

F. INTERNATIONAL COOPERATION AGAINST CORRUPTION

A traditionally „exotic“ issue, out-of-bounds for the diplomatic exchanges during the cold war, corruption was catapulted into the agenda of the international community in the early and mid-1990s. By 2001, most international institutions and multilateral agencies have mainstreamed corruption into their programs. It has also become an issue in the enlargement of the European Union.

One of the **effects of globalization on corruption** is that it has made it much more difficult to contain. This has significantly diminished its treatment as a sensitive issue in international exchanges and has facilitated its inclusion into **the development agenda** of many international institutions. Diplomatic considerations of non-interference in internal politics do not apply when there is international consensus that a particular issue belongs to the core of development concerns.

Coalition 2000 has been placing a strong emphasis on the cooperation with and involvement of the international community in its anti-corruption efforts in Bulgaria and regionally in Southeast Europe. In this emphasis, the Coalition aimed at two objectives:

- To facilitate the provision of international involvement for national anti-corruption efforts, and
- To mobilize public support for international anti-corruption programs in Bulgaria.

In 1998, in its Anti-Corruption Action Plan „Clean Future“, the Coalition noted that „Bulgaria’s cooperation with the international organizations concerned with this problem is still lagging behind the country’s need for support in counteracting corruption. It would appear that there is as yet no adequate appreciation of the individual approach of each of the various international organizations and hence, of the different possibilities for cooperation.“ The conclusion at the end of 2001 is that the pursuit of these objectives is still very relevant.

National anti-corruption programs need international assistance to be effective but equally, if not more importantly, they need to generate and respond to local civic demand. Thus **international institutions, governments and civil society should all be considered when evaluating the impact of international anti-corruption cooperation.**

Developments as regards Bulgaria’s international anti-corruption cooperation during 2001 will be assessed in view of:

- The government’s cooperation with various international initiatives

and institutions active in the area of anti-corruption.

- The activities of foreign development agencies and their cooperation with government and civil society.
- The regional implications and causes of corruption and anti-corruption initiatives in Southeast Europe.

F.1. Government Cooperation with International Organizations and Initiatives

- *Legal Standards*

Bulgaria has been continually active in its adoption of the advanced international anti-corruption standards embodied in the various international legal instruments developed in the past several years.

As a result, the government, in particular **the Ministry of Justice**, has built significant capacity as regards the process of adoption of the international legal standards in the field of anti-corruption, notably the OECD *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* and the Council of Europe *Criminal Law and Civil Law conventions*. Bulgaria's accession to these instruments was commented in the *2000 Corruption Assessment Report*. The introduction of key provisions of these conventions in the Bulgaria legislation continued in 2001 with the formation of a task force of experts developing draft amendments to the Criminal Code (this is further elaborated in Chapter B.1. above). Bulgaria has also continued to cooperate actively with the auxiliary and monitoring bodies of the CoE and OECD conventions, in particular with GRECO and the Working Group on the OECD convention.

- *Government's Attitude to the Broader Anti-corruption Efforts of the International Community*

Admittedly, there was a proliferation of international initiatives aimed at monitoring the progress of transition countries, particularly those in Central and Southeast Europe to combat corruption. Most of these initiatives did not account for other existing mechanisms or the other international institutional affiliations of a given country and there has consequently been little in terms of **coordination** among these initiatives.

The former Bulgarian government, however, misinterpreted the enhanced international concern with corruption in Bulgaria and distanced itself from a number of initiatives. Notable examples were its attitude towards the **Stability Pact Anti-Corruption Initiative** (discussed further in F.3. below) and its failure to send a government delegation to the **Second Global Forum on Fighting Corruption and Safeguarding Integrity** held in the Hague in May. The Forum was a follow up to the first meeting hosted by the US Vice President Al Gore in 1999 in Washington. The country also did not participate in the consultative meeting of the countries of Central and Eastern Europe and was not included in the Joint Position of the Participants at the Consultative Meeting of CEE Countries on Fighting Corruption, adopted in preparation of the Forum.

To be sure, there is a possibility that what is domestically an awareness campaign aiming to sensitize policy makers and increase public intolerance by emphasizing corruption issues in the public debate, internationally could be interpreted as deteriorated governance, thus mistaking the symptom for the disease. Nevertheless, the Corruption Perceptions

Index published annually by Transparency International, points that enhanced corruption awareness in Bulgaria has had exactly the opposite effect - Bulgaria climbed from 67 (out of 85 countries) in 1998, to 47 (out of 91 countries) in 2001, now sharing the rank with the Czech Republic.

The former government, however, failed to appreciate that **mainstreaming corruption both into public debate and government policies is an important condition for building trust** among the international community towards the country. Although the government might have had some legitimate concerns about the approach of the international community in this area, its diplomatic awkwardness was counter-productive in trying to persuade Bulgaria's international partners in its anti-corruption credentials.

One of the consequences of the change of government in 2001 in regard to anti-corruption, has been a **changing understanding of the significance of active national anti-corruption programs for the country's international integration efforts**. While previously the public debate on corruption was seen as, for example, compromising Bulgaria's EU accession speed, there is now growing appreciation that it is a crucial trust-building area with Bulgaria's international partners. An indication of this change is the *National Anti-Corruption Strategy*, adopted in October, which has been a requirement of *Bulgaria's EU Accession Partnership* for three years now. In fact, the pendulum might have swung to the opposite extreme - the new government was rightly criticized that the Strategy was better promoted abroad than to the Bulgarian public.

- *Foreign Technical Assistance*

There have also been increased efforts to incorporate foreign technical assistance into anti-corruption related reforms in various government ministries, in particular related to law enforcement.

A significant development in the latter part of 2001 has been the government commitment to pursue **radical customs reform, including with significant foreign assistance**. In November, the Ministry of Finance signed a three year agreement with the British consultancy Crown Agents to provide expert assistance in the customs reform. The foreign assistance to the customs could have a positive effect in the fight against corruption, particularly as anti-fraud measures will be one of the priorities of the contract.

Enlisting external private managerial support for such a sensitive and important public service area points to a strong commitment of reform and **sends the right signal to both the Bulgarian public and business and to the international community**. The move could be of crucial importance for this country's economic recovery and for the success of its integrity-driven efforts to curb contraband and related corruption. At the same time, precisely because the contract is with a foreign private agency it should be implemented under conditions of utmost **public transparency and accountability**. In addition, the involvement of a private company makes it crucial for the government to ensure the protection of the commercial interests of third parties. This is particularly relevant in terms of adequate **commercial data protection measures**, including such related to the protection of **intellectual property rights**.

F.2. Activities of International Organizations and Development Agencies

One of the most important factors ensuring the success of international assistance and best practice exchange in sensitive and broad areas such as corruption is the involvement of all stakeholders in the process, both public and private. This is particularly relevant in Bulgaria, where there have been strong civil society organizations developing throughout the 1990s that can provide sustainability and generate support for these efforts. Nevertheless, international organizations, notably the European Union, are still not incorporating civil society into their anti-corruption programs in Bulgaria.

International Anti-Corruption Assistance in Bulgaria 1998 - 2001: Lessons Learned

1. **Anticorruption mechanisms in foreign assistance.** Some development agencies emphasize **corruption prevention in their assistance programs to Bulgaria**. Enhanced transparency and accountability requirements need **to be routinely built** into the financing of projects from foreign and international sources, and implemented by both government and non-governmental organizations, to prevent corruption in the absorption of funds.
2. **Domestic and international aspects of accountability.** Many anti-corruption projects sponsored by international agencies in Bulgaria receive little publicity about their objectives and outcomes and thus generate little public support. Accountability to local constituents should be encouraged as much as accountability to foreign donors.
3. **Linkages.** International concern about corruption in Bulgaria rarely translates into tangible pressure on the government to implement anti-corruption programs. International assistance - lending, technical and financial assistance, investment guarantees, etc - in particular coming from the European Union and the World Bank, needs to be linked to the implementation of targeted anti-corruption measures.
4. The implementation of **anti-corruption programs through public-private partnerships** should become a standard requirement of international assistance in this area. USAID is the only agency that has specifically supported this approach. In general, bilateral development agencies (of countries like USA, UK, the Netherlands) than the international agencies (European Union, IMF, WB, EBRD, UNDP) are more willing and better equipped to involve civil society in its assistance, although few provide linkages to government assistance projects.
5. Although all donor agencies identify other relevant activities during the feasibility stage of their anti-corruption programs, few build provisions about **interfacing with other ongoing donor projects** into their implementation requirements.

In 2001 the **United States Agency for International Development (USAID)** continued to be one of the most significant contributors to anti-corruption programs in Bulgaria. USAID places a particular emphasis on building local anti-corruption coalitions between the various stakeholders. The benefit of supporting such partnerships was particularly evident in 2001, when the public-private nature of USAID supported *Coalition 2000*,

which provided crucial continuity in national anti-corruption efforts during the change of government.

As a follow up, USAID has announced the continuation of this support through the implementation of a large scale, three year project aimed at supporting anti-corruption public-private partnerships as well anti-corruption efforts in public procurement and public finance auditing. Specific beneficiaries will be the National Audit Office, the Procurement Office at the Council of Ministers, and several other government ministries. A strong civil society component is also part of its project.

Anti-corruption is also one of the pillars of USAID's five year strategy for assistance in Bulgaria which was discussed during 2001 with a variety of government and non-governmental stakeholders.

For the first time **corruption was incorporated into Bulgaria's European Union accession agenda through the adoption of the Accession Partnership in 1999**. Notably, it linked anti-corruption measures in law enforcement with the broader efforts to fight crime. Most importantly, the document set as the most important short term priority (i.e. to be implemented by end 2000) the adoption of a comprehensive government anti-corruption strategy. The previous Bulgarian government attracted criticism from the Commission for failing to implement this provision.

It is important to emphasize that Bulgaria's preparations for accession to the European Union have been one of the most significant factors contributing to the establishment of the rule of law and the development of a market economy. During the past few years the European Commission has been increasingly concerned that rampant corruption in the country seriously undermines these efforts.

The Commission's Evaluation of Corruption in Bulgaria (2000 - 01)

Corruption continues to be a very serious problem in Bulgaria. Whilst it is hard to know its extent, the persistent rumors about corrupt practices at various levels of the administration and the public sector in themselves contribute to tainting the political, economic and social environment... Whilst allegations of corruption are rife, it is difficult to obtain concrete information on how the judicial system is dealing with corruption cases.

Regular Report 2000, p. 17

Whilst there have been some improvements since last year, in particular in the legal framework, corruption continues to be a very serious problem in Bulgaria. According to several surveys since the last Regular Report, customs, the police, university teachers, business people, public sector officials who have close contact with the public and the judiciary were perceived to be among the most corrupt professions... there is a decrease in public acceptance of corruption and civil society has been active in raising awareness and putting corruption on the political agenda.

Regular Report 2001, p. 19

The problem of corruption entered into the EU accession debate in

Bulgaria by the 2000 Regular Report in the European Commission on the country's readiness for joining.

As is evident from the table, there has been a tangible change in the European Commission's evaluation of Bulgaria's anti-corruption progress. In contrast to the 2000 report, which made a rather general evaluation, the 2001 Report adopted a more precise approach referring to existing surveys and identifying some areas of particular concern. However, some of the areas involving the most serious corruption risk, such as customs and privatization, were not identified as priorities for anti-corruption work. This change is important as it should translate into a better correspondence between the problems identified in the regular reports and assistance priorities of EC to Bulgaria. In this context, it would be appropriate for the Commission to apply **clear-cut criteria for evaluating the progress in anti-corruption in the country** and how the respective governments are dealing with this issue.

This could help overcome the divergence between the Commission's evaluation and its assistance activities in Bulgaria. On the one hand, successive Bulgarian governments failed to prepare any significant anti-corruption programs to be supported by the Commission as part of its pre-accession assistance, regardless of the Accession Partnership requirements. On the other, the Commission could have made the development and implementation of anti-corruption programs a stronger condition of its assistance. The difference between the Commission's expressed concern about corruption and actual anti-corruption projects can be expected to be overcome through the Commission's intention to support activities proposed in the government's *Program for Implementation of the National Anti-Corruption Strategy*. There are indications that there will be more emphasis on anti-corruption in projects developed under the national PHARE 2002 program. Towards the end of 2001, the government has also been proposing to the Commission new anti-corruption projects, in particular those focusing on law enforcement and the judiciary. These can be expected to provide a vital link between the Commission's assistance with administrative reform and a matching effort in the field of judicial reform, an area still with little Commission contribution.

The Commission has been supporting an anti-corruption twinning project on strengthening the public prosecutor's office. This is a key area of anti-corruption reform in Bulgaria, and the project could benefit from more publicity about its aims and results. Experience shows that twinning projects have a considerable potential for transferring technical expertise and could be expected to have a particularly good impact in the field of anti-corruption.

In 2001, the **World Bank** discussed its *Country Assistance Strategy (CAS) for Bulgaria for the period 2002-2004*. The process of discussion and the wide range of public and private institutions involved in it is an indication of the Bank's acknowledgement of the capacity of the country to „own“ its development agenda. In a number of its priority areas the CAS refers to anti-corruption programs as a pre-condition of the success of assistance and reforms. The Bank has a considerable analytical potential which can be used by the government in the development of anti-corruption projects, and its emphasis on survey and diagnostics. It is also the only foreign development agency that carries out its own corruption surveys.

The Bank could provide a stronger link between its lending programs and measurable anti-corruption progress in the relevant areas - e.g. to factor anti-corruption into its lending volumes' scenarios. It would also be appropriate to include anti-corruption in the Bank's active grant program, which is designed to support the Bank's main lending activities in the country. The government, for its part, as well as civil society, for that matter, needs to take extra precautions that borrowing from the Bank is corruption-free since loans are repaid with taxpayer's money.

The **Dutch government** is also a major bilateral donor with an interest in anti-corruption. Through its MATRA KAP program, in 2001 it supported a number of NGO-implemented civic initiatives in this area, some of which are at the local government level. The program provides important support to the civic sector in anti-corruption but could benefit more from improved linkages to assistance provided to public institutions.

In 2001, the **United Nations Development Programme (UNDP)** carried out an evaluation of the potential areas of UNDP assistance in the area of anti-corruption. Importantly, one of the main points of emphasis was the potential for supporting partnerships in the field. Another encouraging development has been the inclusion of anti-corruption efforts in the agenda of the *Second Regional Cooperation Framework for Europe and the Commonwealth of Independent States* (2002-2005) of the UNDP. A positive example of the public-private approach was that in 2001, the UNDP consulted a number of government and non-governmental organizations in Bulgaria on the priorities of the cooperation framework.

F.3. Regional Aspects

In the last few years, both in Bulgaria and among the international institutions, there was an increase in the understanding that the regional approach should be one of the main emphasis in combating corruption. In general, regional instability in the past ten years has undermined effective law enforcement throughout the region, has raised considerably the cost of regional trade, and thus the stakes of smuggling, which consequently has become a breeding ground for organized crime on a regional scale. Presence in the SEE of a gray economy, and even outright criminal zones, has been the main dynamic behind high levels of corruption.

Cooperation with regional anti-corruption initiatives, led by the international community, **has also been uneven** for Bulgaria. Although it was initially very supportive, over the past two years the former government started to view international anti-corruption cooperation with increasing concern. Enhanced international concern over corruption in Bulgaria was construed as a tacit attempt to sideline Bulgaria in the process of European integration.

In particular, during the first half of 2001, the Bulgarian government voiced concerns both about the general role of the Stability Pact and its effectiveness, as well as about the role of Bulgaria. Several arguments were put forward as follows:

- Bulgaria needs to participate as a „resource“, rather than a „beneficiary“ country in the Stability Pact Anti-Corruption Initiative (SPAI).
- There is a contradiction between the scope and genesis of the problem - corruption bred by political instability (meaning that this pertains to

area of the so called Western Balkans) - and the platform for solving, namely all of SEE countries, including those on EU and NATO accession track.

- The Pact and SPAI do not account for the widely varying levels of development and do not distinguish between countries contributing to and those undermining stability.
- Bulgaria is already participating in a number of monitoring procedures that include assessment of corruption (GRECO, EU regular report, OECD convention, etc) which makes SPAI monitoring redundant. For example, in July the government pointed out that Bulgaria should be part of SPAI only through the fulfillment of the criteria of the Justice and Home Affairs chapter of its accession to the EU. Whether these arguments had aimed at exerting additional pressure with respect to lifting the Schengen area visas for Bulgarians, is a matter for another discussion.

Thus, **the government faced a dilemma** with the anti-corruption efforts of the Stability Pact. On the one hand, **it worried that being linked to the stabilization agenda of the Western Balkans**, including in the field of anti-corruption, **could slow it down on the road to the EU** because of shifting priorities and diverted resources, particularly in the public administration. This was particularly relevant from the point of view of the tangled web of overlapping monitoring procedures the government was referring to.

On the other, the **Stability Pact is an important platform for dealing with continuing instability and security risks**, which undermine democratization and diminish already low investor confidence. More importantly, the Pact was a very good opportunity for attracting support and investment for crucial **regional** infrastructure projects which Bulgaria's future depends heavily on.

Balancing involvement in regional cooperation initiatives, particularly in sensitive areas such as anti-corruption, with an accelerated EU accession process would not be an easy task for any Bulgarian government. The government will, however, always bear the burden of responsibility for convincing Bulgaria's international partners that **EU accession is not being used as an excuse for disengagement from joint measures against problems with as many cross-border roots as those present in the Balkans.**

Last year's *Corruption Assessment Report* identified the positive example for cooperation between public and private institutions of the **Southeast European Legal Development Initiative (SELDI)**. As Bulgaria plays a leading role in SELDI through the introduction of a **Regional Corruption Monitoring System (RCMS) in Southeast Europe**, it has turned into an effective mechanism of peer pressure for governments in the region to adopt anti-corruption measures. Within RCMS, the first ever **region-wide corruption diagnostics** were carried out in Albania, Bosnia & Herzegovina, Bulgaria, Croatia, Macedonia, Romania, and Yugoslavia on the basis of a uniform methodology. Based on the successful implementation of the Corruption Monitoring System of *Coalition 2000* in Bulgaria, the RCMS ensures comparability of results between countries and over time. It is based on the experience of citizens from each country with corruption which gives the opportunity to explore the „insider“ view

on corrupt practices. RCMS also shows the public significance of the problem of corruption and the extent to which corruption has penetrated into the various sections of these societies. It therefore allows a comparison of the public sectors most affected by corruption thus providing objective data for the design of regional anti-corruption policy instruments.

SELDI's anti-corruption efforts point to similar problems facing a number of public agencies, notably law enforcement and the judiciary. In addition, believing that the **lack of an efficient public-private mechanism to tackle soft security issues** (illegal trafficking in drugs and human beings, commercial fraud and money laundering, organized crime, etc) in SEE is a **key deficiency to any regional plan for stability** and restoration of the rule of law in this part of the world, the SELDI anti-corruption team is working in cooperation with public and international bodies on a policy analysis and recommendations report on the impact of the these illegal activities on corruption in the region.

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The major challenge to corruption monitoring and assessment in Bulgaria is the excessive political rhetoric in the efforts to deal with the issues of transparency and accountability of the authorities. The frequent references to the values of anti-corruption may sometimes blur the true essence and orientation of a given policy. Ultimately, the anti-corruption rhetoric reflects the belated realization by most political parties the boomerang effect of any compromising approach to this problem.

Notwithstanding the difficulties, **the formula of public-private partnership in counteracting corruption is as relevant as ever**. The participation of non-governmental organizations in formulating the general framework of the anti-corruption efforts, the independent monitoring and assessment of corruption that has been carried out for several years, as well as the introduction of a number of pilot initiatives, such as the local ombudsman, into the social practice all point to the large potential of civil society's role in fostering transparency and integrity.