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## Bulgarian Anti-Corruption Reforms: A Lost Decade?

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### ABSTRACT

The Worldwide Governance Indicators show that Bulgaria has made significant progress in the area of “control of corruption” since 1996. This finding contrasts with the general opinion of the Bulgarian population who perceive Bulgarian institutions as corrupt, and contradicts the decision of the European Commission to continue monitoring Bulgaria’s progress in fighting corruption and organized crime. Hence, there is a need for careful consideration and analysis to understand how much progress Bulgaria has really made in the fight against corruption. Can Bulgaria be considered an anti-corruption success story?

This paper seeks to answer the above questions by providing a background analysis on Bulgaria’s governance regime. According to research, Bulgaria has made some progress in its transition from *patrimonialism* to *open access order* but the main features of its governance regime remain these of *competitive particularism*. In legal terms Bulgaria displays some *open access order* features but they do not translate into practical implementation.

Indigenous indicators suggest that Bulgaria has made progress in the control of corruption mostly in the period 1998 – 2004 in the domain of administrative corruption. Following the country’s EU accession in 2007 progress has been uneven, and has mostly been driven by civil society demands for change, which culminated in mass street protests in 2013. Progress in the political corruption domain has been limited. Power distribution in Bulgaria has opened up to competition but is still concentrated in few political party leaders and powerful business conglomerates, interlinked in a complex web of dependencies with former secret service and communist party elites, which still have privileged access to state resources. Convictions, in particular of high-ranking politicians and administrators are non-existent or rare, a sign that the rule of law and accountability have not yet taken hold in the country.

### KEYWORDS

Anti-Corruption, Corruption, Governance, Governance Regimes, Bulgaria

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## List of acronyms and abbreviations

AAPI	Act on Access to Public Information
ACS	Act on Civil Servants
AIP	Access to Information Programme
AoPP	Act on Political Parties
APP	Act on Public Procurement
ASB	Act on State Budget
BSP	Bulgarian Socialist Party
CEC	Central Election Commission
CEDB	Citizens for European Development of Bulgaria
CIPAA	Conflict of Interest Prevention and Ascertainment Act
CITUB	Confederation of the Independent Trade Unions in Bulgaria
CM	Council of Ministers
CMS	Corruption Monitoring System
CPC	Commission for Protection of Competition
CPCCOC	Centre for Prevention and Countering Corruption and Organized Crime
CSD	Center for the Study of Democracy
CVM	Cooperation and Verification Mechanism
EC	European Commission
EU	European Union
IMF	International Money Fund
ISPCOC	Integrated Strategy for Preventing and Countering Corruption and Organized Crime
MEW	Minister of Environment and Water
MF	Ministry of Finance
MH	Ministry of Healthcare
MP	Member of Parliament
MRF	Movement for Rights and Freedom
NCSP0	National Center for Studying the Public Opinion
NGOs	Non-Government Organizations
NHIF	National Health Insurance Fund
NMSP	National Movement for Stability and Progress
NRA	National Revenue Agency
NSI	National Statistical Institute
NSS	National Security Strategy
NSSI	National Social Security Institute
OLJ	Order, Law and Justice
PFCA	Public Financial Control Agency
PFIA	Public Financial Inspection Agency
PP	Public Procurement
PPR	Public Procurement Registry
RSSPP	Regulation on Small-Scale Public Procurement
SARI	State Agency Road Infrastructure
UDF	Union of Democratic Forces
WGI	Worldwide Governance Indicators

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## **I. Corruption and Anti-Corruption in Bulgaria: an Introduction**

Several years after the start of the transition process in Bulgaria (in 1989) the problem of corruption has moved up on the agenda of Bulgarian society. It gained prominence with the progress of the country's EU accession talks after 1999, and topped the political and social debate at the time of the country's EU accession in 2007. Since the start of the European economic crisis in 2008 corruption has been displaced as the most important issue from people's worries by jobs, income, and poverty but has nevertheless remained high on the country's political and social agenda. The 2009 government came to power on a strong anticorruption agenda, and indicators showed some advances have been accomplished in anti-corruption in its first two years. But these were lost in 2012 – 2013 when the government lost power amidst accusations of conflicts of interest and corruption. The new government, and parliamentary majority, established in 2013, with the least voter support on record, has been facing daily anti-corruption street protests, which started barely weeks after the government stepped into office.

Upon Bulgaria and Romania's accession to the European Union (EU) in 2007, the European Commission (EC) introduced a unique mechanism for its practice monitoring tool to trace the two new member states' progress on anti-corruption, organized crime, and judicial reform, – the Cooperation and Verification Mechanism (CVM) (Markov 2010). No such mechanism was introduced for Croatia, which became a member in 2013. It can be surmised that the EC concluded Croatia made more progress in the areas of justice and home affairs during the negotiation process, than had Bulgaria before it. In its latest report on Bulgaria under the CVM the EC notes, that "overall progress has been not yet sufficient, and fragile" (European Commission, 2014, p.9). It can thus be concluded that according to the EC in the 15 years after it began EU accession talks with Bulgaria in 1999 the country has not made sufficient progress to become a full-fledged EU member.

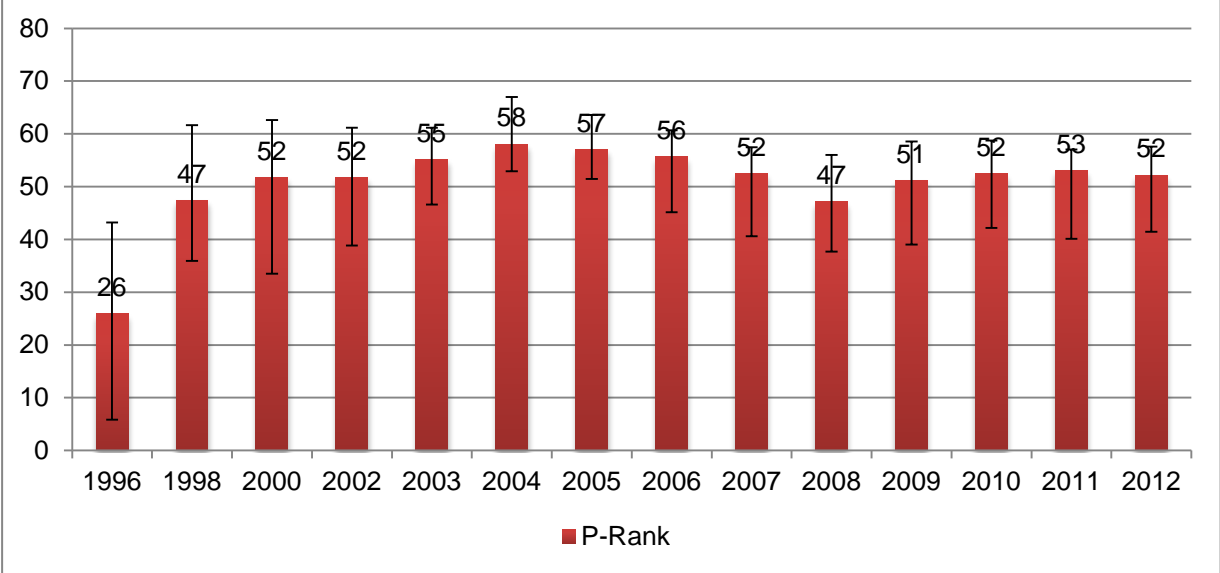
Most international indicators confirm the EC's findings on Bulgaria in relation to good governance and corruption. According to the Worldwide Governance Indicators (Kaufman et al. 2013) Bulgaria made good progress in the Control of Corruption dimension in the period 1996 – 2003 but then stagnated in what might seem as a lost decade (Fig. 1). Transparency International's Corruption Perception Index (1998 – 2012) (TI, 2013) reveals a similar dynamic with Bulgarian's perception of corruption improving between 1998 and 2002, then stagnating for four years, only to worsen after the country's EU accession, reaching its lowest value in 2011<sup>1</sup>. The Global Integrity Report (2010) showed that Bulgaria faced a large implementation gap in relation to its anti-corruption legislation.

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<sup>1</sup> Transparency International changed the methodology of calculating the country CPI scores in 2012, which rendered comparisons to previous years impossible, but Bulgaria remained ranked in the 70<sup>th</sup> percentile, showing no real progress in anti-corruption.

According to the Corruption Monitoring System (CMS) of the Center for the Study of Democracy (CSD) more than 13% of Bulgarian citizens have been engaged in corruption at least once in 2012 – 2013, (CSD 2013d). Eurobarometer victimization studies show that while Bulgaria is not the worst case in terms of corruption it is among the top five in the EU (European Commission 2011). Bulgaria has remained the poorest member-state of the EU and many people have blamed corruption for this fate. The level of understanding of Bulgarian citizens of corruption and of its detrimental effects has improved due to increased transparency, political competition, and the role of investigative media. Citizens’ tolerance towards corruption has decreased as more and more civil society organizations have stepped up their efforts to seek normative change, accountability, and a new moral high ground. Bulgarians have come to consider the country’s institutions and politicians as almost universally corrupt, which has led to a fall in the level of trust in democratic institutions. While Bulgaria has effectively adopted EU legislation, this has not resulted in sufficiently enough change in the governance regime. Tracing the evolution of the country’s governance regime in the past two decades can provide important insights as to the reasons for the lack of progress and, the possible actions, which might lead to a change towards *universalism* (Mungiu-Pippidi et al. 2011).

**Figure 1. Bulgaria’s percentile rank (p-rank) in the control of corruption dimension of the Worldwide Governance Indicators (1996 – 2012).**



Note: P-Rank denotes Bulgaria’s percentile rank among all countries (ranges from 0 (lowest) to 100 (highest) rank). The error-bars mark the upper and lower bound of the of 90% confidence interval for governance, in percentile rank terms. (Source: Kaufman et al. 2013).

## **II. Bulgaria's Governance Regime: Assessing the Pace of Reform and Future Perspectives**

### **1. State of Governance**

The governance regime of Bulgaria can best be described as *competitive particularism* with some elements of *borderline* open access order along the methodological division provided by Mungiu-Pippidi et al. (2011). Power distribution has opened up although the old-time networks of the secret police, powerful politicians, and business interests still have privileged access to state resources, in particular as it relates to larger contracts and higher administrative positions (CSD 2009). Lower level administrative corruption between the public administration and the citizens and the businesses has declined although still a quarter of Bulgarians who had contact with the public administration have to resort to bribes (CSD 2013d). Higher-level (political) corruption seems not to have retreated although cases of wrongdoing have become much more exposed and publicized. Convictions, in particular of high-ranking politicians and administrators are non-existent or rare showing that the rule of law and accountability have not yet taken hold in the country. Formal institutions are often subverted by informal rules. Trust in democratic institutions has eroded as evidenced by the decline in voter turnout in parliamentary elections. Public resources continue to be channeled to friendly circles of trusted businesses around political parties, which then return the favor through providing financial, human, and organizational resources to parties (CSD 2007b).

### **2. Mechanisms of Transformation**

There have been many factors at play, shaping the current state and the emergence of the governance regime in Bulgaria, which can be clustered in two groups. On the one hand- the downside, public services in Bulgaria have been chronically underfunded, corruption and informality have been largely accepted as a norm of social behavior, power was concentrated in the hands of a very limited number of communist-era apparatchiks, which became the godfathers of Bulgarian democracy and market economy, and the country's formal institutions for identifying, prosecuting and punishing corrupt behavior have been weak and unprepared for acting in a globalized economy and liberalized political system. On the other hand – the upside, Bulgaria has become a member of the EU, which has been monitoring the country's progress in the area of anticorruption and judicial reform, modern technologies and formal institutions introduced through the country's EU membership have created and gradually increased demand for accountability and rule of law. EU membership coupled with slowly rising incomes and increased transparency of the public sector have brought higher civic activism and have put increasing pressure on corrupt politicians and businesspersons. International donors have flocked to the country to provide assistance for better governance. A key remaining shortcoming is the lack of checks and balances, as well as accountability of the judiciary.

A substantial corruption generation factor (still not acknowledged by most policy makers) is the lack of balance of interests in the construction of many important social systems. For example, although health care and the pension system are in principle fund based, the individual contributions to the system are not linked to the services provided. Reports show that more than 1 million Bulgarians (out of a population of 7.3 million) do not pay health insurance (Pashev 2007). Pensions received are more dependent on political decisions than individual contributions; hence there is an built-in interest to bypass income declaration legislation and receive “gray incomes”. The policies employed to deal with these corruption generators (higher sanctions and more administrative control<sup>2</sup>) generate even more corruption (Nonchev et al. 2011).

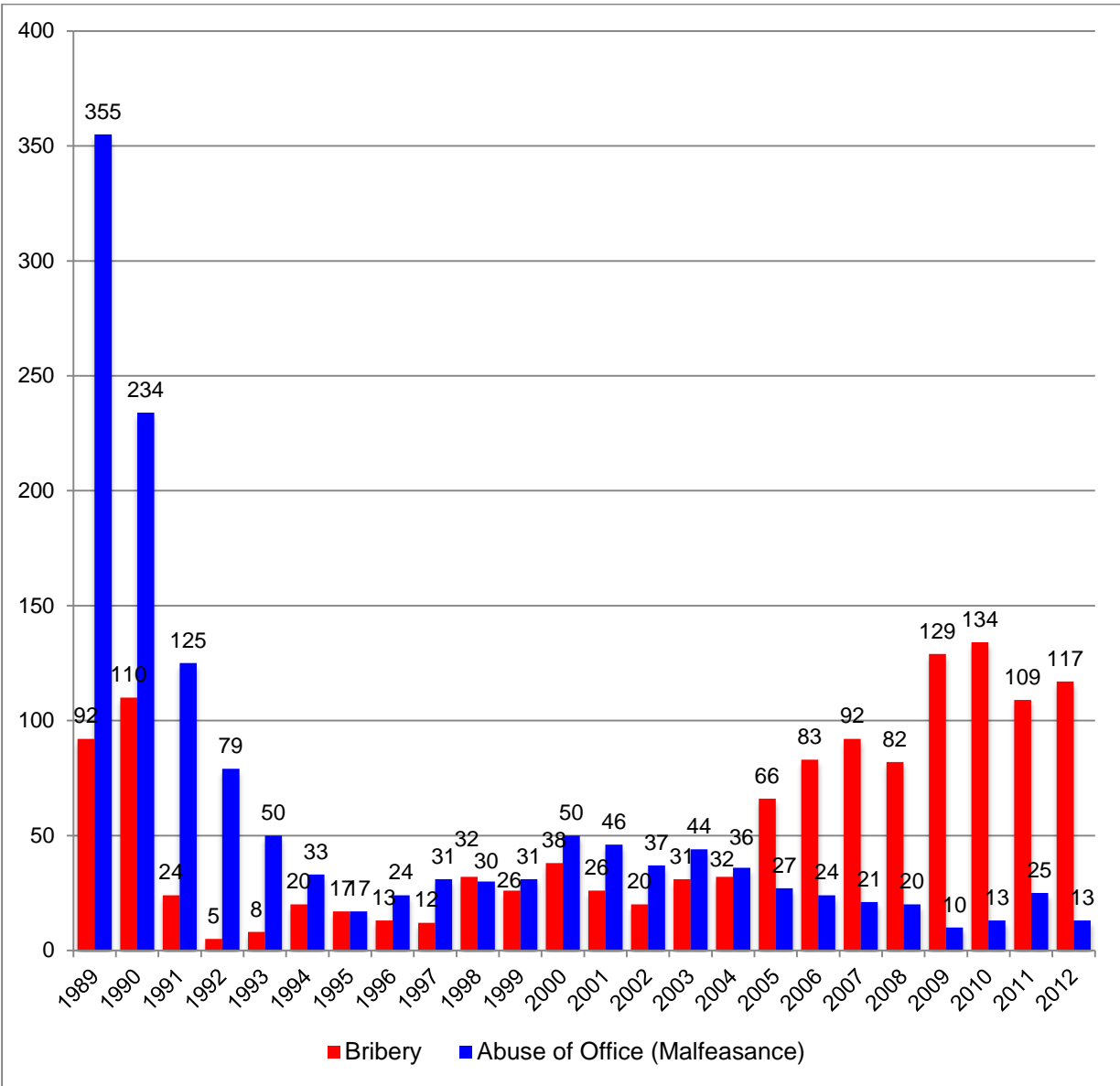
Political response to corruption in Bulgaria has been specific and reflects the structured link between the business sector, the judiciary and the political class. All parties have been collecting information about abuses of those in power. However, this has not been used to initiate prosecution, forced resignations, etc., but as a “background tool” to threaten the opponent and to use in political negotiations. This “omerta” explains why practically no (with very few minor exceptions) high level members of the ruling elite (past and current) have been accused and/or sentenced on corruption charges. In recent years it has become quite common to accuse the previous members of the executive of abuse of power, start prosecution and then drop all charges (due to lack of enough evidence). Bulgarian politicians have routinely responded to external pressure to deliver results in fighting corruption by focusing on low-level administrative corruption in the form of bribery. As a result, there has been a gradual increase in the number of convicted individuals for bribery, at the expense of convictions for more complex corruption crimes such as abuse of office (or malfeasance) (Fig. 2). Interestingly, the number of convictions for bribery after the country’s EU accession has reached similar numbers as immediately after the start of the democratic transition process, which might signal that the system capacity to investigate and convict such crimes has been reached.

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<sup>2</sup> The most common policy construction “mantra” is that more government agencies, more control and higher sanctions will effectively counter anti-systemic and corruption behavior. This is closely linked to the perception that all deviations exist because of missing legislation and lack of government control.



**Figure 2. Number of convicted individuals for corruption crimes in Bulgaria: bribery and abuse of office (malfeasance) (1989 – 2012).**



Source: National Statistical Institute

The mechanism, which has worked to provide improvement in the governance regime in Bulgaria combines several features: sustained external pressure for reform coming from international institutions and the EU, the introduction of formal institutions of open access order as a result of EU membership, and rising civic sensitivity and activism for change.

**3. Trends**

The Bulgarian governance regime has moved gradually from *patrimonialism* to *open access order* but most of its features are still at the *competitive particularism* stage. Bulgarian governance has progressed since 1998 in particular as relates to administrative (petty) corruption but it is has not yet evolved into an *open access order*. EU accession might have

allowed the country to display nominally (by law) features of an *open access order* of governance. But in practice the country is still at the *competitive particularism* stage. Universalism still remains the exception rather than the rule in many governance systems of the country.

If one follows the dynamics of corruption victimization as measured by the CMS of the CSD, one might conclude that the main change occurred in the beginning of the 2000s, which resulted in the lowest levels of administrative corruption reached in 2004. These were twice lower than in 1998. Since 2004 change has become more gradual and uneven with some regress immediately after the country's EU accession (CSD 2013d). Currently, the regime seems under continuing pressure for further moves towards accountability and rule of law but no clear signs of breakthrough are yet available. It seems certain that the country will continue to experience decreasing levels of administrative corruption. But overcoming higher-level, political corruption is unlikely to happen in the foreseeable future. It will require action on the part of the judiciary and further external pressure coming from the EU (European Commission 2014).

The main trends in governance regime transformation in Bulgaria can be traced by the reaction of politicians from the respective incumbent governments to the rising tide of corruption surveys and reports after 1997. Coalition 2000, a group of anti-corruption civil society organizations coordinated by the CSD in 1997, published the first surveys of corruption. They generated a strongly negative response on behalf of the ruling elite. The first reactions to findings were that there is no corruption ("impossible") and that surveys are a form of political attack. This response turned into "there probably is corruption, but we are not corrupt" over a period of 1-2 years. In the beginning of the 2000s the formula evolved into "accusations of corruption have to be proven". In the period 2001-2007 reactions to findings gradually turned constructive. Governments made their first attempts to deal with the problem, mostly engaging in legal approximation and the creation of new rules and regulations (or the infamous "box-ticking"), also as a result of EU pressure and the adoption of EU legislation in the pre-accession period. Following EU accession in 2007, the anti-corruption drive weakened and even reversed, widening the implementation gap between existing regulations and actual results. This clashed with rising expectations for more transparency and universalism on the part of civil society and the EC, culminating in financial sanctions from the EC (EU funds for Bulgaria were suspended in 2008) and blocking of the country's further EU integration (e.g. Bulgaria has not been allowed to become member of the border free Schengen area, or the Eurozone), as well as in citizen street protests in 2013 - 2014.

## 4. Detailed Diagnosis

### 4.1. Power Distribution

Although there is increasing political competition, power remains concentrated in party political leaders, with strong influence from business interests, which has led to recurring conflicts of interest, loss of popular trust in institutions and parties, and the emergence and disappearing of many political players.

#### Political System since 1989

Since the democratic changes in the country in 1989 and the first free elections in the most recent history of the country in 1990, two phases of power distribution can be differentiated.

The *first phase* (1990 - 2001) was characterized by the polarized battle between the numerous newly formed opposition parties, united in the Union of Democratic Forces (UDF), and the transformed Bulgarian Communist Party, which changed its name to the Bulgarian Socialist Party (BSP). The third big party, which emerged during the first stage of political transition, was the Movement for Rights and Freedoms (MRF), a closed, leader-centered party, representing mainly the ethnic Turks. During this period, BSP and UDF took turns in the control of legislative and executive power. But in effect the former communist party remained largely in control until 1997, successfully transforming their political into economic power.

The financial meltdown of 1996-97 gave the opposition UDF an absolute majority in power (both president and prime-minister) with a very strong mandate for reform. Under heavy conditionality imposed by the International Monetary Fund, the country went through a fire privatization and painful public service reform. Privatization created huge rent-seeking opportunities and was perceived by experts and the general public as a corruption-infested process, from which only politically connected people benefited. This resulted in strong disappointment and the ousting of the UDF government in 2001.

The *second phase* of the transition period (2001 – nowadays) has been characterized by strategic and macroeconomic stability but the emergence and decline of many parties and party opportunism. MRF has established itself as an important balancing actor, holding the key to three of the four elected governments in the period. This position allowed the party to win disproportionately large share of power compared to the number of votes it controls.

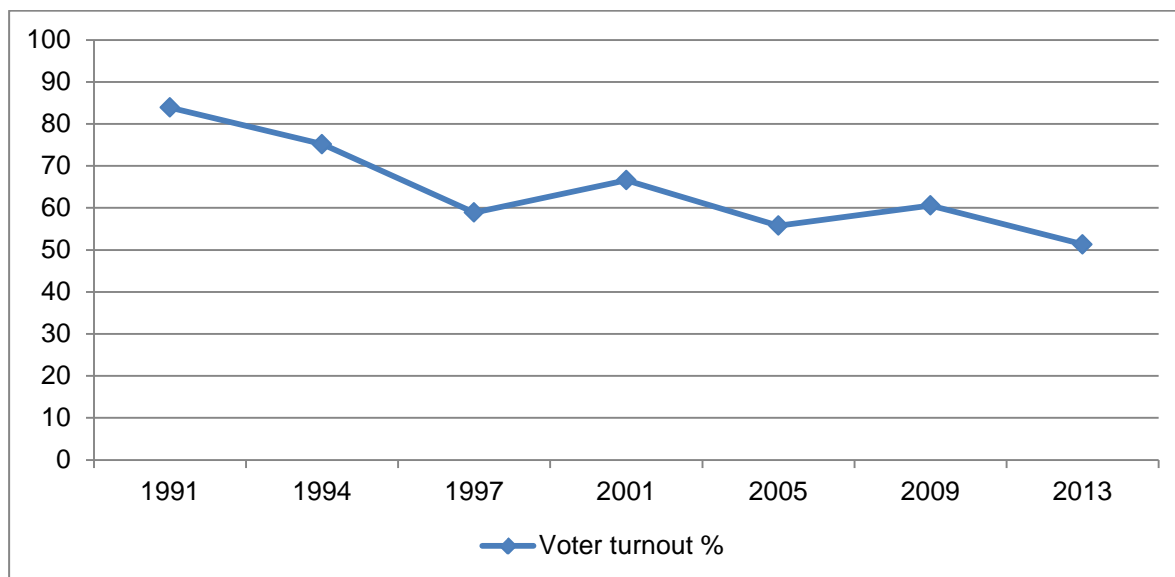
In 2001 the former Bulgarian king Simeon Saxe-Coburg-Gotha who was in exile between 1946 and 1996, formed a new center-right party (NDSV), which only 3 months later managed to win half of the parliamentary seats (120 out of 240), and formed a government together with MRF. Administrative corruption among the population marked its lowest point in 2004. In 2005 a wide coalition was formed by BSP, NDSV and MRF, which later became known as the “Tripartite Coalition”. The coalition oversaw Bulgaria’s entry into the EU in 2007 but during its term corruption rebounded, and the EU froze some of its funds earmarked for the country on

integrity issues. During the term of the “Tripartite Coalition” the MRF leader became famous for publicly acknowledging that each party in Bulgaria has its own “loops of companies” (CSD 2009).

The continuing disappointment of the Bulgarian voters with the political establishment and its inability to deal decisively with corruption led to the disappearing and the emergence of many parties. A newly formed nationalist party (“Ataka”) entered the parliament in 2005 by consolidating the protest vote. Through its votes “Ataka” made possible the majority in two consecutive parliaments – in 2009 and in 2013. In the meantime NDSV disappeared from parliament following the 2009 elections. UDF broke up into many smaller formations, which finally in 2013 were left outside of the Bulgarian parliament. In 2006, a new center-right party CEDB (Citizens for European Development of Bulgaria), emerged from NDSV around its charismatic leader. CEDB won the parliamentary elections in 2009 on a strong anti-corruption agenda. Although it remained the biggest party in the 2013 parliamentary elections, CEDB could not form a government and a new ruling coalition emerged consisting of BSP and MRF, with support from “Ataka”.

Failure to adequately address the expectations of the voters, in particular in relation to incomes and corruption, has resulted in the gradual decline of trust in the political system as evidenced by the decreasing voter turnout in general elections (Fig. 3) and the frequent emergence and decline of new political projects. As of 2013 only two parties – BSP and MRF – have constantly been present in parliament since the democratic changes in 1989. In addition, Bulgarians have again resorted to pressure from the street, staking their demands in street rallies as they did in the early 1990-ies and then following the financial meltdown in 1996 - 1997. In the beginning of 2013 protests sparked by rising electricity bills and poverty led to the premature resignation of the CEDB government. The newly formed BSP-led government formed in May 2013 has not been able to calm street protests.

**Figure 3. Voter turnout at national elections in Bulgaria (1991 – 2013).**



Source: Eurostat, Central Election Commission (CEC), 2013.

### **Consolidation of Political and Economic Power**

Falling voter turnout and the existence of parliamentary entry threshold has resulted in the concentration of political and economic power. This has benefited parties with stable electorates, such as MRF and BSP, and has made possible the emergence of political - business joint ventures of oligarchs and political engineers. These have also been lured by the sizable increase in state subsidies for political parties in 2009. At the last parliamentary elections only 4 out of the participating 36 parties and coalitions in the parliamentary elections made it past the electoral threshold of 4% of the votes, leaving a large number of voters unrepresented in the Bulgarian parliament (Table 1).

The system of party subsidies, designed to wean parties off business interests, seems to have backfired and attracted political rent-seekers. The system mandates that parties, which have received at least 1% of the valid votes at the last national elections, are entitled to a state subsidy (Table 1). The *Act on Political Parties (AoPP)* and the *Act on the State Budget (ASB)* regulate the amount of the subsidy. During the government of the Tripartite Coalition, the annual subsidy was increased to BGN 12 (from 2 to 5% of the minimal wage) per received vote<sup>3</sup>. Recent data from the National Audit Office shows that the big parties prefer to keep the money in deposit accounts in order to receive interest payments, while the main sources of financing for their political activity remain unclear<sup>4</sup>.

The number of parties competing for parliament in 2013 has doubled in comparison to 2009, while the number of parties receiving state subsidy but not participating in parliament has

<sup>3</sup> As of January 2013, the minimal wage in Bulgaria is 310 leva (approx. 155 euro).

<sup>4</sup> The Annual Financial Reports of the political parties and the NAO audit statements on them are available here: <http://www.bulnao.government.bg/index.php?p=93>.

trebled. The fall in the number of parties represented in parliament has increased the price of the so-called “balancing actors”, i.e. the parties securing the parliamentary majority. In 2009, when 6 political parties made it into parliament CEDB has been able to govern effectively without having a parliamentary majority by playing on one another three smaller parties – “Ataka”, RZS (“Order, Law and Justice”), and the Blue Coalition (former UDF). In 2013 the two governing parties have exactly 50% of the votes and “Ataka” holds what became known as the “golden finger” – the one vote that ensures quorum.

The system of party financing was introduced in the early 2000s to counter a rising tide of business money entering the political system during the previous decade. In the 1990's, the newly emerging large entrepreneurs and business groups financed individual politicians and political parties when they were in opposition, due to the very limited state subsidy then and the lack of adequate legal framework. This phenomenon, known as “political investment” is related to the figure of “business politicians” described by Della Porta, Rizzorno, and Donaldson (1996). It developed as the most widespread type of political corruption in the country in the past two decades. In return, politicians helped “political investors” privatize the big state-owned enterprises, thus building the future structure of large business in Bulgaria. Later, some “political investors” either alone or in cooperation, and sometimes under the guidance of key political figures, created their own parties in order to diversify their portfolios, to ensure direct political influence, or just to receive state subsidies. Business people entering politics became particularly popular in the real estate boom years between 2003 and 2008 at the local level. Political investors sought access to the growing pot of resources at the disposal of the Bulgarian government, including to EU funds after the country’s accession in 2007. However, “political investment” grew more costly and thus accessible only to bigger entrepreneurs and fewer political figures. The role of the political elite and the public administration in the process increased (CSD, 2009: 46-54). This trend has been strengthened by the economic stagnation in Bulgaria since 2008.

**Table 1. Number of political parties participating in parliamentary elections 1991-2013.**

	General Election Year						
	1991	1994	1997	2001	2005	2009	2013
Total number of PP and coalitions participating in the elections	39	47	36	37	22	18	36
PP* receiving state subsidy but not elected for Parliament (i.e. received more than 1% of the votes)	4	1	1	0	2	2	6
PP and coalitions elected for Parliament (i.e. received 4% or more of the votes)	3	5	5	4	7	6	4
% of PP and coalitions, participating in the elections, which received state subsidies	17,9	12,8	16,7	10,8	40,9	44,4	27,8

\* Note: Coalitions that received more than 1% but were not elected for Parliament are not eligible for state subsidy. (Source: Central Election Commission (CEC), 2013, CSD, 2013d).

Due to big networks of “political investors” the “political weight” of a given politician became dependent not only on the political success of his or her own party, but also on their access to the largest number of entrepreneurs and networks of political investors. Parties with stable political representation (core voters) such as BSP, and in particular MRF, became more valuable as guarantors of business interests in successive parliaments. The former leader of MRF Ahmed Dogan provided a description of this ideology of networks of investors just before the parliamentary elections in 2005. He used the term ‘loops of companies’ to describe the fact that each political party has a network of economic groups and companies that support it financially. He also noted that no businessperson in Bulgaria has succeeded without support from the political leaders. The MRF leader was then videotaped again in a public speech before the 2009 elections noting that ministers and MPs are mere figureheads and the he “distributes the portions of power” himself (Angarev 2009).

While there have not been any high-profile convictions for political corruption, and in particular at the interface of politics – business circumstantial evidence confirm the words of the MRF leader in 2005 and 2009, which suggest that both powerful businessmen influence politics but also politics creates its own trusted circles of companies. The mechanisms of this interplay have become particularly well exposed in a number of leaked conversations between business people and politicians, which have been at the forefront of the public debate since 2005, but which have resulted only in political resignations. As a rule, politically connected businessmen have continuously benefited from cozy relations with government members.

In the period from 1998 – 2001, the preferred form of transfer of public resources to the private sector has been the privatization of state assets at heavily discounted prices. In the period from 2001 – 2005, privatization has continued to play a role but public procurement has gradually gained on importance. The privatization of the Bulgarian Telecommunications Company in 2002, and its subsequent sell-off and leveraging, has been emblematic in this respect. In effect, the company, which then held a monopoly on the local fixed telephony market was sold to a single bidder for as much as its annual profit. The remaining minority stake of the company was sold at a valuation five times higher than the majority stake only a year after that. A new favorite mechanism for corrupt transfer of public assets to the private sector emerged in the 2005 – 2009 period – land swaps. Swaps of state-owned lands at lucrative investment locations (e.g. seaside and mountain resorts) for private lands at much less attractive locations at face value became wide spread and according to different estimates has cost the country as much as € 1.5 billion in forgone revenues (CSD 2009: 95). Public procurement has continued to gain on importance in terms of the transfer of resources from the public to the private sector, as have concessions. The “crown jewel” in this respect has been the public procurement of the building of a second nuclear power plant in the

country, which was tendered in the last days before EU accession in 2006. In a rigged bid, the Bulgarian government spent through a single public procurement €4 billion, as much as the entire annual public procurement volume in 2006 (Stefanov et al. 2011a: 42-43). After 2009 the budget for public procurement declined substantially, and political rent-seekers have focused on alternative sources, e.g. EU funds. EU funds for promotion have been used for example to buy media comfort. A prominent tool for favoritism in 2009 – 2013 has become access to subsidies, such as for new renewable energy production facilities (Stefanov et al. 2011b: 55-58).

### **Power Distribution and Levels of Corruption**

The Corruption Monitoring System developed and used by CSD since 1998 is the longest available national instrument for measuring the prevalence of corruption in Bulgaria through constructing indexes based on population and business surveys (CSD 2007a)<sup>5</sup>. In the period between 1998 and 2012, the CMS has registered several phases in the participation of the citizens in corruption transactions:

- Between 1998 and 2001 the CMS indexes registered the highest levels of corruption prevalence but the trend showed a clear decline (Fig.4).
- During the government of NDSV and MRF, from 2001 to 2005, the prevalence of corrupt transactions between the citizens and the public administration decreased and reached its lowest level on record by this particular instrument (at index value 0.3) (Fig.4). As of 2004 the share of the citizens involved in corruption from the total population or the level of administrative corruption decreased by half compared to the late 1990-ies (Fig. 5). This trend was aided by the general improvement in the economic environment, rising incomes, and easier access to consumer credit, following the conclusion of the bulk of privatization and public services reform in the previous period.
- After 2005 corruption prevalence went on the rise and reached a CMS index value of 0.7 in 2008, the highest level since 2002 (Fig. 4). The slide in anticorruption was particularly visible following EU entry. Tellingly, in January 2007, every third citizen who had contact with the administration admitted to having been involved in a corruption transaction, a level comparable to that of 1999.
- In 2010 – 2011 the prevalence of corruption among the Bulgarian population (the index of involvement in corruption transactions) returned to the range of 0.4 – 0.5 (Fig. 4), i.e. only marginally higher than its lowest levels in 2003 - 2004. The

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<sup>5</sup> Annex 1 contains a more detailed explanation of the CMS.



CEDB government managed to reduce corruption pressure on the population and the business by introducing repressive, law-enforcement measures on the state administration and frequent tax inspections for businesses. The effects of the crisis, which lowered available resources for corrupt transactions, reinforced these measures. This combination of factors resulted in the lowest share of people involved in corruption at least once in Bulgaria in 2010 – 2011 (Fig. 5). The reduction in the share of people participating in corruption has come from a decline in the pressure exerted by the public administration on the citizens (Fig. 6).

### **The Corruption Monitoring System**

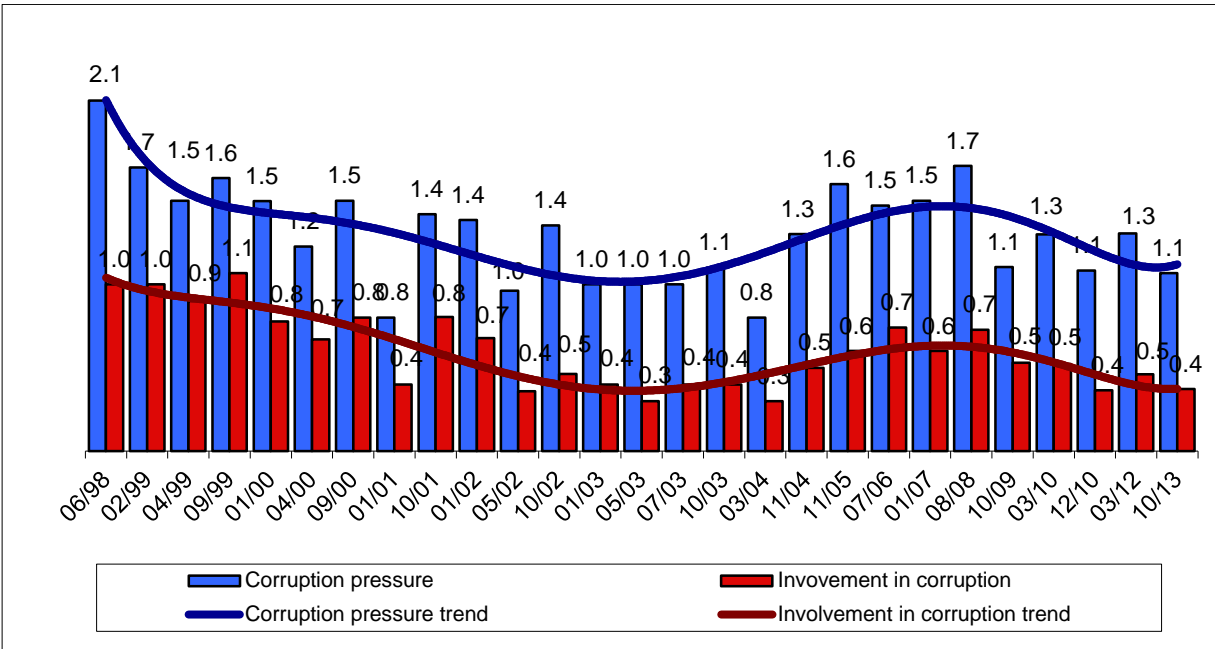
The Corruption Monitoring System (CMS) was introduced by the Center for the Study of Democracy (CSD) in 1998, and incorporates a system of empirical studies and analytical reports. The main objective of the CMS is to periodically present information, which would enable conclusions about the scope of corruption in a country and the related public attitudes, assessments, and expectations.

The basic functions of the CMS are related to its major output - the Corruption Indexes (See Appendix 1). The Corruption Indexes are based on surveys included in the CMS and summarise the most important corruption indicators to evaluate/measure the level of proliferation of corrupt practices in different social spheres.

The CMS is based on national representative surveys of the population aged 18 and over. Information is collected about public opinion on the following main issues:

- Public attitudes towards corruption;
- Identification of different types of corrupt behaviour;
- Personal experience and involvement of the respondents in corrupt practices;
- Levels and scope of corruption;
- Spread of corruption among different occupational groups and in the public institutions; and
- Corruption-related expectations.

**Figure 4. Dynamics of involvement in corruption transactions and corruption pressure among the population (1998 – 2013).<sup>6</sup>**



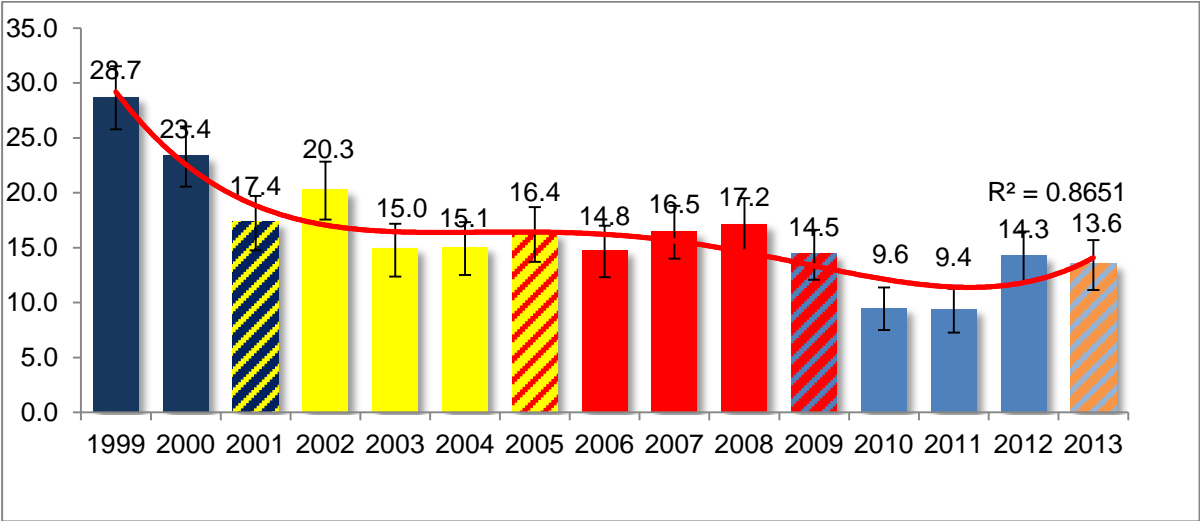
\*Note: Indexes “Corruption pressure” and “Involvement in corruption transactions” are based on questions Q1 and Q2, Appendix 2. The trend lines are based on sixth degrees polynomial functions. (Source: CSD, 2013d).

But while the administration has stopped asking actively for bribes, it has remained open for corruption offers from the citizens (CSD 2013d) and the share of people involved in corruption has rebounded in 2012 – 2013 on the back of more people initiating the corruption exchange. Hence, it seems that the data suggests that a combination of more strict enforcement of integrity rules in the public administration coupled with fewer opportunities for contact between the citizens and the administration can produce lasting reduction in corruption. The willingness of the people to actively engage in corruption though seems to suggest that bribery might have become part of the culture of communication with some parts of the public administration. The juxtaposition of the data on the level of administrative corruption in the country with the data on the control of the power reveals that unitary governments, i.e. formed by one party, can lead to greater reduction in the incidence of corruption. New entrants on the political arena, i.e. more political competition, are associated with less corruption too, e.g. there was less corruption registered during the governments of the newly emerged NDSV (2001) and CEDB (2009) (Fig. 5). The data confirms the findings of international rankings such as the one of the Worldwide Governance Indicators that the biggest gains in good governance happened in the period 1999 – 2004.

<sup>6</sup> Corruption assessment index numbers assume values from 0 to 10. The closer the value of the index is to 10, the more negative are the assessments of the state of corruption. Index numbers closer to 0 indicate approximation to the ideal of a "corruption-free" society.

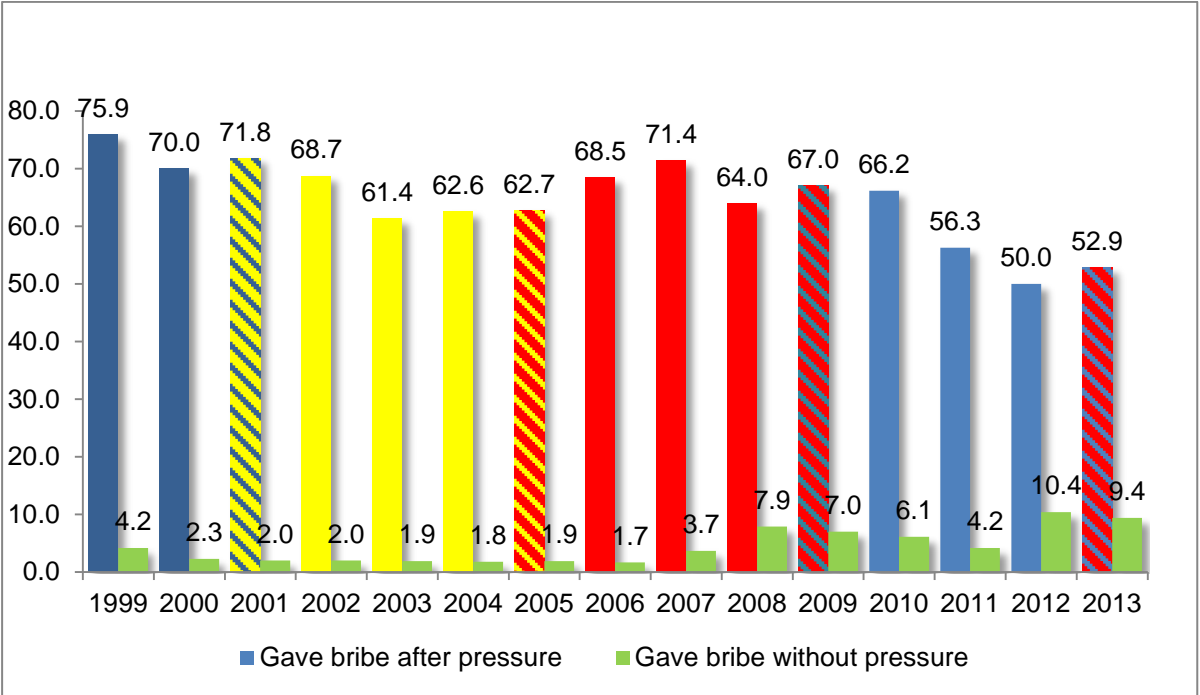
At the same time it should be noted that EC monitoring and imposed financial sanctions on Bulgaria in 2008 have been associated with lowering of corruption in the period 2008 - 2011. In 2008 the EC, took the unprecedented decision to freeze €220 million worth of EU funds earmarked for Bulgaria's modernization until more measures for ensuring the accountability of EU fund' spending were put in place. The freeze was lifted after the appointment of a special deputy-prime minister in charge of EU funds and the reinforcement of the government's anticorruption strategy.

**Figure 5. Share of the adult population who gave a bribe at least once in the last year (% of population, 18 years and older) (1999 - 2013).**



\*Note: Data for the mandates of each government is color-coded. (Source: CSD, 2013d).

**Figure 6. Share of those of the adult population who contacted the public administration who gave bribes: *after pressure* (i.e. on demanded from the public administration), and *without pressure* (i.e. no demand from the public administration) (1999 – 2013).**



\*Note: Data for the mandates of each government is color-coded. (Source: CSD, 2013d).

## Political Migration

Political migration has been a frequent occurrence in the Bulgarian political system since 1990. In the 2009 – 2013 parliament, the ruling party, CEDB, managed to rule with 117 MP's (less than half of the total of 240) with the support of other parliamentary groups, such as the extremist Ataka, as well as individual MP's who left their parties, in exchange for political positions. Tellingly, Ataka then supported a new government in 2013 formed by parties at the opposite political spectrum than CEDB, demonstrating a lack of any ideological positions. In one of the exemplary cases of individual political nomadism, the Prime Minister since May 2013 was a deputy finance minister in the right-wing government from 1997 – 2001 and a high-ranking party member of the right-wing party UDF; then he was an “expert and independent” minister of finance in the government of BSP, MRF and NDSV from 2005 – 2009 and an MP for BSP in 2009 - 2013; since 2013, he is again “expert and independent” Prime Minister nominated by the BSP.

Political migration has been more widespread among the Bulgarian right-wing parties. The BSP has consolidated the left-of-center space. However, in the 1990's there was also frequent migration from and to the BSP. In the context of Bulgarian transition, there have been three main categories of political migrants:

- In the beginning of the 1990's many people with social democratic political views left the BSP and joined the opposition. Later some of them returned to BSP as it consolidated the left-wing parties. Some created their own political formations, while other left politics.
- In the 1990's politics became an attractive field for people from the former (communist) establishment who joined the newly emerging “democratic” parties in search of personal or professional benefits.
- In the years of transition many people joined politics in order to protect their private business interests. This is particularly widespread at the local level. Some of them became high-ranking party members, MP's and ministers.

Political migration has been supported by a number of features of the Bulgarian party and electoral system. Bulgaria uses a closed-party-list party proportional representation system, which has resulted in the proliferation of parties, in particular in the right of center space, and a concentration of power in the hands of party leaders who decide whether or not certain MPs make it in the next election list. This has been particularly true of parties who have emerged more recently, and who have relied on a well-defined stable voter base. In extreme cases, MPs have accused party leaders of making them sign irrevocable promissory notes for the amount of the expected state subsidy per MP in exchange for being included in the

party lists. The 2009 – 2013 parliamentary rules included a clause, which did not allow MPs elected on one party list to join the parliamentary group of another. Instead they remained independents. However, it allowed such independent MPs to decide, to which parliamentary group they would like to move their portion of the state subsidy. Tellingly, a journalistic investigation by Aneva (2013) revealed that in the 41st parliament (2009 – 2013) out of a total of 27 newly declared independents, 18 decided to move their subsidy to the parliamentary group of the ruling party and only one to an opposition party. Similarly, in the 40-th and 39-th parliament 64 and 40 MPs declared themselves independent. Although the rules allowing MPs to transfer their subsidy with them has been changes in the 42-nd parliament, half a year after its inauguration, already two MPs left the single opposition party. Besides, side-benefits, such as the discontinuation of criminal investigations, for example, going independent can also bring in some BGN 400,000 (~€ 205,000) annually in income (Aneva 2013).

### **Drivers of Change**

External forces have usually driven change in the corruption environment in Bulgaria, primarily the accession of the country to the EU. Bulgaria has not had any prominent government or parliamentary member, or private sector leader with a clear, unwavering anticorruption stance, which has been backed by sustained long-term action.

External drivers of change have been aided by internal forces, such as stronger civil society organizations, particularly traditional watchdogs' organizations, as well as newly emerging environmental and cause-related, non-governmental organizations. The emergence of new party players, such as NDSV in 2001 and CEDB in 2009 has also helped leverage external and internal drivers of change but their impact has mostly been limited to the first years in power.

Internal formal institutional drivers of change, such as political parties, labor unions, and employers' associations have played a less significant role in impacting governance in the country. The trade unions played an important role in the beginning of the transition but then their impact subsided. The two biggest trade unions – the Confederation of the Independent Trade Unions in Bulgaria (CITUB), which inherited the union of syndicates that existed during socialism, and “Podkrepa”<sup>7</sup> which was created as a big independent trade union by a group of dissidents, are often accused of serving private and/or party-political interests. Similarly employers' associations have been associated either with powerful business leaders and/or political parties. There has not been a case so far of internal party driven change in governance policies, as these have been dominated by single leaders.

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7 Literally translated as “Support”.

## 4.2. State Autonomy from Private Interest

The autonomy of the state from private interest is low. Despite the adoption of many legal requirements for separating public from private interest, in many cases the state is captured by interest groups due to weak enforcement of rules. Changes in laws often serve particular private interests.

### The Roots of Weak State Autonomy

The deep connections between state power and private interest have developed historically as a result of two processes in the beginning of the 1990's: the dismantling of the one party system, and the de-politicization of the security (including army) apparatus. These processes provoked hard political battles and continue to influence modern-day politics. Members of the former establishment continue to influence power distribution. They have created competing powerful networks, which have become independent from the party, and hence state, control and oversight. Often political battles revolve around competing interests and fights for control over these networks.

Bulgaria, like other Eastern European countries, and unlike old member-states is characterized by a very pervasive reach of organized crime into the formal institutions of power. This has been particularly true for the judiciary and law enforcement (Gounev and Bezlov 2012). The first ever Serious and Organized Crime Threat Assessment done for Bulgaria has revealed that as of 2011, organized crime in the country controls as much as €1.8 billion in revenues from the 12 of the most significant organized crime markets (CSD 2012b: 5). The assessment notes that a particularly dangerous form of organized crime, oligarchy, has emerged from the fusion of violent organized crime and white-collar crime when with the help of political corruption powerful economic conglomerates have been formed, which then feed on exploiting public resources through corruption and crime. These groups try to preserve their power through corrupting law enforcement, and in particular security forces and the judiciary, while incumbent politicians have tried to limit their influence through sporadic pressure through the state compliance and control bodies and/or through legislative action. In this tug of war different, and often unstable, coalitions are formed between politics and business to fend off incursions from competing interests. As a result, successive governments deeply distrust the loyalty of the security apparatus appointed by the previous governments, and engage in constant purges at all administrative levels. This leads to weak professional administration highly dependent on the whims of those in power, and/or their business patrons (CSD 2012b). The 2012 summary report of the EC under the CVM on Bulgaria's progress in the fight against corruption and organized crime during the period 2007 – 2012 stated that the independence of the judiciary in Bulgaria remained questionable, that there were systemic failures in law enforcement and efforts to fight corruption were inhibited by the lack of independent anti-corruption institutions (European Commission 2012).

In a critical difference to the other transition countries, most notably Eastern Germany, Poland and the Czech Republic, Bulgaria failed to open the files of its former secret police and to expose its networks in the country and abroad, precluding them from further interference in the public domain. This happened only partially after 2008. No systemic measures for limiting the access of members of the former secret police to any level of public service, including politics have been made. Many of the key figures in politics and business during transition have been members or have had connections to the former secret police. In many instances public policy is driven, not by public interest but by the power of old power networks and their business interests.

There are numerous examples of revolving doors between the private and the public sector ripe with conflicts of interest. In one of the more notable examples, the owner and manager of one of the biggest private security firms in the country was appointed top cop of the country, before becoming a politician and subsequently prime minister of the country. In a shocking case, in June 2013, the Bulgarian parliament tried to lower the professional requirements and to appoint the most powerful media mogul in the country as head of the State Agency for National Security without a formal hearing. The appointment was only prevented due to the erupted street protests and the formal reactions of partner EU countries. In a more recent case, in August 2013 the head of the private professional association of road construction companies, and owner of a number of such firms, was appointed Chairman of the Board of the State Agency "Road Infrastructure".

### **Every Government Appoints Its Own Administration**

Although the *Act on Civil Servants (ACS)*, introduced in 1999, differentiates between political and professional appointments, and the courts have strengthened the independence of the public administration, a wide range of administrative positions and the local authorities are dependent on the central government. Higher-ranking administrations of the most key institutions change with each new government. This includes, for example, the directors of all local police departments, the management of key government agencies, such as Customs, the National Revenue Agency, the institutions of financial control, key positions in the health care and pension system (such as the director of the National Health Insurance Fund, the National Social Security Institute), the building control agency, etc. For example, in 2013, the new Minister of Environment and Water changed the directors of all regional environmental inspection offices, the directors of the three national parks in Bulgaria and the directors of the four regional offices for water control – all of them at once (Nikolaeva 2013). The regularity of changes in all these administrative positions has allowed for the politicians in power to appoint loyal people to key positions without competitive selection, and to satisfy friendly business interests. The short and insecure terms of the administration have stalled the

professionalization of the public administration allowing more private sector influence on public policy-making.

Following Bulgaria's EU membership, political appointments have become more difficult as public administration has become more and more specialized, requiring more specific competencies. In particular, the public administration dealing with EU policies has formed strong bonds with EU counterparts shielding it from excessive political interference. As salaries have also improved and the level of training has increased, barriers to entry to newcomers have increased, making it more difficult for politicians to make entirely political appointments. The government has started producing an annual report on the state of the public administration, which allows for a more systematic overview of the development of the public administration.

Bulgaria has developed a system for asset declaration of political and administrative appointees. It has also introduced a conflicts of interest disclosure and prevention system, and has created a special public commission for revealing and controlling conflicts of interest. However, the implementation of the conflicts of interest legislation remains weak. Mistakes in disclosing assets have been usually dismissed as technical errors, while the conflicts of interest commission has become a tool for pressuring political dissident and/or opponents. The prosecution office has recently made public, as part of an on-going investigation, the notebook of the former head of the commission, which revealed he had put down written instructions, who should be "hit" and who "protected" from further scrutiny by the commission.

### **Lack of Transparency in Economic Policies and Public Spending**

Despite continuing improvements during the past decade and in particular after EU entry, policy making in the country remains opaque. The link between identified socio-economic problems on the one hand, and strategy development, policy-making, budgeting and implementation, on the other, remains weak. EU driven national reform and convergence programs' policy development have infused some clarity but it rarely translates into consistent policy-implementation. A particular case in point affecting heavily public spending, the flow of sizeable state resources to the private sector, and the country's economic environment have been policies and decisions on building new generation capacities in the energy sector. Despite the existence of a flat trend in electricity consumption accompanied by tripling of the country's GDP between 2001 and 2012, and despite the unrealized potential of energy efficiency gains in one of the most energy intensive economies in the EU, in the 2006-2012 period, Bulgaria allowed the installation of a total of 1,563 MW of new renewable energy capacities, on top of the started project on building a 2,000 MW new nuclear power plant, the building of numerous new water power plants, and the decision to start planning the building of a new 1,000 MW reactor on the site of the existing nuclear power plant



(Stefanov et al. 2011a). The combined transfer of public resources to the private sector from these in effect unsubstantiated (or only partly substantiated) policy decisions has exceeded €2 billion by 2012, without meeting public expectations. For example, the second nuclear power plant project has been discontinued, many of the participants in it are under investigation, and the chosen contractor for the plant is suing the country for more than €1 billion in foregone revenues.

Data availability has improved steadily in the past decade in Bulgaria, allowing investigative journalists, the media, watchdogs, and the general public to better follow public spending and the management of state-owned assets. A number of registries have been introduced allowing better tracing of public expenses, such as the Public Procurement Registry (in 2006), the concessions registry (in 2007), etc. In 2011, the government started publishing the quarterly financial results of all companies, in which the state has a stake above 30%. While this increased transparency has allowed the public to uncover many cases of suspected fraud and wrongdoing, it has not yet resulted in a discernible change in the quality of the management of public resources as concerns corruption.

According to the Open Budget Index 2012, with a score of 65 Bulgaria enjoys significant budget transparency and ranks 20<sup>th</sup> among 93 countries. Bulgaria has consistently improved its scores since 2006 when it joined the ranking but it has only managed to jump from the category of *some* to the category of *substantial* budget transparency in 2012 (IBP 2013). The Bulgarian government publishes since 1998 monthly, quarterly and annual information on the state of implementation of the consolidated state budget, and of the government debt. However, governments have failed to report on the final actual implementation of the budget. Until 2008, the Bulgarian budget ran extra surpluses, over and above the surplus already planned in the law on the national budget for the respective year. Governments spent billions of these extra surpluses in the last month of the year. The voting of the core laws related to the state budget is typically postponed until the latest parliamentary sessions each year, leaving the possibility for MP's to deliberately create loopholes to the benefit of private interests. Key economic decisions are often unexpected and do not meet sufficient argumentation. Regulatory impact assessment is done *pro forma* and does not meet minimal quality standards.

Although the Bulgarian government has pledged the introduction of program budget management since 2001, it remains non-binding for the administration. For example, in 2013, the new government announced that the state budget needs to be revised only a month after taking office and without sound argumentation. The government requested and was granted by Parliament the emission of an additional debt of BGN 1 billion without providing policy rationale for the spending of the newly requested resources. The budget revision was rushed through parliament in less than a week, although it required two readings in the standing

committees and two readings on the parliament floor.

### **Access to Public Information Remains Difficult**

Although efforts are constantly made in order to ensure better access to public information – mostly through the introduction of e-services, the administration continues to work in a non-transparent manner, without providing open information to the citizens, in particular in cases of journalistic or independent investigations in wrongdoing, including corruption allegations. Under the *Act on Access to Public Information (AAPI)*, the institutions should provide the information they are asked for in a 14-day time period. It is particularly difficult to receive publicly available information when it concerns the interests of the very administration being asked. According to reports of the Access to Information Programme (AIP), it is a common practice that public information has not been provided with the argument that it contains personal data, without taking into account the prevailing public interest and the lower level of private data protection of public figures. This creates inconsistencies within interpretations of the law (AIP 2013: 27-29.).

Access to information requests and data about their handling are provided in the annual report on the state of the public administration, which provides the basis for improving the functioning of the public administration. The overall trend since 2001 has been for requests for access to information to decline as a result of the more open information sharing provided by public authorities through their web sites. The most frequent reason for the refusal to provide public information is that it would infringe the interests of a third party – a company or a person. In 2012, this was the reason for 126 refusals out of 382, with a total of 8644 applications (Council of Ministers 2013). Out of 382 refusals, 85 have been followed by a complaint (Table 2).

**Table 2. Access to public information, 2009 – 2012.**

<b>Year</b>	<b>API applications</b>	<b>Refusals</b>	<b>Refusals Based on Third Party Interests</b>	<b>Complaints following a refusal</b>
2009	24694	247	104	86
2010	10671	478	224	137
2011	8805	486	168	116
2012	8644	382	126	85

Source: Council of Ministers (CM), 2013

### 4.3. Public Allocation of Goods and Services

Public services in Bulgaria are chronically underfunded, which makes the availability and quality of public goods and services poor. As such resources are fairly centralized the national government has strong discretionary power to distribute public goods and services to local authorities. While budget transparency provides enough data to follow up on allocations this can only happen *post-factum*. The national audit office has the authority to reveal waste of public resources, which it has done throughout the years but does not have any powers to prosecute.

#### **Public Procurement as a Tool to Provide for Private Interests in the Government**

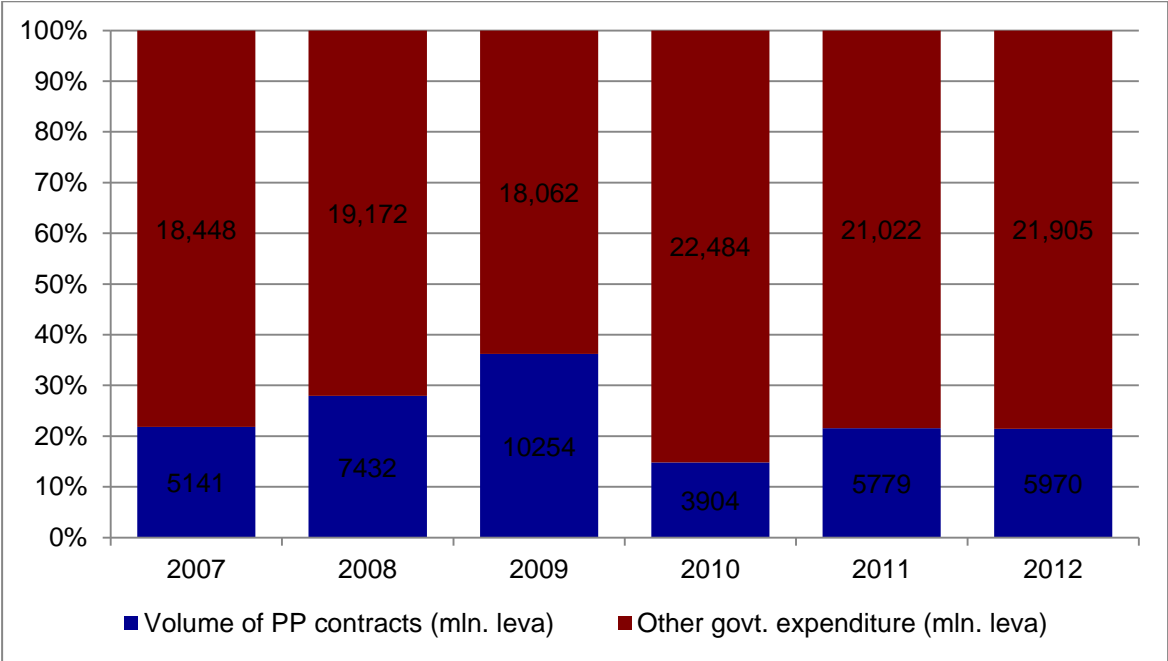
The bad practices in public procurement in Bulgaria are so numerous that businesses and the general public persistently hold the belief that bids cannot be won without bribery and/or political protection. The most typical violation is the introduction of special requirements, which limit the possible candidates to one or maximum two (usually related) companies, one of which is the preferred winner. In order to prevent bad practices, in 2012 an electronic system of 6 components – register, bidding, catalogue, tender, monitoring and audit – was proposed. However, in its first report on the electronic system the Centre for Prevention and Countering Corruption and Organized Crime (CPCCOC) states that additional measures should be taken with regard to the normative framework, the organization and the methodology of public procurement (CPCCOC 2013: 22). To address the issue of corruption in public procurement, successive Bulgarian governments have repeatedly focused on legislative changes while shying away from management and administrative measures. Since the adoption of the *Act on Public Procurement (APP)* in 2004, it underwent some 27 revisions. It is slated for new revisions in 2013. Provided the fact that Bulgarian law is in compliance with EU regulations it can be concluded that reducing the corruption potential of public procurement requires more transparency and better governance measures, such as publishing the winning bids in the Register for Public Procurement, or targeting the biggest violators, while leaving smaller transgressions to practice and learning.

The volume of the available government public procurement budget has declined considerably since the crisis began (Fig 6), limiting the opportunity for politicians and the public administration to satisfy the whole demand for public procurement, which has resulted in several very public scandals between competitors with mutual accusations of corruption practices. Some evidence from the past though has suggested that whilst growing in value, the public procurement market is shrinking in terms of number of participants, which is an indication of the concentration of public resources channeled to private operators, and might be an indication of a corrupt way of distributing public resources. In 2003, the share of companies, which have participated in public tenders, was more than 40% of the total, while some 5 years later it dropped to 10% (CSD 2009). The number of public procurement contracts signed in 2010 (20,965) indicates that the market has probably liberalized somewhat since 2008. But cases of big road and energy infrastructure development projects

have demonstrated that political patronage is an important element of winning larger public procurement contracts (CSD, 2012A).

The energy sector and healthcare are the two biggest public procurers in the country with the most opaque practices. Approximately 40% of all procedures for the awarding of public procurement contracts in the energy sector for 2012 were non-competitive, encompassing the various negotiated procedures with or without the publication of a contract notice under the APP. If the contracts awarded without any public procurement procedure are added to this number, it becomes apparent that avoiding market competition is the rule rather than the exception in the energy sector. (Stefanov et al. 2011a). In 2012, it became publicly known that the deposits of the biggest state-owned companies (in particular in the energy sector) were concentrated in several “big Bulgarian capital” private banks. In March 2013, the then caretaker government announced that approximately 54% of the bank deposits of the state-owned companies were concentrated in the sixth largest Bulgarian bank, which is one of the few controlled by locals. The bank had already concentrated 35% of the deposits of the state-owned enterprises until 2009, and during the subsequent government (a completely different political configuration from the previous one) this percentage grew (Stoyanov 2013).

**Figure 7. Volume of public procurement contracts as a share of all governmental expenditure (2007 - 2012).**



Source: Public Procurement Agency, 2013a, National Statistical Institute, 2013.

There are a host of government institutions, which have authority to ensure proper spending in the public domain, and which have ensured continuous improvement in the functioning of the public procurement system. The Commission for Protection of Competition (CPC) is the first instance of appeal in public procurement bids. It usually upholds the right of the

contracting authority and is difficult to reach by smaller contractors, outside of the capital city. The Public Procurement Agency publishes all public procurement data, keeps the public procurement register, and gives opinion on public procurement cases. It does not have any investigative power. These are vested in the Public Financial Control Agency, which has the authority to audit public procurement deals and to levy administrative and financial sanctions. The National Audit office has sweeping audit authority but does not have any investigative power as such.

Despite the availability of many oversight institutions in public procurement the number of public procurement deals with violations of the law uncovered by the Public Financial Inspection Agency (PFIA) remain very high (Table 3 and 4). Although PFIA provides data on inspections and violations annually, there is no consistency between the meaning and the presentation of the data. As a result, both data collection and data comparison are difficult. The capacity of the Agency to tackle problematic public procurement increases, but its deterrence and prevention effects are very limited and violations continue to be wide spread. One reason is the constant political interference in the work of the agency in particular on bigger public procurement contracts. Hence the agency tends to focus on smaller public procurement deals, which have limited downside risks for the public exchequer. For example, the agency only inspected the biggest-ever public procurement contract in the Bulgarian history on the construction of the Nuclear Power Plant “Belene” after the change in government in 2009. The head of the agency claimed she was sacked as a “reward” for doing their work on the Belene contract when the government changed back in 2013. The contract was signed in 2006, days before the country’s accession to the EU, and its value exceeding the total annual value of the public procurement market at that time, warranting annual monitoring without the need for an inspection request from another government body.

**Table 3. Concluded public procurement contracts per year (volume), (2007 - 2012).**

<b>Year</b>	<b>Total volume of the concluded PP contracts (million BGN )</b>	<b>Volume of the inspected PP contracts (million BGN)</b>	<b>Volume of the PP contracts with discovered violations (million BGN)</b>
2012	5,970	2,044	1,488
2011	5,779	1,459	1,060
2010	3,904	2,203	1,191
2009	10,254	1,084	660
2008	7,432	636	306
2007	5,141	1,031	601

Source: PPA Annual Reports, 2013b; PFIA Annual Reports, 2013.

**Table 4. Concluded public procurement contracts per year (number), (2007 - 2012).**

Year	Number of concluded PP contracts per year	Number of inspected contracts (procedures)	Number of PP contracts with discovered violations
2012	20,965	2,446	1,235
2011	17,587	1,368	821
2010	15,557	1,391	807
2009	15,360	1,140	724
2008	18,910	1,364	706
2007	12,044	1,529	776

\*Note: data for 2007 from PPA and PFIA can be incomplete due to the introduction of legal changes and is used for reference purposes only. For the purposes of this analysis no distinction is made between PP procedures and PP contracts. These have been reported differently by the authorities. Also no difference is made between planned inspections and inspections following a request by another government body/competent authority. (Source: PPA Annual Reports, 2013b; PFIA Annual Reports, 2013).

### **Interaction between central and local authorities**

Despite long-standing debates about fiscal decentralization, Bulgaria remains a highly centralized country. Local authorities have very few of their own tax-revenue sources, such as waste collection fee and property taxes, which can only provide meaningful revenues to only the few very successful seaside or winter resorts or the bigger cities. The main part of the municipal budget is decided by the central government.

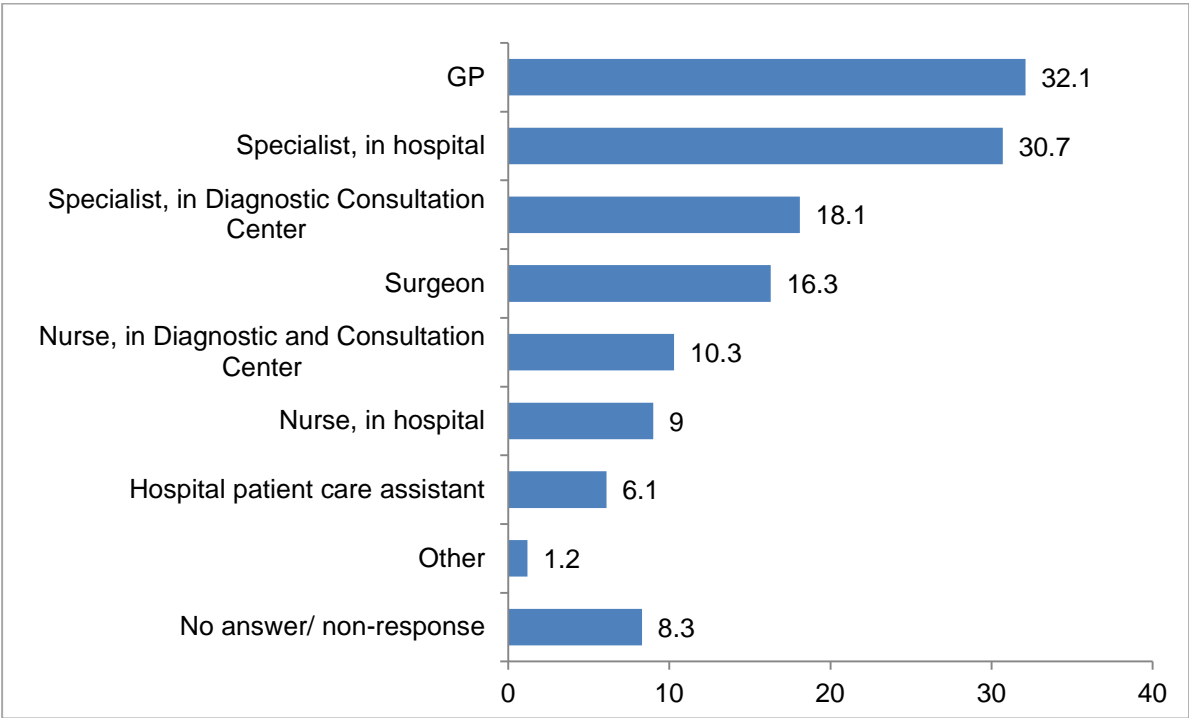
Unequal treatment of municipalities depending on their political affiliation is most visible in the allocation of central government subsidies for municipal budgets. The year 2010 is a particular case in point as it was the year of the most drastic fall in government revenues since 1998. As a result the budgets allocated to the Bulgarian municipalities were cut off on an average by 14% year-on-year. For 84 municipalities out of the total 264, the decrease was higher than the average. For 28 of them the drop was even steeper -30% and -64%. However, despite the general cut of all local government budgets, there were eight municipalities that gained higher funding from the government as compared to the previous year. Five of them received between 1% and 13% more but the rest three saw their budgets rise by 34% to 74%. Interestingly, the trend in the budget changes of the three municipalities in the previous years did not differ from the rest of the municipalities in terms of budget per capita. Two of the three winners in 2010 – the Municipalities of Tsarevo (35.1% budget increase in 2010) and Primorsko (74.3% budget increase in 2010) are located on the Black Sea coast, and have been among the richest in Bulgaria due to the fact that real estate market prices there have been traditionally higher than in the rest of the country. Both are small in terms of population - Tsarevo has about 9300 and Primorsko 6700 people. Tellingly,

in both municipalities the then ruling party won the local elections in 2011 after 3 consecutive mandates for mayors from the then opposition. In the third case, the Municipality of Etropole (43.9% budget increase in 2010, 12 500 inhabitants) has been in control of the then ruling party since the previous local elections in 2007. It won reelection in 2011.

**Health Care System**

Although budget expenditures for healthcare have risen three times since 1998, the healthcare system in Bulgaria remains severely underfunded compared to its more developed counterparts in Central Europe. In addition, the health care system is full of governance deficiencies, which breed corruption at all system levels. Political fights for control over healthcare spending have resulted in frequent changes to the methods of reimbursing subsidized drugs, the funding of hospitals, etc. According to a 2005 survey by Vitosha Research on corruption in healthcare, at the time of the lowest recorded level of administrative corruption by the CMS in Bulgaria, almost one third of the respondents had made an unregulated payment or a gift to their GP (Fig. 10) (Pashev 2007).

**Figure 8. To whom have you made unregulated gifts and payments?**



Source: Pashev, K., 2007.

There are numerous points of corruption risk in healthcare along the whole value chain:

- As the state decides which health services are paid, and which are free (and the level of support the state guarantees to fund them), some groups of medical problems are privileged – neurosurgery, cardiology, gynecology – while others are constantly

underfunded – oncology, psychology, dental medicine. At the same time chronic underfunding means deficits appear constantly in the system.

- At a basic level, the doctors have the possibility to decide how much the patient will pay for treatment – this is done through the diagnosis and the choice of a clinical pathway, and drug therapy. Depending on the clinical pathways that the particular hospital has funding for, this choice is predefined by the interests of the hospital.
- In the contact between the health care system and the pharmaceutical industry, the mechanisms for public procurement are non-transparent and allow for a radical increase of the prices of some medical supplies. At the level of doctors, there are numerous cases reported of medical companies lavishly supporting trips for doctors who prescribe their drug.
- As hospitals are dependent on the Ministry of Healthcare (MH) for upgrading their equipment, and such equipment requires specialized maintenance after installation care, there is very high pressure from competing trade representatives of equipment producers to access MH tenders. In a notable case, the media revealed in 2010 that tender documents posted on the web site of the Ministry of Healthcare were actually prepared by one of the bidders (Nikolova 2010).

#### **4.4. Separation Private – Public**

The weak division between private and public could be traced back to the widespread perception that state property belongs to nobody (instead of belonging to everybody). Various cases of power abuse at various levels, in particular as relates to perks such as office cars, security, and housing have revealed that Bulgarian politicians have very little understanding for the private-public separation.

The attempts to create an appropriate legal basis for the separation of private and public interests started several years before Bulgaria's accession to the EU in 2007, as a part of the legal harmonization with the EU body of law. The result is the *Conflict of Interest Prevention and Ascertainment Act* (CIPAA) from 2009, which defines in legal terms the situations in which public office holders may have private interests preventing them from fulfilling their duties impartially. The application of the new rules has taken a long time, as citizens, politicians and administration do not have the understanding of disclosing potential conflicts of interest and addressing the issue. So far there has been one recorded case, in which an MP has disclosed a conflict of interest while voting for a proposed law. Officials often have a private business, so in order to ensure the formal separation from their private interests they transfer their business to relatives.

The existence of publicly available electronic registries with statements for conflicts of interests, financial statements, etc., is a small but significant step towards transparency, as it attracts significant media attention. Although most of the scandals, with regard to conflicts of interests in the recent years, have been used by the political parties for settling political



accounts, important cases were discovered due to the public information available in registries. This has led to a higher social sensitivity to corruption. For example, in 2007, upon Bulgaria's EU accession, corruption was already seen as the number one problem by more than half of the population, trumping at the top list of society such issues as unemployment and incomes.

#### **4.5. Relation Formal/Informal Institutions**

There is a very high degree of informality in the Bulgarian economy and the public sector institutions. Each government since 1998 has been known for different informal circles of powerful friends, which have influenced its decisions without being part of the formal institutions. Key political leaders have shown clear disrespect for formal institutions, e.g. by not appearing in Parliament although being members.

The Bulgarian economy is characterized by a high degree of informality, which dates back to central planning when all private sector activity was prohibited. Tax evasion continues to be widespread. According to CSD's Hidden Economy Index, the hidden economy has decreased steadily since 2002 but remains very high. Informal labor and tax relations are largely socially accepted in the country (CSD 2013b: 9). In 2012, 9% of the employed in Bulgaria reported paying social security contributions at the minimal threshold legally required for their profession although the sum of their remuneration was higher. Another 13% reported paying social security contributions on the sum stated in their contract, although the total sum of their remuneration was higher. According to different sources the size of the hidden economy is estimated at 10-35% of GDP (Nonchev et al. 2011).

A notable feature of the Bulgarian political model from the past two decades has been the use of political institutions outside of the formal ones to plan and carry out government policies. For example, during the "Tripartite Coalition" (2005 – 2009) the country was effectively ruled by the council of the coalition, which involved the chairs of the three political parties in power. The Council of Ministers (CM) then implemented their decisions. Bulgarian politicians have also continuously shown public disrespect for formal institutions. The current lifetime honorary chair, long-time leader and MP from the MRF, has appeared in Parliament on very rare occasions. The 2009 – 2013 Prime-Minister has routinely refused to appear in Parliament to respond to MP questions, referring to MPs as being lazy and wasting time.

#### **4.6. Accountability and Rule of Law**

While transparency has increased steadily in Bulgaria in the past decade, accountability and the rule of law remain low. This is evidenced also by the continuous implementation of a specific mechanism by the EC to monitor the country's progress on rule of law and the reform of the judiciary.

The structure of the Bulgarian judiciary does not allow public oversight and accountability. In cases of malpractice, the other branches of power cannot intervene and/or at least provide checks and balances. It has only been since Bulgaria's EU accession in 2007 that the EC pressed for the introduction of more reporting requirements for the judiciary. The EC has

turned the spotlight on the Supreme Judicial Council as the body responsible for ensuring a more effective functioning of the judiciary. However, change is slow as also evidenced by the rising number of complaints and won trials against Bulgaria before the European Court of Justice.

While resignations among high-level administrators, their prosecution and court trials against politicians and oligarchs have become more frequent in recent years, the sentences are rare, and their enforcement – even rarer. Public investigations have often been started more as a way to compromise a political opponent than as a tool for achieving justice. One of the most notable examples of this has been a case of fraud with EU funds by a group from Bulgaria and Germany. While the German fraudsters have long been sentenced, jailed, and released from jail, their Bulgarian counterparts have remained free. Moreover, the Bulgarian courts have acquitted them because of grave procedural mistakes on the part of the Bulgarian prosecution. A member of the Bulgarian group of fraudsters was a donor to the 2002 – 2012 President of Bulgaria.

As the police, prosecutors, and courts have proven ineffective in delivering justice, in particular in cases of alleged high-level or political corruption, political and business players have engaged in wire-tapping and the subsequent publication of the wire-tapped conversations. In recent years, there has been an explosion of leaks of wiretapped conversations showing cases of power abuse. In some of these cases, the participants in wiretapped conversations have not denied the authenticity of the record. The prosecution has investigated only the sources of the information, and not the wrongdoings alleged in them. This impunity of high-ranking officials has resulted in very low trust of Bulgarian citizens in rule of law. In 2012, only 13% of Bulgarians believed the laws in the country are being enforced (NCSPPO 2012: 25). In previous years, this percentage was even lower – in 2008 only 7.4% thought so. In 2009, 24.1% of the population believed that the main reason for the weak law enforcement was the lack of an effective judicial system, and 19.7% thought it was corruption in the police and in the judicial system (ibid.).

#### **4.7. Personal Autonomy and Collective Action Capacity**

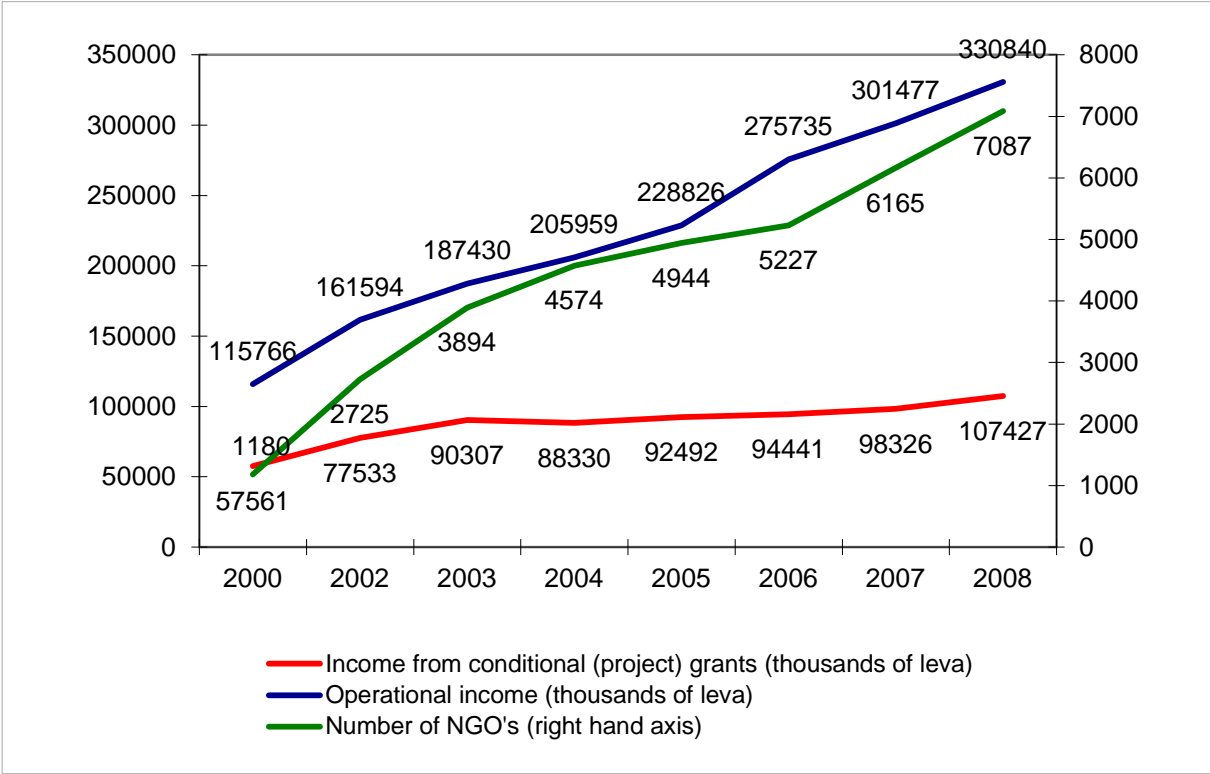
Despite the disappointment with the political elite, resulting in lower voter turnout, citizens become more active in seeking ways to “punish” politicians outside the regular elections cycle. The success of the citizen protests of 2013 to bring about change has emboldened collective action but the available mechanisms for impact remain few. Social media have grown in importance.

Social media plays a more and more important role in collective action capacity in Bulgaria. The reason is not only technological. Unclear media ownership in Bulgaria has forced many people to seek independent sources of information. Powerful business circles own a significant percentage of the printed media and have almost full coverage of the distribution market, as well as most television groups. The public media though, in particular the public

national radio, have remained strong and largely independent from political interference. Many media outlets have been ruthlessly and cynically used to appease or blackmail politicians, changing support in a matter of hours should the government in power change or not deliver on securing business for the media owners. In a recently publicized confession, a former Minister of Culture admitted that his party allowed the concentration of the money of state-owned companies in a certain bank in exchange for the media comfort provided by the financial group's newspapers and TV channels (Okov 2013).

The number of civil society organizations, an important venue for civic activism and instrument for accountability and transparency has increased rapidly in Bulgaria, in particular after the country's EU accession. In many cases though this has been the result of the influx of EU money. It has sometimes been related to a phenomenon defined by CSD as "civil society capture". For the period 2000 – 2008, the number of NGO's increased seven fold (Fig. 14). Many of the newly established NGOs have been brought to life by politicians and local authorities as instruments for legitimate extra outcome or as tools for establishing political and personal loops of trusted organizations, and a guarantee against losing political power. NGO's total turnover in this period has increased two and a half times, and their business activity increased over seven times in absolute terms. Paradoxically, with the accession of Bulgaria to the EU, the government's role in NGO funding increased, thus increasing the risks of corruption or capture. At the same time delayed reform of NGO registration has kept NGO ownership more hidden from public scrutiny than that of commercial companies, further stimulating politicians to use them as vehicles for enrichment.

**Figure 9. Dynamics of the number of NGOs in Bulgaria and their income (2000-2008).**



Source: Tzenkov, E. et al., 2010.

**III. Summary and Conclusions**

The findings of this paper support the evidence provided by the international comparative study of the Worldwide Governance Indicators about Bulgaria’s progress in the control of corruption. While the country made swift improvements in the period 1998 – 2004, it then stagnated and even regressed, in particular and most notably immediately after the country’s EU accession in 2007. However, there are many nuances in Bulgaria’s governance regime, which could not be captured by the WGI data but provide some insights as to possible paths to achieving sustainable governance improvements. The continuous improvement in transparency and data availability on governance in Bulgaria has allowed more detailed analysis and has allowed Bulgarian media and its citizens to uncover numerous violations of formal governance institutions for private and/or group gain. This progress has been aided by the introduction of many new legal norms following from the country’s EU accession. The latter together with the increased sensitivity of citizens towards corruption has resulted in increased civic activism demanding change towards upholding community and public interest. There has been an increase in organized civil society efforts to demand more transparency and accountability from Bulgarian politicians and the public administration. Whether the confluence of more legally binding requirements for transparency following from EU rules and increased civic activism will result in improved formal governance and rule of law institutions remains to be seen, though. It is hard to identify Bulgaria as a success in

controlling corruption although it has certainly made progress in this relation in the past two decades. But the country has experimented with many different tools for fighting corruption and has become a key test bed for the EC's efforts to impose change in its new members, which can provide a host of interesting findings on the effectiveness and impact of different instruments. Its civil society representatives have developed deep insights into the many different forms of corruption, and have in some cases designed innovative instruments for tracing such practices, as well as for counteraction.

#### **IV. Results beyond the empirical assessment**

The lessons learnt from the Bulgarian country case study confirm the findings that corruption is a multi-dimensional phenomenon, which is difficult to grasp, and even more difficult to target through policy instruments. It demonstrates that there are many factors at play, which influence the governance regime and corrupt behavior, and that changes are unlikely to occur in a revolutionary fashion. Rather governance regime changes are likely to happen after long periods of sustained, concerted actions from internal and external forces. Since 1989 Bulgaria has managed to evolve from *patrimonialism* to *competitive particularism*. The case study suggests that moving governance from its current state to the borderline might be more difficult and require a longer time-span and more intensive efforts.

The current empirical analysis suggests that corruption is already comparatively well studied and understood. But modeling its multitude of incarnations might be difficult. In particular in cases such as Bulgaria, in which there are very few and far between court cases on corruption. In effect, this makes accounts of political corruption based only on investigative journalism and/or circumstantial evidence. Designing action based on such evidence might be difficult to substantiate. Proving cause and effect would be even more elusive. On the other hand-side, administrative corruption is much easier to detect, model and handle. If one assumes that administrative and political corruption are interlinked then targeting administrative corruption might lead to gradually untangling and/or limiting the span of political corruption too. While it is easier to assign a country a specific governance regime on a macro level, pinning it down to the regime features might prove more difficult as there is more information on some of the features and less on others.

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# Appendix 1.

## 1.1 Corruption Monitoring System: Theoretical Underpinning of Corruption Indexes

The corruption indexes are a system of synthetic indicators, which present the results from the quantitative surveys of the CMS in a summarized form. The main objective in constructing the corruption indexes is to reduce the multidimensionality of corruption, as a social phenomenon, to a limited set of synthetic indicators. The advantages of such an approach are at least the following:

- synthetic indicators (corruption indexes) facilitate public presentation of the results, thus making analysis easier to perceive;
- the use of synthetic indicators is a prerequisite for establishing time series and, thus, for analyzing and assessing change.

The **four types of corruption indexes** are based on a relatively simple theoretical reconstruction of the elements of social action:

- social action has its specific prerequisites, among which the more important are: social actors’ attitudes, internalized values, and the way actors perceive their social environment;
- social action itself presupposes a specific interrelationship of actors, in which they exchange the resources they possess in order to achieve a specific objective;
- results from these actions include certain specific characteristics: 1) they change or preserve the initial (pre-action) prerequisites; and 2) they leave a specific “trace” in the social environment (change or preserve its structural components);
- the fulfillment or non-fulfillment of the objectives generates expectations among actors about the character and the structure of social action in its subsequent cycle. Based on these expectations, each actor constructs or changes his/her behavioral strategy.

Applied to corruption, this model of social action could be reduced to the following basic components:

<b>Action Components</b>	<b>Components of Corruption Behavior</b>
Action Prerequisites	<p><i>Attitudes towards corruption</i></p> <p>Include the identification of corruption as a social phenomenon, the assessment of its normative (value) permissibility, and the degree of willingness to override the norms of legitimate social behavior.</p>
Actor Interaction	<p><i>Corrupt practices</i></p> <p>Include actors’ activities in creating a pre-condition for corrupt practices (i.e. exercising pressure), and the actual acts of corrupt behavior.</p>

Action Results	<p><i>Assessments of the magnitude of corruption</i></p> <p>Include the assessment of the level of proliferation (involvement) of public officials in different forms of corrupt behavior, as well as the assessment of the levels of transformation of corruption into a behavioral norm (into a socially effective instrument for solving personal problems).</p>
Expectations	<p><i>Assessment of the perspectives on corruption</i></p> <p>Include assessments of the capabilities of society (i.e. its potential) to combat corruption.</p>

It should be noted that the application of the general model of social action (even in its simplified form) to corruption (in constructing the methodology of the quantitative studies) is a subject to multiple restrictions. Therefore, the model on which the study of corrupt behavior is based, is simplified. In constructing the set of indicators that was used in reality, the objective was to use the indispensable minimum in a way that would make it possible to maintain professional standards of fieldwork.

## 1.2 Structure of Corruption Indexes

The CMS includes four types of indexes:

- **Attitudes towards Corruption**
  - (Principle) Acceptability of Corruption: the index reflects the degree to which the population accepts, at a value level, certain acts of corrupt behavior on behalf of members of Parliament and public officials.
  - Susceptibility to Corruption: this index measures the inclination to compromise on values, principles, and legality, in order to perform corrupt acts, such as giving or accepting money and/or gifts for the purpose of solving certain personal problems.
- **Corrupt Practices**
  - Corruption Pressure on the General Public: this index shows the degree to which the citizens are subject to a direct or indirect pressure to participate in corrupt practices with public officials. It accounts for cases, in which public officials wanted or showed they were expecting corrupt behavior from the citizens.
  - Personal Involvement in Acts of Corrupt Behavior (general public): this index reflects self-confessions about cases, in which citizens have offered public officials money and/or gifts.
- **Magnitude of Corruption**
  - Spread of Corruption: this index reflects citizens' assessment of the spread of corruption in the country. It could also be computed for specific groups of public officials and public institutions.
  - Practical Effectiveness of Corrupt Behavior: this index shows the extent to which citizens perceive corruption as an efficient tool for solving personal problems. It is based on the registered probability of citizens offering money and/or gifts in order to successfully resolve their problems.

- **Expectations about the Future of Corruption:** this index reflects the expectations of the general public about the capacity of society to curb corruption in the country.

## Appendix 2.

### Corruption Monitoring System: survey questions (extract)

Q1: Whenever you have contacted officials in the public sector, how often in the last year they have:

A12A	<u>Directly demanded</u> cash, gift or favour	1	2	3	4	8	9
A12B	Not demanded directly, but <u>showed that they expected</u> cash, gift or favour	1	2	3	4	8	9

- 1 In all cases
- 2 In most of the cases
- 3 In isolated cases
- 4 In no cases
- 8 No contact in the last year
- 9 Don't know/No answer

Q2: WHENEVER YOU HAVE CONTACTED OFFICIALS IN THE PUBLIC SECTOR, HOW OFTEN IN THE LAST YEAR YOU HAVE HAD TO:

A	Give cash to an official	1	2	3	4	9
B	Give gift to an official	1	2	3	4	9
C	Do an official a favour	1	2	3	4	9

- 1 In all cases
- 2 In most of the cases
- 3 In isolated cases
- 4 In no cases
- 9 Don't know/No answer



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## Project profile

ANTICORRP is a large-scale research project funded by the European Commission's Seventh Framework Programme. The full name of the project is "Anti-corruption Policies Revisited: Global Trends and European Responses to the Challenge of Corruption". The project started in March 2012 and will last for five years. The research is conducted by 21 research groups in sixteen countries.

The fundamental purpose of ANTICORRP is to investigate and explain the factors that promote or hinder the development of effective anti-corruption policies and impartial government institutions. A central issue is how policy responses can be tailored to deal effectively with various forms of corruption. Through this approach ANTICORRP seeks to advance the knowledge on how corruption can be curbed in Europe and elsewhere. Special emphasis is laid on the agency of different state and non-state actors to contribute to building good governance.

Project acronym: ANTICORRP

Project full title: Anti-corruption Policies Revisited: Global Trends and European Responses to the Challenge of Corruption

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