



August 2006, No 10

A Painful Shift in Bulgarian Anti-Corruption Policies and Practice

In its March 2006 annual corruption assessment report *On the Eve of EU Accession: Anti-Corruption Reforms in Bulgaria* the Center for the Study of Democracy emphasized that “corruption, particularly in the high echelons of power, is one of the most critical problems faced by Bulgaria on the eve of its accession” as the Bulgarian “public tolerates less corruption and is increasingly concerned by it.” Bulgaria needs to present clear evidence of results in its fight against corruption, in particular on high political level.

The most important shift in Bulgaria’s anti-corruption policies in recent months is the move from “soft” (awareness-raising) campaigns to “hard” (prevention and sanctions oriented) measures with immediate anti-corruption effects. Some encouraging developments include the following:

- In an initiative led by the Prime Minister all **high ranking officials have publicly disclosed their assets**. With the latest amendments to the Law on Public Disclosure of Senior Public Official's Financial Interests adopted by the Bulgarian Parliament some **6 000 officials holding public office are required to disclose their financial interests** and assets to the National Audit Office, which will then audit and publish their declarations on the Internet;
- The **new Law on the Political Parties** adopted on first reading in Parliament obliges political parties to publicly declare their donations including donations from satellite political foundations. In an effort to block the most frequently used channel for political payback the Law forbids donations from companies that participate in, or implement public procurement contracts.

Members of Parliament are already obliged by law to declare any **conflict of (financial) interest** in their activities (both in the specialized Parliamentary committees and in the plenary discussions);

- The Bulgarian judiciary has considerably stepped up its anti-corruption efforts, especially through the actions of **the new Prosecutor General**, who received unprecedented political support from all political parties and members of the judiciary. The Prosecutor General initiated long-overdue **internal structural reforms** focusing on high-level corruption and corruption within the prosecution. A specialized section on combating political corruption was set up within the General Prosecutor's Office. Some **innovative legal instruments** were also introduced, such as criminal investigation charges against collective bodies which had been used in the past to hide personal responsibility of the management of state-owned companies;

- The **Ministry of the Interior remains the leader in anti-corruption efforts** within the executive, combining openness to the media and civil society with stronger anti-corruption measures, including some politically painful steps to counter internal corruption. The latter is exemplified by a number of high profiled investigations of alleged offences by the head of the National Fire and Emergency Service, and the head of Sofia Traffic Police (the *de facto* second in-command in the Traffic Police). For the first seven months of the current year some 40 cases of MoI officials charged with corruption have been forwarded to the Prosecution. It should be noted that for the first time MoI has launched serious steps towards cornering shady interests in one of the most intransparent and politically sensitive areas of the Bulgarian economy – the energy sector;

- Both the parliamentary and the government's anti-corruption commissions have stepped up their efforts to ensure a strong anti-corruption environment in the country. The government anti-corruption commission adopted a system of indicators for assessing the implementation of the Strategy for Transparent Governance and for the Prevention and Countering of Corruption 2006 - 2008 – *Monitoring of the Anti-corruption Reforms in Bulgaria*, developed by representatives of the Bulgarian civil society. It should be implemented by independent Bulgarian NGOs, which would guarantee the impartial evaluation of the government's anti-corruption efforts and its contribution to the long-term, sustainable management of Bulgaria's anti-corruption actions within the European Union. The parliamentary anti-corruption commission continues its joint efforts with Bulgarian civil society organizations to cut back on one of the most dangerous sources of corruption and crime money – VAT fraud, by initiating a series of legislative changes to close existing loopholes in the Bulgarian legislation, introducing better internal control within the tax

administration and demanding stricter oversight by the anti-corruption commission on changes in the VAT law.

Taken together these recent developments create a **tipping point for countering political corruption**, a critical mass of action to guarantee that Bulgaria moves to a new equilibrium of lower political and administrative corruption. More pressure and support both from EU partners and from the Bulgarian civil society and mass media would be needed for the country to move more quickly to this new equilibrium.

* * *

Bulgaria still needs to address several **outstanding challenges** to complement its initial steps against political corruption:

- The Bulgarian government should work on its good progress in improving the internal (within the executive) and external (to the judiciary and the legislature) **coordination of anti-corruption measures**. The complexity of the coalition government creates additional possibilities for watering down political and administrative accountability, hence the increased need for coordination between different anti-corruption agencies and players. In this regard the government's Commission for Prevention and Countering of Corruption remains understaffed and has yet to demonstrate capacity to **pro-actively generate anti-corruption policies**;

- Two **areas** remain **critically important** to curbing political corruption in Bulgaria in the long-run:

- **public procurement** - the European Bank for Reconstruction and Development and the World Bank have recently confirmed the findings of national organizations that public procurement remains the **most corruption vulnerable area in the economy**. According to CSD estimates in 2005 alone up to EUR 190 million of public procurement has been directed towards 'party loops of companies', a term used by the leader of the Movement for Rights and Freedoms party to describe the existence of companies close to the party which support its campaigns in return for receiving public-procurement contracts, licenses, concessions, etc. In addition businesses have been forced to pay in 2005 as much as EUR 28 million in kick-backs to win public procurement contracts and stay in business. While these figures produced uproar in Bulgarian media when the CSD annual corruption report was released, they have been dwarfed by the fraud

allegations surrounding the investigation of the Sofia Central Heating Company. In this case alone more than EUR 50 million has allegedly been siphoned out of the company into private and party accounts. The issue of corruption in public procurement has again been raised by the Bulgarian Association of Information Technologies in a recent allegation of corruption motivated multi-million-euro IT public procurement tender by the Ministry of Public Administration and Administrative Reform. Public procurement has recently surfaced as the main corruption generating channel also in the case of fraud at the State Reserve Agency. In view of **reducing the channels for political payback and corruption** and preparing Bulgaria's upcoming participation in the European Structural and Cohesion Funds special attention should be paid to **ensuring transparency and accountability in public procurement**. To this end Bulgaria needs to develop a transparent and inclusive legislative framework for **public-private partnerships** based on the European best practice that will allow for a more efficient and flexible use of public resources, and will lead to a decrease in related corruption;

- **VAT fraud** – According to different estimates the Bulgarian government loses up to EUR 450 – 500 million in VAT fraud annually. While these numbers may be low compared to similar estimates in Germany (EUR 18 – 20 billion) or Great Britain (EUR 10 billion) they represent a much higher share of annual VAT revenues in Bulgaria (20 – 25%) than in these EU countries (5 – 6%). With its entry into the European Single Market in January 2007 Bulgaria might face an even greater pressure on its revenues as the tax administration will have to deal with a much more complex VAT system. And VAT has become one of the lucrative markets for organized crime in Europe providing easy resources for corrupting public officials.

The dual challenge of public procurement and VAT fraud requires significantly improved coordination within the government and the judiciary, as well as active engagement of the Bulgarian civil society and legitimate business community.

- The government should also continue its efforts in the **administrative corruption domain** – improving public spending; enhancing the quality of public services, including by introducing electronic government; moving forward with liberalisation and the reduction of barriers to competition within the country; etc.;

- A very important step towards reducing effectively political and administrative corruption which has already proven its impact in the Bulgarian and international anti-corruption

practice is the government's **commitment to independent oversight** of its anti-corruption actions. In this respect the government's anti-corruption commission should implement the *Monitoring Anti-Corruption Reforms in Bulgaria* methodological matrix, which it has recently adopted. The matrix makes a comprehensive assessment of the anti-corruption efforts in the country on three levels:

- evaluating the adequacy, effectiveness, timeliness and the degree of implementation of the measures included in the government's Strategy and Program for Transparent Governance and for the Prevention and Countering of Corruption 2006 – 2008;
- factoring in the impact of changes in the country's social environment, which affect directly the level of corruption and the degree of transparency in the governance of the country;
- measuring the impact on the level of corruption of all anti-corruption programs implemented in the country.

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