the same law is the provision that „radio and television operators cannot create and disseminate programs containing information about citizens' private life without their consent“. „Private life“ is defined as „a person's life in its family, health, and sexual aspects“. The law nevertheless allows „reference to information in the public interest about the private life of persons vested with public authority or citizens whose decisions have an impact on society“.

- Another group of problems were related to the performance and professional advancement of journalists active in this sphere. There was a tangible **shortage of qualified and motivated journalists** covering the corruption / anti-corruption thematic cycle.

In this connection, a number of **obstacles and weaknesses within the media** themselves need to be brought up for public debate:

- Lack of practical experience among a considerable number of the journalists covering this subject;
- Inadequate legal awareness of some of the journalists;
- A strong inclination to sensational reporting, tolerated and even encouraged by the editorial policy of many periodicals;
- Insufficient responsibility when making corruption-related revelations, the reluctance to double-check the reported facts, exaggeration and manipulation of the data, etc.
- The high „rate of mortality“ of journalistic revelations owing to the quest for ever-new sensations and scoops, the lack of sufficient motivation to complete the investigations and/or reluctance of the reporters to confront the persons exposed;
- Instances when the media are used for personal or inter-institutional settling of scores;
- The emergence of symptoms of degradation of the media's independence and the subjection of the editorial policy of some of them to group or corporate interests;
- The imposition of a tacit editorial taboo (or reporters' auto-censorship) on cases of violations and abuse of power by law-enforcement authorities or the judiciary.

The overcoming of the existing weaknesses and obstacles to investigative reporting require efforts in the **following areas**:

### **1. Improving the professional qualification of journalists through various educational initiatives:**

- Organizing legal courses for investigative reporters and representatives of the media concerned with corruption;
- Anti-corruption courses for media representatives similar to the lectures envisioned for public officials;
- Creating special awards for journalists with major contributions to the fight against corruption, as proposed in the 1998 Anti-Corruption Action Plan of *Coalition 2000*.

### **2. Improving the interaction between the media and state institutions**

- Improving the cooperation between the judiciary and law-enforcement authorities on the one hand, and the media, on the other, including by the creation of special information units;
- Setting up hotlines and joint „complaint offices,“ both within the respective state institutions and the media themselves;
- Publicly disclosing each proven case of corruption, particularly in the higher ranks of power.



### 3. Improving anti-corruption cooperation between the media and non-governmental organizations

An important development in this respect was the launch in 2002 of the **anti-corruption monitoring of the media within *Coalition 2000***. The main goal of the monitoring is to determine the intensity of media coverage of the corruption problem and to assess the role of the media in shaping public opinion and attitudes to this phenomenon. A database was created for the purpose, with daily entry of items from all of the media monitored and weekly, monthly, quarterly, and annual media monitoring reports. The anti-corruption monitoring will help journalists follow the evolution of corruption revelations, as well as their coverage in the media.

This activity will also allow the creation of an **ongoing calendar of corruption disclosures**, making it possible to monitor the reactions of the media and the concerned authorities after the initial corruption revelations. Such an initiative will further help the journalists keep up-to-date about the status of the individual corruption cases and get background information on the exposed facts.

#### **Anti-Corruption Pressure Group**

The Anti-Corruption Pressure Group is a project of the ACCESS Association - Sofia (2001-2002) using media publications to refer cases of committed corruption-related crimes for prosecution. The project combined civic control over law enforcement with partnership between a civic group and the prosecution. Files were opened on the basis of the 57 articles referred by the Group, as follows: preliminary proceedings were initiated in 2 cases; preliminary investigations were initiated in 19 cases; official decline to launch preliminary proceedings was issued in 5 cases and the files were closed; in 7 cases it was established that there were pending or overdue investigations.

The cases referred for prosecution under the project were based on the findings of a specialized media monitoring of specific instances of corruption. This type of monitoring involved selection and analysis of specific reports of corrupt practices brought out in the media.