

CLEAN FUTURE

Reducing corruption requires not only the relevant institution-building and legislative measures but also creating the social preconditions for establishing the rule of law. In this context it is of decisive importance to foster a democratic political and economic culture based on trust and respect of government institutions, transparency and openness of the activities of the administration, and an orientation towards stability and predictability of the economic and social environment. The *Coalition 2000* process aims to bring civil society organizations, businesses and NGOs into a partnership with government institutions in implementing an effective anti-corruption strategy.

Coalition 2000 is an initiative of a number of Bulgarian non-governmental organizations aimed at combating corruption through a process of cooperation among governmental institutions, NGOs and individuals drafting an Anti-Corruption Action Plan for Bulgaria, implementing an Anti-Corruption Awareness Campaign and a Corruption Monitoring System.

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ADDRESS BY THE PRESIDENT OF THE REPUBLIC OF BULGARIA TO THE POLICY FORUM OF *COALITION 2000*

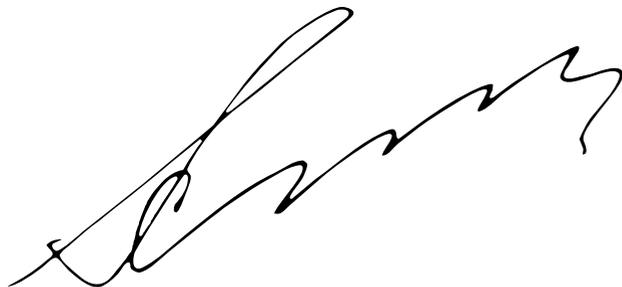
Ladies and Gentlemen,

Above all, let me assure you that I welcome and support the *Coalition 2000* initiative. While corruption is not a product of democracy, it may well turn into one of the chief obstacles to the establishment of democratic values. Even the Romans, more than 2000 years ago, were familiar with some of its forms — bribery, for instance, known under the ironic term *argumentum argentarium*, i.e., pecuniary evidence. The Roman politician Marcus Tullius Cicero used to say that incorruptibility was the only quality he would appreciate even in his enemies.

Today, the counteraction of corruption most urgently calls for society to take a common stand in protection of its own interests. I am confident that this Forum will make a real contribution towards coordinating priorities in the anti-corruption efforts of the government, on the one hand, and of civil society, on the other. I personally do not have any doubts that a “coalition” of non-governmental organizations and government representatives has its place in our new social practices.

The anti-corruption campaign in Bulgaria is also an essential prerequisite for our European integration because corruption can only lead to isolation and poverty, while democracy implies prosperity and participation in the world economy.

I would like to wish the present Forum, as well as other *Coalition 2000* initiatives in the public interest, a lot of success and productivity.

A handwritten signature in black ink, appearing to be 'Petar Stoyanov', written in a cursive style.

Petar Stoyanov

PRESIDENT OF THE
REPUBLIC OF BULGARIA

ANTI-CORRUPTION ACTION PLAN FOR BULGARIA

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INTRODUCTION

The present Anti-Corruption Action Plan has been developed within the framework of the *Coalition 2000* process with the purpose of becoming part of the social agenda as a broadly approved system of measures and actions for curbing the extremely dangerous social phenomenon of corruption. What makes the fight against corruption of primary importance is both the magnitude of illegal redistribution of resources to the detriment of ordinary citizens and the fact that corruption pressure is a serious risk factor limiting foreign investment and support for the Bulgarian transition, all while demoralizing the national potential for carrying out the reforms. Furthermore, the lack of adequate public counteraction of this phenomenon undermines efforts to establish democratic values and rule of law in this country. In turn, making tangible progress in curbing corruption is an important political prerequisite for Bulgaria's accession to the European Union.

Definitions of the complex term of corruption typically refer to the abuse of power — economic, political, or administrative — for group or personal gain, in violation of the law and the legitimate interests of individuals, a specific community, or society as a whole. The broad scope of this definition is further warranted by the fact that effective counteraction of corruption, of one of the most threatening national and global phenomena, requires the concerted efforts and commitment of both the government and the citizens, and should involve each and every sector of public life.

The long-term goal of the Action Plan is to limit, to the extent possible, corruption and its destructive consequences for society in general. The Action Lines suggested do not assume that it is possible to eradicate corruption once and for all, nor is it assumed that human nature is susceptible to sudden and radical transformation. In the mid-term, the objective is to reduce corruption pressure and bring about a breakthrough in public attitudes towards illegal forms of personal gain.

The Action Plan places special emphasis on the establishment of a favorable institutional and legal environment for the fight against corruption. Public administration and judiciary reforms in terms of increased transparency and accountability are an essential precondition for the creation of an efficient anti-corruption mechanism.

Another important area is that of private business, with the accumulated improper practices and negative models of interaction with government authorities, the judiciary, and the political parties. In particular, special attention has been devoted to the need to limit the corruption potential inherent in privatization procedures, as well as the need to liberalize entrepreneurial activities.

Civil society organizations should take the lead in the public awareness campaign, which has been provisionally entitled Clean Future. To this end, it is necessary to find the proper formula for constructive interaction with the

authorities, combining the principle of partnership with that of citizen control.

Of particular significance is cooperation with international organizations, foreign governments, and international experts in defining the parameters of the anti-corruption initiative and its integration into multilateral efforts to limit corruption in the countries in transition and the rest of the world.

A. FIRST ACTION LINE: CREATING A FAVORABLE INSTITUTIONAL AND LEGAL ENVIRONMENT FOR CURBING CORRUPTION

A.1. Public administration reform

A.1.1. Background

The present state of the central and municipal administration corresponds to the transitional nature of Bulgarian statehood and the lack of adequate legal and institutional culture. The inherited and newly acquired flaws of red-tape bureaucracy impede the clear-cut differentiation of the public from the private sector and favor the proliferation of corruption in central and local government. On the other hand, a lack of professionalism, poor organization, obscure criteria and inadequate division of powers and responsibilities among the different institutions and official positions hamper reform and lead to the destabilization of government authority. The spheres where corrupt practices are most rampant include licensing, collection of budget revenues (customs duties, taxes), exercise of controlling functions and the imposition of sanctions, public procurement, etc.

A.1.2. Objectives

The recommended reform is aimed at establishing a modern legal framework of administrative activities and public services. It will incorporate the principle of curbing and preventing corruption through legal mechanisms and appropriate legislative and institutional measures. The reform implies managerial and organizational development and clear-cut regulation of interrelations between government authorities on the one hand, and the private sector and citizens, on the other.

A.1.3. Actions

A.1.3.1. Adoption of a Public Administration Act

What would be achieved with such a law is a uniform structure of the government apparatus and more effective control over its various units; it would further help avoid the duplication of functions among different independent agencies, as well as among local structures of central government and the local authorities. The law can also be expected to help overcome the present obscure allocation of powers and responsibilities. With clear structures and prerogatives, which are familiar to the general public, there will be fewer opportunities for public officials to take advantage of their positions for personal gain.

A.1.3.2. Creating legal guarantees for transparency in the work of public administration

Guaranteed transparency will increase public control over the activities of the state apparatus. What could be done in this respect is to establish information sections within government agencies to deal with citizens' complaints and subsequently to inform them of the results. Each institution should develop internal rules and procedures for handling the complaints based on the existing regulations. Transparency would also be achieved by developing mechanisms for accountability and for informing the public about the activity of the institutions through PR departments to be established within them. This could be regulated by their statutes. A particularly important precondition for transparency is the legal obligation of government agencies to provide access to information to independent media, professional, and other non-governmental organizations concerned with their activity.

A.1.3.3. Transfer of specific activities and services from the administration to the private sector

For obvious reasons, the post-communist state has a monopoly over public services, which implies maintenance of a cumbersome and inefficient state and municipal apparatus. By relieving the administration of certain responsibilities there could emerge a competitive (rather than "black") market for the same activities which are now being carried out in a poor and corrupt manner. This would free organizational and human resources that could be reallocated to control functions. Furthermore, private companies engaged in providing administrative services would not only receive additional economic incentive, but would also establish themselves as a socially responsible sector in the public services market. There is every reason to expect that one immediate implication of administrative decentralization would be the limitation of opportunities and preconditions for corruption.

A.1.3.4. Establishment of a body with special powers to investigate cases of corruption and submit them to the competent authorities which can take legal action (prosecution, courts)

Assigning the task of combating corruption to a specialized agency is a practice existing in other countries. Several options for the institutionalization of such an agency can be considered. The optimal approach would be to subordinate it directly to Parliament, thus taking it out of the executive branch and in large measure guaranteeing its objectivity and autonomy. Other possibilities are to set up internal departments in the respective institutions, or an agency with the Council of Ministers or with the office of the Minister of Finance, in addition to that office's other prerogatives (financial police). The establishment of a specialized agency should be subject to a special law or be regulated by provisions in the Public Administration Act, with broad political support being essential. The principal characteristics of such an agency, especially if it is to function on a national level, are operational independence and power to conduct top-level investigations, small staff, independent and carefully selected management, capacity to access docu-

mentation, to interrogate witnesses, etc. In order to make sure that such an institution cannot be used for political purposes or turn into an instrument of corruption itself there should be unequivocal legal provisions regarding when and why an investigation is to begin, objective criteria concerning its conclusion so as to avoid unwarranted dragging out of the process, as well as guarantees for its confidentiality. Rather than setting up a new agency or departments, it may also be possible to extend the activity of existing authorities. This would help avoid potential jurisdiction conflicts.

A.1.3.5. The role of agencies funded by extra-budgetary accounts

One approach could be to close those agencies in order to overcome the present situation wherein they are operating as private structures. This would be in line with IMF recommendations to close most extra-budgetary funds and centralize them within the budget. The second approach would take into account the fact that extra-budgetary funds do relieve the burden of the budget and these agencies ought not to be prevented from having their own sources of income, naturally provided that they meet accountability requirements.

A.1.3.6. Limiting the scope of permit and licensing regimes

It is necessary for permit and license-requiring activities to be regulated by law, with all procedures and conditions for issuing permits and licenses stipulated by the law itself, rather than by other regulations and individual acts. A suggested course of action includes:

- limiting such activities to only those areas where they are absolutely indispensable. In such cases there should be better guarantees for transparency. The institutions issuing permits and licenses ought to be publicly accountable for their actions;
- disallowing any permit or licensing regimes not expressly stipulated by law;
- abolishing the numerous existing ordinances, rules, and instructions regulating permit and licensing regimes;
- abolishing all legal provisions allowing for the issuing of permits and licenses at the discretion of the authorities. (One case in point is the Protection Competition Act with its section on advertising; also, the draft law on the media, etc.);
- extending possibilities for control in cases of refusal to grant permits or licenses.

A.1.3.7. Stipulation of basic requirements concerning the proper implementation of administrative procedures

- In the field of foreign trade there should be strict adherence to the country's commitments towards the European Union and the World Trade Organization.

- In the field of finance and the currency board there should be strict adherence to the country's commitments stemming from Bulgaria's membership in the IMF, including the expected adoption by Bulgaria of Article VIII of the IMF Articles of agreement.

This adherence would lead to improvement in the methods, mode of operation and performance of public administration, and hence to better administrative servicing of the general public. The achievement of this result would be aided by introducing certain requirements for the administration to follow in the decision-making process (e.g., deadlines for rendering decisions, manner of informing the public about decisions made, etc.). A pilot project in a small or medium-sized municipality could be developed and implemented to test the anti-corruption effect.

A.1.3.8. Changing the legislation in order to reduce opportunities for subjective judgments on behalf of the administration

This could be achieved through clear-cut definition of the rights, obligations, and procedures involved in the exercise of discretionary power and by reviewing the philosophy of the role of government in society.

A.1.3.9. Adoption of a Civil Service Act

Such a law should clearly define the rights, obligations, and responsibilities of public officials. In this respect, the following specific measures to curb corruption could be undertaken:

- training public officials at all levels and formulating clear-cut guidelines and codes of conduct;
- regulating the obligation of public officials to file income and property declarations for themselves and members of their family (along with the introduction of the same obligation for members of parliament). In turn, the agencies entitled to request and verify such information should also have the power to request officials to prove the legitimate origin of their income and property rather than be expected to provide evidence of illegal origin themselves. Such authority could be assigned either to the Inspectors offices with the ministries or to national agencies — the Financial Police or the Bureau for Investigation of Financial Fraud;
- regulating the admissibility of gifts to public officials, to be monitored through internal control mechanisms;
- introducing a public register to ensure transparency of the financial and property status of high-ranking public officials;
- preventing conflicts of interest.

A.1.3.10. Introduction of a system of performance evaluation of public officials, including disciplinary measures with the aim of enhancing internal control effectiveness

Controlling functions could be assigned to a body with the office of the Minister of Public Administration as provided by the draft law on public officials.

A.1.3.11. Improved remuneration of public officials, combined with viable control and evaluation mechanisms

This will improve the motivation of public officials, as well as their social status.

A.1.3.12. Establishing internal rules and detailed instructions

To achieve this objective, the rules and instructions concerning relations of the general public with the institutions should be publicly accessible and as simple, clear, and specific as possible. The publication of the rules and instructions in the press will lead to better awareness of citizens of their rights and the obligations of public officials. In this way, the rules and instructions will themselves become even more binding for public officials. Their observation will be a safeguard against arbitrariness and infringement of citizens' interests.

A.1.3.13. Legal regulation of measures and sanctions of varying scope and form for public officials involved in corruption

It is necessary to provide for both criminal sanctions and disciplinary action. The liability to various forms of legal action will have a deterring effect on the conduct of public officials. Disciplinary action could include demotion or financial liability of officials in case of unprofitable deals endorsed as a result of corruption. In this respect civil liability is deemed more effective. Financial liability ought to include reimbursement of any expenses involved in the termination of the contract. At the same time, the officials who have helped expose corrupt practices should be encouraged and receive part of the damages or fine owed by those involved in corruption.

A.1.3.14. Introduction of a legal ban on public officials becoming members of the governing bodies of commercial companies as a means of ensuring independent decision making. Any exceptions to this ban ought to be carefully considered and thoroughly regulated by law, so as to avoid leaving any loopholes on the one hand, and prevent such a regulation from becoming a potential barrier to hiring qualified staff in public administration, on the other.

A.1.3.15. Introduction of restrictions regarding immediate hierarchical subordination of public officials to spouses or family members (lineal or collateral relationships up to the fourth degree). The restriction could be applied only in the case of transactions and actions where such a dependence actually occurs rather than the assumption of office in principle.

A.1.3.16. Providing for personnel rotation mechanisms in the relevant laws or regulations

In this manner, public officials could maintain their qualification and further develop their skills by assuming comparable positions and similar functions all while avoiding routine interaction with specific private individuals.

A.2. Establishing new institutions and offices with controlling and monitoring functions, and improving existing ones

A.2.1. Background

The existing public agencies and departments with control and monitoring functions are not always capable of counteracting corrupt practices in a timely and effective manner. These specialized agencies are themselves not immune to corruption. There have been cases of abuse even among officials whose very prerogatives include prevention of the various forms of corruption. In this situation, the role of the Parliamentary Committee to Counter Crime and Corruption appears as all the more important, along with the improvement of similar existing institutions and the establishment of new ones.

A.2.2. Objectives

To enhance the role of existing institutions and establish new ones with controlling and monitoring functions in the fight against corruption. Those are institutions outside the judicial system with varying status — either exercising proper control functions (e.g. the National Audit Office), or having a supervisory and intermediary role without real powers and resources. Each, by virtue of its role and purpose, should act as an additional safeguard against the various manifestations of corruption and its consequences.

A.2.3. Actions

A.2.3.1. Enhancing the role of the National Audit Office as a supreme authority with independent external control over the implementation of the budgets approved by the National Assembly and municipal councils.

The importance of this institution stems from the fact that all organizations funded or partially supported by the central and municipal budgets are subject to its control (including national security agencies and special services), as are the extra-budgetary accounts, relations between the Bulgarian National Bank (BNB) and the government, the revenues and expenditures of not-for-profit legal entities and funds supported by the budget or guaranteed by the government, etc. The responsibilities of the National Audit Office as a constitutionally-established body include auditing, filing of certified reports, penal ordinances, injunctions for cessation of misuse of public funds or activities which may inflict damage on state property, etc.

Enhancing the role of the National Audit Office as an authority for independent external control over the execution of the budget and over government stakes in the economy goes hand in hand with improving budget procedures. As detailed earlier, such improvements would include the consolidation of the budget and the cutting back of extra-budgetary accounts, as well as the provision of reliable information about the drawing up and execution of the budget, and public access to this information.

It is above all necessary to analyze the practice of the National Audit Office to date by summarizing the most frequently observed violations and assessing the effectiveness of the control exercised.

Secondly, specific proposals are needed for legislative changes that would contribute towards establishing the National Audit Office as a supreme body for independent external control and for improving its activity in terms of the fight against corruption. Such proposals should be geared toward:

- adopting European and international principles of external and internal control and avoiding the overlapping of spheres of control;
- extending the forms and methods of macro-economic control; enhancing the analytical aspect of control and elaborating forms of system performance assessment on a macro-level (briefings and reports to the National Assembly);
- more rigorous routine supervision of the institutions under its control;
- strengthening the preventive control exercised by the National Audit Office;
- building up a relevant data base;
- developing the consultative functions of the National Audit Office and using its input in discussions on draft laws concerning systems under its control;
- streamlining the organizational structure of the National Audit Office;
- establishing a legal consultative council with the National Audit Office;
- setting up an internal office to maintain its contacts with the National Assembly;
- clearer regulation of relations with the other state institutions (National Assembly, judiciary authorities, Bulgarian National Bank, State Financial Control), of the interaction among them and of the differentiation of their control functions;
- creating a subcommittee with the Parliamentary Budget Committee and elaborating rules and procedures for the discussion in the National Assembly of important issues in the activity of the National Audit Office, for submitting reports by the National Audit Office in the course of parliamentary deliberations on the central budget, and for assessments of the public stakes in the economy and the banking sector.

A.2.3.2. Improvement of financial and fiscal control

The need to enhance the effect of control and financial discipline calls for amendments to the State Financial Control Act. Though financial control has deep-rooted traditions in this country, it should be improved to better correspond to the new economic and social environment. This can be achieved through improvement of the forms of liability which may be applied by State

Financial Control authorities: increased fines in cases of administrative penalties and extended applicability of full financial liability for unlawfully inflicted damage.

There is also a call for changes in tax legislation aimed at clearer regulation of the powers of tax authorities and simplification of the taxation process. The instructions issued by the General Department of Tax Administration should receive wider publicity and become familiar not only to tax administration officials, but taxpayers as well. Greater incentives for officials to contribute to exposing tax evasion attempts would help increase budget revenues. For instance, 10% of the due tax payments could be paid to the respective officials. Tougher sanctions for proven instances of corruption should be made possible through increasing the powers of internal control agencies. A public register of the income of tax administration officials should be introduced. All of the principles cited above are fully applicable to customs officers as well.

The decrease in tax and customs duty rates will be achieved through an increase in the tax and customs duty base with the help of clear, precise and simple rules for the work of those administrations. More active utilization of the tax police (the Office for the Prevention and Exposure of Tax Evasion) may contribute to the reduction of corruption within the tax administration through the exercise of continuing control.

- Strengthening specialized control over money laundering, including cooperation with the European Union and its member states (proposed measures connected to the introduction of the single European currency).
- Amending the Civil Procedure Code with the aim of speeding up the rendering of decisions in cases involving misappropriation of funds.
- Regulating the mechanisms for informing the general public, the executive, and Parliament on the results of control, especially in corruption-related cases.
- Improving the efficiency of interaction between State Financial Control, the National Audit Office, tax and customs administration, the Ministry of the Interior departments, and the judiciary, through the adoption and implementation of jointly approved instructions. Furthermore, it is necessary to review the role of State Financial Control with the aim of avoiding duplication of functions with the National Audit Office (for instance by removing the function of external audit from State Financial Control).
- Establishing an integrated information system for control authorities and the law-enforcement agencies.
- Developing a system of control over ministry and institution management.
- Improving the internal financial control offices within the various agencies and organizations.

A.2.3.2. Establishing the Ombudsman institution

The Ombudsman, in the countries where it exists, is a government-funded office, dedicated to monitoring the management of public processes and the activity of public authorities. This involves supervision of a rather broad sphere of managerial and administrative activities, including:

1. Implementation of executive power or administration in the narrow sense of the word.
2. Organization and management of the judicial system administration.
3. Implementation of public activities and services by non-governmental organizations.

Unlike the National Audit Office, the Ombudsman office does not have any executive authority. It ought not to duplicate court, administrative, and financial control, nor compete with the prerogatives of the constitutional authorities.

The successful establishment and development of such an institution could make it an important factor in the consolidation and improvement of the general rules and principles underlying the activity of the administration and the conduct of public officials.

To this end, it would be useful to first organize discussions with the participation of experts and politicians, meet with MPs, publish relevant articles, etc. These activities should lead up to the elaboration of a draft law on the establishment of the Ombudsman office and should encourage advocacy efforts for its adoption.

A report by a working group at the Center for the Study of Democracy entitled “Establishing the Institution of the Ombudsman in Bulgaria” can serve as a starting point in this respect. The report summarizes and analyzes foreign experience regarding the establishment and functioning of the Ombudsman and other similar institutions. It also outlines the fundamental principles and provisions of a possible future legal regulation of such an office in Bulgaria with a view to current needs, public attitudes, and political and constitutional realities in this country.

A.3. Developing the public procurement system

A.3.1. Background

The practical implementation of the Public Procurement Act, effective since 1997, has revealed a number of shortcomings inherent in the law. At the same time, the government has drawn up an ambitious investment program for the coming years. This will activate the public procurement mechanism and heighten the responsibility of state institutions.

A.3.2. Objectives

The legislation and practice in this area should be brought in compliance with European standards. Another key objective is to enhance control over the implementation of legal public procurement mechanisms.

A.3.3. Actions

A.3.3.1. Conducting an expert discussion on legal changes required for the further development of the public procurement system

A.3.3.2. Taking measures to prevent bypassing of the Public Procurement Act

A.3.3.3. Developing an effective system of handling complaints and arbitration

A.4. Reform of the political party sphere

A.4.1 Background

There are a number of specific reasons for corruption in the political party system. Above all, the political parties are financially weak. They are not capable of ensuring their self-support solely from their own legitimate sources of financing — membership dues — and therefore become dependent on potential sponsors. The legal ban on any business activity by political parties further contributes to this situation. Another reason is the fact that to the majority of politicians, holding a public office is their principal means of support and hard to replace by some other, private activity. Upon leaving office, politicians become strongly dependent on potential sponsors in the virtual absence of well-developed mechanisms for the retirement of high-ranking political leaders into the private or professional sphere. Moreover, personal loyalties (among family and friends) play an extremely important regulatory role in political life, which is why a large number of politicians become heavily dependent on private interests. The very procedures for public decision-making and for public activity therefore fail to clearly differentiate private from public interests. This creates preconditions for their overlapping, mutual substitution, and ultimately, for corruption.

A.4.2. Objectives

It is generally assumed that further improvement in the political party sphere is a job or task for politicians. However, relations among the latter are subject to the rules of uncompromising political competition, which hampers any constructive interaction, even when mutually beneficial. In this sector, non-governmental organizations can successfully play the role of initiators of public dialogue in order to enlist sufficiently broad-based support for a complex set of measures for transparency and accountability.

A.4.3. Actions

The adoption of the following, more specific measures ought to be considered within the context of the public dialogue:

A.4.3.1. Increasing the requirements for transparency in the overall activity of political parties

This condition includes adherence to the procedures laid down in the party statutes, such as regular holding of party forums, efficient internal party control mechanisms, etc. Such requirements could be set not only for the

court registration of political parties but could possibly apply to each registration for participation in national elections.

A.4.3.2. Introduction of a system of public financing of political parties

If such a system is put in place, the parties will be less dependent on private sponsorship. Quite appropriate for Bulgaria is the EU practice of allocation of state subsidies according to the number of votes cast for the respective party in the latest parliamentary elections, combined with the use of additional criteria aimed at assisting newly established parties.

A.4.3.3. Prohibition of donations to political parties and their affiliated organizations by legal entities, as well as by foreign private individuals and legal entities

What could be introduced instead, as practiced in some European countries, is a special common donation fund in support of political parties which would collect all donations and allocate them among the parties according to a commonly agreed system (for instance, depending on the votes obtained). At the same time, part of the funds could be distributed equally among the political parties to ensure their equal treatment and support newly established parties.

A.4.3.4. Transparent party finances

All parties should be obliged to submit annual public financial statements. This requirement should be backed by possible sanctions for failure to comply, including withdrawal of the state subsidy, a fine, or in extreme cases of malpractice, rejection of applications for court or election registration (the latter provision should be elaborated in thorough detail so as to avoid possible abuse).

A.4.3.5. Transparency of election campaigns

A common election campaign fund should be established for distribution among the parties. At the same time, parties should be held fully accountable for all expenditures made in election campaigns. An essential precondition for transparency is the equal treatment of parties during election campaigns, particularly with regard to the free-of-charge access to state-owned electronic media.

A.4.3.6. Regulation of relations between political parties and the state

This would involve a clearer distinction between the public-and-state, and the private-and-party spheres; legal restrictions resulting in fewer possibilities for elected officials to appoint and dismiss public officials at their own discretion, including state-owned company employees; legal regulation of lobbying in line with existing practices in the EU; mandatory transparency of the income of politicians; strict observance of the principle prohibiting members of parliament from holding any position in the governing bodies of companies.

B. SECOND ACTION LINE: REFORMING THE JUDICIAL SYSTEM

In recent years the judicial system has invariably been among the most unpopular institutions in this country. It receives a low measure of trust both from the public at large and from other state institutions. It is popularly believed to be slow, inefficient, and corrupt. The need to reform the system is acknowledged by a large number of the magistrates.

The reform is expected to achieve a number of specific objectives: to provide conditions for greater openness and transparency and speedier administration of justice; to create internal control mechanisms to prevent abuse of power; and to establish a system for raising the professional skills of those working in the judicial system.

B.1. Legislative reform

B.1.1. Background

Legislation, both in the field of penal law and in the field of civil and administrative law, is all too contradictory and part of it is obsolete and inadequate. The shortcomings of the existing legislation are particularly well exploited by those involved in corrupt practices. The changes in legislation are expected to lead to clear-cut rules in commercial, civil, and administrative legal relations and, in turn, to faster, more efficient and more transparent administration of justice.

B.1.2. Objectives

In order to minimize the conditions favorable to corruption and to devise mechanisms of control over corrupt practices, it is necessary to undertake a comprehensive reexamination of the existing legislation and envision the appropriate legislative changes. These changes should be implemented in a consistent manner and as part of an overall strategy for curbing the subversive phenomenon of corruption.

B.1.3. Actions

B.1.3.1. In the field of criminal law

A comprehensive program must be elaborated for a new penal policy and modern crime control strategies. It should serve as the basis for a new Penal Code, new Penal Procedure Code, and a new Law on the Execution of Punishments.

The current system for criminal prosecution is slow, cumbersome, and inefficient. The crimes and punishments provided for in the Penal Code and the Penal Procedure Code do not adequately reflect present conditions of market economy and rampant crime. In the past years there have been many

legislative changes aimed at updating the Penal Code and procedure, but rather than being guided by a comprehensive new vision, they have been implemented piecemeal. Now, the overarching goal should be to bring the legislation up to date; that is, in line with European requirements for human rights observation while ensuring expeditious administration of justice.

B.1.3.2. Changes in the Penal Code

The new Penal Code should be adjusted to better suit changed social relations and to meet the requirements for countering corruption, both in terms of the types of crimes addressed, and the system of punishments. The following specific changes are recommended:

- criminalization of the “new” forms of crime, especially in the sphere of the economy (for instance, using legal entities for criminal activities, establishment of unlawful monopoly, profiting through exploitation of consumers, etc.);
- more adequate provisions concerning crimes against creditors, crimes commissioned by an organization or group, drug-related crimes, and embezzlement;
- decriminalization of soliciting acceptance of a bribe when such solicitation is intended to expose corrupt magistrates and other officials;
- legal provision for the confiscation of property acquired as a result of corruption, including those cases where the property has been transferred to third parties in order to be preserved;
- refined categorization of illegal acts in terms of differentiation between crimes and misdemeanors;
- on the basis of the above distinction, provision for more stringent sentences for grave crimes and alleviated sanctions for misdemeanors;
- introduction of new penalties which do not involve imprisonment and new provisions concerning fines;
- introduction of provisions for probation — a punishment involving community service under administrative supervision but without separation from the family and the usual environment. Failure to abide by the conditions of probation could result in imprisonment;
- further incentives for lawful conduct of offenders: allowing more lenient sentences in cases of cooperation with the investigation, confession, or payment of damages.

B.1.3.3. Changes in the Penal Procedure Code

It is recommended that the new Penal Procedure Code create conditions for openness and transparency in penal proceedings by shifting the center of the process towards the court. Stricter court control over the work of authorities engaged in investigative proceedings is also recommended.

The new Penal Procedure Code should provide for more efficient and flexible proceedings with more possibilities for faster and more cost-effective punishment of the numerous minor offenses. This would actually speed up high crime proceedings because the number of cases awaiting trial would be reduced. The following steps can be recommended in this context:

- simplifying investigative proceedings concerning offenses which do not pose a serious threat to public welfare and order;
- providing the option of court-sanctioned settlement as an alternative to criminal prosecution in a broad category of cases, excluding high crimes. Such a policy should certainly be applied with regard to theft, the most widespread offense;
- replacing criminal prosecution with civil action procedures in certain cases (for instance, with regard to public insult and libel disseminated through the media);
- strengthening measures for control over police officers, supervisory bodies and magistrates working on criminal cases;
- setting practicable tightened deadlines for initiating proceedings and pronouncing sentences.

B.1.4. In the field of civil law and pro- ceedings

B.1.4.1. Background

The existing legal framework of civil relations leaves opportunities for corruption.

B.1.4.2. Objectives

The task of civil law is the equitable regulation of relations among individual citizens as well as between citizens and the state. This branch of legislation does not have an immediate bearing on corruption. Because of its inherent shortcomings, however, it creates conditions favoring the occurrence and unrestrained proliferation of corruption. The objective is to reduce the opportunities for corrupt practices by amending the laws regulating business, contractual and other civil relations.

B.1.4.3. Actions

B.1.4.4. Changes in the field of material civil law and administrative law

- Simplifying the procedures related to the acquisition of property, business transactions, privatization contracts, the granting of concessions, and other activities where private interests are intertwined with the prerogatives of state authorities. These interactions should be facilitated by greatly restricting possibilities for administrative intervention.
- Introducing a more liberal regime for real estate transactions, and simplified administrative procedures for company registration — on the basis of a legally established set of requirements beyond which the registration authorities cannot set any further conditions.

- Speeding up procedures for declaring insolvency.

B.1.4.5. Changes to the court order execution procedure aimed at securing speedy and effective satisfaction of claims and rights established through the courts

The court order execution procedure in the active Civil Procedure Code is outdated and cumbersome, and can sometimes render meaningless even the best of court rulings. Its regulations tend to protect much more the rights of the debtor than those of the creditor. It is possible to deliberately delay the execution of an obligation until it becomes impossible to fulfill. In some countries, the execution officers of the court are not state officials but private individuals acting under strictly established rules but with a vested interest in the speedy and efficient execution of court orders.

B.1.5. General proposals in the field of administration of justice

B.1.5.1. Background

It is well known that legal proceedings under both civil (including commercial and administrative) and criminal cases are slow and harbor opportunities for involved parties to intentionally drag out the process in bad faith. In order to speed up the process of administration of justice, it is not enough simply to change procedural regulations.

B.1.5.2. Objectives

Legislative changes should be considered that would encourage procedural economy, discipline and expeditious exercise of the rights of the parties involved.

B.1.5.3. Actions

- To propose changes in the Attorney Act, as well as in the Penal Procedure Code and Civil Procedure Code that would provide for serious sanctions against lawyers who abuse procedural rights to intentionally prolong or delay court proceedings.
- To further develop the system of subpoenaing witnesses in order to preclude the possibility for intentional delays of court proceedings.
- To consider the possibility of establishing institutions for alternative settlement of disputes (voluntary arbitration, mediation) the acts of which would provide valid grounds for execution.

B.2. Reorganizing the operation of the judicial system

B.2.1. Background

The judicial system operates in an outdated, overly-bureaucratized, and slow manner. Its current poor organization is a source of corruption and frustration not only for ordinary citizens but also for those working within the system.

B.2.1. Objectives

A comprehensive and competent reform of the judicial system should be planned and made subject to a broad debate. It should lead to improve-

ment and modernization of the methods of operation of the courts, prosecution offices, and the investigative services.

B.2.2. Actions

In this respect, it is necessary to do the following:

- develop and implement automated filing systems which should guarantee speed and reliability in processing case files as well as fast and easy access for citizens to the information they need.
- develop a system of case assignment to magistrates based on objective criteria, precluding the possibility of preferentially appointing a specific magistrate to work on a given case.
- implement the practice of rotation for magistrates and staff working in sectors with high risk of corruption;
- introduce group assignment of official tasks involving a high risk of corruption.

B.3. Improving staff recruitment procedures and professional training

B.3.1. Background

Presently there are many professionals working in the judicial system, yet a significant number of magistrates are young people with good theoretical background but little professional and life experience. In the everyday exercise of their duties they constantly come up against various difficulties, and the shortcomings in their performance are largely due to this lack of preparation for the specific nature of the work. On the other hand, experienced magistrates face problems arising from constant changes in legislation and therefore need further training. But programs for basic training and continuing education of magistrates are yet to be developed. To a great extent, it is in fact the lack of experience and skills that account for negative results in the operation of the judicial system even though the general public tends to attribute them to corrupt practices.

There are no special programs in Bulgaria designed to promote a certain kind of professional and personal conduct for magistrates in line with the social significance of their profession.

A system of evaluation of magistrates is lacking.

The professional skills of the supporting staff of the judicial system are highly inadequate. Their duties are most demanding and the conditions of work primitive. No professional training has been provided for them and their performance is sometimes so poor as to thwart the efforts of the magistrates.

B.3.2. Objectives

To help provide basic training and continuing education for magistrates. In this respect, the Association of Judges in Bulgaria has designed a project for the establishment of a Center for Training of Judges. If this project is put

through and proves viable, the Center could also take up the training of prosecutors and investigative service officers.

It would be extremely useful to devise a methodology for selecting and evaluating the staff of the judicial system. It should be based on a comprehensive, competent and objective performance appraisal of each magistrate and on the results of the basic training and continuing education courses completed.

B.3.3. Actions

- Designing training programs for newly appointed magistrates which should include lectures on corruption.
- Designing training programs for experienced magistrates in connection with changes in legislation.
- Designing training programs for court staff.
- Devising codes of conduct.
- Determining objective promotion criteria taking into account the results from the professional training courses completed.
- Placing appointments and upper-level promotions within the judicial system on a competitive basis. Conducting the competitions under conditions of transparency and public access to information.
- Coordinating appointment and promotion proposals with those working in the respective branch of the judiciary (with expression of opinion through secret ballot).
- Developing a system of collective assessment of magistrates before they have completed 3 years in office; i.e., before achieving the status of irreplaceability. None other than the bar is in a better position to properly assess the professional skills and integrity of the magistrates.
- Introducing psychological tests as part of the magistrate recruitment procedure.

B.4. Taking measures to expose corruption in the judicial system

B.4.1. Background

Corruption in general, and the crime of bribery in particular, are difficult to prove. Moreover, when a given dispute is brought to court or a criminal investigation is initiated, the vested interests are so intense that the situation is highly conducive to corruption. It would be naive to believe that it is possible to prove and punish all instances of corruption. It is nevertheless necessary to consider practical means of preventing corruption and encouraging intolerance among magistrates with regard to suspicious conduct on the part of their colleagues.

B.4.2. Objectives

It is necessary to create mechanisms which would allow to link the conduct of corrupt magistrates to their conspicuous financial gains.

It is in the interest of the judicial system as a whole to rid itself of corrupt and poorly qualified judges, prosecutors and investigation officers in order for honest professionals to be able to perform their duties in a confident and proper manner.

B.4.3. Actions

- Introducing an annually updated public register of magistrates' income and property.
- Creating a special commission with a temporary mandate to investigate reported instances of corruption. The commission ought to be appointed by the Supreme Judicial Council but work independently from it.
- Enhancing internal control in the judicial system through open discussions about the conduct and problems of individual magistrates within their respective offices.

C. THIRD ACTION LINE: CURBING CORRUPTION IN THE ECONOMY

C.1. Transparency and accountability in the privatization process

C.1.1. Background

In the absence of sufficiently clear, detailed, transparent rules and the necessary civic control, the privatization process is particularly vulnerable to corruption and public officials are able to achieve personal gain to the detriment of the public interest. Also, the lack of control gives free rein to the various forms of illegal activities making up the so-called informal or shadow economy.

A number of international studies have provided evidence that there is a direct link between the level of government intervention in the economy and corruption in society. A consistent economic policy aimed at liberalization and deregulation of private enterprise, macro-economic stabilization and privatization of state-owned property would greatly limit the opportunities for corruption.

As a result of privatization, private owners are forming political pressure groups aimed at restricting government intervention in business and reducing the cost of business transactions.

C.1.2. Objectives

To restrict as far as possible the “breeding ground” of corruption in privatization, and to speed up the process would limit opportunities for corrupt practices. Shedding more light on regulations and procedures would make more transparent the conditions under which the state is selling its property, and help clarify both the intentions and commitments of the buyers. Furthermore, it is necessary to involve civil society structures in the process of elaborating business interaction rules and minimizing the discretionary power of the administration.

C.1.3 Actions

C.1.3.1. To discuss ways of streamlining privatization mechanisms, including the possibility of consolidating the various privatization authorities into a single institution which would be subject to close control

For instance, a Ministry of Privatization could be created on the model of the German Treuhand, or the Privatization Agency could be transformed to become part of the executive and be subject to both parliamentary and public control by means of its Supervisory Board. Another option is for the Council of Ministers, as the supreme body under Article 3 of the Transformation and Privatization of State and Municipal Enterprises Act, to initiate privatization procedures for all applicable enterprises. Such a trans-

parent approach would put an end to the practice of bribery for the purpose of having privatization procedures initiated for specific enterprises.

C.1.3.2. Changes in the regulation of privatization methods and forms; e.g., regulating the procedure of “negotiations with potential buyers” through a legal act, rather than internal ordinances of the privatizing agencies

C.1.3.3. To further activate privatization through the stock market, which has a well-organized and transparent mechanism for the sale of securities of joint-stock companies and gives buyers a large measure of confidence in terms of guaranteeing the deals and providing full information about the companies traded

C.1.3.4. More effective use of auctions and tenders as methods of privatization in order to accelerate the process and increase its transparency

C.1.3.5. Enhancing the role of post-privatization control and introducing refined and consistent procedures for its implementation

C.1.3.6. Introducing legal provisions for exclusion of potential investors with a past record of failure to fulfill the commitments laid down in the privatization contract

A number of sanctions could be considered for buyers’ failure to meet commitments, including the termination of privatization contracts, with investors forfeiting the amounts already paid.

C.1.3.7. Effective monitoring of the post-privatization process in the case of transactions which do not involve 100% payment upon the signing of the privatization contract and legal provisions for public control in such instances

It is further necessary to limit the significance of long-term commitments made by potential buyers (future investments, number of jobs, paying off debts) in designating the preferred bidder in tenders or negotiations.

C.1.3.8. Increasing institutional liability and transparency of privatization decisions, including those concerning the sale of significant assets of state companies

C.1.3.9. Legal provisions for public access to information on negotiations and privatization deals, including those involving intermediaries

C.1.3.10. Further regulation of management-and-employee buyouts limiting the preferential treatment of management-and-employee companies only to the privatization of small enterprises, for instance companies with book value of fixed assets not exceeding BGL 300 million

C.2. Liberalizing the conditions for private business development

C.2.1. Background

State property transformation and market economy development are taking place under the inherited government-dominated models of economic regulation. Public administration has a vested interest in preserving its extensive prerogatives in the sphere of economic relations which, in turn, creates pre-conditions for unlawful personal gain by public officials. Furthermore, the current situation in many sectors of the economy hampers private initiative and subjects it to bureaucratic mechanisms and forms of regulation.

C.2.2. Objectives

To finalize the institutional and legal framework of the development of private business in Bulgaria and progressively remove all existing barriers to free enterprise. This will be made possible by scaling government intervention down to reasonable limits and by completing the process of economic reforms in the transition to a market economy.

C.2.3. Actions

The goals set call for changes and amendments to the legal framework and improved practical implementation of existing regulations. This would involve:

- improved implementation of the Protection of Competition Act and elaboration of anti-trust legislation;
- accelerated efforts to build up the market infrastructure with an emphasis on the development of organized markets;
- gradual transition from permit- and license-requiring economic activity to a system of registration;
- reasonable liberalization of foreign trade and the foreign currency regime;
- minimizing the need to seek authorization from a state body — discretionary decisions ought to be avoided and officials should adhere strictly to existing legal regulations;
- limiting price control practices and the granting of government subsidies, tax, and credit incentives;
- delegating control functions to professional and business associations on the basis of codes of conduct; i.e., making it their own obligation to base their economic activity on certain rules and norms;
- changes in the legal framework of business activity which would encourage bringing the „shadow“ into the legitimate economy;
- adoption and strict implementation of regulations on the economic relations between public and private entities (for instance with regard to the system of public procurement).

C.3. Limiting corruption in financial and business relations within the private sector

C.3.1. Background

Corruption does not only occur where state and private interests intersect. Both global practices and the most recent history of the private sector revival in Bulgaria demonstrate that some of the most conspicuous forms of corruption are frequently observed in the relations between private companies. Private corporations with no majority shareholder are particularly exposed to such risks. Memories are still fresh of the colossal (by Bulgarian standards) corruption in private banks, most of which went bankrupt on account of corrupt crediting practices. The private sector has also produced the most notorious example of corruption in Bulgaria — the so-called credit millionaires, who, in addition to orchestrating pyramid economic structures, have given a negative image to the entire banking and financial system.

C.3.2. Objectives

To avert the distortion of financial and business relations in the private sector under the influence of corrupt practices and attitudes.

C.3.3. Actions

C.3.3.1. Limiting corruption in the private sector through consistent economic reforms facilitating free competition and private enterprise

C.3.3.2. Establishing a clear and effective legal framework for business development. By means of changes and amendments to existing regulations, simple and reliable rules should be introduced for the various types of economic activity which would guarantee greater transparency and accountability in business practices.

C.3.3.3. The recent financial scandals involving insolvent banks could be used to reconstruct and analyze the pattern of emergence of “credit millionaires” in order to make specific recommendations for preventing the recurrence of such practices in the future activity of private banks

C.3.3.4. The corporate tax and income tax laws should incorporate the notion of financial status as used in European legislation. Tax authorities would, in other words, have the right and obligation, in cases of suspected tax evasion, to evaluate the financial status of legal entities and private individuals. In the presence of discrepancies between financial status and income declared, there should be appropriate procedures for determining whether there is a breach of law, as well as provisions for severe penalties, including imprisonment and property confiscation.

C.4. Enhancing the effectiveness of economic arbitration procedures

C.4.1. Background

The practice to date abounds with examples of people taking the law into their own hands and resorting to illegal coercive means and “protectors” in order to deal with arising disputes or fraud. In turn, this favors the proliferation of corruption in the process of seeking protection by various state authorities, administrative services and officials.

C.4.2. Objectives

To ensure a far more expeditious procedure for protecting the interests of private owners and entrepreneurs in cases of fraud, failure to fulfill contract obligations, and other forms of defaulting and illegal conduct.

C.4.3. Actions

C.4.3.1. Analysis of the Civil Procedure Code in terms of the provisions and conditions for legal protection against economic fraud

C.4.3.2. Specifying norms for arbitration and settlement of the legal disputes most typical of small and medium-sized business

D. FOURTH ACTION LINE: ENHANCING CIVIC CONTROL IN THE FIGHT AGAINST CORRUPTION

D.1. Developing the institu- tional frame- work of civic control

D.1.1. Background

Due to the early stage of development and institutionalization of civil society in Bulgaria, it is still not in a position to exercise adequate control over public administration, political institutions and the judiciary. Efforts in this direction have so far come up against the wish of government structures to preserve the status quo, often to the detriment of citizens' rights.

D.1.2. Objectives

It is necessary to develop a mechanism of permanent and effective civic control over government structures which should be based on clearly defined legal rules for dialogue and interaction between civil society structures and public administration. This is one of the essential prerequisites for safeguarding the democratic rights of citizens and most notably, their right to information. Furthermore, civic control would help place citizens on an equal footing with the authorities in their mutual cooperation.

D.1.3. Actions

D.1.3.1. Suggesting a framework for the institutionalization of civic control over corruption in public administration, political organizations and the judicial system

The development, implementation and adequate institutionalization of a system of public control over corruption is a crucial precondition for effectively influencing the administration, political organizations and the judicial system.

Such a system would assume several important functions:

- to initiate preventive action by promoting citizen involvement in the discussion of legal documents and regulations and by providing decision-makers with data and analysis concerning risks of occurrence of corruption;
- to mobilize civil society resources in the identification, monitoring and control of corrupt practices and the factors preconditioning their occurrence;
- to monitor and evaluate the effect of anti-corruption political decisions;

- to provide decision-makers with adequate information (based on data and analysis) concerning current trends and problems in the fight against corruption;
- to promote greater transparency and to encourage the more active exercise of civil rights and involvement of civil society in the control of public administration activity.

D.1.3.2. Establishing citizen representation in state institutions

Most essentially, NGO representatives should be guaranteed free access to the meetings and documents of state institutions. This access should be subject to legal regulations which should allow for exceptions only for reasons of national security.

In this context, it would be worthwhile:

- to further develop the legal framework of the interaction between the administration and civil society structures;
- to institute modern legislative regulation of the formal status of non-governmental organizations (Law on NGOs);
- to enhance the ability of NGOs to implement civic control over the activity of public administration through appropriate forms of training and education.

D.1.3.3. Elaborating and publishing a Corruption Assessment Index

An integrated index presenting periodic studies of corrupt practices and public attitudes is to be elaborated within the non-governmental sector. Expert opinions in this area are to be summarized using both quantitative and qualitative methods. Through the regularly updated Corruption Indices the findings of the studies will be provided to the media for broader dissemination.

D.1.3.4. Initiation of collaborative relations among NGOs for the purpose of counteracting corruption

Regular and constructive cooperation between NGOs is indispensable for the successful establishment of citizen control, and hence, for the implementation of the present anti-corruption Action Plan. For this purpose, it is necessary to formally define the parameters of this cooperation in such a way that implies a 'division of labor' among NGOs according to profile and resources.

D.1.3.5. Establishing collaborative relations between civil society and state institutions within the *Coalition 2000* process

Civil society cannot take on the fight against corruption on its own. By virtue of their broad powers and obligations, public authorities ought to become a reliable partner and decisive factor in the implementation of the present Action Plan. Bulgarian legislation has largely set down the rules for interaction between state institutions and those of civil society, but social and po-

litical practices in recent years have failed to produce working models of cooperation. To some extent this failure is due to the fact that some NGOs have not been active enough in vindicating civic interests, while public officials are either not fully aware of their responsibilities or evade them with impunity.

A Policy Forum is to be established within the frames of *Coalition 2000* which is to bring together government officials and representatives of non-governmental institutions and other civic initiatives.

D.2. Involving professional associations and trade unions in the anti-corruption campaign

D.2.1. Background

The lack of steadfast efforts on behalf of the state to fill the void resulting from the collapse of communism and its value system has led to misperceptions about the complete independence of nascent market relations from any moral imperatives. Meanwhile, the black economy has subjected the game to its own rules, combining illegal activities with personal connections and corrupt practices. The emerging entrepreneurial class attempted to revive pre-communist professional ethics but was forced into compliance by strong pressure from the underground structures which were imposing their own immoral methods of making fast profits. In addition to these adverse factors, there have been various forms of politically motivated bias, seriously obstructing the adoption of objective professional criteria with regard to public officials and those serving in the judicial system.

D.2.2. Objectives

The main objective is the revival of traditional professional associations and professional ethics as an antithesis to corrupt behavior. Free choice, and therefore ethics in labor relations and personal life, could only exist under the conditions of democracy and a market economy. In this context, it is necessary to create the proper means for encouraging ethical conduct and denouncing the underground economy with its characteristic unlawful forms of business and non-business relations.

D.2.3. Actions

D.2.3.1. Cooperation between the existing structures of civil society and the emerging professional and industrial associations in devising and establishing a professional code of conduct

There are already precedents in this respect. Various professional organizations are in the process of drafting their own codes of conduct. One such example is the Code of Ethics of Judges in Bulgaria, according to which: “the mission of the judge involves putting into practice the principle of justice and impartiality.”

Codes of ethics should regulate both personal and professional conduct. The existing NGOs should establish contacts with representatives of emerging professional associations, advise them as needed in the elaboration of their professional codes of conduct, and generally involve them in partnership and cooperation once they have been established.

D.2.3.2. Creating effective mechanisms for sanctioning corrupt members of professional associations

The creation of a mechanism for terminating membership in a professional group for failure to comply with its code of ethics is an integral part of the process of institutional development of professional associations. In this respect, special provisions could be included in codes of ethics, and/or the mechanism of public ostracism could be adopted in order to discredit corrupt professionals in the eyes of public opinion.

D.2.3.3. Formulating and implementing initiatives aimed at enhancing the standing and reputation of professional associations

It is necessary to restore the traditions in the various professions — patron days, charitable activities in connection with events important to the respective profession, etc. Non-governmental organizations could help organize a series of public events dedicated to professional ethics and the need to introduce modern standards in various spheres of social and political life. The involvement of the media in promoting the new image of the Bulgarian professional and entrepreneur and his/her professional organization as the link between public administration, civil society and the private sector would have a positive impact.

D.3. Cooperation with the media in implementing the anti-corruption campaign

D.3.1. Background

Even while they are themselves targets of corruptive pressure, the mass media are the most important instrument in articulating the public interest. There has as yet been no concerted effort of the media and the institutions of civil society to counteract rampant corruption and crime. It is imperative to coordinate the anti-corruption activities of the professional organizations and associations of journalists with those of other NGOs.

D.3.2. Objectives

Useful steps towards establishing transparency in the media and journalism would include shedding light on the methods and forms of corruption in this sphere, adopting anti-corruption rules in the journalistic profession, and publicizing those rules. These steps would also create the necessary preconditions for more effective participation of independent media in the anti-corruption campaign. The improved cooperation and coordination of media efforts are likely to result in stronger public pressure to limit corrupt practices in other spheres of public life.

D.3.3. Actions

D.3.3.1. Adopting basic anti-corruption rules for the journalistic profession

The drafting of the rules ought to be assigned to a working group consisting of representatives of professional journalist organizations (the Union of Bulgarian Journalists, Union of Journalists in Bulgaria) and associations (Civil Forum Free Speech, the Center for Independent Journalism), as well as representatives of lawyers' associations, editors, media owners, and members

of the National Council on Radio and Television. It is necessary to provide the general public with regular information on the progress of work on the basic anti-corruption rules in journalism. The latter should be published and reviewed in the mass media.

D.3.3.2. Establishing a special award for journalists with important contributions in the fight against corruption

On the one hand, the creation of such an award is motivated by the huge public impact of impartial journalist investigations. On the other, by the need to encourage and reward journalists who have taken up this risky genre. Media coverage, the authority of the jury, and the form of the award are crucial for giving it the desired high public status. The jury panel should include leading journalists and eminent public figures, members of the political parties represented in parliament, as well as business representatives of impeccable reputation.

D.3.3.3. Organizing courses for young journalists on the problems of corruption and the fight against corrupt practices

This is called for by the fact that at present the young generation in Bulgarian media are making their professional debut in the absence of any further career support and guidance as to how to resist corruptive pressure. It is recommended that the Department of Journalism and Mass Communications at Sofia University and the Department of Mass Communications at New Bulgarian University be involved in the design and organization of the courses.

D.3.3.4. Monitoring media coverage of the problems of corruption

Media monitoring is aimed to measure the level of exposure of corruption related problems in electronic and print media. Using the specific research techniques, assessments about the influence of media environment on public attitudes and opinions of different social groups are made. Media monitoring is also providing feedback about the media coverage of the initiatives of *Coalition 2000* and other similar civil society activities, aimed at curbing corruption.

Media monitoring is conducted using a specially designed questionnaire, and results are summarized and presented in the Index of Corruption.

D.4. Cooperation with religious institutions to foster moral integrity and counteract corruption

D.4.1. Background

The present crisis in the Bulgarian Orthodox Church and the limited role of other religious institutions in public life are the result of decades of communist suppression of religious practices and their social import. That is why the efforts of religious leaders are mainly directed towards overcoming the negative trends within the clerical system itself and, to a lesser extent, towards enhancing the role of the church in social life. This has had an adverse effect both on the church itself and the public at large in its search for moral guidance and social behavior models in the post-communist period.

D.4.2. Objectives

To help foster, on the basis of religious teachings about righteousness and virtue, such moral criteria and behavior that condemn the various forms of corruption and moral decay. Beyond this Action Plan, these efforts will contribute towards the establishment of a new morality in a society currently undergoing a process of democratization.

D.4.3. Actions

D.4.3.1. Establishing contacts and exchange of opinions between representatives of civic organizations and religious institutions on the issues of public morals in the process of transition

It is important to seek effective ways of bridging the current gap between the secular and religious organizations of civil society. One step in this direction would be to organize a joint symposium which could trigger a broader public discussion on cooperation in counteracting corruption.

D.4.3.2. Setting up a joint civic club involving both religious and secular activists

In the longer term, it is possible to create a permanent forum of this kind, providing opportunities for an ongoing exchange of opinions on important social issues between representatives of the clergy, scholars, and human-right activists.

E. FIFTH ACTION LINE: CHANGING PUBLIC PERCEPTIONS OF CORRUPTION

E.1. Anti-corruption public awareness campaign (Clean Future)

E.1.1. Background

The early and mid-90s were marked by deeply destructive processes in public consciousness, which further aggravated certain traditional flaws of society. The delay of the reforms, political instability, and financial and economic chaos created conditions which eroded the rule of law and led to a decline in public morals. In mass consciousness, privatization thus came to be identified with theft; and the use of, or the threat to use, force became the established norm. At the same time, through the means of mass communication, the public received ample information about the scope of corruption, particularly in the judicial system, including information about the exact tariffs established for various, presumably free services. The widespread practice of unlawful personal gain by public officials was becoming ever more conspicuous among representatives of law-enforcement authorities, in healthcare, customs, municipal and central government administration. The intertwining of the shadow economy and government and political party structures deepens the feeling of resignation and cynicism among a large part of Bulgarians. The various initiatives of civic organizations failed to enlist broad public support and did not manage to catalyze negative attitudes towards corruption. A change only occurred with the complete exhaustion of the neo-communist governance formula and the financial crisis of the winter of 1997.

E.1.2. Objectives

The main objective in this respect is to provide further impetus to the positive changes already in progress in public consciousness, moving from resignation to dissociation and resistance against the practices of organized crime and corruption in its diverse manifestations. Catalyzing broad public opposition against corruption implies awareness of the phenomenon, of its essence and workings, as well as of its consequences for the individual and society as a whole. The formation of public intolerance against corruption should also result in stronger public demands for institutional change guaranteeing transparency and accountability of the administration, as well as for new moral standards in public life.

E.1.3. Actions

E.1.3.1. Social marketing of the anti-corruption campaign

The anti-corruption campaign is to be of national scope and of long-term impact. It should be launched through the means of mass communication

and other public information channels. Its outset should be marked by publicizing the *Coalition 2000* anti-corruption project and the first forums planned. To this end it will be necessary:

- to specify the subject of the campaign, its target audience and forms of implementation. (Defining the term of corruption would help differentiate in people's minds traditional expressions of gratitude from the unethical, and often criminal act of bribery, as well as identify the less straightforward forms of corruption);
- to determine the priority social groups within the framework of the campaign, placing an emphasis on the younger audience without, however, ignoring other age groups;
- to make use of the most effective and tested forms of social marketing, including audio-visual tools, posters, promotions, thematic campaigns, etc.;
- to devote special efforts to alerting young people to the problems and threats posed by corruption. The youth-targeted campaign should build on the experience from similar projects implemented in the past (e.g. the Say No to Fear campaign), as well as the more successful traditional marketing campaigns.

The campaign should include the following specific activities:

- designing and publicizing a logo, slogan, and poster of the campaign. Their content should be determined in conformity with the priorities of the campaign;
- producing and regularly broadcasting a TV and audio promotional message. For this purpose it is necessary to secure the cooperation of public and private electronic media managers in providing preferential terms of broadcasting (similar to the way the radio spot on environmental protection was distributed by the Association of Bulgarian Broadcasters);
- starting regular columns in several national newspapers. The publications should generally foster a sense of a community of interests as defined by the most esteemed representatives of the nation, beyond the narrow frames of political life. The point of the articles would not be to offer explanations but rather, to formulate a position, a common platform, backed by the personal authority of the commentator. This would in fact become a national discussion forum of sorts, with the various positions of prominent public figures presented throughout the campaign;
- disseminating more information about the fight against corruption in other countries, as well as anti-corruption initiatives of international organizations;
- publication of brochures which are to familiarize the public with the various forms of corruption and the priorities of the fight against such practices;
- conducting "days against corruption," for which purpose it will be necessary to seek the assistance of central, and especially, local government au-

thorities in organizing various events, concerts, competitions, etc. Those events and the accompanying campaign messages will also be communicated through the media;

- producing a television program with an anti-corruption message to be broadcast on a regular basis (e.g., twice monthly) within the educational programming of Bulgarian National Television. In order to attract broader audiences it ought to be based on specific instances of corruption, all while retaining a strong educational component (for instance, by relating the case or problematic situation under consideration to specific instances and practices in the advanced Western democracies);
- maintaining a web page on the fight against corruption in Bulgaria.

E.2. Public education campaign about the rights of citizens and obligations of the administration in the sphere of administrative services

This is called for by the fact that Bulgarians all too often prove to be unaware of their rights and obligations in their interaction with state and municipal administration. A number of services, which are free-of-charge by law and to which citizens are therefore entitled, actually become paid not only because of corrupt officials but also because of the lack of information or preconceived ideas of their clients. Furthermore, what is needed is not simply a general awareness but rather, specific information about the conditions of providing the respective service. The public education campaign is further called for by the need for additional and accessible information about the future regulations in this sphere after the adoption of the laws on public administration and public officials.

The campaign could take the form of educational courses to be conducted in selected municipalities. These courses would familiarize citizens with their rights, the obligations of the Municipality and the functional distribution and provision of services on a municipal level.

E.3. The anti-corruption campaign within the system of public education at its various levels

The above-mentioned moral relativism with respect to specific corrupt practices is cultivated from the earliest age by way of bad examples and lack of educational efforts to sustain the moral rectitude of the younger generations. The campaign therefore envisions introducing a specialized course of lectures on the problems of corruption in secondary and higher education. Particular efforts will be made to find the most appealing forms of information and education, using modern equipment and techniques, computer games, etc.

- For the purposes of the educational campaign a handbook should be prepared for the upper school grades which will contain a glossary with articles on key terms. It will offer an accessible explanation of the functioning of the state as an economic, political and social organism, about the budget, taxes, control and accountability, the role of key institutions, as well as civil rights and obligations.
- A social and political cartoon competition with a subsequent exhibition in Sofia and other cities should be organized. The exhibition will also be featured in newspapers and magazines. The project should be implemented in cooperation with Sofia Municipality, private media, the Union of Artists, the

association of cartoonists, the House of Humor and Satire in Gabrovo, and others.

- In the higher education institutions the course could take place in the form of written essay contests on corruption-related issues or other forms of more intensive intellectual involvement of students.

E.4. Expected obstacles to the achievement of the goals of the public awareness campaign

As in the case of any social marketing campaign, this may also provoke certain negative reactions, which need to be predicted and defused by limiting their scope. Since the issue of corruption does not appear to have an immediate bearing on the basic needs of Bulgarians, it will be difficult for the message to make its way to their consciousness.

The greatest obstacle to achieving the desired impact with the campaign is the unappealing nature of its subject and the public's weariness of direct propaganda. It is therefore necessary to use non-traditional forms of social marketing striking the proper balance between accessibility and originality. The one thing to avoid at all cost is boredom, unattractiveness and traditionalism in the implementation of the campaign.

There is reason to expect serious behind-the-scenes opposition, including through the mass media, from the circles affected by the anti-corruption campaign.

It is also necessary to bear in mind the risk of politicization of the campaign. This could take place either by way of identifying anti-corruption actions with narrow party interests or through attempts to limit their scope in the service of the political or individual interests of certain parties or leaders.

F. SIXTH ACTION LINE: INTERNATIONAL COOPERATION

F.1. Cooperation with interna- tional organi- zations and integration structures

F.1.1. Background

Corruption has become a world phenomenon with immediate implications not only for the economic development of individual countries and their international relations, but likewise for the world economy and politics in general. The international community is thus becoming increasingly aware of the need for democratization and openness as conditions for successful economic development. The goal of international forums concerned with the threat of corruption is to counteract it through a positive program enhancing the effectiveness of government while reaffirming individual freedoms and human rights. Such has also been the trend of the changes occurring in public consciousness with the introduction of the new information technologies.

The various international organizations approach the problem of counteracting corruption from different angles. For the UN, and more specifically the United Nations Development Program (UNDP), the starting point is good governance aimed at securing sustainable development; for the World Bank, the approach to corruption is primarily linked to economic development in general; the Council of Europe places an emphasis on the multidisciplinary approach; the European Union sees the problem of corruption as one chiefly related to protecting the financial interests of the Community and the normal functioning of the market with competition as one of its fundamentals; within OECD there are four major areas of concern, with the foremost being fighting bribery in international business transactions. It is in this same area that the World Trade Organization can be expected to concentrate its efforts in the coming years.

Different countries also tend to approach the problem in different ways. While the United States Agency for International Development sets democracy and good governance as priorities in the fight against corruption, the British Department for International Development tends to associate it chiefly with the fight against poverty.

The various approaches reflect the complexity of the phenomenon of corruption and the difficulties in seeking solutions on a national and international level. In this sense, cooperation with and among international organizations is necessary not only to avoid duplication, but also in order to achieve the desired lasting effect.

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 ap-

preciation of the individual approach of each of the various international organizations and hence, of the different possibilities for cooperation. On the other hand, the legal and institutional curbing of corruption in Bulgaria would constitute a serious contribution towards the success of integration efforts within the process of accession to the European Union, towards establishing stable and predictable relations with the international financial institutions, as well as towards attracting substantial foreign investments.

F.1.2. Objectives

Bulgaria should primarily strive to ensure these two interrelated preconditions for curbing corruption: a) enlisting international support for the efforts to combat the phenomenon in this country, both in terms of international experience and know-how, and financial assistance for the administrative reform, and b) active involvement in the international efforts to limit the negative implications of corruption for regional and world economy and politics.

F.1.3. Actions:

F.1.3.1. Optimizing cooperation within the framework of the United Nations

The problems related to corruption have been on the UN agenda for more than two decades. The UN General Assembly endorses a number of documents of consequence for undertaking effective measures against corruption.

Within the UN, the Commission for Crime Prevention and Criminal Justice plays an important role for establishing and developing international cooperation in this area.

As a specialized donor institution, UNDP also has a significant interest in overcoming corruption as a condition of achieving its goals — reducing poverty, building a society oriented towards the individual, ensuring sustainable development. A Programme for Accountability and Transparency (1996) was elaborated within UNDP, making aid to the countries in need contingent on improving governance and limiting corrupt practices.

Cooperation of Bulgaria with the UN should be optimized along several lines:

- to make use of the opportunities provided by the UN Secretariat; specifically, the technical assistance provided to member countries for enhancing their capability to develop and effectively implement an anti-corruption policy and strategy;
- to activate relations with UNDP which is also closely involved in international efforts to curb corruption. It is necessary to draw on UNDP experience in supporting national justice administration systems, public and private sector management, decentralization of administrative activity, and the building up of civil society. These priorities stem from the belief that improved governance and institutional advancement in the developing

economies are preconditions for sustainable human development. Future cooperation with UNDP should make full use of its potential in terms of collaborative interaction not only with developing countries, but also with government institutions and independent civil society structures;

- to undertake measures for the broad dissemination of the documents endorsed by the world organization for use within the national legislation of each member country;
- to identify possibilities for using the experience, technical and financial assistance of the UN in the implementation of the present Anti-Corruption Action Plan;
- to promote more active involvement of Bulgaria in the activity of the intergovernmental group of experts working to develop a comprehensive international convention against organized cross-border crime, which was set up with resolution 52/85 of the UN General Assembly.

F.1.3.2. Extending interaction with the European Union

The European Commission Communication of May 21, 1997 to the Council and European Parliament on combatting corruption, contains the main policy guidelines, for both member and non-member countries (including those of Central and Eastern Europe, with respect to which the implementation of special programs is recommended).

An Action Plan Against Organized Crime was drawn up by the High Level Group and adopted at the Amsterdam European Council in June 1997, which along with other matters recommended the implementation of a global policy against corruption with the aim of enhancing openness in public administration, and emphasized the importance of cooperation with the Union's main partners, in particular with applicant countries.

The European Union has adopted a number of regulations which allow the authorities to avoid entering into contractual relations with companies or enterprises associated with improper conduct or the practice of accepting or giving bribes.

In recent years, the Council of Ministers has endorsed two multilateral international instruments which have been integrated into the Community law and are particularly related to the problem of corruption in the Community and among the officials of the member states' administrations. With a view to the need for harmonizing Bulgarian legislation with EU law as an essential element of the country's preparation for EU accession, the following measures ought to be considered:

- bringing Bulgarian legislation in line with the Protocol to the Convention on the Protection of the Financial Interests of the Community, adopted on 27 September 1996, which provides for member states to criminalize the active and passive corruption involving officials of the Community and public officials in the member countries which affects the financial interests of the Community;

- gradual alignment of legislation with the Convention on Combating Corruption Involving Officials of the Community and Public Officials in the EU Member Countries, ratified by the Council on May 26, 1997. According to the Convention, all member states are to criminalize active and passive corruption involving officials of the Community and public officials in the EU member countries, regardless of whether the financial interests of the Community are affected.
- drawing on the experience of individual EU member states in the fight against corruption on a political level, both in terms of legislation and the judiciary;
- full use of “third pillar” cooperation and the funds extended under the various EU programs for the introduction and implementation of anti-corruption measures and related reforms in the administration, and more notably with regard to tax and customs authorities.

F.1.3.3. Participation in cooperation under the auspices of the Council of Europe

In recent years, the efforts of the Council of Europe have been directed towards the development of a common penal policy for combating corruption. The main guidelines of the Programme of Action against Corruption for the period 1996–2000, created by the Multidisciplinary Group on Corruption (GMC), concern elaborating a definition of corruption, criminalizing the acts of corruption, devising a code of conduct, introducing civil liability for corruption, defining the role and responsibilities of institutions and individual persons, and proposing measures for preventing and combating corruption.

Significant impetus in this respect was provided by the 21st Conference of European Justice Ministers (Prague, 10–11 June, 1997). The Second Summit of Heads of State and Government (10–11 October, 1997) considered proposals for establishing a body on cooperation, technical assistance and information exchange aimed at preventing corruption, as well as for the introduction of legal standards for tougher anti-corruption measures. At its 13th meeting (23–27 March, 1998) GMC adopted a draft convention on corruption providing for measures on a national level, implementation control, and guidelines of international cooperation.

In its cooperation with the Council of Europe, Bulgaria should be guided by the following objectives:

- further active participation in the work of the Multidisciplinary Group on Corruption and the elaboration and adoption of the international legal instruments drafted by the Group: Penal Law Convention on Corruption, Partial Agreement Establishing the Group of States against Corruption — GRECO, the European Code of Conduct of Public Officials;
- completion of the process of establishing the appropriate legal framework for adoption of the above instruments, subject to their approval by the Council of Europe;

- full implementation of the Final Recommendations and Guidelines for Action made to the Bulgarian Government under the Octopus Project of the European Commission and the Council of Europe of September 24, 1998.

On a domestic level, it is necessary to undertake the following measures in line with the instruments endorsed by the Council of Europe:

- criminalizing bribery of foreign public officials;
- criminalizing the so-called “trade in influence”;
- enhancing the administrative capacity of the specialized anti-corruption agencies;
- elaborating and implementing witness protection programs including appropriate financial and other provisions;
- creating a public register for annual property and income declarations by senior public officials;
- improving inter-institutional cooperation and statistics;
- developing educational programs aimed at fostering a culture of public ethics and rule of law.

F.2. International economic, financial, and trade institutions and organizations

F.2.1. Background

In recent years the international economic, financial, and trade institutions (Organization for Economic Cooperation and Development, World Bank, International Monetary Fund, and others) initiated a debate on corruption and its impact on global economic relations, as well as on the economies of the developing and post-communist countries. It was largely under their influence that a number of anti-corruption documents were endorsed and adopted by the advanced democracies as mandatory in their foreign economic practice.

OECD has taken up very seriously the issue of the corruptibility of officials in international business. A significant contribution to the development of a global strategy and specific measures to combat corruption has also been made by the World Bank and its Economic Development Institute. In recent years the IMF has also adopted a policy of greater commitment to transparency as a condition of macro-economic stabilization.

F.2.2. Objectives

To extend Bulgaria’s cooperation with international economic, financial, and trade institutions with the aim of curbing this phenomenon in the Bulgarian economy, as well as attracting additional financial support for efforts to enhance the effectiveness and guarantee the transparency of governance.

F.2.3. Actions

F.2.3.1. Joint activity with the Organization for Economic Cooperation and Development (OECD)

The fight against corruption in international business is one of the principal goals of OECD. The organization has four main areas of activity — fighting bribery in international business transactions, enhancing anti-corruption systems within the frames of public administration, controlling externally funded projects, and studying corruption in non-member states. The Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was signed on 21 November, 1997 and Bulgaria is a party to this instrument.

The OECD member states are the source of approximately 70% of the goods and services in the world and about 70% of international exports, and generate about 90% of investments on a global scale. Cooperation within OECD in combating corruption in international business transactions, which also involves the participation of non-member states (Argentina, Brazil, Bulgaria, Slovakia, Chile), is therefore of vital import to the successful counteraction of international corruption.

In the future, cooperation within OECD will seek to extend the scope of the fight against corruption by combating bribery of representatives of foreign political parties or candidates for office, as well as by examining the role of subsidiaries abroad and offshore centers.

It is indispensable for Bulgaria to become fully involved in the international cooperation in combating corruption under the auspices of OECD, which implies the following:

- full participation in the OECD Working Group on Bribery in International Business Transactions. Bulgaria has so far not been effectively involved in its activity even though this was the first OECD working body of which the country became a full member;
- active involvement in the monitoring mechanism of the implementation of the Convention and the Revised Recommendations of OECD, which includes a system of self-evaluation measures based on questionnaires as well as a system of mutual evaluation of the working group member countries;
- fulfillment of the commitments undertaken with the signing and ratification of the Convention: changes in the Penal Code for the purpose of criminalizing bribery of foreign public officials according to the definitions of bribery and foreign public official set forth in the Convention; introducing provisions for non-criminal penalties for legal entities engaged in bribery of foreign officials; taking steps in connection with money laundering and accounting requirements;
- adherence to the Revised Recommendation of the Council of OECD of 23 May 1997 and the Recommendation of the Council of 11 April 1996;
- participation in future cooperation within the frames of the OECD Working Group on Combating International Corruption;
- appropriate support for the efforts of the OECD Public Management Committee — PUMA in connection with the elaborated Ethics Checklist

and the related research currently in progress, as well as with its other activities aimed at preventing and combating corruption.

F.2.3.2. Interaction with the World Bank and the International Monetary Fund

Interaction with international financial institutions and, more specifically, the World Bank and the International Monetary Fund, should be aimed at implementing the common goals of curbing corrupt practices within the frames of Bulgarian reforms and privatization.

The systematic framework for addressing corruption as a development issue in the assistance provided by the World Bank was developed in the 1997 report "Helping Countries Combat Corruption: The Role of the World Bank". The Bank will respond to requests for assistance in partnership with other international institutions and bilateral aid donors as appropriate. In other cases, the Bank may provide assistance in economic policy reform and institutional strengthening that, while aimed primarily at improving government performance, also helps reduce corruption.

Of particular interest with regard to governance is the document endorsed by the IMF Executive Board on 4 August, 1997, which contains the criteria for IMF involvement in this respect. The document expressly notes that the responsibility for governance lies with the national authorities and IMF involvement is warranted in instances when the capacity of the respective government to conduct a viable economic and financial policy is impaired by poor governance, with a resulting negative impact on macro-economic performance, for instance due to misuse of public funds, widespread bribery of tax and customs officers, etc.

More active cooperation would be particularly beneficial in the following spheres:

- with the IMF in the sphere of combating international money laundering. In this area Bulgaria should seek technical assistance for the consistent application of licensing and financial-accounting requirements, as well as in the elaboration of banking and foreign exchange legislation and regulations;
- with the international financial institutions in general, insofar as they support the efforts of the various countries to improve governance by enhancing transparency and remodeling government practices in such areas as tax policy and administration, the financial system, public expenditure policy and management, etc.;
- drawing on the experience of international financial institutions in the sphere of fiscal corruption, remuneration of public sector employees and corruption, as well as with respect to the impact of corruption on growth, capital accumulation and the cost of governance;
- establishing partnering relations between Bulgarian non-governmental organizations and international financial and trade organizations. Bulgarian NGOs should be more active in supporting the implementation of the anti-

corruption strategy of the international financial organizations, as well as the recommended measures for greater transparency and accountability.

F.2.3.3. Cooperation with the International Chamber of Commerce

The International Chamber of Commerce plays an important role in stimulating international economic relations and trade in particular. In 1996 it adopted a revised version of Rules of Conduct in the Fight against Extortion and Bribery in International Business Transactions. However, these rules are not mandatory and corporations are free to decide whether to endorse them.

It is important for Bulgaria to follow closely the developments concerning the application of these standards, all the more that a special committee has been set up on a permanent basis with the participation of business persons, legal experts, and academics, to continue efforts in this direction.

F.3. Cooperation with other international organizations

F.3.1. Background

International non-governmental organizations, professional associations, not-for-profit organizations and other third-sector structures will be playing an increasingly important role in the fight against corruption. The key objective at this stage is to identify potential partners and possibilities for cooperation, as well as the specific areas where it would be most viable.

F.3.2. Objectives

Cooperation with non-governmental organizations falls within the principal goal of implementing anti-corruption activities and should take into account the potential, as well as the limitations, of these organizations deriving from their specific nature.

F.3.3. Actions

Cooperation should be established primarily with organizations likely to offer substantial support, including financial assistance, for the implementation of the Action Plan, such as:

- The International Development Law Institute (IDLI), Rome

The International Development Law Institute is an international not-for-profit organization established by inter-governmental agreement of 13 countries, including Bulgaria. IDLI is a leading European organization in the sphere of legal development and has extensive experience in implementing legal training programs in the countries of Central and Eastern Europe, as well as in developing countries.

Cooperation with IDLI proceeds in two main directions:

- a) using the resources and experience of the Institute in implementing the public awareness campaign;

b) acting, in cooperation with the Institute, on the recommendations made in the present action plan concerning the need to enhance the practical skills of Bulgarian jurists.

- Transparency International

A particularly important aspect of cooperation with Transparency International, which has recently established a Bulgarian Chapter, is to study its experience in the elaboration of an international index for assessing corruption.

F.4. Regional organizations and initiatives

F.4.1. Background

Due to its specific development dynamic and low level of integration, the region of South-Eastern Europe is characterized by relatively weak coordination in combating corruption. The war in former Yugoslavia and the ongoing ethnic tension in some of the newly established states, the problems related to the transition to market economy in most of those countries, together with the lacking or underdeveloped legal and institutional framework for combating corruption are major factors making it imperative that the countries of the region join their efforts (on a bilateral and multilateral basis) in combating this negative social phenomenon. In this respect it is vital to start with the recognition of interdependence and the combined manifestation of cross-border organized crime and the corruption of public officials, specifically those in charge of border and customs control.

The Republic of Bulgaria is involved in a number of regional forms of cooperation: Process on Stability and Good Neighborliness in Southeastern Europe (the Royaumont Process), Southeast European Cooperation Initiative (SECI), Black Sea Economic Cooperation (BSEC), Central European Initiative (CEI). Bulgaria is the initiator of the process of fostering good neighborly relations, stability, security, and cooperation in the Balkans and actively participates in trilateral formats of cooperation with Greece, Turkey and Romania. A dialogue for cooperation in combating corruption has only begun in three of the regional initiatives — SECI, BSEC, and the trilateral dialogue.

F.4.2. Objectives

The main goal is full involvement of Bulgaria in the regional forums and initiatives on counteracting corruption, which could help turn them into working international instruments for curbing the phenomenon that poses a particular threat to this region.

F.4.3. Actions

F.4.3.1. Within the framework of Black Sea Economic Cooperation

A draft is currently being discussed of an intergovernmental Agreement of the BSEC Member Countries for Cooperation in Combating Crime and the Related Organized Forms. The Bulgarian side is represented in the negotiations by officials from the Ministry of the Interior. To date agreement has

been reached on the title, preamble, and articles 1, 2, and 3 of the treaty. No measures for collective efforts in combating corruption have been considered so far.

F.4.3.2. Within the framework of the Initiative for Cooperation in South-Eastern Europe

In compliance with the decision of the Sixth Program Committee (PC) of SECI (15 April 1998) in Bucharest, two meetings have been held (6 May and 3 June 1998) of the working groups on the project for the creation of a Center for Combating Crime and Corruption. The project will emphasize specific cooperation with respect to cross-border organized crime and corruption. The present stage involves defining the subject and area of activity of the Center, its structure and operation principles. The following areas of cooperation have been outlined on a preliminary basis:

- building up an integrated system of information exchange (data base) and rules for its use;
- operative cooperation in the prosecution of persons charged with corruption;
- legal regulation of the issue of extradition of persons involved in crimes;
- document and witness protection.

The proposal to delegate representatives of the participating countries to the Center will probably be adopted in order to ensure its effective functioning. It would be most appropriate for those representatives to be legal experts from the respective authorities concerned with combating corruption.

Two further documents (Memorandum and Charter) for cooperation in combating organized crime and corruption are to be signed by the end of 1998 within the frames of SECI.

F.5. Regional cooperation on a multilateral and bilateral basis

F.5.1. Background

The Ministry of the Interior of the Republic of Bulgaria, in its capacity as central law-enforcement authority, has signed agreements for cooperation with all the countries of the region with the exception of the Federal Republic of Yugoslavia. The ratification of the treaty with Croatia is forthcoming and, unlike those with the other countries, it has been signed as an intergovernmental treaty. A common characteristic of all of those agreements is the emphasis on combating organized crime, drug trafficking, terrorism, illegal arms trade and trafficking in human beings. However, there is little or no reference to cooperation in combating corruption.

F.5.2. Objectives

Curbing corruption will allow the bilateral relations between Bulgaria and each of the countries of Southeastern Europe to develop in conformity with their common interests and priorities. Furthermore, cross-border cooperation would help national authorities in each country deal more successfully

with the fight against organized crime. Of particularly great import is the elimination of cross-border crime (trafficking in drugs, human beings, and arms).

F.5.3. Actions:

F.5.3.1. It is necessary to analyze the bilateral treaties signed by the law-enforcement authorities and include a collaborative element with regard to combating corruption through special protocols

F.5.3.2. It would be important to create a national integrated information system on combating corruption and link it to corresponding systems in neighboring countries

F.6. Cooperation with government aid institutions on a bilateral basis

F.6.1. Background

Implementing effective anti-corruption measures in Bulgaria calls for the use of the expertise and other similar resources of the countries with advanced market economies and democratic systems based on the rule of law. In this sense, the said measures should comprise a mechanism for cooperation with the USA, the EU member states, Japan, and other countries. More specifically, this could be achieved through existing government aid institutions — United States Agency for International Development, the British Know-How Fund, and others. The 1998–2002 Strategic Plan of USAID in Bulgaria devotes special attention to the fight against corruption. The importance has been highlighted of promoting the involvement of civil society organizations in fostering greater public awareness and negative attitudes towards corruption in this country.

F.6.2. Objectives

The cooperation with government aid institutions would ensure that the expertise and experience of government authorities and non-governmental organizations in the developed countries is available for the implementation of the present set of measures.

F.6.3. Actions

F.6.3.1. The areas covered by the present Action Plan where technical and financial assistance from government aid institutions is most urgently needed are about to be identified

F.6.3.2. It is necessary to develop and implement a coordination mechanism with local offices of the bilateral donor agencies to coordinate the implementation of the Action Plan

F.6.3.3. Cooperation ought to be ensured in involving government and non-government experts from the respective countries in regular monitoring of the progress made by Bulgaria in the fight against corruption

CORRUPTION MONITORING SYSTEM

COALITION 2000
CORRUPTION INDICES

METHODOLOGY

The corruption indices are constructed based on survey data of Vitosha Research with the Center for the Study of Democracy and are among the basic output results of the Corruption Monitoring System (CMS).

The development of the CMS began with the first quantitative survey on corruption in March 1997. In the period till September 1998 a total of 5 quantitative and 4 qualitative surveys have been conducted.

Based on the experience gained, in the period July-September 1998 the first surveys (2 quantitative and 3 qualitative) of the CMS have been conducted. The present issue of the Corruption Indices of *Coalition 2000* is based on these recent surveys.

The methodology of the CMS envisions *periodic monitoring* of a set of indicators characterizing the way in which citizens and public sector employees perceive corruption and also their involvement in different forms of corrupt practices.

CORRUPTION INDICES

Corruption indices are among the important outputs of the Corruption Monitoring System (CMS) of *Coalition 2000*. Their values will be updated quarterly based on survey data.

Corruption assessment index numbers assume values from 0–10.

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.

Corruption indices have been grouped into several categories:

- Attitudes towards corruption;
- Corrupt practices;
- Assessments of the scope of corruption;
- Corruption-related expectations.

CORRUPTION INDICES: STRUCTURE AND INTERPRETATION

1. Attitudes

Acceptability
in Principle

Indicates the level of moral acceptance of various corrupt practices.

Susceptibility
to corruption

Measures the inclination to compromise on values and principles under the pressure of circumstances.

2. Corrupt Practices

Corruption
pressure

Indicates the frequency of attempts to corrupt public officials

Personal
involvement in
corrupt practices

Self-assessment / admission of the frequency of involvement in different forms of corrupt behavior

3. Assessments of the spread of corrupt practices

Spread of
corruption

Indicates citizens' assessments of the spread of corrupt practices among public officials

Practical
effectiveness

Indicates citizens' assessments of the extent to which corruption is becoming an efficient tool of solving personal problems and a social norm of behavior.

4. Corruption Expectations

Expectations

Assessment of the potential of Bulgarian society to cope with corruption.

THE SOCIAL MEANING OF CORRUPTION INDICES

Corruption indices provide an approximation about *the scope and the aspects* of corruption based on the assessments of citizens and public officials. These assessments are the starting point for their practical behavior and the way they perceive their social environment.

Corruption indices could not be a base for making direct conclusions about *the exact level of proliferation* of corrupt practices.

Closest to the dimension *level of proliferation of corruption* is the index of personal involvement in corrupt practices, as it is based on the anonymous admissions by respondents about their involvement in acts of corrupt behavior.

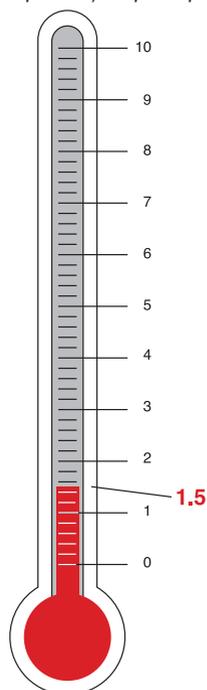
To a certain extent the specific legal characteristics of corruption (that both sides act illegally) makes the index of personal involvement in corrupt practices *one of the few realistic measures* of the actual level of proliferation of corruption.

Currently, the accuracy level of empirical survey estimates of the realities of corruption is substantially higher — for obvious reasons — in comparison with the available information from law enforcement institutions.

VALUES OF CORRUPTION INDICES

1. Attitudes towards corruption

Acceptability in principle



Population

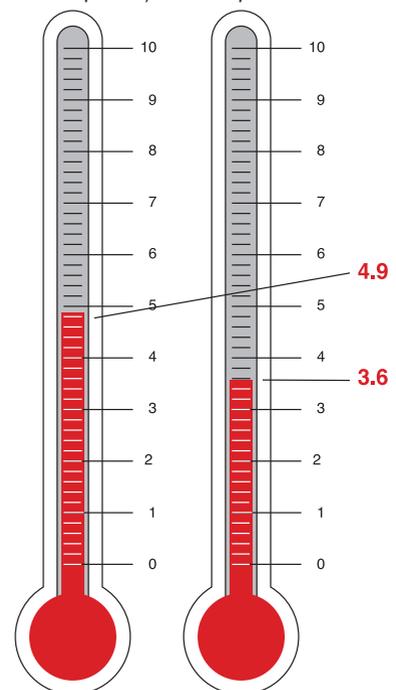
- **Corruption is perceived as a social evil.** There is a large measure of agreement among Bulgarians that corruption is unacceptable in principle.

- **Reality versus values.**

Susceptibility to corruption rises seriously when values are confronted with personal interest. People are inclined to compromise their principles because they do not see any other way of achieving their goals.

- **The low level of acceptability of corruption** on the one hand, and the high level of susceptibility, on the other, together shape the following widely accepted practical philosophy concerning corruption: corruption is a necessary evil which in practice gets things done.

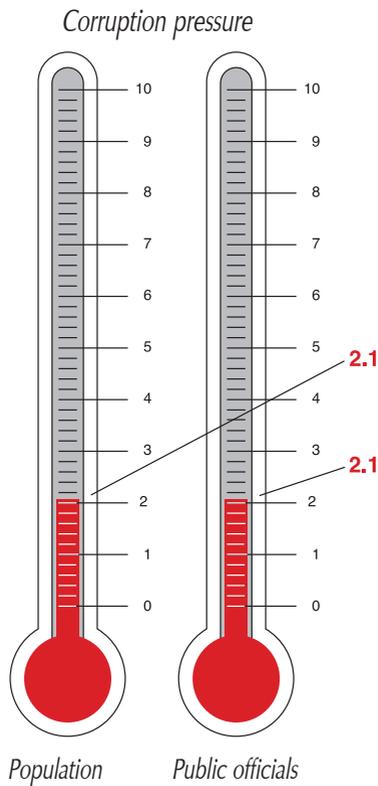
Susceptibility to corruption



Population

Public officials

2. Corrupt practices



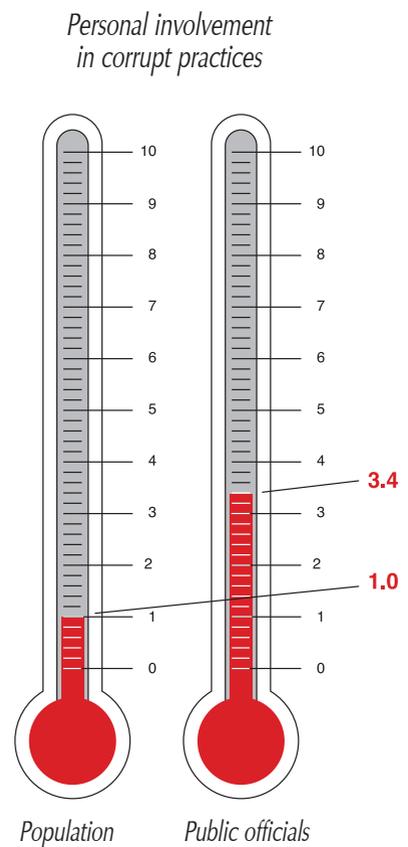
- **Corruption is not the outcome of open coercion.**

Individual corruption pressure is relatively low. This suggests that in Bulgaria corrupt behavior is generated not so much by social pressure but, rather, by vested interest and necessity.

- **Not everyone is personally involved in corruption.**

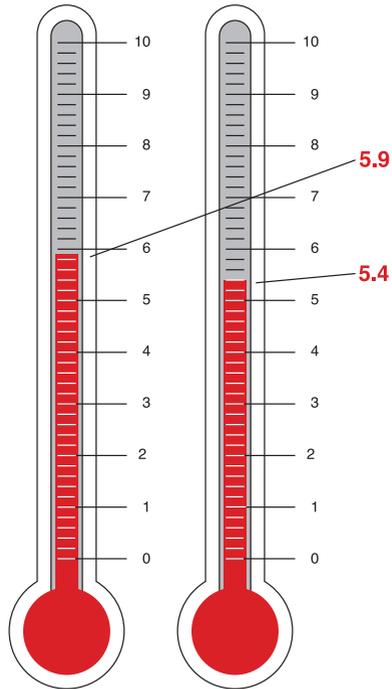
The index of corrupt practices is higher among public officials than among the population in general.

The data show that the cases of participation in various forms of corrupt practices do not encompass the majority of the citizens.



3. Assessments of the spread of corrupt practices

Spread of corruption



Population

Public officials

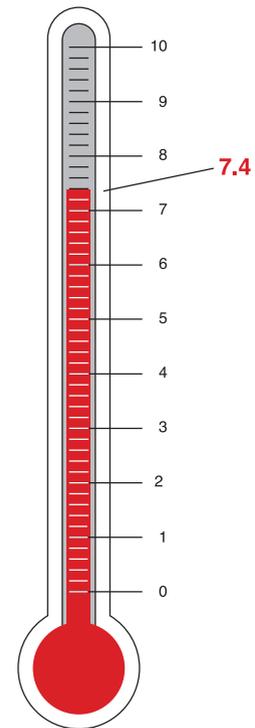
- **Corrupt practices are perceived as widespread and commonplace.**

The Bulgarian public tends to perceive corruption as a widespread phenomenon which is about to turn into a social norm.

- **Involvement in corrupt practices is socially successful.**

This value attitude coexists with the general view, confirmed on a daily basis, that corruption is in fact a highly efficient tool for solving personal problems.

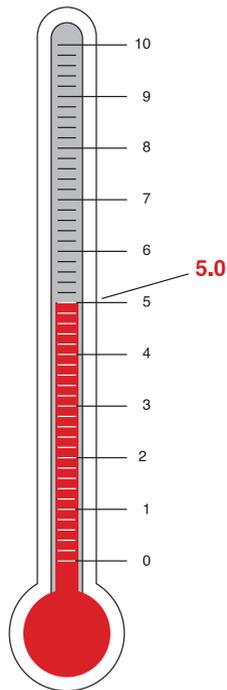
Practical effectiveness of corruption



Population

4. Corruption expectations

Expectations



Population

- **Corruption will be difficult to eliminate in the foreseeable future.**

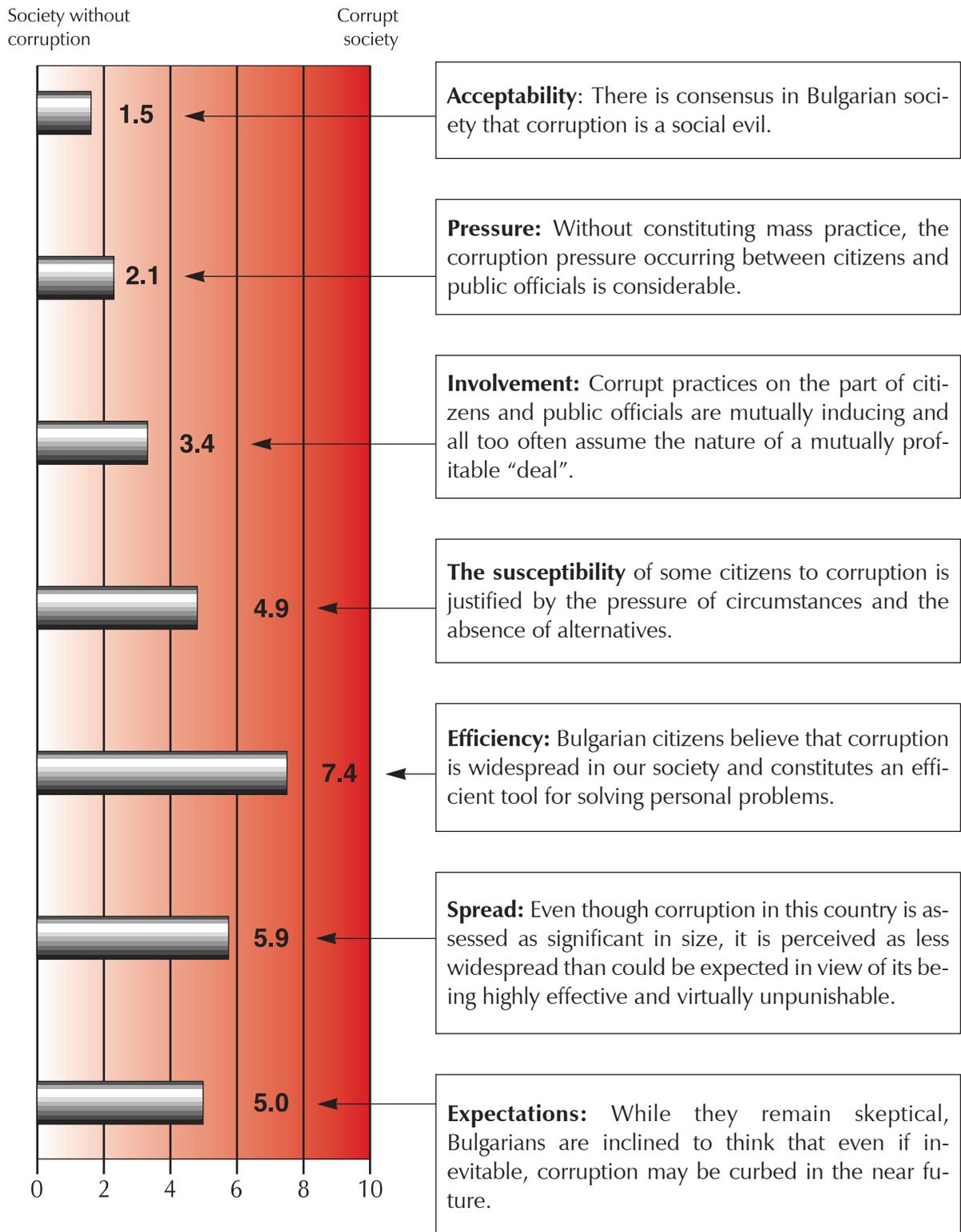
With regard to the possibility for society to resolve the problem of corruption, Bulgarians are not resigned to the worst but rather tend to be moderately pessimistic.

The value of the index suggests that Bulgarians could possibly change their future expectations in case the social environment succeeds in fostering legitimate mechanisms that would pay off better than those of corruption.

CONCLUSIONS

- The Bulgarian public regards corruption as one of the three most significant problems faced by our society.
- There is broad consensus that corruption is a social evil.
- Practical circumstances modify the basic intolerance of corruption and it comes to be perceived as a necessary evil.
- The principle unacceptability of corruption is eroded by the deeply rooted belief that corrupt practices are highly effective in dealing with problematic situations.
- Many people admit that when confronted with the reality of pressure and temptation they would compromise over their values. This choice is supported by the conviction that corruption is turning into a social norm.
- The customs and tax administration, the judicial system, the central executive and the legislative branches of government, healthcare, the police, and the municipal administration are considered the main centers of corruption among public sector employees.
- Citizens assess as quite high the extent to which our society has been infected with the virus of corruption. This pessimistic view is based on three popularly shared perceptions:
 - that corruption is widespread among public officials;
 - that it is a successful practice both for the corrupting and the corrupted;
 - that it is virtually unpunishable.
- In mass consciousness there predominates the moderately optimistic attitude that corruption could be curbed, and that it is less widespread than could be expected in view of its being a successful and unpunishable social instrument.

SUMMARY: THE CORRUPTION INDICES OF COALITION 2000



METHODOLOGY AND DESIGN

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Corruption Monitoring System (CMS) of *Coalition 2000* includes a system of empirical studies and analytical reports. The main objective of CMS is to periodically present information, which would enable conclusions about the scope of corruption in the country, as well about the related public attitudes, assessments and expectations.

I. COALITION 2000 INITIATIVE AND CORRUPTION MONITORING SYSTEM

The main objective of the anti-corruption initiative of *Coalition 2000* is the *enhancement of public intolerance towards corruption* as an element of the democratic values and practical implementation of mechanisms which lead to greater transparency, trust, and integrity. This will be achieved by developing an Anti-Corruption Action Plan for Bulgaria (AP), conducting an Anti-Corruption Awareness Campaign and implementing the Corruption Monitoring System (CMS). The CMS is based on regularly conducted empirical studies.

In greater detail the *Coalition 2000* initiative will aim to:

- Promote *public awareness of corruption and establish mechanisms* to support anti-corruption efforts through public education, advocacy and dissemination of information.
- *Assist democratic institution building, promotion of democratic values, and elaboration of an anti-corruption Action Plan* by organizing panels of experts and legislators to develop amendments to the institutional arrangements and regulatory framework that help restrain corruption, particularly among public officials.
- Serve as a “*watchdog*” of the reform process, focusing attention on practical implementation of transparent and clear rules of the game, integrity, and democratic control.

The model of impact chosen by *Coalition 2000* aimed at curbing corruption could be produced following a three stage process including: *cognitive change* (this involves problem diagnostics and formulation of a research-based impact strategy); *inducing affect* (this is the process of converting messages into emotional/moral commitments); *behavior change* (this involves inducing people to change some aspects of their actual behavior and transforming moral disapproval into an action agenda of the public).

The model includes three basic targets of an anti-corruption campaign which address the principle factors of corruption: *monopoly* (which in the case of Bulgaria is the predominance of the state in the economy and other

sectors of social life), *discretionary power* (i.e. the lack of clear administrative rules and regulations) and *accountability* (i.e. poor functioning of watchdog agencies or lack of such agencies).

The *Coalition 2000* process is structured in three main components where the CMS is designed to perform several specific functions:

Component 1: Corruption Assessment and Development of an Anti-Corruption Action Plan

Corruption Diagnostics. The first CMS panel of surveys is to be conducted at the initial stage of the project. At this initial stage, the CMS will be the major *diagnostic tool*. It will help evaluate the status of corruption in different areas of public life and to map the specific characteristics of the perceptions of the general public, public officials, experts, and political decision makers. The findings of the first surveys are to be presented to the group of experts who are drafting the Anti-Corruption Action Plan. The major function of the CMS in the initial stage of the project is to help experts in the drafting process.

Corruption Assessment. The full analysis of the findings produced from the first CMS panel of surveys will be presented in the Corruption Assessment Report (CAR). The CAR will be prepared on a yearly basis and presented at the Public Policy Forum. In addition to corruption assessment the second and third CAR will evaluate the progress made in curbing corruption and influencing public perceptions and attitudes.

Component 2: Anti-Corruption Awareness Campaign

All the activities of *Coalition 2000* under this component could be divided into two basic groups:

- A system of activities aimed at changing public attitudes towards corruption. The awareness campaign is intended to promote public awareness of corruption and to *create in Bulgarian society a climate of rejection of corruption*.
- Practical action-based pilot initiatives, which could test the effectiveness of various *anti-corruption normative and socio-psychological mechanisms* in a specific region and/or settlement.

The CMS surveys are to be conducted in the course of the activities associated with this component. Their functions related to this specific component are:

Targeting. Surveys included in the CMS will help identify specific target audiences (based on attitudes and perceptions) for the practical initiatives of *Coalition 2000*. The CMS will also help identify the most effective media channels for reaching the specific audiences.

Message design. Some of the CMS surveys are specifically targeted at testing and tailoring the messages of *Coalition 2000*. This will help the awareness campaign achieve maximum efficiency.

Analysis of patterns of corrupt behavior. CMS survey results and analysis will be one of the essential content elements of the awareness campaign. In this respect the CMS will be a major provider of analysis aimed at generating public debate on corruption issues in Bulgarian society.

Component 3: Monitoring of corruption and corrupt behavior

The basic functions of the CMS itself are related to its major outputs: the **Corruption Indices of *Coalition 2000*** and the **Corruption Assessment Report**.

Corruption indices are based on the surveys included in the CMS and will summarize the most important corruption indicator variables to evaluate/measure the level of proliferation of corrupt practices in different spheres of society. The Corruption Indices of *Coalition 2000* will be published four times a year.

The Corruption Assessment Report is to be published yearly and will summarize the results of all the CMS surveys conducted during the year.

In addition, the other functions of the CMS are:

- To provide *reliable feedback* about the effectiveness of the anti-corruption initiatives of *Coalition 2000*;
- To maintain, on the basis of the collected information, *regular feedback with the relevant institutions* in order to support the implementation of mechanisms that would constrain corrupt practices.

II. IMPROVEMENT OF THE CORRUPTION MONITORING SYSTEM

The process of CMS methodology development

Methodology and results of the CMS are submitted for evaluation to the members of an Expert Council established with *Coalition 2000*. The CMS components and outputs are to be developed according to the recommendations of the experts, thus producing changes in the initial design and structure of the CMS.

Members of the Expert Council are leading public opinion researchers and sociologists in the country, as well as representatives of the state administration:

| | |
|---------------------------|---|
| Antonii Todorov | Director, Institute for Social Values and Structures |
| Assen Yosiffov | Director, National Public Opinion Research Center |
| Blagovest Georgiev | Associate Professor, Department of Sociology, Sofia University “Climent Ohridski” |
| Boyan Stankov | Deputy Chair, Council for Criminal Studies, Chief Prosecution Office |
| Dimitar Bachvarov | Head, Structural Reform Department, Councils of Ministers |
| Evgenii Dainov | Director, Center for Social Practices |
| Georgi Fotev | Director, Institute of Sociology, Bulgarian Academy of Sciences |
| Irena Angelova | Legal Adviser, Ministry of Internal Affairs |
| Ivan Chalukov | Deputy Director, Institute of Sociology, Bulgarian Academy of Sciences |
| Krastyuo Petkov | Professor, Department of Sociology, Sofia University “Climent Ohridski” |
| Mihail Mirchev | General Manager, ASSA-M Ltd. |
| Miroslava Yanova | Director, MBMD Ltd. |
| Peter-Emil Mitev | President, Bulgarian Sociological Association |
| Rumen Georgiev | Deputy Director, National Investigation Office |
| Rumyana Bachvarova | Director, Market Test Ltd. |
| Svetoslav Slavov | General Manager, GfK Bulgaria |
| Valeri Roussanov | President, Access Association |
| Yancislav Yanakiev | Head of Department, Center for Sociological Studies, Ministry of Defense |
| Zhivko Georgiev | Director of Research, BBSS Gallup International |

During the implementation of the *Coalition 2000* initiatives, new members of the Expert Council could be invited in order to further discuss and develop CMS methodology and outputs.

Public Access to CMS Data

The empirical information collected through the CMS surveys will be made available (on demand) to research agencies and government bodies in Bulgaria, as well as to international organizations for further analysis and reporting. Through the Expert Council an effort will be made to coordinate corruption assessment research in order to develop a methodology which ensures maximum reliability of data and objectivity of analyses.

III. STRUCTURE OF THE CORRUPTION MONITORING SYSTEM

1. Structure of the CMS

The CMS includes several basic types of surveys (coded from S1 to S7 in the table below) which are to be conducted with different periodicity.

| Survey ID | Survey Type | Time-frame |
|-----------|--|----------------|
| S1 | Quantitative national representative survey of the population | Quarterly |
| S2 | Quantitative survey of public officials | Quarterly |
| S3 | Focus group discussions with experts | Quarterly |
| S4 | Focus group discussions with public officials | Yearly |
| S5 | In-depth interviews with policy makers | Yearly |
| S6 | Media monitoring | Monthly |
| S7 | Testing awareness campaign messages of the <i>Coalition 2000</i> with the Perception Analyzer System | When necessary |

The surveys conducted quarterly are included in the Corruption Monitoring Panel. Corruption Indices are computed from the quantitative surveys included in the CMS (S1, S2, and S6). They make it possible to estimate the dynamics of public attitudes and actions, characterizing different aspects of corruption-related phenomena. Regular observations also provide feedback on the effectiveness of the anti-corruption initiatives in Bulgarian society and on the progress toward achieving the goals of *Coalition 2000*. Qualitative studies included in the Corruption Monitoring Panel (S3, S4, S5) will be used to improve and refine CMS design and methodology.

Once a year the Corruption Monitoring Panel will be expanded with the surveys S4 and S5. On the basis of the extended Corruption Monitoring Panel, a Corruption Assessment Report will be prepared for the annual Policy Forum. The report will summarize the results of all surveys conducted in the preceding 12 months and will derive conclusions about the scope and dimensions of corruption in the country. The Corruption Assessment Report will also evaluate the effectiveness of anti-corruption initiatives. The first Corruption Assessment Report for 1998 will be prepared and disseminated in December 1998.

2. Stages of Implementation of the CMS

Development and implementation of the CMS is to be accomplished during the following stages:

Stage 1: Elaboration and testing of the first version of the CMS methodology

Duration

6 months (April 1998 — September 1998)

Main purposes:

- development of the design and methodology of CMS surveys;
- submission of initial data to the experts of *Coalition 2000*, working on the anti-corruption Action Plan.

Information sources:

Development of the CMS is based on the experience and information gained from the following surveys, conducted by Vitosha Research with the Center for the Study of Democracy:

- *qualitative study* (focus group discussions) on the problems of interactions between citizens and public sector officials. It was conducted in October 1996 in the framework of a joint international project with Glasgow University, Scotland;
- *four national representative surveys of the Bulgarian population* on the problems of public tolerance towards different forms of corrupt behavior. The surveys were based on national representative random samples and have been conducted in March 1997, September 1997, January 1998, and May 1998;
- *Representative quantitative survey of the population (national sample)* on the problems of the interaction between citizens and public sector officials. The survey was conducted in January 1998 in the framework of a joint international project with Glasgow University, Scotland.

Surveys S3, S4, and S5 are used to elaborate the methodology of S1, S2 and S7. At the same time, the methodology of the initial qualitative studies is based on the experience and results of the quantitative surveys listed above.

Activities:

Creating the initial CMS information database including the surveys S1, S2, S3, S4, S5 and S6.

Stage 2: Improvement of the CMS methodology

Duration:

3 months (September 1998 — December 1998)

Main purposes:

- Establishing an Expert Council and reviewing the CMS methodology;
- Improvement of the CMS methodology which is to be implemented at the next stage;

- Preparation and review of the first versions of the CMS reports:
 - Corruption Indices of *Coalition 2000*;
 - 1998 Corruption Assessment Report.

Information sources:

The initial CMS information database including the surveys S1, S2, S3, S4, S5 and S6.

Activities:

1. Elaboration of:
 - Corruption Indices of *Coalition 2000*;
 - Corruption Assessment Report.
2. Review of the reports in the Expert Council and publication
3. Development of the second modified version of the design and the methodology of the CMS

Stage 3: Current Corruption Monitoring

Duration:

January 1999 — December 2001

Main purposes:

- Implementation of the regular surveys included in the CMS;
- Preparation and publication of the reports:
 - Corruption Indices of *Coalition 2000*;
 - Corruption Assessment Report.

Information sources:

CMS surveys

Activities:

- Regular implementation of the surveys included in the CMS;
- Preparation and publication of the reports:
 - Corruption Indices of *Coalition 2000*;
 - Corruption Assessment Report.

IV. CMS SURVEY METHODOLOGY

1. National Representative Surveys of the Population (S1)

The sample size of the national representative surveys is about 1200–1500. The sample is representative of the Bulgarian population aged 15 and over.

Surveys will be based on a two-stage cluster sample constructed from the list of the electoral sections of the last parliamentary or local elections. In the first stage, primary units (clusters) are chosen with probability proportional to the size of units according to the number of the electoral sections in the country. In the second stage, the respondents within the clusters are chosen at random. Each interviewer will be supplied with the names and the addresses of the respondents to be interviewed.

The survey method will be face-to-face interview.

Information will be collected about public opinion on the following main issues:

- public attitudes towards corruption — scope, levels, types, public tolerance, identification of the corruption, etc.;
- personal experience of the respondents with different types of corrupt practices;
- assessment of the economic situation in Bulgaria as a factor of corruption;
- political corruption and trust in the public institutions;
- anti-corruption strategies and activities, etc.

2. Quantitative Survey of Public Officials (S2)

Quantitative survey of public officials is conducted with a sample of 300 officials. The survey method is face-to-face interview.

There are two important advantages of this method:

- compared to the national representative surveys of the population the sample is smaller. In this sense, this type of survey is more flexible;
- a specific social group could be addressed, whose opinions and evaluations very often determine the decisions taken by the major actors in the political and economic scene.

Public officials from the following spheres will be interviewed:

1. Public officials in the central administration;
2. Public officials at the local level of municipal authorities;
3. Public officials at the Employment Offices, Social Care Centers, National Insurance Institute, etc.;
4. Police;

5. Court officials (judges, prosecutors, investigators);
6. Customs officials;
7. Tax officials;
8. Financial inspectors;
9. Public health (physicians, dentists, nurses, hospital administrators);
10. Education (university professors, university administrators, school-teachers);
11. PTT and telecommunication officials and others.

Quota sampling of the public officials will be used, based on the following criteria:

1. Type of employment;
2. Region;
3. Type of settlement;
4. Age;
5. Gender.

3. Focus group discussions (S3, S4)

Three types of discussions are to be held: with public sector officials, with businessmen and managers, and with experts. Representatives of different groups of public officials will be recruited to participate in the focus groups — central and local administration, health system, education, police, judicial system, social care, tax administration and customs, etc.

The recruitment procedure to be used includes the following steps:

- to select the participants from various groups of public officials and experts, and to receive their consent to participate in one of the focus groups;
- to compose the groups with a ratio between potential and actual participants of at least 2:1, i.e. 13–15 respondents for each group;
- to receive final agreement of the selected potential participants 2–3 days before carrying out the discussions. Expected refusal rate is about 20–25 %;
- to select the final participants (8–10 persons) on the day of the discussions.

Using the focus groups will help to achieve a better understanding of corruption-related attitudes, expectations, motives and behavior of the public officials. Qualitative study allows to better formulate the questions of the quantitative survey and to delineate new problematic areas to be addressed in the framework of *Coalition 2000* activities.

4. In-depth interviews with Policy Makers (S5)

In-depth interviews are included in the diagnostic component of the project and are conducted once per year. A quota sample of 20 policy makers will be used. Representatives of governmental and municipal administration, parliamentarians, ministers, directors of state and private enterprises, mayors and councilors will be interviewed as follows:

- 10 in-depth interviews with politicians and public officials in central and local level administration;
- 10 in-depth interviews with businessmen and managers.

The main advantages of this kind of interview are the elimination of group influences and deeper elaboration of the topics, revealing the details and nuances of the issues under consideration which could not be detected by quantitative methods.

5. Media monitoring (S6)

As an element of the CMS, media monitoring is designed to achieve several objectives:

- to measure the level of exposure of corruption-related problems in electronic and print media. Assessments about the influence of the media on the attitudes and opinions of different social groups will be made through the use of specific research techniques;
- to produce feedback about the media coverage of the initiatives of *Coalition 2000* and other similar citizens' activities aimed at curbing corruption.

Media monitoring objectives will be achieved through synchronized activities in three directions:

1. Regular monitoring of the news programs of National TV and National Radio.

The purpose of the monitoring is to locate the coverage of corruption-related issues in the news programs. Monitoring is conducted using a specially designed questionnaire, and data will be summarized and presented as a part of the report "Corruption Indices of *Coalition 2000*."

2. Regular monitoring of central newspapers with national coverage.

The objective of the monitoring is to gauge the presence of corruption-related problems in the whole aggregate of the observed print media. Monitoring is conducted using a specially designed questionnaire, and data will be summarized and presented as a part of the report "Corruption Indices of *Coalition 2000*."

3. Collating the results of media monitoring and quantitative surveys (S1 and S2).

This element of media monitoring is based on Agenda Setting methodology. This is a research method which uses statistical tools to identify relationships between the media coverage of a certain topic and the public attitudes and

opinions registered at the same time period. The Agenda Setting approach allows conclusions to be drawn about the correlation between public attitudes, media influences, and the broader social context.

This type of analysis will provide substantial feedback concerning the implementation of the initiatives of *Coalition 2000* as well as an accurate definition of the objectives and activities included in the Public Awareness Campaign.

V. COALITION 2000 CORRUPTION INDICES: METHODOLOGY AND THEORETICAL APPROACH

1. General Notes

The corruption indices of *Coalition 2000* are a system of synthetic indicators, which present the results of the quantitative surveys of the CMS (S1 and S2) and the media monitoring (S6) in a summarized form. Implicitly the corruption indices also summarize the results of the qualitative surveys (S3, S4 and S5), as the latter are used for the elaboration and the improvement of the methodology of the quantitative surveys.

The main objective in constructing the corruption indices is to reduce the multidimensionality of corruption as a social phenomenon to a reduced set of synthetic indicators. The advantages of such an approach are at least the following:

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

2. Theoretical base of the study of the elements of corrupt behavior

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

- social action has its specific prerequisites, among which the more important are social actors' attitudes, interiorized 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;
- action results 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 behavioral strategy.

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

| Action Components | Components of Corruption Behavior |
|----------------------|---|
| Action Prerequisites | <p data-bbox="752 246 1070 283"><i>Attitudes towards corruption</i></p> <p data-bbox="752 310 1365 491">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 data-bbox="752 519 949 555"><i>Corrupt practices</i></p> <p data-bbox="752 583 1365 721">Include the activity of the actors, connected with creating a situation for corrupt practices (the exercising of pressure) and the actual act of corrupt behavior.</p> |
| Action Results | <p data-bbox="752 749 1241 785"><i>Assessments of the magnitude of corruption</i></p> <p data-bbox="752 812 1365 1029">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 data-bbox="752 1057 1256 1093"><i>Assessment of the perspectives on corruption</i></p> <p data-bbox="752 1121 1365 1185">Include assessments of the capabilities of society (its potential) to combat corruption.</p> |

It should be especially 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, for understandable reasons, subject to a multitude of restrictions. In this respect the model on which the study of corrupt behavior is based is much simpler than it could have been. In constructing the set of indicators that was actually employed, the objective was to use the indispensable minimum in a way that would make it possible to maintain professional standards of fieldwork.

3. Theoretical Interpretation of Corruption Indices.

Corruption is a complex and multidimensional phenomenon and is associated with several differing definitions. The operational definition adopted defines corruption as abuse of power (economic, political, and administrative) in the interest of personal or group gain and at the expense of the individual, specific groups or society as a whole. This rather broad definition is warranted by the character of the phenomenon itself as well as by the wide-scope initiatives against corruption on the national and international level, including both citizens and governments.

The reproduction of corruption presupposes the existence of four necessary components: 1) state/public officials; 2) discretionary power; 3) abuse of public power; 4) private gain on behalf of officials. Depending on the forms

in which these components actually function, there could exist different forms, levels, spheres and mechanisms of corruption.

Corruption manifests itself mainly in the interactions between the public sector on one side, and citizens and private business on the other. There are two basic types of corruption: **Grand corruption**, which involves top state officials, politicians and business people and refers to the allocation of substantial resources; and **Petit corruption**, which usually includes lower-level public officials and refers to the daily interactions between them and citizens and businesses (small and medium size). This second type is more widespread and is associated with smaller payments and/or a system of favors and gifts.

Having in mind the specific objectives of corrupt behavior, two specific cases of corruption should be considered. First, abuse of power for private gain in cases where officials are obliged to provide a certain service by law. This type of corruption, known as “greasing the wheels,” is targeted at the faster or more expedient delivery of services, or greater safety in the resolution of the problem. A second case is when an official provides services/rights to which the citizen (business) is not entitled by law, or even services that are a direct abuse of the law.

From an economic point of view the proliferation of corruption follows the classic market principles of supply and demand: a larger demand and a larger discretionary power of officials produces an environment that facilitates and encourages corruption. The value of the bribe depends on the expected profit or benefit. In this respect corrupt behavior could be regarded as mutually beneficial economic transactions. However, these transactions eliminate the rules of competition and the legal regulations and thus distort market principles and criteria for efficient economic action and decision making.

The definition of corruption as a negative social phenomenon allows several assumptions to be made concerning the interpretation of the indicator included in the CMS:

- in an ideal state of society (the practical absence of corruption), corruption attitudes should assume minimal values; i.e., citizens should perceive corrupt behavior as morally inadmissible and they should not be inclined to compromise their moral values. Intensity of corrupt behavior should also be minimal, and corrupt behavior should be rated low as an effective problem-solving practice.
- it would be logical to assume that the existence of a certain level of tolerance of corrupt behavior (moral admissibility) would have several consequences. First, readiness to compromise would increase as the level of tolerance increases. Second, the frequency of practical acts of corruption would also increase with the level of tolerance (due to the “natural intensity” of social conformity). Third, in cases when the frequency of corrupt behavior surpasses the level of “single isolated cases” it is likely that assessments of the pervasiveness of corruption would substantially surpass the fre-

quency of practical acts of corrupt behavior (only one case of “taking a bribe” would be sufficient to socially label an official as “corrupt”). Fourth, the existence of a social environment where acts of corrupt behavior exceed the level of “single isolated cases” is very likely to produce the perception that corruption is a socially normal environmental component. The chances of that perception being firm and widespread increase with the limited implementation of sanction mechanisms.

One of the basic theoretical assumptions for the construction of the CMS is that it is more important to track the dynamics of corruption in several dimensions than to analyze its initial/current values. Because corruption has been identified as a problem to Bulgarian society, it would be important to assess its gravity. However, it is more important to know dynamics: whether corruption is evolving in the positive or in the negative direction in comparison with its initial baseline values.

Corruption indices provide an approximation about the scope and aspects of corruption based on the assessments of citizens and public officials. These assessments are the starting point for their practical behavior and the way they perceive their social environment. Corruption indices could not be a base for making direct conclusions about the exact level of proliferation of corrupt practices.

Because the index of personal involvement in corrupt practices is based on the anonymous admissions of respondents, it comes closest to indicating the “level of proliferation of corruption.” Also, to a certain extent the specific legal characteristics of corruption (that both sides act illegally) make this index one of the few realistic measures of the actual level of proliferation of corruption.

Currently, in comparison with the information available from law enforcement institutions, the accuracy level of empirical survey estimates of the realities of corruption is (for obvious reasons) substantially higher.

The CMS includes four types of indices:

4. Structure and Conceptual Interpretation of Corruption Indices

Attitudes towards Corruption

1. Principle Acceptability of Corruption

The index reflects the degree to which Bulgarians accept, at the level of values, certain acts of corrupt behavior on behalf of members of Parliament and public officials. Using a 3-point scale the admissibility of 12 types of practices with different degrees of “corruptness” are assessed.

2. Susceptibility to Corruption (general public)

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. The index is based on two independent questions describing situations in which there are two possible types of behavior: giving/taking money or gifts, and refusal.

3. Susceptibility to Corruption (public officials)

This index reflects the existing attitudes among public officials to accept money or gifts (to participate in corrupt practices) under certain conditions: providing additional services and performing duties faster than normal. Assessments are rated on a 3-point scale.

Corrupt practices

1. Corruption Pressure on the General Public

This index shows the degree to which the citizens are subject to 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 and/or their families.

2. Corruption Pressure on Public Officials

This index reflects the frequency of attempts to corrupt public officials with the purpose of solving personal problems. The frequency is assessed on a 4-point scale.

3. Personal Involvement in Acts of Corrupt Behavior (general public)

This index reflects self-confessions about cases in which citizens have offered public officials money or gifts. The frequency of these cases is registered on a 4-point scale.

4. Personal Involvement in Acts of Corrupt Behavior (public officials)

This index reflects the degree to which public sector officials accepted money or gifts when dealing with citizens' personal problems as part of their professional obligations.

Magnitude of Corruption

1. Spread of Corruption (according to citizens)

This index reflects citizens' assessment of the spread of corruption in the country. It can also be computed for specific groups of public officials. The spread of corruption is measured by two indicators using 4-point scales.

2. Spread of Corruption (according to public officials)

This index reflects the extent to which citizens attempt to resolve their personal problems by offering money or presents to public officials. The frequency of these cases is estimated using a 4-point scale.

3. 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.

5. Method of Computation of Corruption Indices

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. Expectations are rated on a 4-point scale.

Two types of indicators have been used in constructing the corruption indices:

- (a) Indicators measured on three- or four-point scales
- (b) Indicators measured on dichotomous scales

The method used to construct indices using indicators of the first type includes the following steps:

1. A rank (ranging between 0–2 or 0–3) is assigned to each value of indicator.
2. Each rank is weighted by the percentage of respondents who have chosen the respective answer option (excluding the “don’t know” and “no answer” categories).
3. The value of the indicator is computed as a sum of the weighted ranks.

Example: The index for the spread of corruption is constructed based on the following question:

According to you how widespread is corruption in this country?

One answer only.

| | | Rank | Valid percent |
|---|---|------|---------------|
| 1 | Almost all state officials are involved in it | 3 | 19 |
| 2 | Most state officials are involved in it | 2 | 42 |
| 3 | Only a few state officials are involved in it | 1 | 38 |
| 4 | Hardly any state officials are involved in it | 0 | 1 |
| 9 | DK/NA | — | — |

$$I = 3 \times 0.19 + 2 \times 0.42 + 1 \times 0.38 + 0 \times 0.01 = \mathbf{1.79}$$

The value of the index ranges between 0 and 3. The closer this value is to 3, the more widespread is corruption (according to respondent assessments).

With the second type of indicators indices could assume values between 0 and 1. Their specific values are computed in the following way:

1. The two answer options are assigned the ranks of 0 and 1.
2. The value of the index is equal to the percentage of respondents who have chosen the answer option ranked 1.

Example: The index of susceptibility to corruption is constructed based on the following question:

Imagine that you are a state official on a low salary and a citizen who comes to you with a problem offers you money or a gift. Would you:
One answer only.

| | Rank | Valid percent |
|---|------|---------------|
| 1 Be tempted to accept and provide a better service | 1 | 40 |
| 2 Be offended by the proposal | 0 | 60 |
| 8 Neither/ It depends | — | — |
| 9 DK/NA | — | — |

$$I = 1 \times 0.4 = \mathbf{0.4}$$

The closer the value of the index is to 1, the higher the susceptibility to corruption.

In order to construct aggregate indices, the values of the individual indices are normalized by adjusting their values to fall into the range 0.00 — 1.00. Normalized values are then summed. For example, the index for the spread of corruption is normalized by dividing its current value (1.79) by its maximum value (3.00), obtaining its normalized value (0.60). The values of all aggregate indices thus range between 0.00 and 1.00. This value is then recalculated to fit into a scale ranging between 0 and 10 (or between 0 and 100).

6. Information base for computing the 1998 corruption indices

The aggregate corruption indices have been constructed based on the information collected in two of the surveys of Vitosha Research: (S1) — the quantitative national representative survey of the population aged 15 and over as of June 1998, and (S2) — the quantitative survey of public officials of July 1998.

The aggregate indices presented have been computed for the population as a whole, but could also be computed for specific population categories. The baseline information and values for the indices are presented in the publication *Coalition 2000 Corruption Indices*. Baseline values of indices, however, do not reveal the full explanatory potential of corruption indices. Their full potential will be utilized in the next series of surveys when analysis of the dynamics and comparisons will be made possible. In their first issue, corruption indices have only one value and provide the baseline characteristics of public consciousness and corruption behavior in the beginning of the monitoring period (June-July 1998).

APPENDICES

**INTERNATIONAL DOCUMENTS
AND AGREEMENTS**

1. Resolutions and Declarations

- 1.1. United Nations, General Assembly Resolution 50/225, Public administration and development, 50th session, 112th plenary meeting, 19 April 1996
- 1.2. United Nations, General Assembly Resolution A/RES/51/59 of 12 December 1996 "Action against corruption" and Annex "International Code of Conduct for Public Officials"
- 1.3. United Nations, International Code of Conduct for Public Officials (12 Dec. 1996) A/RES/51/59
- 1.4. United Nations, General Assembly Resolution A/RES/51/191 of 16 December 1996 "United Nations Declaration against Corruption and Bribery in International Commercial Transactions" and Annex "United Nations Declaration Against Corruption and Bribery in International Commercial Transactions"
- 1.5. United Nations, General Assembly Resolution A/RES/52/87 "International Cooperation Against Corruption and Bribery in International Commercial Transactions"
- 1.6. United Nations, General Assembly Resolution E/RES/95/14 "Action against corruption"
- 1.7. General Assembly Resolution E/RES/96/8 "Action Against Corruption"
- 1.8. Declaration of the 8th International Anti-Corruption Conference, Lima, September 7–9, 1997

2. Conventions, Treaties and Agreements

- 2.1. United Nations, Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Adopted by the Conference at its 6th plenary meeting, 19 December 1988
- 2.2. OECD, Convention on Combating Bribery of Foreign Public Officials in International Business Transactions DAFFE/IME/BR(97)17/FINAL (*Entry into force by 31 December 1998.*)
- 2.3. Council of Europe, Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141)
- 2.4. Council of Europe, Agreement on illicit traffic by sea, implementing Article 17 of the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances (ETS No. 156)
- 2.5. Council of Europe, Draft Framework Convention against Corruption, CM (98)57
- 2.6. European Union, Convention on the protection of the European Communities' financial interests, (26 July 1995), OJ C 316/48, 27.12.1995
- 2.7. Protocol of the Convention on the protection of the European Communities' financial interests, which deals specifically with corruption, (26 September 1996), OJ C 313/01, 23.10.1996

2.8. EU, Convention of 26 May 1997 on the fight against corruption involving officials of the European Communities or officials of the Member States of the European Union, OJ C 195/1, 25.06.1997

Council Act of 26 May 1997 drawing up, on the basis of Article K.3 (2) (c) of the Treaty on European Union, the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union

2.9. OAS, Inter-American Convention against Corruption, Caracas, Venezuela; 29 March 1996

2.10. UN, The UNCITRAL Model Law on Procurement of Goods, Construction and Services

2.11. UN, Model Law on Money Laundering, Confiscation and International Cooperation in Relation to Drugs Legal Advisory Programme, November 1995

3. Programs, Recommendations, Regulations and other International Documents

3.1. United Nations Development Programme, Programme for Accountability and Transparency (1996)

3.2. European Union, Action Plan Against Organized Crime, European Council at Amsterdam, June 16–17 1997

3.3. European Union, Communication of the Commission on Combating Corruption of May 21, 1997

3.4. Common positions of 6 October and 13 November 1997, both on the negotiations in the Council of Europe and the OECD on the fight against corruption, OJ C 279/01, 13.10.1997 and OJ C 320/01, 21.11.1997

3.5. Council of Europe, Programme of Action against Corruption, 1996 — 2000

3.6. WTO, Agreement on Government Procurement

3.7. Recommendation of the Council of OECD of 11 April 1996

3.8. Revised Recommendation of the Council of OECD of 23 May 1997

4. Documents of Specialized Fora

4.1. UN, Fifth Congress on the Prevention of Crime and the treatment of Offenders, Changes in Forms and Dimensions of Criminality — Transnational and National, Working paper prepared by the Secretariat, A/CONF.56/3

4.2. UN, Fifth Congress on the Prevention of Crime and the Treatment of Offenders, The Emerging Roles of the Police and Other Law Enforcement Agencies, with Special reference to Changing Expectations and Minimum Standards of Performance, Working paper prepared by the Secretariat, A/CONF.56/5

4.3. UN, Basic Principles on the Independence of the Judiciary (Seventh United Nations Congress on the Prevention of Crime and the Treatment of

Offenders, Milan, 26 August — 6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.2, annex)

4.4. UN, Ninth Congress on the Prevention of Crime and the treatment of Offenders, background paper prepared by the Secretariat on international action against corruption, Cairo, 29 April–8 May 1995, A/CONF. 169/14

4.5. UN, Commission on Crime Prevention and Criminal Justice, Third session, Vienna, 26 April — 6 May 1994, CONF.169/PM.1/Add.1 19 January 1994

4.6. UN Commission on Crime Prevention and Criminal Justice, Report on the Seventh Session (21–30 April 1998), doc. E/CN.15/1998/11

4.7. UN, Department of Technical Cooperation for Development and Centre for Social Development and Humanitarian Affairs, Corruption in Government: Report of an Interregional Seminar, The Hague, Netherlands, 11–15 December 1989 (New York, 1990) (TCD/SEM.90/2 — INT–89-R56)

5. Overview Materials

5.1. UN, Efforts by the United Nations to address the issue of corrupt practices — E/1991/31/Add.1

5.2. UN, “Practical measures against corruption”, International Review of Criminal Policy, Nos. 41 and 42 (United Nations publication, Sales No. E.93.IV.4)

5.3. UN, “Promotion and maintenance of the rule of law: action against corruption and bribery”, Report of the Secretary-General, doc. E/CN.15/1998/3

5.4. UN, Support by the UN System of the Efforts of Governments to Promote and Consolidate New or Restored Democracies. Report of the Secretary-General

5.5. UN, Report of the African Regional Ministerial Workshop on Organized Transnational Crime and Corruption, held at Dakar from 21 to 23 July 1997, doc. E/CN.15/1998/6/Add.1

5.6. Report of the Asia Regional Ministerial Meeting on Organized Transnational Crime, held in Manila from 23 to 25 March 1998, doc. E/CN.15/1998/6/Add.2

5.7. OECD, Development Assistance Committee, Final Report of the Ad Hoc Working Group on Participatory Development and Good Governance, Paris 1997

5.8. OECD/PUMA, Ethics in the Public Service: Current Issues and Practice, 1997

6. Regional Bilateral and Multilateral Documents for Southeastern Europe

6.1. Cooperation agreement between the Minister of Interior of the Republic of Bulgaria and the Ministry of Foreign Affairs of the Republic of Turkey against drug trafficking, terrorism and organized crime — Sofia, February 3, 1993

6.2. Cooperation agreement between the Minister of the Interior of the Republic of Bulgaria and the Ministry of the Interior of FYROM — Skopje, October 20, 1992

6.3. Agreement between the Minister of Interior of the Republic of Bulgaria and the Ministry of Public Order of the Republic of Greece on the cooperation in the struggle against international terrorism, drug trafficking and organized crime — Athens, July 1991

6.4. Treaty between the governments of the Republic of Bulgaria and the Republic of Croatia on cooperation in the struggle with / combating of organized crime, illegal traffic of narcotic and psychotropic substances and terrorism — Sofia, November 26, 1996 (not ratified)

6.5. Treaty on the cooperation against terrorism, organized crime, illicit traffic of narcotic and psychotropic substances, money laundering, traffic in arms and people and other major crimes — Antalia, Turkey, April 16, 1998.

The treaty was signed by Bulgaria, Turkey and Romania with an accession (inclusion) clause

6.6. Sofia Declaration on good neighborly relations / friendly relations, stability, security and cooperation on the Balkans — Sofia, July 7, 1996

6.7. Common statement of the heads of state and prime ministers of the countries of South — Eastern Europe — Crete, November 4, 1997

6.8. Common statement of the Ministers of Foreign Affairs of Bulgaria, Greece and Romania — Santorini, April 11, 1998

**POSSIBILITIES FOR THE CREATION
OF THE OMBUDSMAN INSTITUTION
IN THE REPUBLIC OF BULGARIA**

**REPORT OF THE WORKING GROUP
OF THE CENTER FOR THE STUDY
OF DEMOCRACY**

A. JUSTIFICATION

During the past years, Bulgaria has been taking significant steps for the establishment of democratic institutions founded on the rule-of-law principle and an autonomous and active civil society. This process, however, does not guarantee automatically and effectively enough the protection of human rights, therefore the search for and the introduction of new legal, institutional and regulatory mechanisms is inevitably required. The problem is related not only to securing a private sphere, free from state interference, but much more to providing means for counteracting any interference of the state which infringes on the autonomy of the individual or civil society, and for reinstating the infringed basic rights and liberties. The existing guarantees and protection mechanisms of the newly-formed Bulgarian democracy cannot, in themselves, successfully solve these problems.

The democratic European countries pay increasing attention to the out-of-court methods for protection of human rights which add to or go along with the more expensive and cumbersome judicial, administrative and other forms of protection. Among them, with a longer or shorter tradition in the different countries, **the institution of ombudsman** stands out.

The primary function and role of the ombudsman and the other similar institutions is to observe the function of administration in the country and to prevent abuse of power, corruption and arbitrary decisions which infringe on human rights, to assist with the reinstatement of the individuals' rights abused by the state or by the state servants and to contribute to the creation of a climate of respect for human rights and the autonomy of the society. In many countries the ombudsman institution has developed as an element of the mechanism for guaranteeing the free exercise of human rights.

A brief review and comparison of the experience of the European countries in this area can be useful for formulating the respective conclusions, recommendations and views for the creation, status and role of a similar institution in Bulgaria.

An ombudsman or a similar institution has been established and is functioning in Austria, Belgium, Denmark, Great Britain, Germany, Ireland, Iceland, Spain, Italy, Cyprus, Malta, Norway, Portugal, Sweden, Switzerland, and in many Central and East European countries — Poland, Hungary, Macedonia, Romania, Slovenia, Bosnia and Herzegovina, Croatia and former Soviet Republics such as Georgia, Latvia, Lithuania, Russia and Uzbekistan.

Generally, the ombudsman's functions are performed by one or more individuals with general or specific competencies on a national and/or regional and local level. For the first time the institution was set up in **the Scandinavian countries** (the institution was first established in Sweden in 1713 by the King) from where its name comes. In its classical form the institution is either set up directly by the constitution or elsewhere, and is em-

powered by the Parliament to safeguard the rights of private persons against the infringement of the state administration.

Presently, the institution in **Sweden** is based on the constitution. It consists of four ombudsmen appointed by the Swedish Parliament for a four-year term, which may be extended for another term. There are no specific requirements respecting their educational or professional background or (since 1941) their sex. The Swedish ombudsman can receive and review petitions filed by anyone, including foreign citizens. There is no requirement that the available judicial and administrative mechanisms for protection must be exhausted before filing. If more than two years have passed between the occurrence of the grievance and the submission of the petition, the ombudsman may investigate the case only if a public interest is affected. If the respective case is pending before the court, the ombudsman must postpone its investigation until the pronouncement of the respective judgment. The scope of activity of the Swedish ombudsmen extends to the whole civil and military administration, the judicial system, state-owned enterprises, and private entities vested with state powers. Their scope of activity excludes the government, the ministers and members of legislative bodies and, to some extent, the Swedish National Bank. In their activities the ombudsmen are independent and have access to all sorts of information, documents, and those institutions controlled by them, during the normal working hours. They can make recommendations to the state authorities but cannot directly influence the decisions of the court or the administration. There is a report filed for every investigation, and a comprehensive annual report is submitted to the Parliament.

The institutions which were created and are active in Norway, Denmark, Finland, The Netherlands, and more recently in Spain and Portugal, are similar to the Swedish model, but with various deviations and accents. For example, the ombudsman in **Norway** is also appointed by the Parliament, following each parliamentary election, for a period of four years, but has to meet certain requirements: at least 30 years of age, and holding a university degree in law. His term of office can be withdrawn at any time by the Parliament with a two-thirds qualified majority vote. The scope of the ombudsman's legal authority excludes all matters which are within the competence of the Parliament, the decisions of the government, the judiciary, the Chamber of Audit and the defense authorities. He has limited powers in respect to local administration. In principle, a petition can be filed with the ombudsman only after all other available protection mechanisms have been exhausted. The petition may be submitted within a one-year period. After the expiration of that year, however, the ombudsman may initiate an investigation himself.

The institution in **Finland**, according to the Constitution of 1919, consists of a parliamentary ombudsman — “an individual well-known for his distinguished knowledge of law,” a deputy ombudsman and an ombudsman's assistant, all appointed by a unanimous vote of the Parliament for a term of four years. The ombudsman is not authorized to control the performance of the obligations of the President and the MPs. The petitions submitted to the

ombudsman are in a free-style form and free of charge. Investigations can be either carried out on the basis of a petition or initiated by the ombudsman. The annual report to the Parliament summarizes the performed activities and analyzes the condition of the judicial system and any detected drawbacks or irregularities of legislation.

The national ombudsman in **the Netherlands** is appointed by the Lower Chamber of Parliament upon a proposal from the Vice President of the State Council, the Chairperson of the Supreme Court and the President of the Common Chamber of Audit. His term of office is six years. The Ombudsman is banned from being a member of Parliament or local councils or permanent consultative governmental commissions (such as the State Council), and he is also banned from performing any public functions or acting as a private attorney or notary officer. The annual report is presented to both chambers of Parliament and to the ministers.

The ombudsman in **Austria — public advocate** — is an independent supreme federal body consisting of three ombudsmen who are elected by the Parliament for a six-year term, which may not be extended. The Ombudsman is banned from participating in the federal or provincial government, serving as a member of representative bodies, or having any other profession. The relationship between the ombudsman and the supervised institutions is regulated in detail. If recommendations are given, the addressed administrative body is required either to comply with them within an eight-week period or to explain in writing the reasons for not doing so. The ombudsman is also empowered to file a claim with the Constitutional Court challenging the constitutionality of a statutory provision.

The younger South European democracies (Spain and Portugal), following in general terms the Scandinavian model, introduced the institution of ombudsman into their constitutions as well. In the **Kingdom of Spain** the public advocate, in his capacity of a supreme commissioner of the Parliament, is appointed by the latter to protect basic rights and freedoms. He controls the activities of the administration and reports directly to the Parliament. In extraordinary circumstances (for example, criminal sentence) the two chambers of the Parliament can decide on his dismissal. His supervisory powers are extended to the entire state administration, including the state-owned enterprises. The addressed administrative authorities are required to submit their statements regarding an unofficial procedure of preliminary examination within 15 days. Most of the cases are solved through mediation between the affected party and the administrative body. In addition to his conventional powers, the Spanish public advocate is empowered to challenge the constitutionality of statutory provisions before the Constitutional Court and to file with the Constitutional Court petitions for abuse of basic rights, including against court judgments.

The institutions in Great Britain and France deviate considerably from the practices of the other West European democracies and their more newly-established South European counterparts, in terms of appointment, status, and powers of the institution.

The parliamentary administration commissioner in **Great Britain** is appointed by the Queen upon a proposal from the Parliament. His term of office expires at the end of the calendar year during which he became 65 years of age, or when the Queen approves his resignation. He is not empowered to control the activities of the entire state administration. The public administration of Northern Ireland is not within his scope of authority; neither are the acts of Parliament, the government, nor the judiciary. Petitions are submitted to the parliamentary commissioner through the MPs. His investigations are not publicized, but he annually reports his activities and any detected irregularities to the two chambers of the Parliament. If a public authority fails to undertake any measures for the elimination of the administrative irregularities detected by the parliamentary commissioner, the Parliament is empowered to undertake the appropriate measures.

The mediator in **France** can be regarded as a specific form of the ombudsman institution. He is primarily an intermediary between the citizens and the administration. He is appointed by the Council of Ministers (in fact, by the President) for a six-year term which may not be extended. The elected Ombudsman cannot be an MP, but he can be a member of a department or municipality council (if at the time of his appointment as a mediator he had already been occupying this position) and can exercise his profession. Once appointed, the mediator is independent and cannot be dismissed by the government. The mediator is authorized to judge the work of the governmental agencies, local authorities, state institutions and other public bodies which have administrative powers, in respect to their interaction with the public. The mediator may only take action if a petition is filed with his office against the improper functioning of an administrative body or an unfair administrative act. He can make recommendations and give mandatory terms for taking action. If he does not receive a satisfactory response or an appropriate reaction, he can publicly announce his recommendations and proposals, initiate disciplinary proceedings against all responsible officials, and even approach the criminal court.

In the **Federal Republic of Germany** the institution of ombudsman, in the sense described above, is unknown. Its functions are carried out by the petitions' commission (a commission which reviews the grievances and petitions that may be submitted to the representative body by anyone) and the separate administrative court system. In parallel, the citizens are entitled to submit individual letters of appeal to the Constitutional Court. However, Germany also has the institution of the **Bundestag defense commissioner**, which is provided for by federal statute and the Constitution (Article 45b of the Constitution, a new provision passed in connection with the country's accession to NATO). This institution is designed to protect basic rights and to act as a supporting body of the federal parliament when exercising parliamentary control. The commissioner is appointed for a term of five years by the President of the Republic after being supported by a majority secret vote of all members of the Bundestag. To be appointed to this position, the candidate must be at least 35 years old and have served at least one year in the army. The Ombudsman may not occupy any other public or professional position. His status is that of a federal minister. Every soldier has the

right to approach the commissioner directly and personally. Also, the commissioner can take action at his own initiative or following the instructions of the Bundestag or the Defense Committee. When exercising his powers, he can require that the minister of defense, and the institutions and individuals subordinated to the minister of defense, respond to his inquiries and make information available to him. His annual reports are discussed in a plenary session of the Bundestag.

The ombudsman institution is widely spread throughout Central and Eastern Europe and among a number of former Soviet Republics. It was first introduced in **Poland**, under the old regime. The first commissioner for protection of civil rights took office on 1 January 1988 on the basis of a special statute of 15 July 1987, the key provisions of which are now incorporated in the Polish Constitution of 1989. Despite the attacks of many politicians and the skepticism of a large number of members of the legal community, the efforts for establishing the institution in Poland were successful and its experience must be taken into account. The Polish ombudsman follows the classical Scandinavian model of the institution. He is elected by the Lower Chamber of Parliament, following an approval of the Senate, for a term of four years which may not be further extended. He must be a Polish citizen, have knowledge of law, professional experience, good reputation in society, and political and ideological neutrality. The Ombudsman may not occupy any other positions. He has broad powers with respect to the administrative bodies and all other organizations which by their actions abuse civil rights, freedoms and the basic principles of justice. Petitions are filed in a free-style form, and the commissioner may act upon those filed by individuals, their organizations or local self-governing bodies, or at his own initiative. He may conduct an investigation independently, or require that such investigation is carried out wholly or partially by the public controlling institutions, or ask the Parliament to appoint the investigation. With his authority to make recommendations and proposals, the commissioner can initiate civil, criminal or administrative proceedings or a special hearing of the case. He can also ask the Constitutional Court to interpret the law and the Supreme Court to comment on the scope of applicability of a respective statute.

The constitutions of a number of other countries also provide for the creation of the ombudsman institution. In **Hungary** this is the parliamentary civil rights commissioner; in **Slovenia** — the defender of the civil rights; in **Latvia** — the National Office for Human Rights; and in **Romania** — the public advocate.

By statute, the institution of the public advocate was created in **Georgia** in May 1996. He is elected by a simple majority vote of all MPs for a period of five years. Similarly, the institution of the human rights commissioner was set up in **Russia** (by statute of February 1997). It is designed to contribute to the reinforcement of the infringed rights of individuals, the development and alignment of legislation with international law, and to investigate petitions against the central or local governmental authorities. Besides the annual activity reports, the commissioner can prepare special reports on the enforcement of civil rights and freedoms. These special reports are officially

published. Very similar is the situation in **Uzbekistan** where, according to Article 1 of the statute passed in April 1997, the parliamentary commissioner is “a public officer responsible to secure parliamentary control over the compliance with the human rights legislation in the Republic of Uzbekistan by the central governmental institutions, the local self-government bodies, the enterprises, the public agencies, the public organizations and the public officers.”

In **Lithuania**, on the grounds of the Constitution and three acts adopted in the period of 1994–1995, a council of five parliamentary ombudsmen was set up whose primary responsibility is to investigate petitions related to abuse of power and bureaucracy. Two of them are authorized to investigate civil servants; one of them, military officers; and the other two, local government officials. Currently the establishment of an ombudsman who will monitor sexual equality, the rights of children and human rights has been discussed.

The Swedish model of the ombudsman institution prevails in **Croatia** with some subtle deviations; for example, the ombudsman also controls the work of the members of the local self-governing bodies, and is not granted immunity. In **Bosnia and Herzegovina** the election, status, functions and powers of its two ombudsman offices bear the features of the post-war situation in the country.

In a number of countries such as Estonia, Kirgizstan, Moldova, Belarus, Ukraine and Turkmenistan either draft laws have been prepared or the possibilities for introducing the ombudsman institution have been researched.

Taking into account the vital significance of this institution, the Council of Europe adopted Recommendation R(85)13 of 23 September 1985 regarding the ombudsman institution and Resolution (85)8 of 23 September 1985 regarding cooperation among the ombudsmen of member states, and between them and the Council of Europe.

The Council of Europe has organized six roundtables which emphasized the necessity for the establishment of similar institutions in the countries which do not yet have them. A mechanism for co-operation between the ombudsmen of the member states is in place.

The establishment of effective institutions to guarantee the protection of human rights is one of the criteria for membership in the European Union, formulated at the meeting of the European Council in Copenhagen in 1993. In response to these requirements, the short-term priorities of the National Strategy for accession of the Republic of Bulgaria to the EU, passed by the Council of Ministers on 23 March 1998, include “expanding the discussion regarding the introduction of the ombudsman institution for the purpose of administering and safeguarding human rights.”

The present material regarding the possibilities for the creation of the ombudsman institution in Bulgaria is aimed at encouraging a broader and more comprehensive discussion which will ultimately result in finding the most effective and appropriate solution for the specific Bulgarian conditions.

B. GENERAL PRINCIPLES

The viewpoint in favor of the introduction of the ombudsman institution in Bulgaria primarily takes into account the country's existing needs, the public attitudes and the current political and constitutional realities. Also, it is based on the comparative study and the comprehension of foreign experience. Although the best means of creating such an institution in Bulgaria would have been its explicit provision in the Constitution (which would have ensured the necessary prestige and efficiency), the prevailing opinion is that at this stage a procedure for amending the Constitution will involve unjustifiable time and effort to discuss an unknown and unpopular concept with no prior tradition here. For this reason it is proposed to have the institution based on a special statute. This viewpoint is supported by the following arguments:

- the past experience has been that the ombudsman in the European states was established either on the basis of a special statute or a constitutional provision. It is possible (as in the Polish case) that an institution can first be created by a special statute and then incorporated in the Constitution as well;
- according to the proposed viewpoint, the ombudsman should not have any government powers and so does not affect the principle of separation of powers; therefore, its incorporation in the Constitution is not mandatory, according to the constitutional general principles (Article 1, para 2);
- the general principles of a special statute for the introduction of the ombudsman will be supported by general constitutional principles and concepts such as the rights of the individual and the individual's dignity and security (proclaimed as a supreme constitutional principle in the Preamble); the principle of the rule-of-law state governed by the Constitution and the laws of the country and obliged to protect the individual's life, dignity and rights and to create favorable conditions for the free development of the individual and the civil society (Article 4); the principle of the free market economy based on the requirement that law must secure and guarantee to all physical and juridical persons equal legal conditions for conducting business activities (Article 19, para. 1 and 2).

This approach, if adopted, will require a detailed legislative regulation of the objectives, scope of activity, status, competence, functions, procedures and organization of the work of the institution. Special attention must be given to the relationship between the institution and the constitutional institutions exercising the powers of state. The future statute should be in conformity with the Constitution and the other relevant legislation in order to provide for the broadest possible and most effective legitimate scope for the institution's activities.

The present material proposes the creation of the institution of **one national ombudsman with general responsibilities** which will combine the char-

acteristics of the classical Scandinavian ombudsman model with some of the new features of its modern versions existing in the European countries, and with some adjustments according to conditions in Bulgaria. The proposed concept has the following characteristics:

I. Basic Functions, Subject and Scope of Activities

The establishment of the ombudsman institution is aimed at creating a new type of guarantee for the rights and freedoms of individuals and their organizations as proclaimed by the Constitution and sanctioned by international law. The institution would add to the traditional mechanisms for protection such as the classical parliamentary mechanisms (primarily the parliamentary commissions), the constitutional justice, the judicial and administrative control, the media and non-governmental organizations. The formation of this new institution reveals the reasons which made it necessary in the first place, placing it among but distinguishing it from the existing mechanisms.

In the modern world the influence and range of activity of the administration at all levels is increasing. More and more central or local governmental authorities with their actions, visible or invisible, affect the private persons — individuals and legal entities — on a daily basis. The existing mechanisms are not always in a position to secure a quick, timely, efficient and easily accessible protection of the parties affected by the actions of the administration. This creates the need for a new mechanism which will not duplicate the functions of the existing mechanisms but, rather, will operate parallel to them, add to their work, initiate directly or indirectly their interference, and under some circumstances, be their alternative.

The most essential function of the ombudsman institution will be to guarantee more efficiently the rights and freedoms of private persons. If the former are abused by the public authorities, the ombudsman shall be entitled to propose measures for terminating the acts of abuse, compensating the incurred damages and creating conditions for their smooth and efficient exercise in the future. The functions of the ombudsman will be carried out by observing the regulation of public processes and monitoring the work of the public authorities.

The basic functions of the institution predetermine the subject and the scope of its activities. In general terms, the scope of its activities is concentrated in the point of intersection between the State and the civil society. Thus, the subject matter of its authority will cover all cases in which the border between private and public, inherent to the rule-of-law state, was breached, or in other words, all cases in which the public authorities, or private persons vested with public functions, abuse the private rights and freedoms proclaimed by national and international law or do not provide conditions for their free exercise.

Its functions, therefore, are geared toward monitoring and specific control within a comparatively broad scope which includes the regulation of society in general: 1) the operation of the executive power and the administration

in its narrow meaning, 2) the organization and regulation of the judicial system's administration and 3) any other exercise of public activity.

For self-explanatory reasons, the subject and scope of the ombudsman's activities shall not include certain institutions and relationships between the private and public sectors, as follows:

- firstly, the supreme state bodies: the National Assembly, the President, the Constitutional Court and the judiciary. Sufficient grounds for excluding the first two institutions is their immediate democratic legitimacy. The Constitutional Court may be excluded by reason of its status as an independent supreme constitutional body, functionally and organizationally separate from the other branches of government. It is designed to safeguard the constitutional consensus, protect the Constitution, and balance the power of the public authorities "at the top" of the governmental pyramid. The constitutional principle for independence of the judicial system requires that its constituent bodies perform their constitutional functions separately.
- secondly, the activities related to the exercising of judicial power by the courts, the prosecution office, the investigation office, or to national security and the country's foreign policy.

II. Status

1. The Person of the Ombudsman

Notwithstanding the name of the institution — ombudsman, parliamentary commissioner, human rights commissioner, public advocate, intermediary, etc. — the effectiveness of the institution will always depend on the person of the Ombudsman. As foreign experience shows, the number of individuals who carry out this function may vary, and it may be possible to establish a division of labor among them based on various criteria, for example general and specific authority, national or local scope of activity, etc.

In Bulgaria, during the initial stage of the establishment of the institution, it would be appropriate to have one individual who meets certain requirements outlined by law: Bulgarian citizenship, political neutrality, high professional achievements, between a certain minimum and maximum age, knowledge in the areas of domestic, international and European law, holding a university degree, and not occupying any other public position or function during the term of office. It is desirable that the individual is supported by broad social circles and has certain qualities which will enable him to gain and extend the public confidence, such as high civil ethics and commitment to the ideas of humanity, democracy and justice.

2. Parliamentary Ombudsman

The successful performance of the tasks vested in the institution and the prestige it obviously needs require that the ombudsman derive its powers directly from the supreme representative body. This is the most common practice in those countries where the institution is already in place. It is logical that in Bulgaria, a parliamentary republic, the appointment should be made directly by the Parliament in accordance with its authority to elect the

heads of the institutions created by statute (Article 84, para 8 of the Constitution of the Republic of Bulgaria).

Because of its parliamentary origin, the ombudsman will report to the National Assembly periodically — once a year seems to be the most appropriate period — which will secure a high level of publicity and transparency for its activities and the results thereof. This effect will have a positive influence on those public institutions which do not fully respect the rights and freedoms of private persons.

To ensure that the selection of candidates is done in a responsible manner, and that there is a sufficient pool of qualified candidates, it is suggested that proposals for ombudsman are made by **the President, the Supreme Judiciary Council and the Chairperson of the Constitutional Court, as well as by a predetermined reasonable number of individuals.**

It is suggested that the Council of Ministers (specifically, the prime minister) should not be included in the list of the constitutional bodies who are entitled to make a proposal for ombudsman because in the conditions of a parliamentary governance the Council of Ministers is anyway supported by the parliamentary majority which, on its part, will always have the decisive vote when the candidates are selected and the eventual choice is made.

The suggested mechanism for proposing candidates for ombudsman will soften the politicization of the parliamentary debate and the election process, and will prevent the transformation of the parliamentary ombudsman into a governmental one. At the same time, it aims at creating conditions for proposing competitive candidates, for selectivity and alternativity of the choice and for the recruitment of the best candidate.

3. Appointment and Term of Office

The ombudsman must be elected directly by the National Assembly with a simple majority vote, as the present Constitution does not provide for any other alternative. If the institution gains the public confidence and performs as hoped, amendments to the Constitution can be considered, including the introduction of a qualified majority for election and dismissal of the ombudsman. This would mean a larger consensus between the political forces represented in parliament, and therefore a larger guarantee for the independence of the ombudsman, for the confidence in it, and for the effective performance of its functions.

The ombudsman should be appointed for a specific term which must not coincide with the term of office of the body which elects him. It is recommended that the term of office of the ombudsman be longer than the term of office of the National Assembly (for example, five or more years). The number of possible terms of office should be limited to only one or, at most, two.

In order to ensure the democratic character of the institution and to guarantee the diligent performance of the full scope of its duties, the dismissal of

the ombudsman should be possible following the same procedure as for his election.

The other grounds for termination of the authorities of the ombudsman, besides his dismissal, can be similar to the ones applicable to the termination of an MP's term of office as listed in Article 72, para 1 of the Constitution — namely resignation, effective imprisonment sentence for a willful crime or any imprisonment sentence which has not been suspended, violation of any of the requirements for occupying the position, or death.

4 Independence and Immunity

While performing its main functions, the ombudsman should adhere strictly to the Constitution and the laws, international contracts and agreements and should be guided by his own conscience and morality. For this reason it is necessary to legislatively guarantee his autonomy and full independence from any and all bodies in the performance of his assigned functions.

One of the conditions for securing the independence of the institution is to grant its representative immunity equal to the immunity of MPs; i.e., the person should be protected from arrest and criminal investigation except in the case of a serious criminal offense, in which case the permission of the National Assembly (and when the latter is not in session, the permission of its Chairman) should be required. A permission for arrest should not be required only if the person is caught at the crime scene; however, the National Assembly or its Chairman, if the National Assembly is not in session, must be immediately informed (Art. 70 of the Constitution of Republic of Bulgaria).

5 Budget and Organization of the Activity of the Ombudsman Office

The budget of the institution can be determined by the National Assembly in two ways — either as a part of the budget of the National Assembly itself, or as a separate part of the state budget. In all cases the executive power bodies — the Council of Ministers and the Ministry of Finance — shall not be entitled to take part in the preparation, execution or accounting of the ombudsman's budget. It could perhaps be similar to the independent budget of the judicial power (for more details please refer to Decision No 18 of 16.12. 1993 on the constitutional case No 19/93 of the Constitutional Court of Republic of Bulgaria, State Gazette 1/94). The solution should allow the ombudsman to perform his main functions without being "forced to his knees" or placed in the condition of dependence from any other factors.

Any apprehension concerning misuse of funds is irrelevant here, since the ombudsman's activity is public at any time and its annual report to the Parliament will include a section on the expenses incurred.

In addition to the above, it is necessary that the most important points of the organization and structuring of the ombudsman's office are regulated in a legislative manner by granting its employees the status of state servants. On the basis of an explicit provision of the law the ombudsman shall be able to

adopt internal rules for the functioning of his office, appoint and dismiss his employees and define their duties and remuneration. His remuneration can be determined by the National Assembly at the time of his election, or can be defined correlatively in the law — for example, to be equal to the remuneration of a Deputy Chairman of the National Assembly, or not less than the remuneration of a Supreme Court judge.

II. Powers, Basic Principles and Procedures for Carrying out the Ombudsman's Activity

The ombudsman should have certain authorities in order to perform successfully his main functions and the tasks that were assigned to him. These authorities are to a great extent predetermined by the fact that the ombudsman will be placed outside the system of state bodies, by its role of an intermediary between the state and society as a guardian and guarantor of private rights and freedoms.

1. Types of Responsibilities and Authority

In general, the range of the ombudsman's responsibilities and authority should include the following:

- to review petitions in any form from private persons — individuals and legal entities, whether local and/or foreign, as well as from individuals with no citizenship;
- to conduct investigations and examinations when a particular case has been referred to him;
- to make proposals and recommendations to all observed institutions with public powers or functions regarding their respect for human rights and freedoms, and to recommend possible remedies for the infringement of certain rights and freedoms and the reasons for that infringement, notwithstanding whether the ombudsman acts at somebody's request or his own initiative;
- to extend recommendations and give advice to petitioners;
- to act as an intermediary between private persons and public entities in order to overcome the existing infringements on private rights and freedoms;
- to request and receive timely, complete and precise information from all observed institutions;
- to have direct access to the observed institutions, including their meetings, discussions and other forums;
- to give and announce publicly his opinions on cases he has been approached with or on issues on which he makes summaries and conclusions at his own discretion;
- to approach the prosecution bodies when, as a result of his observations and investigations, the ombudsman has obtained information on a committed crime;
- to prepare and present an annual report to the National Assembly;

- to prepare special reports, if necessary, and to inform the Parliament incidentally about particularly serious cases of disrespect and abuse of rights.

It is important to keep in mind that the ombudsman's right to receive information and have access to relevant documents and institutions is related to the check-ups it carries out, and naturally this right corresponds to the observed institutions' obligation to provide the requested information and the required access. Nobody shall, under the excuse of a state, official or trade secret, obstruct the ombudsman's work. At the same time the ombudsman shall keep confidential and shall not disclose any secret information which has become known to him in the course of, or in connection with, the exercise of his powers.

In connection with the outlined limitation of the ombudsman's scope of activity, it should once again be noted that the ombudsman is not entitled to make any proposals or give recommendations and opinions in substance related to the actions of the judicial power bodies, nor is it entitled to interfere in any way in their function to administer justice. The ombudsman does not have a right to legislative initiative, nor to approach the Constitutional Court.

2. Basic Principles in the Ombudsman's Activity

In its activity the ombudsman shall be governed by principles predetermined by the perceived view of its legal status, its place outside the system of the state bodies and the scope of their authority. When the principles are defined it should be explicitly emphasized that the ombudsman is primarily **a spokesman and defender of the public attitudes and dispositions regarding the exercise of public powers and functions**. Therefore, the ombudsman's authorities do not compete with the authorities of the constitutional bodies. The ombudsman has none of their means for influence and enforcement. He does not grant legal protection, nor does he control the legality or discretionary powers of the administration. His mechanisms of influence are within the sphere of morality, prestige and publicity. The following basic principles of the ombudsman's function can be formulated:

- judgment as to whether all observed institutions carry out their activity in compliance with the requirements for fair and efficient government;
- judgment as to what measures are to be taken, according to the requirements of the rule-of-law state and to his own conscience and understanding of justice;
- political and institutional independence in the exercise of his authority.

3. Petitions and Procedures

The ombudsman shall exercise his authority following extremely **simplified and informal procedures**. Therefore, no special forms with any obligatory requisites shall be envisaged for the petitions given to the ombudsman. The

only requirement of the petition is to include information on the petitioner, the offense and the offender.

Along with the free-style written form of the petition, verbal ones are also acceptable on the condition that they are filed in a manner which unquestionably identifies the petitioner. This approach will make the institution of the ombudsman easily accessible and open to anyone whose rights have been infringed, irrespective of any other procedures and means of protection which can be taken in parallel. This accessibility is further enhanced by the fact that the filing of the petition and the entire procedure for its review will be free of charge for the petitioner.

In order to prevent the overloading of the ombudsman with petitions whose settlement is beyond his powers (which can be expected, considering the slow and expensive procedures for defense in the country, the presence of a considerable number of unsolved court disputes, the complicated legal cases, etc.), the law should explicitly state that the ombudsman cannot initiate proceedings on behalf of the persons who have approached him, cannot represent them before the court or another institution (i.e., does not represent them in the narrow legal meaning), cannot approach the Constitutional court and does not have legislative initiative. In addition, the introduction of a "statute of limitations" may be considered; e.g., the ombudsman shall engage only with such cases having occurred one or at most two years before the date of submitting the petition, and, for the rest, the ombudsman shall be entitled to decide whether to accept them.

After a petition has been submitted following any of the above procedures, the ombudsman shall respond within a fixed term to the petitioner whether the petition is accepted or not without having to give the reasons for his answer. Irrespective of its content and form, an answer should always be given! There should be no restriction on a second or further approach if the petition has not been accepted. The ombudsman shall be entitled to decide on the acceptability of the petition not only at the date of its submission but also at a later stage, at any time in the course of the investigation.

When a petition has been accepted, the ombudsman shall, within his powers, and with the help of his employees, take the necessary actions for gathering information, including examination of documents, direct observation of the activity of the respective institutions, inquiries, etc. If he ascertains the presence of any action or inaction which has led to the infringement of the rights and freedoms of the petitioner or to the prevention of their exercise, he can relay his recommendations and proposals to the relevant institutions. He may also follow this course if, instead of acting on a specific petition, he has acted on his own initiative and come to a generalized conclusion concerning rights and freedoms.

The institutions to which the recommendations and proposals are extended should be obliged to answer within a fixed term whether they accept them or not and to inform the ombudsman of the measures which they have taken or intend to take and their prospective timing.

4. Report of the Ombudsman before the National Assembly

The report is submitted to the Parliament annually; e.g., at the beginning or the end of every calendar year. It should contain at least the following parts:

- information about the solved cases;
- information about the cases in which the ombudsman's intervention was unsuccessful and the reasons for that;
- general information about the submitted petitions pending investigation;
- information about extended proposals and recommendations which have or have not been taken into consideration;
- expense report.

A summary of the report can be published in the State Gazette and the full text should be available at the ombudsman's office to anyone interested. The report has an extremely important role for the publicity of the ombudsman's activity. It is equally important in exposing the activity of those institutions which do not respect, or infringe on incidentally or systematically, the rights of private persons, and whether or not they take into account the ombudsman's recommendations and inform him of the undertaken measures. The information about the successfully resolved cases can serve also as a model for settlement of similar cases.

It would be useful for the office of the ombudsman to issue, within its authority and budget, a bulletin periodically announcing information about its activity as well as about the activities of similar institutions in other countries.



In conclusion, the present viewpoint is based on the expectation that the positive effect of the ombudsman's opinions, recommendations and proposals would not be limited to the settlement of individual cases. The successful development of this institution can make it an important factor in the evolution of general principles and rules governing the administration's functioning and state servants' attitudes. The efficient, high-quality work of the ombudsman's office would raise its reputation, gaining the public trust and respect that is so vital to his authority.

COALITION 2000 PROCESS

Coalition 2000 is an initiative of a number of Bulgarian non-governmental organizations aimed at combating corruption through a process of cooperation among governmental institutions, NGOs and individuals drafting an Anti-Corruption Action Plan for Bulgaria, and implementing an awareness campaign and a monitoring system.

I. BACKGROUND

The 1990s marked the transition of corruption from a predominately national and regional concern to a truly global issue. In the context of the global economy, it not only diminishes the efficiency of government but also becomes a major impediment for international development.

The *Coalition 2000* process was started in March 1997 as a result of the initiative of the Center for the Study of Democracy and a number of other Bulgarian NGOs with the support of the United States Agency for International Development, and was officially launched on April 7, 1998. Among the multitude of reasons for the preoccupation with corruption and for launching *Coalition 2000* the more important are:

- the global trend towards accountable and transparent government as a precondition for development. The purpose of this anti-corruption drive is not simply to reduce malfeasance and graft, but to enhance the efficiency and transparency of government, individual freedoms and human rights;
- the problem of corruption is especially acute in the countries of Central and Eastern Europe (CEECs) because of the enormous task of their rapid transition from closed societies with total state control over the economy to open political democracies and market economies. Further, corruption has produced a generally volatile environment for reforms and caused government instability, thus undermining long term policies and development;
- the problem of corruption in Bulgaria has been exacerbated by short-sighted policies and a lack of vision on the part of successive previous governments. The period 1997–1998 has marked significant change in this respect. In March 1998, in a briefing on Bulgaria and the enlargement of the European Union, the European Parliament pointed out: “The fight against organized crime has been a major priority for the government, since the launch in April 1997 of an intensive anti-crime programme. Both the present government and the previous caretaker administration have demonstrated a clear will to tackle corruption both in the public sector and in society at large.”;
- as in other countries, the increasing role of non-governmental organizations in the fight against corruption is being acknowledged by both governments and the international community. The *Coalition 2000* initiative is a pi-

oneering and comprehensive effort to harness the capacity of the civil society to establish a public–private coalition against corruption.

II. OBJECTIVES

The main objective of *Coalition 2000* is to enhance the awareness, adoption and practical implementation of democratic values such as transparency, trust, and integrity. This is achieved through the development of an Anti-Corruption Action Plan for Bulgaria. Designed to complement each other, the several kinds of activities include:

1. Promote *public awareness of corruption and establish mechanisms* to support anti-corruption efforts through public education, advocacy and dissemination of information.
2. Assist *democratic institution building, promotion of democratic values, and elaboration of an anti-corruption Action Plan* by organizing panels of experts and legislators to develop amendments to the institutional arrangements and regulatory framework that help deter corruption, particularly among public officials.
3. Serve as a “*watchdog*” of the reform process, focusing attention on practical implementation of transparent and clear rules of the game, integrity, and democratic control.

III. CONCEPT AND DESIGN

The concept for structuring the activities of *Coalition 2000* rests upon several ideas and definitions which identify the focus of the process and the main target groups of the activities. *Corruption, in the context of the initiative, will be defined as the abuse of public power for private gain.* Thus, the principal agents of corrupt practices to be considered are the various categories of public administration officials.

The factors and circumstances which generate corrupt practices in Bulgaria make it necessary that anti-corruption efforts address several aspects of the problem: the legislative framework, the administrative set-up, the existing perceptions and attitudes (public awareness), and the existing behavior patterns. In this respect the anti-corruption effort of *Coalition 2000* is parallel to the social marketing model used in anti-corruption campaigns developed by WB experts¹. The model includes three basic targets of an anti-corruption

¹ Kidra, G.S., Stapenhurst, R., *Social Marketing Strategies to Fight Corruption*, The Economic Development Institute of the World Bank, 1998

campaign which address the principal factors of corruption: *monopoly* (which in the case of Bulgaria is the predominance of the state in the economy and other sectors of social life), *discretionary power* (i.e., the lack of clear administrative rules and regulations) and *accountability* (i.e., poor functioning of watchdog agencies or a lack of such agencies).

The desired impact (curbing corruption) could be produced following a three stage process, including: *cognitive change* (this involves problem diagnostics and formulation of a research-based impact strategy); *inducing affect* (this is the process of converting messages into emotional/moral commitments); *behavioral change* (this involves inducing people to change some aspects of their actual behavior and transforming moral disapproval into an action agenda of the public).

In view of the targeted corruption factors, Ackerman² classifies anti-corruption strategies into four main categories: those that lower the benefits under control of officials; those that reduce the discretionary power of officials; those that increase the costs of bribery; those that limit the bargaining power of officials.

With respect to the above categorization, the effort of *Coalition 2000* is *multifaceted*. In terms of content its social marketing impact is based upon the following main elements:

Creating a trustworthy anti-corruption agency through *consensus and coalition building*. In addition to being the result of a partnership effort, it will enable a favorable environment for the establishment of future coalitions. The initiative aims to promote the embedding of democratic values in the legal and institutional framework of reforms and to integrate democratic values in the policy design and implementation process. The main component of consensus building is the *Policy Forum*: a policy design tool which starts at expert level with the identification of problems, and culminates in a public forum which involves representatives of all relevant institutions and organizations and which endorses a consensus policy document (Anti-Corruption Action Plan).

Obtaining relevant knowledge through a series of corruption assessment panels. The principal objective of the assessment is to analyze the scope, intensity, types, and sources of corrupt behavior in the public sector. The methodology includes both quantitative and qualitative surveys. Indicators used for corruption assessment will at later stages be used to monitor institutional progress and to produce a Corruption Assessment Index.

Defining the impact objectives: development of an Action Plan (AP). Based on research findings and best practice documentation, an AP is designed. It incorporates different mechanisms enhancing trust and transparency in different sectors of public life. Impact in this respect is maximized by involving policy-makers and representatives of the business community and trade

² Susan Rose-Ackerman. 1997. *The Political Economy of Corruption*. Corruption and the Global Economy, Institute for International Economics, Washington, DC.

unions in the drafting process. Of particular importance is the fact that the AP is a *consensus document* approved by the principal actors in Bulgarian society; furthermore, based on the consensus reached, the implementation of the AP will largely be a result of the *joint effort* of all parties involved in the drafting process.

Bringing about affective and behavioral change through dissemination and advocacy. The effective implementation of the AP will be supported through different mechanisms: a) building awareness of corruption and its various forms in Bulgarian society by using different forms of public education, public discussions and dissemination of the research findings and policy recommendations; b) transforming public awareness into an advocacy role, keeping the issue of corruption at the forefront; c) pressing government to implement anti-corruption strategy and reforms.

Reinforcing the cognitive component and tracking progress through process monitoring (Corruption Monitoring System). The basic function of process monitoring is to assess the effectiveness of policy change efforts in all major areas envisioned in the AP and the functioning of the established anti-corruption institutions. The monitoring will serve also as a “watchdog” tool of the public policy process and as a way to encourage public discussions.

IV. ACTIVITIES

The initiative consists of a series of policy analysis, policy design, dissemination, and public outreach activities. Special attention is devoted to including relevant experts, policy makers, legislators, NGO representatives, and independent researchers at different stages of the work on each component:

Component 1: Corruption Assessment and Development of an Anti- Corruption Action Plan

Activities within this component were implemented in several stages as follows:

1. Conducting a series of Corruption Assessment Surveys and Preparing a Corruption Assessment Report

At the initial stage of the process, corruption assessment helps evaluate the status of corruption in different areas of public life and maps the specific characteristics of the perceptions of the general public, public officials, experts, and political decision makers.

The basic findings of the **first Corruption Monitoring System** surveys is used to prepare the **Corruption Assessment Report**. The initial analysis and information from the individual surveys has had an instrumental role in the work of the task force drafting the Anti-Corruption Action Plan for Bulgaria.

Corruption assessment surveys are part of the *Corruption Monitoring System* (CMS) of *Coalition 2000* which is elaborated in greater detail in Component 3 below.

2. Elaborating an Action Plan

Following the official launch of *Coalition 2000*, the Steering Committee set up the task force of over 30 experts who drafted the outline document Anti-Corruption Action Plan for Bulgaria. In consultations with over 70 concerned institutions and experts, the different kinds of expertise which needed to be made available to the task force were identified, including: political science and history, economics and business management, law, media analysis, survey research, and criminology.

3. Conducting a Policy Workshop to discuss the draft Action Plan

Following the preparatory work of the task force, the outline document was circulated among all concerned institutions — governmental, non-governmental and international — in order to solicit their comments and additions. The institutions contributed suggestions for action lines corresponding to their experience and relevant expertise related to key aspects of a comprehensive anti-corruption strategy.

A Policy Workshop was convened on July 7, 1998 at a deputy ministerial/expert level in order to finalize the suggestions and comments to the outline document. All institutions consulted were invited to participate. The Workshop brought together 50 representatives of business associations, senior government officials, financial experts, representatives of the private sector and other concerned institutions.

4. Conducting a Policy Forum to discuss and endorse the final version of the Action Plan

As a result of the consultations and workshop discussions, the task force of experts produced an **Anti-Corruption Action Plan for Bulgaria** to be considered by the members of the Policy Forum during its first meeting in November 1998. In advance of the meeting, the Action Plan has been circulated among the members of the Forum. Each Forum member is being briefed individually on the objectives of the whole process in order to facilitate the discussions during the Forum meeting.

Following its adoption by the Policy Forum, the Action Plan is expected to serve as a long-term reference document allowing interested parties to seek separate technical and financial assistance and additional partners for the implementation of its various action lines. Having been agreed upon as a result of an inclusive process of extensive consultations at expert and policy level by the major governmental, non-governmental and international organizations concerned with the issues of corruption in Bulgaria, the Action Plan will continue to provide coherence to future anti-corruption efforts.

Component 2: Anti-Corruption Awareness Campaign

The majority of activities under this component of the *Coalition 2000* process will be conducted following the first Policy Forum. All activities are focused on creating an atmosphere which discourages fraud and corruption. This may be achieved primarily by raising public awareness about the costs of corruption in Bulgarian society to the country, by raising a concern about

corruption within the national institutions, by increasing the general understanding in society of the causes of corruption, and by influencing public behavior. A special effort will be made to launch practical, action-based initiatives as they provide immediate reinforcement of anti-corruption reform efforts by promoting practical examples and “success stories.”

1. Awareness Program

Since the main task of *Coalition 2000* is to bring about considerable shift in attitudes towards corruption in Bulgarian society, the awareness program will constitute a core component. The emphasis on awareness intended to produce attitudinal changes is built on the premise that anti-corruption attitudes translate into mechanisms rewarding appropriate, or punishing inappropriate, behavior, thus reducing the level of acceptance of such practices in society.

The process will focus on three main target groups considered to be of key significance for the success of anti-corruption reform: (1) *the general public*, (2) *policy decision makers and elite professionals*, and (3) *the international community*.

The awareness program envisages the utilization of a mix of national and local print media, national radio, private radio networks, television and the Internet.

2.1. General Public

General public support and participation are essential to any successful anti-corruption campaign. In raising public awareness *Coalition 2000* will focus on such messages as:

- corruption has a negative impact on development and economic prosperity;
- corruption causes the misallocation of public resources; i.e., it effectively steals money from ordinary people;
- the public is entitled to a certain basic quality of services which is denied by corrupt administrative practices;
- only through the participation of the general public can corruption be curbed and prevented. Corruption occurs because the public does not stand up to it.

All existing media channels will be used to promote the anti-corruption messages throughout Bulgarian society. The selection is based on a good understanding of the media preferences of the population. *Radio* will be used widely as one of the key instruments for achieving the desired awareness effect. Private radio stations will be invited to contribute public service time in kind. Print media will also be used extensively. *Articles in popular newspapers* and specialized magazines will explain the causes of corruption, specific manifestations, economic costs, etc. to the public. The national news agency, BTA, will be the primary vehicle for communicating informa-

tion about the work of the Coalition to local newspapers and television stations. *The promotional tools* to be used in the implementation of the general public awareness campaign are divided into two groups: *direct* (involving and/or addressing the public directly) and *indirect* (reaching the target audiences through a medium).

DIRECT

- Information days
- Townhall meetings
- “Anti-corruption” events
- Logo, poster and cartoon competitions

INDIRECT

- Popular newspaper articles
- Insight and analysis articles in specialized newspapers and magazines
- Press conferences
- Educational radio programs
- Public service announcements and radio clips

2.2. Policy Decision Makers and Elite Professionals

This target group includes politicians, parliamentarians, senior civil servants, members of the judiciary, academia and the media. The objectives of the awareness campaign for elite segments are: (1) to mainstream a concern for corruption within national institutions; (2) to increase understanding of causal factors and the variety of manifestations of corruption among national institutions; (3) to influence behavior of corrupt, and potentially corrupt individuals by promoting new norms of acceptable behavior; and (4) to create a receptive attitude to the structural, procedural and administrative changes that will have to take place throughout the public institutions.

A variety of information and training activities are designed to implement this component. Anti-corruption issues will be brought to the attention of elite representatives on a regular basis through such vehicles as insight and analysis articles in specialized journals and magazines, survey research papers, best practices documentation, anti-corruption readers, a *Coalition 2000* Newsletter, Public Information Desk, electronic mailing list, online discussions, etc.

A *public service training program* will be developed, and implemented with the assistance of the International Development Law Institute (IDLI) in Rome. It envisages a series of training seminars for target groups such as senior public service officials, members of the judiciary and National Audit Office. *Round table discussions* will be organized at the local community level for an audience including mayors of municipalities, local government officials, key opinion leaders, business representatives, local NGOs and civil society, intellectuals, academics, and journalists.

2.3. The International Community

Coalition 2000 is a local effort and cannot be credible without the support of the concerned Bulgarian public and private institutions. At the same time,

the international dimension of the initiative is of key significance for the achievement of its primary objectives. The international cooperation interface of *Coalition 2000* is envisaged in three complementary directions:

1. **International promotion effort of the objectives and results of the Coalition.** By disseminating information to the international community about the activities and achieved results, *Coalition 2000* contributes to an improved international knowledge and appreciation of Bulgaria's anti-corruption efforts.
2. **Coordination and cooperation with international organizations** implementing anti-corruption programs in Bulgaria. The objective here is to allow the local effort to benefit from the expertise and experience of international organizations and multilateral agencies.
3. **Enhancing the awareness of the Bulgarian public as to the significance of cooperation with international organizations** in the field of anti-corruption. By inviting foreign and international organizations to provide information about their anti-corruption activities as part of the awareness instruments, *Coalition 2000* will establish a cost effective mechanism of promoting these efforts to the Bulgarian public.

2. Pilot Anti-Corruption Initiatives to Raise Awareness through Practical Examples

The problems that are to be addressed in the pilot initiatives will be specified further on the basis of the Action Plan. In this respect priority areas could be:

- Administrative reform;
- Ethics Codes for government administration officials at the central and local level;
- Disclosure of Income/Assets/Gifts of high-ranking state officials and members of Parliament;
- Watchdog Agencies: National Audit Office, Ombudsman, Anti-Corruption Agencies;
- Judicial reform and accountability of the judicial process.

Component 3: Process monitoring: The Corruption Monitoring System (CMS)

The Corruption Monitoring System (CMS) of *Coalition 2000* includes a system of empirical studies and analytical reports. The main objective of the CMS is to regularly present information which would facilitate conclusions about the scope of corruption in the country, as well about the related public attitudes, assessments and expectations.

The CMS is designed to perform specific functions within each of the Components of the *Coalition 2000* process:

Corruption Diagnostics. The first CMS panel of surveys is conducted at the initial stage. At this stage the CMS is the major *diagnostic tool*. It helps evalu-

ate the status of corruption in different areas of public life and maps the specific characteristics of the perceptions of the general public, public officials, experts, and political decision makers.

Targeting. Surveys included in the CMS help identify specific target audiences (based on attitudes and perceptions) for the practical initiatives of *Coalition 2000*. The CMS also helps identify the most effective media channels for reaching the specific audiences.

Message design. Some of the CMS surveys are specifically targeted at testing and tailoring the messages of the awareness campaign of *Coalition 2000*. This will help the awareness campaign achieve maximum efficiency.

Analysis of patterns of corrupt behavior. CMS survey results and analyses will be one of the essential content elements of the awareness campaign. In this respect the CMS will be a major provider of analyses aimed at generating public debate on corruption issues in Bulgarian society.

The basic functions of the CMS are related to its major outputs: the **Corruption Indices of Coalition 2000** and the **Corruption Assessment Report**. Corruption indices are based on the surveys included in the CMS and will summarize the most important corruption indicator variables to evaluate/measure the level of proliferation of corrupt practices in different spheres of society. Corruption Indices of *Coalition 2000* will be published four times a year. In addition to that, the other functions of the CMS are:

1. To provide *reliable feedback* about the effectiveness of the anti-corruption initiatives of *Coalition 2000*.
2. To maintain, on the basis of the collected information, *regular feedback with the relevant institutions* in order to support the implementation of mechanisms that constrain corrupt practices.

The empirical information collected through CMS surveys will be made available (on demand) to research agencies and government bodies in Bulgaria, as well as international organizations, for further analysis and reporting. Through the establishment of an Expert Council an effort has been made to coordinate corruption assessment research in order to elaborate a methodology which ensures maximum reliability of data and objectivity of analyses.

Structure of the CMS. CMS includes several basic types of surveys to be conducted with different regularity.

| Survey Type | Time-frame |
|--|------------|
| 1. Quantitative national representative survey of the population | Quarterly |
| 2. Quantitative survey of public officials | Quarterly |
| 3. Focus group discussions with experts | Quarterly |
| 4. Focus group discussions with public officials | Yearly |

- | | |
|---|----------------|
| 5. In-depth interviews with policy makers | Yearly |
| 6. Media monitoring | Monthly |
| 7. Testing Awareness Campaign Messages of the <i>Coalition 2000</i> with the Perception Analyzer System | When necessary |

The surveys conducted quarterly are included in the Corruption Monitoring Panel. Corruption Indices are devised from the quantitative surveys included in the CMS. They make it possible to estimate the dynamics of public attitudes and actions, characterizing different aspects of corruption-related phenomena. Regular observations also provide feedback on the effectiveness of the anti-corruption initiatives in Bulgarian society and on the progress toward achieving the goals of *Coalition 2000*. Qualitative studies included in the Corruption Monitoring Panel will be used to improve and refine the CMS design and methodology.

Once a year the Corruption Monitoring Panel will be expanded with two additional qualitative surveys. On the basis of the extended Corruption Monitoring Panel a Corruption Assessment Report will be prepared for the annual Policy Forum. The report will summarize the results of all surveys conducted in the preceding 12 months and will derive conclusions about the scope and dimensions of corruption in the country. The Corruption Assessment Report will also evaluate the effectiveness of anti-corruption initiatives.

V. THE COALITION 2000 PROCESS: A PUBLIC-PRIVATE PARTNERSHIP

In summary, the *Coalition 2000* process ensures that:

- it is **open**, in that it provides a mechanism through which the major stakeholders — governmental and non-governmental organizations, business associations and international organizations — can provide input and participate in both the design and implementation in a way which best makes use of their respective experience and expertise;
- it establishes a **public–private dialogue and partnership** in a process that concerns the whole society;
- the process is **transparent** by means of regular dissemination of information among concerned institutions and media outreach;
- the structure is **flexible** as it incorporates both public and private institutions as well as prominent individuals;
- *Coalition 2000* has its own **distinct identity** which is independent of the identity and particular objectives of the participating organizations, although it is not a separate legal entity;
- the initiative has a considerable **public standing and high profile** which is in itself an important prerequisite for a substantial anti-corruption impact.

The initiative which resulted in this process was launched by the Center for the Study of Democracy in March 1997 through a series of consultations with Bulgarian institutions and, later, international partners. At the time, CSD solicited the input of a number of Bulgarian NGOs as to the possible format, scope and priorities of the development of a national anti-corruption Action Plan. The changes in the country's political climate created a more favorable environment for a comprehensive anti-corruption effort involving both public and private non-profit organizations.

Particular attention was paid to the involvement of the **judiciary** in the development phase. The design team was able to benefit from the input of the Association of Judges in Bulgaria, particularly Ms. Kapka Kostova, Chair of the Board and Chair of the Sofia Regional Court and Ms. Nelly Koutzkova, Chair of the Sofia District Court.

CSD, in cooperation with the Information Centre on the Council of Europe in Sofia (ICCES), and its Director, Mr. Boyko Todorov, has advised and requested the opinion of the **Council of Europe**. The Council is a key international organization in this area and has already implemented a number of intergovernmental anti-corruption projects in the countries of Central and Eastern Europe, including Bulgaria.

The contacts with **Transparency International** (TI) were established in December 1996. Various consultations with TI experts were carried out in the development of the corruption assessment methodology. Cooperation continues with the establishment of the TI Bulgarian Chapter.

Particularly important for elaborating the format and scope of the process were the discussions with **the United States Agency for International Development** (USAID). At the end of July 1997, CSD hosted a meeting of the USAID mission of anti-corruption experts to Bulgaria. Consultations were continued with the local office of the Agency. Building on the experience of two policy projects of a similar format carried out with the support of USAID — on SME development in November 1996 and capital markets in July 1997 — CSD was in a position to provide an enhanced institutional capacity for an anti-corruption coalition-building process focused on a public awareness effort.

A number of meetings and consultations with representatives of the **World Bank** (WB) and its **Economic Development Institute** (EDI) were held in order to gain from the advanced experience of the Bank in this area. The EDI and WB provided in 1997 documents and materials for the design phase and advised CSD on various sources of expertise which could be utilized during the implementation. A mission of the WB/EDI in September 1998 led by Mr. Petter Langseth evaluated *Coalition 2000* as a model strategy and suggested some additional activities, including a public service delivery survey.

The **United Nations Development Program** (UNDP) has long emphasized improved governance as a condition for sustainable development. As a result of the consultations with Mr. Antonio Vigilante, Resident Coordinator of the UN in Bulgaria, who has been very supportive of the initiative, it was agreed that UNDP's local office will invite a number of internationally renowned experts for short missions to Bulgaria to advise the initiative. The experts have been involved in a number of similar efforts in Latin America and other regions where the UNDP has programs.

VI. INSTITUTIONAL STRUCTURE OF THE *COALITION 2000* PROCESS

The process is designed to ensure both the transparency and efficiency of implementation and the most appropriate use of the input of the stakeholders. Being based on the partnership of public and private institutions, it will allow the most effective implementation of the two main objectives — to develop a comprehensive strategy and plan for combating corruption and to enhance the awareness of key target groups. In a nutshell, *Coalition 2000* will be implemented under the following institutional structure:

- a Policy Forum of leading public and private institutions and prominent personalities;
- a Steering Committee as the means for coordination;
- a Secretariat to provide operational management to the process.

1. Policy Forum

The Policy Forum convenes once a year to review the results of the preceding period, and to provide guidelines for the work over the next year. The Forum consists of forty to fifty Members invited to participate by the Steering Committee. Members are prominent public personalities with established integrity and reputation as well as representatives of public and private institutions. The following groups of institutions are represented at the Forum:

- **institutions of the state:** executive government agencies, ministries, committees, the National Assembly, the judiciary, including courts of all levels, local government representatives, as well as the National Audit Office and the Commission for the Protection of Competition;
- **NGOs:** Bulgarian foundations and associations, policy institutes, business associations, regional development agencies, civic group representatives and European and US foundations (local offices);
- **international organizations:** the Council of Europe, USAID/Bulgaria, World Bank, the European Commission of the European Union, United Nations Development Program, International Monetary Fund, etc.

The mandate of the Forum is based primarily on its role as a representative public body overseeing the process, reviewing the progress and adopting the agenda for future work. The effort receives increased public credibility and legitimacy through the endorsement of a forum of leading personalities and institutions.

Its meetings ensure that the work carried out under the *Coalition 2000* process by various institutions reflects a consensus of the concerned public and private institutions.

The main purpose of the first meeting of the Policy Forum is to discuss and adopt an **Anti-Corruption Action Plan for Bulgaria**. In order to ensure that the Action Plan is both comprehensive and based on advanced professional expertise, the following activities have been carried out in the run-up phase to the Forum:

Step One: Task Force

The expert task force was set up immediately following the official launch of the Coalition to draft the **outline document** as a basis for the Anti-Corruption Strategy and Action Plan.

Step Two: Policy Workshop

Following the completion of the work by the task force, the outline document was circulated among all concerned institutions — governmental, non-governmental and international – in over 2000 copies in order to solicit their comments and additions. Next, a policy workshop was convened at the level of deputy ministers and experts in order to finalize the suggestions and comments to the outline document. As a result of the consultations and workshop discussions, the task force of experts finalized an Anti-Corruption Action Plan for Bulgaria to be considered by the members of the Policy Forum during its first meeting.

2. Steering Committee

While the Policy Forum is intended to foster a general political and social consensus on the implementation of the initiative, the Steering Committee (SC) provides the coordination of the activities and outputs of the Coalition.

The group of NGOs which took the initiative – Access Association, Applied Research and Communications Fund (ARC Fund), Association of Judges in Bulgaria, the Center for the Study of Democracy, the Center for Economic Development, the Center for Social Practices, the Economic Policy Institute and the Information Centre on the Council of Europe, Sofia – invested a particular effort into ensuring the representative nature of the SC. Thus the set-up of the SC reflects both the history of the initiative as well as the consultations and the publicity effort:

| | |
|---------------------------------|--|
| Mr. Asen Dulgerov | Secretary, Sofia Municipality and Chair of the Supervisory Board of the Privatization Agency |
| Mr. Boyko Todorov | Director, Information Centre on the Council of Europe, Sofia (ICCES) |
| Mr. Dimitar Batchvarov | Head, Structural Reform Department, Council of Ministers |
| Ms. Dinka Dinkova | Program Director, Applied Research and Communications Fund (ARC Fund) |
| Ms. Ekaterina Michailova | President of the Parliamentary Group of UDF, Deputy Chair of the Parliamentary Committee to Counter Crime and Corruption |

| | |
|--------------------------------|--|
| Dr. Evgenii Dainov | Director, Center for Social Practices (CSP), and Chairman of the Board, Open Society Foundation, Sofia |
| Dr. George Prohasky | Director, Center for Economic Development (CED) and Senior Advisor at the Council of Ministers |
| Dr. Ivanka Petkova | Director, Economic Policy Institute (EPI) |
| Ms. Kapka Kostova | Chair of the Board, Association of Judges in Bulgaria (AJB) and Chair, Sofia Regional Court |
| Ms. Nelly Koutzkova | Chair, Sofia District Court |
| Ms. Nadezhda Sandolova | National Audit Office, Head of Department “Central Bank and Internal Debt” |
| Dr. Ognian Shentov | President, Center for the Study of Democracy (CSD) |
| Dr. Stefan Hadjitodorov | Secretary, Bulgarian Academy of Sciences |
| Mr. Stanislav Daskalov | President, European Movement Bulgaria |
| Mr. Valentin Dobrev | Ambassador of Bulgaria to the United Kingdom |
| Dr. Valeri Roussanov | President, Access Association |

The Steering Committee meets regularly, approximately every four-to-six weeks. The SC has a major role in the run-up to the Policy Forum meetings. The Steering Committee prepares the meeting agenda through advance consultations with the Forum members and reports to the Forum on the activities and outputs during the preceding year. The structure of the Steering Committee is intended to ensure two main objectives:

- efficient management covering all aspects: political/institutional, economic, legal, information and interface with international institutions;
- public–private dialogue and partnership as a key prerequisite for a substantial impact.

3. Secretariat

For the purpose of providing permanent support to the work of the Steering Committee, a Secretariat was set up at the Center for the Study of Democracy. The Secretariat provides the day-to-day operational management, logistical support and reporting for the activities.

In coordination with the Applied Research and Communications (ARC) Fund the Secretariat maintains a **public information desk** hosting both online and print materials. These include survey data, original research developed by the Coalition, major publications and studies in the field of anti-corruption, reference links to relevant information, etc. Another task of the Secretariat is to carry out monitoring visits/meetings in order to assist the co-

ordination work of the Steering Committee. The Secretariat also surveys developments and initiatives, both locally and internationally, in the field of anti-corruption and informs the Steering Committee, thus ensuring the effective coordination of the *Coalition 2000* process with any other corresponding effort.



Reducing corruption requires not only the relevant institution-building and legislative measures but also creating the social preconditions for establishing the rule of law. In this context, it is of decisive importance to foster a democratic political and economic culture based on trust and respect of government institutions, transparency and openness of the activities of the administration, and an orientation towards stability and predictability of the economic and social environment.

This Action Plan is a pioneering effort which provides a comprehensive framework for cooperation among government agencies, NGOs and international institutions in promoting a transparent and efficient public service in Bulgaria.