
INTRODUCTION

The corruption situation in Bulgaria moderately improved in 2002, as reflected in the *Coalition 2000* Corruption Indexes. Trust in the government's anti-corruption efforts rose. However, a large part of the public still believes the government has not yet achieved any tangible results in reducing corrupt practices. **Corruption is still perceived as one of the gravest problems of transition**. It ranks fourth by importance, after unemployment, low incomes, and poverty.

The international community has assessed favorably the country's capacity to deal with corruption. Bulgaria has continued to improve its ranking in the Transparency International Corruption Perception Index - in 2002 it was 45th out of 102 countries, up from 66th place in 1998. In this respect Bulgaria has outperformed such countries as the Czech Republic, Latvia, and Slovakia, and was the only EU applicant country to achieve significant improvement of its corruption rating.

However, the evaluation of the anti-corruption measures taken by the government is ambiguous. Inconsistent implementation of its anti-corruption policy has been the dominant characteristic of its actions, whether due to insufficient will to institute changes or the lack of administrative capacity to implement it.

At the same time, it has become obvious, especially toward the end of the year, that the **accumulation of unsolved problems in counteracting corruption has been due not only to the unconvincing performance of the executive, but also to intensified partisan bickering**. There was a conspicuous tendency to exploit the flaws of the Constitution and the conflicts arising between the three branches of power for partisan purposes. All of these factors have affected adversely the fight against corruption and its chances of success.

The politicization of the judiciary has not only intensified the conflict between the different branches of power, but has also provided a convenient cover for corrupt practices among magistrates. **The judiciary was used to exert influence over large-scale privatization and the redistribution of national wealth**. At the same time, the absence of internal and external means of control over the magistrates is conducive to impunity and **mounting corruption pressure within the judiciary**. Public trust in the third power has reached an all-time low.

Political tensions in turn have affected the capacity of **law-enforcement authorities** to mobilize their anti-corruption resources. It has become increasingly obvious that any major crackdown on corruption is impossible without more radical anti-corruption reforms in the security forces - the Ministry of Interior, the armed forces, etc.

In this context, the risk of corruption affecting government institutions and of consolidation of the positions of organized crime in the national

economy remains. Furthermore, corrupt practices on the lower levels of national and local government administration are still rampant.

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The 2002 corruption situation could be summarized by the following, **often contrasting evaluations of government actions:**

- **The old clientelist matrix reproducing corruption schemes at the various levels of interaction between the political and economic spheres was dismantled.** At the same time, government activity was marked by a tendency towards revival of certain non-transparent methods and practices, which **cast doubts on its declared intentions.**
- With the adoption of more transparent procedures in the economy and the progress made in the regulation of party financing, **political corruption has been significantly restrained.** On the other hand, **the level of corruption among lower-ranking public officials has remained unchanged** due to corruption impunity and weak control over public administration work.
- Personal involvement in corrupt practices shows a steady marginal decline in the period 1998-2002 and relative stability in 2002. **On average about 130,000 actual acts of corruption have taken place monthly in 2002** (about 2% of the population have indicated that they have given money, a gift, or have done a favor in order to have a problem of theirs resolved). The declining personal corruption involvement since 1998 is definitely indicative of certain achievements in curbing corruption, but **the level of corruption in absolute terms** remains disturbingly high.
- While there has been considerable progress in 2002 in the development of anti-corruption **legislation**, the pace and quality of the changes still remain inadequate.
- **International and European legal instruments related to the criminal prosecution of corruption** were successfully adopted in 2002. This has made it all the more imperative to ensure the effective enforcement of the new legislation and the harmonization between the newly adopted legal instruments and existing laws.
- The implementation of the **Strategy for Reform of the Judiciary in Bulgaria** began in 2002. Notwithstanding the measures to change the legal framework of judicial governance, structure and professional qualification, there has been no tangible anti-corruption progress. Furthermore, the issue of the financing of the judicial reform still remains unsettled. The issues related to the judiciary occupy an important place in the debate on possible constitutional changes, and more specifically on those concerning the independence and structure of the judiciary, as well as the immunities and irremovability of magistrates. However, the politicization of the debate threatens to distort the very goal of the changes needed - namely, an independent, effective, free of - and successful against - corruption, judiciary. At the same time, there

was not sufficient political will to implement the reforms that were feasible under the existing constitutional model.

- In the course of the year **the prosecution has become more active** in investigating corruption-related offenses, including in the high ranks of power. On the other hand, there were allegations of non-transparency and prejudice in the prosecution, implicating mainly its top-ranking members, which makes it very difficult to evaluate its impact in counteracting corruption.
- The **lack of statistical records kept by the different units of the judiciary and law enforcement**, based on common criteria and integrated in a unified information system, makes it impossible to examine the actual role of these units in detecting, investigating, and punishing corruption. The role of the law-enforcement authorities for the operation of the judiciary remains unrecognized.
- The National Assembly is **still far from being a model institution in terms of anti-corruption impact**. Under public pressure, Parliament has established a standing **Anti-Corruption Committee**, which is yet to become a working instrument. However, MPs have failed to institute a **mechanism for resolving conflicts of interest within the legislature**. The adoption and implementation of codes of conduct, whether by law or by internal regulations, would help enhance the authority of the National Assembly and public trust in the work of the MPs.
- **No sustainable results in limiting corruption in the public administration, and particularly in the provision of administrative services, have been achieved**. Measures to develop and reinforce specialized control mechanisms over the public administration are yet to unfold their full anti-corruption potential. There have been unwarranted delays in the introduction of additional mechanisms for monitoring the work of public administration and for countering corruption. **Bulgaria continues to be among the few European countries without an ombudsman institution**.
- A host of anti-corruption initiatives have been announced in the **economy** but few have actually been implemented and have produced any results. Despite declared intentions, the government did not reduce **the tax and social security burden in 2002, and the regulatory intervention of the administration in the economy remained controversial and non-transparent**. As a result, **the share of the gray sector in the economy and related corruption remains high**. Efforts in this area need to shift from improvement of the regulatory framework towards ensuring transparent and prompt implementation of existing rules.
- **The level of direct government intervention in the economy through subsidies has remained unchanged in 2002**. The adopted *Law on State Subsidies* is conducive to transparency but does not create conditions for limiting state subsidies. Aid for agricultural producers is becoming a major risk area for corruption and abuse.
- **Transparent management of budget expenditures** is an important element of the fight against corruption. The problems in this area remain although the 2003 budget approval procedure has been

somewhat improved. Delaying financial decentralization and preserving matching subsidies for the municipalities create **preconditions for the use of public resources to exercise political control over local governments**. The **lack of progress in the implementation of healthcare reforms has led to an increase in „unregulated“ payments** within the system and to rising public discontent with the quality of healthcare services.

- Despite the 2002 amendments to the *Law on Public Procurement*, which aim at improving transparency, optimizing and shortening delays, and ensuring greater competition, **public procurement procedures are still among the main sources of corruption** and generate considerable “rent” for the public administration (by conservative estimates, approximately BGN 15 million [appr. USD 7.5 mln.] in 2002). **More than half of the companies that have participated in tenders resort to bribes when obtaining every other procurement contract. Irregularities in the public procurement practices in Bulgarian municipalities are a particularly serious problem.**
- In the divestiture of state owned assets, the **abolition of non-transparent privatization procedures** such as negotiations with potential buyers and management-employee-buy-outs has had a positive effect. **Privatization through tenders and auctions has demonstrated strong fiscal efficiency and transparency.** The anti-corruption measures laid down in the *Law on Privatization and Post-Privatization Control* have not been fully implemented due to **delays in the adoption of by-laws and regulations.**
- The focusing of **Privatization Agency’s efforts** on the two large-scale and politically encumbered deals for the sale of Bulgartabak and the national telecom BTC has led to a **slowdown of the privatization process** and has reinforced negative public opinion about rampant corruption in this area. The work of the **Post-Privatization Control Agency has been greatly impeded by the lack of adequate financing and by the delayed adoption of its statutes.**
- Efforts to counteract corruption in the public sector have been adversely affected by the **absence of proper coordination in the actions of the executive.** This could **adversely affect the effective implementation of the National Anti-Corruption Strategy.**
- **Public-private partnership in counteracting corruption** has been particularly effective when implemented with the support of international governmental or private organizations. **An example of best practice in anti-corruption partnerships is the USAID supported Open Government Initiative** project. A number of government ministries, and most notably the Ministry of Justice, the Ministry of Interior, and the Ministry of Foreign Affairs, demonstrated **readiness to work with non-governmental organizations**, including on counteracting corruption. Nevertheless, the potential of public-private partnerships is still not fully utilized owing to the reluctance or inability of state institutions to engage civil society and to seek broader public support for their policy.

- In the course of 2002 a **large number of corruption-related investigations have been initiated as a result of publications and reports in the media**. Nonetheless, **obscure regulations diminish the impact the media could make in this area**. The problems related to the professional skills and inadequate legal awareness of journalists also have a negative impact.
- Most international institutions and donor agencies provide significant technical and financial assistance to anti-corruption efforts in Bulgaria. There was, however, **insufficient coordination among internationally supported government projects and inadequate public accountability about their results**.
- Regional aspects of the spread of corruption were still relevant in 2002. The reports of the Southeast European Legal Development Initiative (SELDI) indicate a strong impact of trafficking on corruption in Southeast Europe. This warrants a **stronger focus by law enforcement agencies on the cross-border sources of corruption**.

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Judging by the successes and setbacks of anti-corruption efforts no breakthrough was achieved in 2002. Intended **reforms in the judiciary and the security forces**, also needed in the context of EU and NATO accession, could be a **turning point in curbing corruption in Bulgaria**. This needs to be a priority task for both the government and society as a whole. Proceeding with reforms in these areas would further ensure anti-corruption progress.