

## Part 1. Anti-Corruption In A Transition Environment

### 1. Why does anti-corruption matter in transition countries?

#### 1.1. Specific nature of the “corruption” problem in Central and Eastern Europe

Although corruption<sup>1</sup> is inherent to all societies, transition from *etatist* to market economy creates a unique combination of conditions, which determine the profusion and the specificity of this phenomenon in the former socialist countries.

A brief review of the most widespread corruption practices in this part of the world may be illustrated by the following table:

#### Bribed transactions

Type of corruption	Buyers	Sellers	Corruption commodity
corruption taxes	Citizens	public servants	bureaucratic efficiency
corruption tenders	Businessmen	senior public servants	competitive advantage
political corruption	businessmen, politicians	state officials, party leaders	political influence/posts distribution

Furthermore, “corruption taxes” can be generally classified as forms of administrative corruption. The latter is widespread and involves small bribes and corresponding benefits (*petit corruption*). Corrupt “tenders,” as well as politically corrupt transactions comprise “grand” corruption.

Referring to the specificity of corruption in transition countries, antinomies such as “functional” and “dysfunctional” corruption are especially important in outlining the specific nature of corruption, as compared to its “classical” variety in the developed

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<sup>1</sup> For the purposes of this study, the term “corruption” is defined as the abuse of power for personal or group gain.<sup>1</sup> The choice of such a broad definition is not arbitrary, since it has been adopted by several of the main actors in the international fight against corruption—the World Bank, the United States Agency for International Development (USAID), Transparency International, the Council of Europe (CoE), the Organization for Economic Cooperation and Development (OECD), and the European Union (EU). The more essential reason for using such a broad definition of corruption (which reduces it to bribery) is that the specific nature of this phenomenon in the transition countries is determined by new forms of misuse of power and resources that cannot be described by traditional legal categories. Last but not least, civil society can limit most effectively the “soft” forms of corruption (nepotism, clientelism, conflict of interests and other uses of political power and official discretion that violate existing legal and moral norms).

countries. Corrupt practices are functional within the framework of a political-legal and economic environment where corruption is de facto made legitimate (without being formally legal) through mass practices and/or is seen as a means for overcoming existing bureaucratic obstacles. In both cases, functional corruption does not put to the test the system itself. Vice versa, corrupt practices are dysfunctional when they deviate from the norm, and destructive for the legal framework and existing economic mechanisms.

The following rule applies to developed democracies: more democracy and a stronger civil society correlate with less obscurity; clearer rules of the game correlate with less corruption. Corruption in this case is dysfunctional; it is rejected by public opinion, and is also too risky for the participants in such transactions. There are three main reasons for this:

**First**, there is the existence of a stable civil society, able to control the execution of power. **Second**, there is the presence of a long-established market economy that has functioned for decades on the basis of registration rather than licensing regimes. **Third**, in traditionally democratic countries, every democratic political party does not aspire to all the power, but only to political power. Within institutions associated with the latter, opportunities for corruption are much more limited.<sup>2</sup> In fact, these three reasons combined create conditions for a clear differentiation between the public and private spheres, each one remaining autonomous and impermeable to direct influences from the other.

Within the former communist countries, corruption dynamics have strongly been influenced by inherited stereotypes in social behavior that will be examined below. It is well known that under “state socialism” the “grand” or political corruption was institutionalized to a great extent through the system of privileges and meritocratic distribution of social resources, i.e., it was a specific expression of the identification of the public interest with the interests of the population. On the other hand, the more trivial corrupt practices, defined as “bureaucratic” or “administrative” corruption, were made possible by the existence of obvious administrative deficiencies and by the over-centralization of the command-administrative economy. They were also facilitated by official tolerance towards them as forms of a random distribution of incomes, which does not threaten the foundations of the regime. In other words, under communism political corruption was primarily functional, and administrative corruption was mainly dysfunctional.

“State socialism” is a negation of Max Weber’s rationalistic model separating the public and private spheres, a model that makes possible the functioning of modern Western societies’ bureaucratic machines. Under communism, as in some pre-capitalistic systems, the public and the private spheres are almost identical. This is achieved when private property is de-legitimized and reduced to personal ownership of what is required for one’s everyday needs. Citizens are doubly alienated from the state: on the one hand, the authorities expropriate private property through the process of nationalization; and on

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<sup>2</sup> These general rules, of course, apply differently in the context of different national traditions and institutions. A number of countries, with minimal corrupt practices in their social relations, fall victims to disproportionately high corruption risks in various social sectors—for example, the sphere of party finances.

the other hand, the nationalized and hence “public” property is de facto and de jure controlled by the ruling communist party, or by its elite.<sup>3</sup>

The typical attitude of ordinary citizens towards “public property” contradicted the totalitarian identification of the private and the public interest. They subscribed to the maxim: if something is state-owned, it is nobody’s. Therefore, plundering or simply squandering state-owned property became largely a morally acceptable act. Such nihilism towards state-owned property resulted in widespread waste and everyday administrative corruption, a trend that intensified in the 1980s. These developments even forced the communist authorities to seek immediate measures for limiting the dysfunctional forms of mass embezzlement of state property.<sup>4</sup> Thus, all property is public only superficially; in fact, public property becomes a private possession of the population. Palliative measures, though, could never cure this chronic weakness of communism. This failure eventually facilitated the collapse of Eastern Europe’s authoritarian regimes in 1989.

Such public attitudes have necessarily influenced the motivation and behavior of officials, as well as citizens, within post-communist states. Furthermore, deficiencies related to the political, socio-economic and moral crisis of the East European societies, which have accompanied the reforms since 1989, have exacerbated the conditions described above. In the existing moral vacuum, old values have become irrelevant and new ones are still not sufficiently internalized and transformed into life reference points. This, in combination with the impoverishment of a significant part of the citizens of the former socialist countries<sup>5</sup> and the drastic increase of social differences resulting in stronger atomization of post-communist societies, has created incentives for individual tactics of survival that are in stark contrast with the public interest and ethical norms. This has resulted in the citizens’ lack of faith in collective social action and their ability to influence the work of the authorities through civic control. Their feeling of alienation from the state, the administrative and public institutions, as well as their weakened faith in values such as honesty, moral responsibility and solidarity have inevitably led to an increased tolerance of corruption. Moreover, there has been a tendency towards the spread of the “market model of behavior” throughout society. Such attitudes have legitimized practices like paid access to civil rights, the political scene, jurisdiction, education, health care, etc.. For example, paid access has even been legitimized in areas where the constitutions of the transition countries guarantee citizens’ access to rights and public services. All these tendencies have sharply increased the potential for corrupt behavior in spheres such as education, health care, jurisdiction, etc. In effect, a situation of impunity has been created.

The legitimization of the market as an antithesis to state communism has largely contributed to the delegitimation of everything that should function outside of market

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<sup>3</sup> At its fullest, totalitarianism comes close to the feudal system’s lack of segmentation between the public and the private spheres. Stalin had all the reasons to say, like Louis XIV, “the state—this is me.”

<sup>4</sup> In Bulgaria, for instance, the motto of “the state-as-owner and the collective-as-proprietor” was introduced, while in Romania the opposite approach was advertised—about the state-as-proprietor and the collective-as-owner.

<sup>5</sup> According to data from UN research, in Central and Eastern Europe there are now 147 million people with daily income of less than \$4; while at the end of the 1980s under communism only 14 million people fell into this category. (Human Development Report for Europe and CIS. Regional Bureau for Europe and CIS of the United Nations Development Program (UNDP), USA, 1999. P. IV.)

relations—for example, the public sphere. It led to weakening of the preventive psychological and moral anti-corruption mechanisms in all post-communist states.

The changes have marginalized and deprived the social status of many social groups. At the same time, a favorable environment for the accelerated upward mobility of other social groups has come into existence. These two types of mobility have created conditions for new, modern forms of corruption (white-collar corruption), as well as for the reproduction of patriarchal, nepotism forms of trade in influence, clientelism, corruption network structures based on family or other group relationships, etc. Moreover, the development of interrelated corruption networks has to a certain extent been a spontaneous reaction to social atomization. Besides, these seemingly new corrupt practices have just reproduced the nepotistic structures existing under “developed socialism,” when the nomenclature started reproducing itself without allowing significant upward social mobility to other social strata.

It should be pointed out that **the transition itself, whose economic basis comprises the transformation of state-owned property into private property, creates vast opportunities for corrupt transactions.** This process of paramount importance and the accompanying reform of the relationship between the post-communist state and the new economic subjects have been carried out both within legal and internationally accepted frameworks and mechanisms, and also through the instruments of semi-legal and openly criminal systems for the redistribution of resources. In most of the former socialist states, legal instruments such as restitution<sup>6</sup>, cash and mass (voucher) privatization, have gone hand in hand with hidden privatization (the so-called “entry-exit” economy)<sup>7</sup>, the semi-legal or criminal transformation of the financial sector through the draining of state-owned banks, financial pyramids, racketeering, and so on. Unlike developed Western states, post-communist states have lacked both the experience and the institutions needed for the exercise of effective control over those activities of private companies that have public interests. Thus, Eastern Europe has become a ground for corrupt practices on the part of many Western companies.

If we go back to the dilemma of functional/dysfunctional corruption, we should note that especially during the first half of the 1990s, numerous factors contributed to the entanglement of corrupt practices with semi-legal forms of privatization. In this way, corruption was becoming a functional characteristic of a semi-legal transition. Therefore, the corruption phenomenon became a part of a larger process where, as with public attitudes to state-owned property, nihilistic and de-legitimizing dispositions were directed toward the state itself, and toward its institutions and its state-regulatory and law-enforcement spheres in particular. To a certain extent, this shift was inevitable at the stage characterized by the dismantling of some communist structures and the redefinition of the functions of state institutions. At the same time, such attitudes made possible the re-politicizing of the constitutionally independent power resources, the “privatization” of public interests and functions, and the secondary subordination of the judiciary to leading political and economic interests. In the final analysis, the de-legitimizing of the legal-

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<sup>6</sup> Contrary to expectations, restitution, especially in poorer East European countries, did not generate sufficient national capital and was accompanied with huge legal complications.

<sup>7</sup> The shortest definition of this concept is privatization of the profitable activities of the state enterprises (supply of resources at the “entry,” and sale of the end product at the “exit”), while losses are passed on to the state.

institutional environment entailed legitimizing their absence in the public sphere—corrupt practices and a parallel system for the redistribution of incomes.

Of course, these processes have had an uneven effect on the different groups of post-communist countries. A number of assessments and the monitoring done by international organizations and national non-governmental organizations (NGOs) have shown that there were differences in the degree to which corrupt practices have spread within the different groups of post-communist states. The annual Corruption Perception Index of the international non-governmental organization Transparency International places them differently on the list of 90 countries; while the Central European countries are positioned in the middle of the table, post-Soviet Asia is at its bottom occupied by the countries most affected by corruption.<sup>8</sup> The World Bank makes a similar assessment. Bank experts note that: "... the perceptions of corruption in the Commonwealth of Independent States (CIS) are among the highest of all countries included. While corruption levels in the countries of Central and Eastern Europe and the Baltics (CEE) are lower, they are still on par with the countries of Latin America and the Middle East, at levels considerably higher than those in the OECD countries."<sup>9</sup>

USAID has made an attempt to classify the transition countries in order to determine a suitable anti-corruption strategy for each of them. The post-communist countries are classified under five categories, on the basis of their progress towards political and economic reforms: consolidating democracies (the Central European states, the Baltic states, and Croatia and Slovenia); late nation-builders (most of the Balkan countries); retreating democracies (Russia, Belarus); consolidating autocracies (some of the Central Asian countries); and states in the process of constitution (Kosovo, Bosnia and Herzegovina, Tadjikistan).<sup>10</sup>

It should be noted, though, that this classification does not reflect the fact that during the past transition decade (i.e., the 1990s) different states went through different stages of institutional and market-economy building. Moreover, at the beginning of the decade, the situation in those countries was characterized by rapid liberalization processes, and also—in countries like Russia—by uncontrolled regionalization and decentralization, combined with legal-institutional chaos as well as a boom of the "gray" economy and crime. Towards the end of the period, steady tendencies for stabilization of the state institutions, limitation of the role of private power-groups, and even signs of neo-estatism appeared in some of them. Such a view betrays a point of view, according to which there is only one way of transition from communism to democracy that every country must follow. The absence of a sufficiently reliable explanatory theory about this transition, unique in its nature, as well as the practical inability to reform the basic communist structures partially and gradually, i.e., not entirely and at once, led to many differences in the results of often similar reforms in various post-communist states.

While looking for an answer to the problem of the connection between political and economic reforms, and corruption levels in the transition countries, a group of researchers from the World Bank came up with an integrative indicator for the

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<sup>8</sup> See [www.transparency.org/documents/cpi](http://www.transparency.org/documents/cpi)

<sup>9</sup> *Anticorruption in Transition: A Contribution to the Policy Debate*. The World Bank, September 2000, p. xiii.

<sup>10</sup> Corbin B. Lyday. U.S. Agency for International Development Bureau for Europe and Eurasia. *A Strategy for Combating Corruption*, January 2001, p. 22.

interweaving of the public and the private sectors, a phenomenon which to various degrees is typical of all transition countries. This is the so-called “state capture,” defined as “the actions of individuals, groups, or companies both in the public and private sectors to influence the formation of laws, regulations, decrees, and other government policies to their own advantage as a result of the illicit and non-transparent provision of private benefits to public officials.”<sup>11</sup> An additional characteristic of this phenomenon states that “state capture can also be undertaken by actors within state institutions—the parliament, the executive, or the judiciary. Ministers may shape laws, regulations, or tax policy to benefit themselves or their own financial interests.”<sup>12</sup>

As a whole, though, this concept postulates the idea that private actors abuse state institutions and mechanisms, i.e., it presupposes the weakness of state institutions. This phenomenon is best observed in its most pure, “classical” form in Africa.<sup>13</sup> In the former socialist countries, similar tendencies generally marked the first stage of the transition—the end of 1989 and the first half of the 1990s. The symbiosis between the state and “high-risk” businesses under unclear rules of the game and a paralysis of the judiciary bred corruption within society and the appearance of a “shadow statehood.”<sup>14</sup>

On the contrary—under conditions of a strong executive branch and a centralization of government implemented by it, other types of misuse occur: clientelism, nepotism, and a secondary symbiosis of the state and businesses. In this case, state interference in business affairs is much greater than the opposite trend—“buying of politicians” by strong private-economic power-groups. In this case, some throwbacks to the past occur, which make possible state/party interference in the economy despite the privatization of state-owned property. In situations like these, the opposition blames the ruling party for imposing neo-authoritarian forms of government that favor private interests close to those in power.<sup>15</sup> This overall analysis emphasizes the private use of public authority for the settling of scores among economic power-groups, i.e., the illegal “privatization of public authority” as a dominant form of corruption.

We can obtain a better idea of this kind of “macro-misuse” of the whole state apparatus from a formula expressing the balance of two contrary, and sometimes, joint vectors: on the one hand, the formation of corruption lobbies in the state institutions serving the interests of private power-groups (this process is akin to the concept of state

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<sup>11</sup> Anticorruption in Transition: A Contribution to the Policy Debate, The World Bank, Washington, 2000, p. XV.

<sup>12</sup> Ibid., p. 9.

<sup>13</sup> According to some researchers, “... in some African states clientelistic networks manage a large set of activities: war, illegal local and international business, legal local and international business, party politics, sometimes in several countries, personal, family and tribal affairs, and normal government operations... A significant part of these networks’ activities are criminal according to international (and local) law, and often managed by people in the network who are in government positions.” See Bayart...

<sup>14</sup> Russia at the time when Boris Yeltsin was in office, as well as a number of post-Soviet countries, provide good examples.

<sup>15</sup> As Prof. Dragomir Draganov has pointed out, the following rule can be observed: more total control correlates with more corruption. “The aim is twofold: quick accumulation of fresh money for the new ‘political elite,’ and at the same time creation of its own ‘economic nomenclature’ at the expense of the left-overs from the national wealth.” (“The Transition State and Corruption,” p. 14. [www.csd/coalition2000](http://www.csd/coalition2000).)

capture), and on the other hand, the misuse of power on the part of party and state leaders and their associates for the purpose of enriching certain business groups.<sup>16</sup>

It should be pointed out that the “corruption/crime complex” is not limited to within national borders. By establishing, maintaining, and inheriting channels for illegal trafficking of goods, people, weapons and drugs, national power-groups join transnational criminal networks which have turned post-communist countries into their main operating field. Thus generated, these illegal resources not only cover the “production expenses” of organized criminal and semi-criminal groups, but also constitute the lion’s share of the corrupt capital that is a guarantee for their immunity. At the same time, especially in smaller countries, revenues from trafficking— through the established protectionist and clientelistic mechanisms—form the only serious source of party financing.<sup>17</sup>

Whether state capture (a weak state in combination with strong oligarchs and organized crime) or a strong executive power in combination with clientelism and nepotism prevail in different nation-states during the transition period, in all such cases the judiciary is subordinate to private or group/party interests. It is indicative that the popular formula of transition, democratization plus market economy, does not usually include the most important prerequisites for its success, i.e. recognition of the supremacy of law and the independence of the judiciary. The lack of appropriate punishment for incriminating forms of corruption on the part of law-enforcement bodies in the transition countries has created a feeling of impunity among participants in corrupt transactions,<sup>18</sup> and has in effect sharply decreased the degree of bribery risk.

At the same time, despite the tendency toward the deregulation of emerging markets and limitation of state participation in the economy, throughout the entire period and at the stage of executive power consolidation in particular, the state, personified by the administration, retained very serious resources in corruption risk areas characteristic of market economy countries as well, such as licensing, issuing permits for business activities, public tenders, and public procurements. In this way, the ruling strata within the transition countries have continued to exert pressure on economic actors, which, in return, has led to corruption offers to state officials. These practices are widespread due to the sharp increase in the number of economic actors who want to engage in private economic activity. Hence, the post-communist state has become a “godfather” of the new business class; and furthermore, state officials have often taken advantage of the dependency of the new businessmen, and illegally redistributed resources to their own advantage.

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<sup>16</sup> As events in Russia have demonstrated, if the beginning of the transition period was characterized mainly by the first tendency—towards appropriation of the state by shadow power-groups and oligarchs, at the stage of consolidation of state power started by the Putin presidency the opposite process has prevailed—towards restricting the influence of those groups and subjecting them to the rules of the game set by the Kremlin. A similar process could be observed also in Bulgaria since 1997—Multigroup, the biggest private group, was forced out of its leading position in the most profitable economic sectors as a result of the consistent efforts of the government. Later, though, the opposite process accelerated—a neo-etatist interference of the state in business affairs and the creation of clientelistic business structures.

<sup>17</sup> For a more detailed account, see *Corruption and Trafficking: Monitoring and Prevention*, second revised and amended edition, Center for the Study of Democracy, Sofia, 2000, pp. 14-15.

<sup>18</sup> Some researchers speak of a “culture of cynicism and impunity” (Robert Klitgaard, Ronald Maclean-Abaroa and H. Lindsey Parris. *Corrupt Cities: A Practical Guide to Cure and Prevention*, Washington, 2000, p. 17.

In summary, we can conclude that the high levels of corruption in the post-communist countries have resulted from the combination of various political, institutional, economic, and socio-psychological factors.

**Political prerequisites** for the extensive spread of corruption in post-communist societies include:

- Preservation of the symbiosis between the public and the private spheres, which has been inherited from the communist period.
- Limited character of political reforms and continuing dependency of the judiciary and the legislature on the executive branch.
- Neo-statist tendencies characterized by the use of political resources for the establishment of clientelistic market networks.
- Immaturity of civil society and lack of institutional cooperation between the non-governmental organizations and private businesses, on the one hand; and the state, on the other hand.

**Institutional prerequisites** include:

- Disintegration of state regulatory agencies and the resulting legal-institutional vacuum, especially during the first few years of the transition.
- Preservation of a cumbersome, over-bureaucratized and non-transparent state administration characterized by overlapping functions of its sections and insufficient coordination between them.
- Lack of civic control over the state institutions.

The prerequisites in the **market sphere** include the following:

- High corruption risk in the process of converting of state-owned property into private property.
- Legal-normative chaos in many areas, including privatization, the interactions between market actors, etc.
- Lack of free financial resources and of legitimate business structures that can become major players in the cash privatization.
- Large share of the “shadow economy.”
- Bureaucratic and legal obstacles facing local entrepreneurs and foreign investors in a number of East European countries.
- Imposition of opaque privatization mechanisms like, for instance, “negotiations with a potential buyer,” employee-manager buyouts, etc.

Some corruption mechanisms that reflect the peculiarities of transition societies, and most of all the symbiosis between the public and private sectors, are outlined below:

- **Draining of state and commercial banks**

This can be seen as a specific form of “privatization,” namely—a corrupt privatization, as well as open plunder with the tacit participation of state officials. Almost simultaneously, during the first half and in the middle of the 1990s, the scandals spurred by bank draining, the uncovering of financial pyramids and other forms of plunder of the savings of hundreds of thousands of citizens led to



domestic political crises. The participation of state officials and representatives of the judiciary in most of these processes turned them corruption phenomena.<sup>19</sup>

- **“Entry-exit” economy**

This is a corruption scheme where the profitable activities of state-owned enterprises (supply of raw materials and machines, realization of the production, etc.) are taken over by private companies, while the losses are covered by the state budget. In effect, this amounts to funneling budget funds into private hands in violation of existing laws. Usually the “entry-exit” economy leads to a complete draining of state-owned enterprises, false bankruptcies, and, as a consequence—to the privatization of the enterprises involved at a minimal price.

- **Non-transparent privatization deals**

This refers to the lack of openness in privatization contracts and the prevalence of unclearly defined, opaque methods of denationalization. A typical example is provided by unregulated deals with a potential buyer, which make possible behind-the-scenes corrupt settlements and the distribution of bribes at the different bureaucratic levels involved in the deal. This area also includes privatization through employee-manager buyouts that conceal preferential treatment extended to the private interests of the former managers.

- **Participation of state officials in smuggling schemes (trafficking of drugs, weapons, people, as well as smuggling of commercial goods)**

This is possibly the biggest corruption item in terms of generated bribes. At the same time, smuggling and trafficking also generate the most revenues for the “gray” economy and thus become the main source of financing for organized crime within both national and cross-border frameworks.

- **Corrupt financing of political parties and election campaigns (anonymous contributions in return for immunity)**

The continuous absence of modern legislation regulating party finances, contributions and election campaign financing in a number of transition countries creates an opportunity for the influx of dirty money into politics, and therefore encourages immunity for organized crime and the “gray” economy. Such a symbiosis destroys the trust in democratic institutions and creates a vicious macro-model that is being reproduced at different levels of the social pyramid.

- **Misuse of licensing and permit regulations**

In most of the former socialist states, the transition to a market economy is impeded by a growing number of licenses and permits required to conduct business activities. Critics of these mandatory procedures point to their lack of transparency, lack of clear regulations and requirements, unnecessary

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<sup>19</sup> Similar financial scandals with corruption aspects exploded within a short period of time in countries like Romania, Bulgaria, Albania, Russia, the Czech Republic, and others. (For a more detailed account, see Andrew Stoehtien with Jan Culik, Steven Saxonberg and Kazi Stastna, *Time Europe*, November 29, 1999.)

bureaucratization, and extreme official discretion, all of which foster corrupt practices.

- **Lack of transparency of public procurements**

Public procurements are often assigned without public tenders (for example, in cases involving non-budgetary means), or assigned in violation of rules of fair play under conditions promoting favoritism. Also, some national laws on public procurement exact excessively high deposits for deals that do not require public tenders.

- **Abuse of power and use of state-owned property for private gain**

This refers to buildings and other property items that have not been offered for privatization and remain under the control of state and municipal agencies. For instance, the huge health and vacation complex of the so-called “recreation homes” inherited from state socialism is usually managed by one organization which rents it out. In some cases, it can even be unofficially privatized. This whole sphere remains outside of civic control, and is plagued with corrupt practices.

## **1.2. Anti-corruption public-private partnership**

Alongside the factors and tendencies facilitating corrupt practices during the transition from communism to democracy and a market economy, a number of **prerequisites for anti-corruption behavior** have also been formed, i.e. the transition has generated the negation of corrupt behavior as well. They have led to the following developments:

1. During the transition years, awareness of, and concern for, corruption problems has increased substantially worldwide, and especially in the developed democracies. The observation of corrupt practices in different countries has acquired the character of monitoring, with real consequences for these countries. **An international system of incentives and sanctions**, provoked by monitoring results, has gradually emerged.
2. Serious **pressure groups against corrupt practices** have appeared in the transition countries themselves. For a long time, anti-corruption enthusiasm has not been limited to its natural exponents—opposition parties. Representatives of business and other professional groups who wish to free themselves entirely from bureaucratic and state protections and to minimize their “corruption tax” have become more numerous. These are social circles that do not accept corruption as a mechanism within free market competition.
3. **Public intolerance towards corrupt acts** has appeared. There are symptoms that such a tendency could make corruption activities too risky, at least in political life.

4. The media has found in the **anti-corruption discourse** a very serious area of activity, and has turned it into an extremely important generator of a constant social debate on the subject.
5. Last but not least, NGOs and civic initiatives personified by their most active segments have developed a capacity for active participation in the fight against corruption in basic areas: public education, **civic control over public administration, and the creation of local and national strategies against corruption**. They have proven to be a very successful and the most natural mediator between the state (the “political class” and the state administration), the media, the high-risk groups, and the general public in consolidating efforts in the fight against corruption.

As a result of these developments, in many transition countries during the second half of the 1990s, a public understanding spread that **corruption was becoming one of the major obstacles** to the successful realization of a vision of the future. A public consensus was reached that:

- Corruption is a threat to democracy; it destroys its norms, technologies, ethos, and replaces it with undemocratic mechanisms.
- Corrupt practices destroy the natural operational logic of an effective market economy. They introduce into these natural mechanisms the logic of political influence; impose a political decree over the economy; break the norms of loyal competition; and generate an overall economic climate unfavorable for all economic agents: consumers, producers, dealers, investors, and others.
- A state where corruption remains unpunished is not a law-governed state, because this situation indicates the lack of a functioning law-enforcement system. Corruption always entails a violation of legal equality. It always favors private interests at the expense of public interests, and in the long run deprives people of their legal rights.
- Corruption is an obstacle to the integration of the former communist countries into the common European community and into global economic and political relations. Therefore, tolerance of a high corruption level amounts to an isolationist strategy.<sup>20</sup>

At the same time, it should be noted that this phenomenon **could not become a sufficiently differentiated, independent item on the social agenda** without the focused and organized activities of various anti-corruption initiatives and organizations. The first reason for this is that, at the level of everyday consciousness, there is the lack of a sufficiently clear understanding of the corruption problem and of its effects on people’s everyday lives. In a situation where most Bulgarian citizens were struggling for survival, corruption was seen more as a problem solving rather than a problem-creating factor in everyday life. The main social actors, the parties and the media, used a rhetoric that was stronger than the anti-corruption one, “mafia” and “organized crime,” and other

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<sup>20</sup> For a more detailed account of the economic consequences of corruption, see Susan Rose-Ackerman. *Corruption and Government. Causes, Consequences, and Reform*, Cambridge University Press, 1999, pp. 9-25.

more mobilizing “catch words” with greater explanatory potential as far as the status quo was concerned.<sup>21</sup>

A breakthrough in the mobilization of civil society against the corruption phenomenon has been made possible by non-traditional forms of cooperation, which allow for the inclusion of diverse social actors with a vested interest in limiting corruption factors. In this respect, the experience of a number of anti-corruption initiatives and most of all of *Coalition 2000* (to be discussed later in greater detail) has focused attention on the formula of a public-private partnership in the name of transparency and accountability.

In Western societies, the public-private approach is typical of various social sectors. Thus, for instance, cooperation between state and municipal institutions, on the one hand, and business structures, on the other, is prevalent in the economic sphere. These are partnerships with a high degree of institutionalization. In them the different partners’ obligations are outlined in special business contracts under clear procedures at all stages of the realization of the joint project.<sup>22</sup> The so-called “public procurements” form the mechanism through which the state-private institutional partnership is carried out in the economic sphere. In such deals, organizations from the private sector are contracted by municipal and state agencies to perform certain tasks. Such partnerships lead to advantages like cost savings, risk sharing, improved levels of service or maintaining existing levels of service, enhancement of revenues, economic benefits, etc.

Public-private partnerships are also realized in order to achieve social goals broader than concrete business contracts. In most cases this concerns social cooperation between municipal and state institutions, and non-governmental organizations. It is accomplished through mechanisms of social contracting, within which the municipal and state institutions finance non-profit organizations that in turn perform special public services. Public-private partnerships of this kind are important because, on the one hand, local and state governments are not able to accommodate all social needs, and on the other hand, such partnerships give the non-governmental sector an opportunity to attract additional resources for its activities. At the same time, the shared responsibility for achieving concrete goals for the public benefit contributes to higher confidence and legitimacy of the state institutions as well as the civic organizations.

Social partnerships are of key importance especially in societies in a process of consolidating their democratic institutions and market economy. In the developing countries and in the transition states these partnerships include state institutions, NGOs and foreign/international donor organizations. The significance of such forms of cooperation is the building and consolidation of democratic institutions, as well as the realization of consensually accepted social tasks. In conditions of more active international cooperation and globalization of both the existing problems and of their identification and resolution, social partnerships become part of a broader context and of the global strategies of various transnational organizations and initiatives.

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<sup>21</sup> In a number of transition countries, a formula like “red mafia” was a more convincing metaphor than the term “corruption,” because it pointed to the causal relationship between the political and economic sources of crime. At the same time, its use in electoral campaigns reduces its role in the long-term fight against corruption.

<sup>22</sup> This refers to partnerships in the areas of operations and maintenance, design-build, turnkey operation, wrap around addition, lease-purchase, temporary privatization, lease-develop-operate, build-own-operate-transfer, etc.

If social partnerships are examined in a national context, they stand apart from both business contracts between the state and the private sector, and from social contracting in the public service delivery sphere. Their mechanisms for activities coordination, achievement assessment, monitoring, etc., are also different. The ideology of the domestic public-private partnership refers to the philosophy of the *contract social*, which has different incarnations in the social practices of the transition countries. This concept is especially important at crucial historic moments in the development of state institutions, including the transition from authoritarian to democratic forms of government. In Bulgaria, the transition itself began under the auspices of a specific form of a social contract as the Round Table, which for the first time gave legitimacy to the public interest and introduced the term “national consensus.”

The anti-corruption consensus that made possible the launching of the *Coalition 2000* initiative includes the formulation of common tasks, the accumulation of a “critical mass” of public-private partnerships, and the generation of common and/or parallel activities for the implementation of democratic reforms by all social actors. In the counter-corruption area, in particular, the meaning and objectives of the social contract consist of establishing an “honest community” and promoting the values of transparency and accountability. These characteristics are inherent in democracy as an ideal and as a social organization.

At the same time, their articulation as independent criteria for the success of the reforms in the Central and East European countries reflects their functional significance within the whole set of transition instruments. Moral integrity, transparency and accountability are not the only ultimate goals and criteria for democracy. In the post-communist environment, they are most of all necessary preconditions for the success of the reforms; and first and foremost, for the transformation of state-owned enterprise into private property. The experience of the past decade of post-communist changes has shown that without the required transparency and accountability, a transformation of this kind could lead to social phenomena that are contradictory to democracy and the principles of market competition. These include corruption (bribery, nepotism, clientelism, conflict of interests, etc.), resurgence of authoritarian tendencies in government, bureaucracy and lack of transparency of the public sector, increase of the “gray” economy, symbiosis between organized crime and state structures, transnational crime, and so on. For some of the post-Soviet and the Balkan countries, for example, which have officially announced support for the principles of democracy and free market economy, corruption has become a primary characteristic of the functioning of their state and economy, whose “gray sector” is almost as big as the official one.

Because of this, the anti-corruption public-private partnership is a formula that can be used society-wide only during the term of a reformist government whose policies are aimed at countering corruption and guaranteeing the accountability and transparency of state institutions. Unlike the openly corrupt authoritarian regimes where civic anti-corruption initiatives inevitably confront the authorities, in this case we can speak of an initiative aimed at achieving a consensus. This means that the anti-corruption interests and priorities of the individual stakeholders in anti-corruption activities should unite and support each other for the sake of the whole society.

The need for a close cooperation and coordination of the efforts of the three social sectors—the public sector, the private business sector, and civil society as a whole—

stems from the conclusion that corrupt practices appear in all areas of social activity, although with various degrees of intensity. The wide range of activities with elements of abuse of power for private gain excludes by definition the possibility of resolving the “corruption” problem only through law enforcement efforts. Such a conclusion is valid especially for the transition countries in Eastern Europe that are characterized by a combination of conflicting economic reforms and legal-institutional reforms intended to guarantee conditions for lawful economic reforms.

It can be stated that **the anti-corruption consensus should be an indispensable annex to the social contract formed in the post-communist transition environment.** Its realization, though, should precede and facilitate the crystallizing of the new legal-institutional, governmental, and business environment, as well as the redistribution of state resources, and the legal settlement of the problem of property and its new owners. In this sense, putting this issue on the agenda of a number of East European societies only in the second half of the 1990s was quite belated. Similarly, the whole transition process in these countries, which oscillated between the old inertia and values, and the new democratic principles, was also belated and unnecessarily postponed and impeded.

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With reference to the public-private partnership in the context of anti-corruption activities, it is very important to specify the objectives, tasks, and instruments and forms that the individual stakeholders should use; and to indicate their specific place and role in socio-political processes. The “role distribution” among them within the framework of the public-private anti-corruption partnership is of special significance for the success of these efforts. The various institutions have specific instruments for the prevention and/or punishment of corrupt practices. Ideally, they compliment each other, and can achieve a considerably longer-lasting cumulative effect if they are consistent with a single anti-corruption system. Some of these instruments are traditional—like those used by the law-enforcement agencies; while others are still unfamiliar to the transition environment.

- **The judiciary** penalizes corruption crimes and guarantees the supremacy of law.
- **The legislature** passes transparency and integrity laws which, on the one hand, support the efforts of the judicial and law-enforcement agencies and, on the other, contribute to the prevention of corruption crimes.
- **The executive branch** regulates forms of “soft” corruption through legal or ethical instruments, while adhering to the ideal of “good governance” (the anti-thesis of corruption).
- **Political parties** counteract corruption through the adoption of political platforms and of ethical codes that ban the corrupt behavior of leaders and rank-and-file members; their goal is to achieve high standards of democracy and legality.
- **Business and professional associations** can be important participants in the anti-corruption efforts through endorsing high standards of professional conduct and responsibility.

- **Civic organizations and initiatives** can, on the one hand, provide a good example with their transparent activities and, on the one other, monitor and exercise independent control over the public sector.
- **The media** are called upon to expose corrupt transactions and be a factor for the growth of civic intolerance towards abuses of power.
- **Society** as a whole performs electoral control over the government in the name of moral integrity and democratic values.

The complimentary character of the functions and instruments of the individual social actors in the anti-corruption strategy could be presented graphically with the help of two basic elements of their interaction: the area of their overlap and, respectively, the area of their divergence. This configuration can be expressed as follows:

### Graphic

- red: streamlining corruption prevention in executive law enforcement (customs, police, etc.), prosecution (only as far as it is a part of the executive branch); strictly (inter)governmental, confidential;
- gray (area of public-private partnership): institutional and legislative adequacy and efficiency (including performance of public administration and the judiciary), international assistance evaluation, general assessment of political and institutional reforms, etc.;
- blue: monitoring **by** and **of** the media, monitoring of corruption *inside* civil society, and monitoring of public attitudes (trust in institutions).

Through the optimal combination of all anti-corruption instruments, the goal of the public-private partnership is to achieve a long-lasting and irreversible effect in curbing corrupt practices by making them more costly for those inclined towards the abuse of power. The arbitrary use of separate instruments could yield only a temporary result, without achieving fundamental changes in the corruption environment in a given country.

Having an appreciation for the complimentary character of the efforts of the different social actors is an important prerequisite for the public-private partnership. On the one hand, it helps to dispel doubts that civic organizations aim at displacing the “competent agencies” in the fight against corruption; and, on the other hand, it provides an argument in support of the legitimacy of the non-governmental organizations’ efforts within the framework of anti-corruption initiatives.

It should be noted, though, that due to the various public-private partnerships that differ in their nature and intended effect, anti-corruption initiatives stand apart as the ones most difficult to carry out for several reasons. First of all, by definition, anti-corruption activities target abuses of power and discretion most typical of the public sector. A precondition for a successful interaction between civic organizations and public institutions is that the latter undertake adequate steps for curbing corrupt practices in the state sector. In this way, government institutions find themselves in the role of a protagonist; and, at the same time, a target of anti-corruption. They are in a constant

“conflict of interests” situation, while civic control assumes the role to correct abuses of power. In this way, the partnership between governmental institutions and civic/private organizations presupposes maintaining a “critical distance” between the latter and the authorities. The shortening of this distance leads to the so-called “co-opting” of the non-governmental anti-corruption initiatives by the authorities<sup>23</sup> and vice versa—its widening leads to various forms of hidden or even open confrontation. The authorities themselves have a selective approach to their anti-corruption partners and often accept only their anti-corruption rhetoric; and at the same time covertly tolerate corrupt practices.

Within the framework of the broadly defined public-private anti-corruption partnership, in different transition countries there are various **types of initiatives with the participation of civic organizations**. They include:

- Government-led initiatives (Armenia)<sup>24</sup>
- Sub-national civic-led initiatives (Ukraine)<sup>25</sup>
- National civic-led initiatives (*Coalition 2000*)

These initiatives can be distinguished by the following major characteristics:

- Anti-corruption initiatives carried out under the leadership of governmental or other state institutions need a consistent state policy of public integrity and transparency of official institutions. Within these kinds of partnerships non-governmental organizations could not play a leading role, and their function as a corrective of official policies is strongly limited. In this case, the main risk is that NGOs can be co-opted by the ruling party and state institutions.
- Sub-national initiatives are appropriate for countries (Ukraine, for example) where at the national level conditions are still unsuitable for similar social activities. In such cases, greater willingness for cooperation is sought on the part of the local authorities, which are often in the hands of the opposition, and are critically disposed towards corruption in state institutions. The negative aspect of this sub-type is that the deterioration of the domestic political situation makes it

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<sup>23</sup> Corbin B. Lyday. Partnerships or Dependencies? “Beyond Anti-Corruption Rhetoric: Coalition-Building and Monitoring Impact,” International Conference, Sofia, Bulgaria, March 24, 2001 (see [www.usaid.gov/democracy/anticorruption/p3](http://www.usaid.gov/democracy/anticorruption/p3)).

<sup>24</sup> Speaking at a ceremony marking the acceptance of a \$300,000 World Bank grant earmarked for developing a comprehensive program to combat bribery, nepotism, and similar crimes, Armenian PM Andranik Markarian reaffirmed in Yerevan on 8 May 2001, that his government “regards the fight against corruption as one of the key challenges facing the state.” Markarian said that one of the main objectives of the program, which will include the enacting of legislation on the civil service, licensing, income declaration, and state procurements, is to improve the investment climate in Armenia. (“RFE/RL Newswire,” 9 May, 2001).

<sup>25</sup> Ukraine, like some other post-Soviet states, ranks among the so-called “retreating democracies.” In such states, cooperation within the framework of the anti-corruption initiative is not possible at the level of the central government. The efforts of civil society in these countries are in effect focused on the consolidation of democratic institutions, such as the independent media, the private sector, and local government, often in an atmosphere of negative attitudes on the part of the central authorities. (See: U.S. Agency for International Development Bureau for Europe and Eurasia. *A Strategy for Combating Corruption*, January 2001, p. 30).



more difficult to distinguish the activities of the anti-corruption initiatives from the routine political struggles between the ruling party and the opposition.

- National civic-led initiatives like *Coalition 2000* seek to combine the advantages of the partnership between the authorities and civil society in the whole country with the autonomy and the leading role of civic organizations which play a decisive role both at the stage of building an anti-corruption strategy, and at the stage of its practical implementation.

It should be noted that this description refers to a “horizontal” type of partnership, where representatives of state institutions participate in anti-corruption initiatives primarily in their personal capacity as experts, independent of their functions within state institutions. Their participation in the Coalition context is at a level equal to that of other individual and collective participants. Moreover, their “cooptation” into the anti-corruption initiative is solely on the basis of an assessment of their personal role in the fight against this phenomenon and their commitment to enter such a partnership, without any other (political) considerations.

To sum up, the role of the representatives of state institutions in a public-private partnership like *Coalition 2000* can be defined in the following contexts:

- By joining such an initiative, they commit themselves to the priorities of civil society, as they take a personal stance in the fight against corruption;
- Through their personal mediation they facilitate the balancing of anti-corruption strategies and efforts between the civic-private and the public sector; and
- They play the role of a civic anti-corruption lobby in public institutions, and this helps to accelerate anti-corruption reforms within and through the legislature, the executive branch, and the judiciary.

As far as the range of activities of such an initiative is concerned, the choice is between a comprehensive and an incremental type of strategy; a comprehensive strategy includes all major components—enforcement, prevention, public education, and institution building. An incremental strategy stresses only those components that are most promising in terms of the positive results anticipated, while postponing all the other activities for the future.

## **2. Anticorruption in Bulgaria: the general framework**

### **2.1. Bulgaria’s window of opportunity: conditions and prerequisites for public-private partnership against corruption**

The conclusions reached above can be observed in the transition dynamics in Bulgaria. In the middle of the 1990s, corruption and corruptness in this country functioned as an explanatory model for someone’s success, enrichment, and affluence. Nevertheless, they could not explain the impoverishment and everyday problems of people. Corruption was not seen as an infringement of public interests and as a problem-generating phenomenon; no connection was made between corrupt practices and people’s real everyday problems. Because of this, anti-corruption dispositions emerged primarily

in the context of a series of early elections in rapid succession.<sup>26</sup> It was only during the second half of the 1990s that corruption came to be seen as a sufficiently distinct phenomenon; and an articulated public interest and a public consensus in the fight against corruption started to form. Some time was needed for the emergence of attitudes about corruption to form that were not merely emotional but also rational. This shift made it possible for anti-corruption discourse to target not corrupt officials, but corruption as a phenomenon.

The development of the **political situation in the period 1996/97** was also of extraordinary significance for efforts to put the fight against corruption at the top of the social agenda. At the end of 1996, the country experienced a deep economic, financial, and political crisis, which resulted in a total collapse of the authorities in January 1997. The government of the Bulgarian Socialist Party completely failed in its efforts to stabilize state institutions and achieve economic growth through the revival of economic practices typical of state socialism. Bulgaria found itself in an even worse starting position characterized by weak state institutions and a strong state capture on the part of private financial power-groups (the so-called “credit millionaires”), semi-legal structures (the so-called “wrestlers’ groups” in the spheres of the security and insurance businesses), as well as with several powerful economic holdings similar to those formed by the Russian “oligarchs.”<sup>27</sup>

The period of state destabilization ended with the holding of early parliamentary elections, and in the long run—with the emergence of a new reformist majority in the Parliament and the formation of a government of the United Democratic Forces coalition.<sup>28</sup> The new government won the trust of most citizens with the first explicit social contract in Bulgaria’s contemporary history which contained clearly-defined commitments for speeding up the necessary reforms in the areas of the economy, financial stability, synchronization of legislation with that of the European Union, and integration into the European structures. The new authorities made an overall commitment to stabilize Bulgarian society and to rebuild state institutions and the power of law; and to reintegrate Bulgaria into the community of Western democracies and economies. The government’s first decisive step was to create a Currency Board which was constantly supervised by the International Monetary Fund. In this way, the sovereignty of the central bank was restricted, the control over commercial banks was increased, and the process of money draining was constrained. On the other hand, the start and the intensification of the preparations for EU accession required the harmonization of domestic law with that of the Union, as well as reform of the

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<sup>26</sup> After the 1989 democratic changes, five parliamentary elections were held in the country in an 11-year period: in 1990, 1991, 1994, 1997, and 2001.

<sup>27</sup> The link between the shadow financial-economic power-groups and the criminal contingent was provided by the so-called “wrestlers” who, together with former State Security and Ministry of the Interior employees, monopolized the security business, and later, part of them became active in the “power insurance” field (in this business, racketeering replaces normal competition between insurance agencies). The “wrestlers” became synonymous with a “state within the state,” not subject to any laws, and untouchable by the law-enforcement and judicial systems. They are a unique Bulgarian phenomenon in the sphere of “state capture,” which became possible under conditions of weak state institutions during the term of Prof. Lyuben Berov’s government (1993-94), and also during the unsuccessful neo-communist restoration under Zhan Videnov (1995-96).

<sup>28</sup> The center-right coalition United Democratic Forces is dominated by the Union of Democratic Forces (UDF) whose leader Ivan Kostov was Prime Minister in 1997-2001.

administration in line with European norms. These radical changes, in addition to the stabilization of the financial, social, and political systems, were a good starting point for generating serious anti-corruption initiatives. Bulgarian society needed to improve its transparency, and the authorities and their mechanisms also needed to increase their internal transparency for the media and the civil society.

At this point, the general public was most sensitive towards issues such as unemployment, poverty, inefficiency of the authorities and the administrative institutions, and crime. The corruption issue was not in itself articulated with sufficient clarity as a problem area in public life because of its autonomous nature and tendency to follow its own logic and practices. There were deliberate bank bankruptcies, “credit millionaires,” financial pyramids, siphoning of state capitals into private groups and interests, a large “gray” economy sector, clientelism and unpunished schemes for the transformation of political into economic power, and vice versa, all of which were part of the everyday public debate. But at the social mentality level of all these phenomena were not perceived as different forms manifesting one and the same social problem, corruption. Moreover, there were very strong symptoms of growing acceptance of the idea that these were natural side effects of the kind of reforms implemented in Bulgaria. Attitudes towards some of them were even marked more or less with indifference—like, for example, the “gray” economy which was seen as providing means for survival for part of the population.

The basic views of the governing coalition in the sphere of corruption and crime prevention are outlined in an **Integrated National Strategy for Counteraction to Crime** (adopted in early 1998), and in the program adopted by the government at that time. An analysis of the latter shows that it contains components of an anti-corruption strategy, without being explicitly formulated as such. These include:

- Consolidation of the political system through the development of democratic mechanisms of government;
- A reform aimed at a higher efficiency of the judiciary;
- Acceleration of the structural reform of the economy, and larger role of market mechanisms in depleting the financial power of the shadow economy;
- Establishment of a modern administrative system through the creation of a clear-cut and transparent system of services delivered by the state to its citizens;
- Development of transparent rules and control procedures of the privatization process, and of state and municipal procurements;
- Development and implementation of measures to mobilize the regulating agencies for the timely punishment of administrative offences, and for the assertion of the supremacy of the law;
- Information interaction with civil society structures and the media for creating social intolerance towards crime, etc.

Box

In the anti-corruption sphere, the **Integrated National Strategy for Counteraction to Crime** includes the following directives:

1. Implementation of an integrated state policy for executing the regulative functions of the state through the **optimization of administrative structures, introduction of transparent administrative procedures, restriction of the permit regime as much as possible, and introduction of a registration regime**.
2. Establishment of a system of **administrative control** and sanctions related to the implementation of legislation and administrative procedures.
3. Modernization of the **normative order** provisions for severe penal liability for corruption in all its forms and spheres of manifestation.
4. Formulations of clear rules and standards for **administrative services provided to citizens**.
5. Development of a **system for coordination of anti-corruption activities**.
6. Creation of an **income and property register for civil servants**.

### **End of the box**

In this way, the Bulgarian government formulated a clear concept of its intentions to counteract corruption through activities of the executive branch, the legislature, and the judiciary, as well as through cooperation with civil society.

With the stabilization of the situation in the country that started in the spring of 1997, society itself became more receptive to anti-corruption ideas. The decrease of political tensions made it possible to re-channel the corruption theme from its strictly political usage and from the government-opposition debates into a discussion within civil society, without any risk that it would be dismissed as mere opposition rhetoric against those in power.

Some of the necessary reforms undertaken by the ruling majority prompted a debate that constantly touched upon the corruption theme. The reform in public administration (the Law on Civil Servants, etc.), for instance, put the work of the central and local administrations within a new legal-regulatory context. Some newly adopted laws were debated in public, and this had a positive effect on the gradual introduction into public debate themes related to corruption and corrupt practices.

At the same time, though, the acceleration of privatization and the diversification of privatization practices, from the employee-manager buyout issue to the selection of foreign investors, created new prerequisites and temptations for corrupt practices.

The more favorable socio-political situation in the country in 1997 was the main prerequisite for launching the **Coalition 2000 anti-corruption initiative**. More specifically, the formulation of a civic agenda in combating corruption was made easier by the **following circumstances**:

- Growing outside pressures on corrupt officials in state structures, as well as pressure from the state on those seeking to corrupt officials, narrowed the field of impunity and freedom of action of both groups of offenders. This cleared the way for launching civic initiatives and civic control into areas of previously unimpeded types of corrupt dealings.
- The whole system, built on the basis of the Currency Board, created possibilities for an independent civic monitoring of those elements of the system that fall most often into the sphere of corrupt transactions.

- In addition to bribery, the Public became aware of other so-called “soft” forms of corruption (nepotism, clientelism, conflict of interests). A broader definition of corruption was adopted, which integrated the idea of all forms of abuses of power for private and group benefits.
- A public belief started to crystallize that the government was responsible not only for corrupt acts, but also for all those social technologies and mechanisms that made them possible. This understanding facilitated the adoption of moral and political sanctions as correctives of a pro-corruption government.
- This change led to the realization that corruption threatens the legal order, and, as such, poses a danger that necessitates the active involvement of civil society organizations in the fight against these practices.
- As a result, there arose a need for a corresponding platform and mechanism for the generation of an anti-corruption initiative, for marketing the common benefits to be gained from the fight against this phenomenon. The very awareness of the broad scope of corrupt acts created the need for a broad social perimeter of anti-corruption activities. This trend is reflected in the idea of a coalition of anti-corruption forces within society as a whole, for a **public-private partnership**.
- A favorable circumstance in this respect was the work of analytical centers of the think-tank variety, concentrated mainly in Sofia, for whom the public-private partnership was essential for the expression of their views. A major part of their intellectual contribution was the production of policy papers and recommendations for management decisions.<sup>29</sup>

The **Center for the Study of Democracy** is among the most established analytical centers with good international contacts. Its motto, “Building Bridges”, refers to a partnership between state structures, the expert community and the media, which together would create optimal prerequisites for the modernization of Bulgarian society and its integration into the community of developed democracies.<sup>30</sup> That is why the commitment of this non-governmental organization, in its capacity as a collective Secretariat of the *Coalition 2000* anti-corruption initiative, was a logical continuation of the Center’s previous efforts, and of its most successful methods of collaboration both within the framework of the third sector, and with state institutions. Within the framework of its Coalition activities, this initiative was the first non-governmental structure in Bulgaria to apply its work to the principle of the public-private partnership as an element of a national process of social marketing and reforms. It is also chronologically one of the first such initiatives to appear in transition countries.

## 2.2. The *Coalition 2000* process

The initiation of the *Coalition 2000* anti-corruption process became possible as a result of a continuous discussion with the participation of leading experts from Bulgarian analytical centers, primarily the Center for the Study of Democracy.

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<sup>29</sup> See Raymond J. Struyk. *Reconstructive Critics. Think-Tanks in Post-Soviet Bloc Democracies*, Washington, 1999, pp. 61-90.

<sup>30</sup> See Center for the Study of Democracy. *Annual Report 2000*, pp. 7-8; see also [www.csd.bg](http://www.csd.bg).

The preparatory phase of this process was linked to the evolution of attitudes both within the framework of the non-governmental community, and on the part of international and foreign national organizations committed to the fight against corruption.

First of all, it was necessary to overcome the reservations of the leading NGOs that were consulted concerning the possibility to initiate an anti-corruption process with the participation of representatives from all social sectors since anti-corruption was not yet an established sphere of non-governmental initiatives. Some traditionalist views were predominant, both about the nature of corruption (identifying it only with its incriminated forms), and about the need for only law enforcement as a method of curbing it.

Representatives of Transparency International expressed slightly different doubts as to whether it would be possible, on the one hand, for the government to participate in such an initiative through representatives of state institutions and, on the other hand, for the initiative to develop successfully within the framework of the public-private partnership. Because of these hesitations at that time, Transparency International took the position that it was preferable to launch such initiatives exclusively within civil society, and to preserve their non-governmental nature.<sup>31</sup>

A major prerequisite for initiating the *Coalition 2000* process was the growing willingness of the international community, and especially of USAID, to support an initiative involving public-private partnership, which would bring together the potential of a number of civic organizations and representatives of state institutions in a country like Bulgaria. Such a decision was based on the finding that because of the broad range and destructive potential of corruption, it required measures against it that would involve the efforts not only of law-enforcement agencies, but also the active participation of all state institutions, non-governmental organizations, and the business sector. As a consequence, USAID developed the scheme of the “triangle” approach in combating corruption, which included awareness, prevention, and enforcement.<sup>32</sup>

Support for the public-private formula was also facilitated by the fact that as a common priority of civil society, business organizations, and the government, anticorruption can be a unifying idea, solidifying the social contract. It is a cause that has the advantage of being equally distant from the ideological and the political divisions in post-communist societies. Besides, anticorruption embodies the contemporary standards of transparency, accountability, and integrity that are characteristic of those social models to which most citizens of a country like Bulgaria aspire. Therefore, the formulation and implementation of a national anti-corruption initiative under the leadership of the NGOs could also be an effective instrument for overcoming the wide gap between different sectors of political life, and between civil society and the state as a whole. Last but not least, the logic of the support for such an initiative requires also an impartial assessment and monitoring both of the corruption situation and its dynamics, and of the anti-corruption efforts of various social actors. It is well known from past experience that only non-governmental organizations with an independent status could take upon themselves

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<sup>31</sup> As the present scope of activities of this international non-governmental organization demonstrates, later, Transparency International moved precisely towards partnerships of its national sections with representatives of state and municipal institutions.

<sup>32</sup> U.S. Agency for International Development Bureau for Europe and Eurasia. *A Strategy for Combating Corruption*, January 2001, p. 17.

such a task, i.e. this kind of monitoring should be a part of an effectively exercised citizens' control over the authorities.

The transition from the concept of a public-private partnership against corruption to its practical implementation was facilitated by the above-mentioned disposition and the accumulated experience of the Center for the Study of Democracy in building partnership relationships with representatives and experts of state institutions. The skillful uncovering of niches for potential collaboration with civil servants and state institutions were very advantageous for the creation of an effective inter-institutional and inter-sectional mechanism for anti-corruption partnership.

For the success of such an undertaking it was especially important to overcome the intra-sectional divisions and isolationist tendencies which were often transformed into unfair competition among a significant part of the non-governmental organizations in the country. Such tendencies, characteristic also of other transition states, can be explained primarily by the inevitable competition among local NGOs for the attention and support of Western donor organizations that occur under conditions of underdevelopment of the legal order and of charity traditions within the nation. In this environment, it is still difficult to overcome zero-sum thinking in the non-governmental community in most transition countries, including Bulgaria.

In this respect, it can be pointed out that leading Bulgarian NGOs like the Center for Social Practices, the Center for Economic Development, the ACCESS Association, the Economic Policy Institute, and others, joined the *Coalition 2000* partnership structure on the basis of their previous history of interaction, including the successful execution of joint projects in a number of areas. There existed good personal contacts between the experts and the leaders of these organizations, and shared priorities aimed at the development of civil society and the consolidation of civic institutions. These prerequisites made possible the initiation of constructive consultations between the leaders of these organizations; and the achievement of a consensus on the objectives, main directions and concrete tasks within the framework of the initiative, and on the distribution of responsibilities among these founding organizations.

The non-governmental Association of Judges in Bulgaria was also consulted. The involvement of legal experts from this organization in the specialized working group which drafted the key documents of the *Coalition 2000* initiative was an important step toward building bridges of partnership and trust between the professional community and the non-governmental organizations of the various analytical centers.<sup>33</sup>

There were also preliminary consultations with a number of international organizations, diplomats, and leading Western experts.<sup>34</sup> In the course of these discussions, the experts from the Center for the Study of Democracy specified a number of ideas in the sphere of anti-corruption activity, and made useful contacts with

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<sup>33</sup> During the further implementation of the anti-corruption initiative, this partnership was expanded and specified in the sphere of judicial reforms.

<sup>34</sup> The Center for the Study of Democracy, for instance, in cooperation with the Sofia Information Center on the Council of Europe, held consultations with the Council of Europe. It is well known that CoE is an international organization of key importance in the area of combating corruption, and it has already implemented several inter-governmental projects against corruption in Central and East European countries. A number of meetings with representatives of the World Bank and the World Bank Institute were also held in order to explore the considerable experience of this institution in the anti-corruption area. Similar consultations were held with the UN Development Program that supported the initiative.

organizations that were carrying out independent anti-corruption initiatives in different countries.

The most important condition both for launching such a public-private initiative, and for achieving real results was, of course, the attitude of the governing political coalition in the country. The consultations and the analysis of the political intentions declared at the beginning of the term of the United Democratic Forces coalition gave hope that a serious anti-corruption potential existed in the newly formed institutions of authority. In the beginning, although concentrated mainly in the field of crime, the “corruption” problem was gradually making its way into the political language of those in power; and the measures for curbing it were among the immediate priorities of the executive branch and the judiciary.

This situation encouraged the *Coalition 2000* founding organizations to: **1) define the anti-corruption initiative as comprehensive, and 2) regard the public-private partnership as one of the most important prerequisites for its success.**

In the broad array of anti-corruption instruments and priorities, the **main objectives and activities** within the framework of the *Coalition 2000* initiative were defined as follows:

1. Promoting public awareness of corruption and establishing mechanisms to support anti-corruption efforts through public education, advocacy and dissemination.
2. Assisting democratic institution building, promotion of democratic values, and elaboration of an Anti-Corruption Action Plan (ACAP) 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.
3. Serving as a “watchdog” of the reform process, focusing attention on the practical implementation of transparent and clear rules of the game, integrity, and democratic control.

It was decided that the efforts of *Coalition 2000* would be multifaceted in terms of content, and that its social marketing impact strategy would be 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, the initiative was intended to enable a favorable environment for the establishment of future coalitions. The main component of consensus building is the Policy Forum: a policy design tool which starts at the expert level with the identification of problems which culminates in a forum involving representative of all relevant institutions and organizations that endorses a consensus policy document (Anti-Corruption Action Plan).

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



**Defining impact objectives and the development of an Anti-Corruption Action Plan** as a consensus document approved by the basic actors in Bulgarian society. Based on research findings and best practice documentation, an ACAP is designed to incorporate different mechanisms enhancing trust and transparency in different sectors of public life. The involvement of policy-makers and businesspersons in the drafting process is instrumental in generating wider support for the initiative.

**Bringing about effective behavioral change through dissemination of information and advocacy.** The effective implementation of the ACAP requires support 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 research findings and policy recommendations; b) transforming public awareness into an advocacy role, and keeping the issue of corruption at the forefront; and c) pressing the government to implement anti-corruption strategy and reforms.

**Reinforcing the cognitive component and tracing 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 ACAP and functioning of the established anti-corruption institutions. The monitoring serves also as a “watchdog” tool of the public policy process and as a way to provoke public discussions.

### **The Coalition 2000 process**

*Coalition 2000* was constituted in the spring of 1997 as a flexible organizational structure that would best meet the requirements of the public-private partnership, and the specific nature of the Bulgarian legal-institutional environment. For this reason, it was not registered as a legal entity.

The institutional set-up of the initiative is designed to ensure both the transparency and efficiency of project implementation and the most effective and appropriate use of the input of the stakeholders. In summary, the initiative has the following institutional structure:

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

The Policy Forum is the supreme body in the initiative structure. It convenes once per year to review the results of the preceding period, and provides guidelines for the work of *Coalition 2000* for the next year. The Forum constitutes about 100 members who are invited to participate by the *Coalition 2000* Steering Committee. Members are prominent public personalities with established integrity and reputation as well as representatives of the public and private institutions. The following groups of institutions are represented at the Forum:

- Institutions of the state: executive government agencies (including ministries, the Foreign Investment Agency, the Privatization Agency, and the Securities and Stock Exchange Commission); the National Assembly; the judiciary, including

courts of all levels; local government representatives; and 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 groups representatives and European and U.S. foundations (local offices).
- International organizations and bilateral aid agencies: the World Bank, the European Commission, the United Nations Development Program, the International Monetary Fund, and the Resident Mission in Bulgaria of USAID.

The mandate of the Forum is based primarily on its role as a representative public body overseeing the process, reviewing the progress achieved by the effort, and adopting the agenda for future work. The efforts of *Coalition 2000* receive an increased public credibility and legitimacy through the endorsement of the Forum by leading personalities and institutions.

Its meetings ensure that the work carried out under the initiative by the various institutions reflects a consensus of the majority of the concerned public and private institutions. It also provides visibility to the project effort thus enhancing its impact.

The three previous annual forums (held in 1998, 1999, and 2000) were attended by hundreds of politicians, public figures, representatives of the media, private businesses, NGOs, people personally engaged in the fight against corruption, and representatives of international organizations based in Bulgaria.

The **objectives** of the annual Policy Forum reflect directly upon the drafting and updating of the strategy for the anti-corruption initiative.

- The main task of the annual Policy Forum is to review results from the past year, and to provide guidelines for the anti-corruption activities during the next year. The mandate of the Forum is derived from its role as a representative public body that oversees the *Coalition 2000* development. At the same time that the Forum concludes the annual policy cycle and formulates a collective opinion expressing the positions of prominent personalities and institutions, it contributes to establishing the public nature and legitimacy of the anti-corruption initiative.
- Another significant contribution of the Policy Forum is its role in legitimizing the activity of the specific organizational forms of the public-private partnership (for instance, the Coordination Council). They also guarantee that *Coalition 2000* activities are carried out according to a consensus between the state and non-governmental institutions committed to the fight against corruption.

The **Steering Committee** is responsible for the coordination of the activities within the framework of the initiative, and embodies the practical realization of the public-private partnership in the fight against corruption. In accordance with its functions, it includes representatives of the founding NGOs and of state institutions (in an approximately 50/50 ratio).

The Steering Committee meets regularly, approximately every four to six weeks. It plays a major role preceding the Policy Forum meetings. The SC 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:

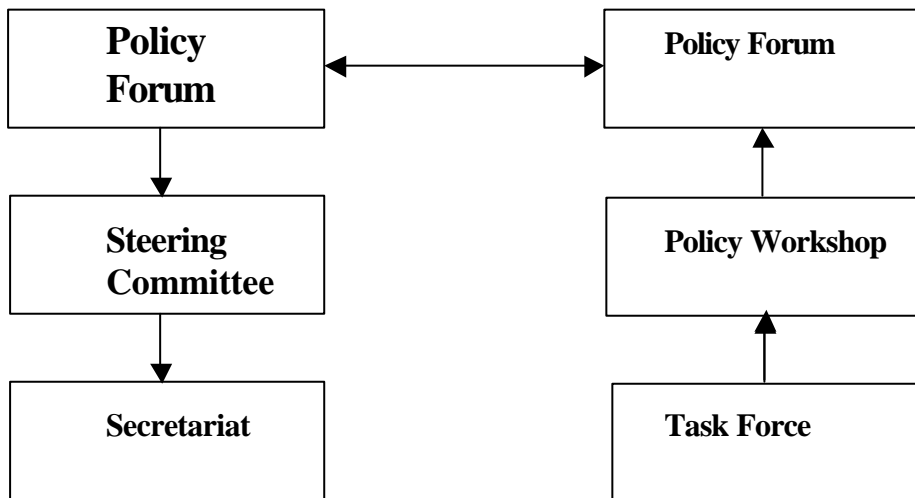
- Efficient management covering all aspects: political/institutional, economic, legal, information, and interfacing with international institutions; and
- Public-private dialogue and partnership as a key prerequisite for a substantial impact.

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. It provides the day-to-day operational management and reports activities of the *Coalition 2000*. It maintains, in coordination with the Applied Research and Communications Fund (ARC Fund) a **public information desk** providing both on-line and printed materials.

The annual policy cycle of *Coalition 2000* includes the following network of related activities: the Task Force prepares the draft paper to be discussed later at a Policy Workshop. The latter brings together experts from all the institutions involved in the process. The further improved version of the documents (initially it was the Anti-Corruption Action Plan, and later included the annual Corruption Assessment Reports the following years) is submitted to the Policy Forum for approval and revisions.

### Institutional Structure

### Policy Cycle



In summary, the institutional structure of *Coalition 2000* ensures that:

- The process is open in that it provides a mechanism through which the major stakeholders—governmental and non-governmental organizations, business associations and international organizations—could provide input and participate in both the design and implementation of an anti-corruption plan which makes the best 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 made transparent by means of regular dissemination of information among concerned institutions and through media outreach;

- The structure is flexible as it incorporates both public and private institutions, as well as prominent individuals;
- The *Coalition 2000* initiative has its own distinct identity independent of the identity and particular objectives of the participating organizations, although it is not a separate legal entity. This holds true for its substantive aspects as well as for the accounting and administration of the project; and
- The initiative has considerable public standing and high profile, which is in itself an important prerequisite for maximum anti-corruption impact.

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The Task Force is a starting point and an important instrument in the *Coalition 2000*'s policy cycle; and plays a major role in drafting *Coalition 2000*'s basic program and analytical products. The first priority of this group was the drafting of the **Anti-Corruption Action Plan for Bulgaria (ACAP)**. The draft was submitted to a Policy Workshop (convened on July 7, 1998) at the deputy ministerial/expert level in order to finalize the suggestions and comments for an outline document. All institutions consulted were invited to participate.<sup>35</sup> As a result of the consultations and workshop discussions, the task force of experts produced a finalized version of the ACAP that was considered by the members of the Policy Forum during its first meeting in November 1998. In advance of the meeting, the Action Plan was circulated among the members of the Forum. The first *Coalition 2000* Policy Forum that was held the same month adopted the ACAP, and thus made it a *Coalition 2000* official program document. Its approval by representatives of state institutions, non-governmental organizations, and the business community gave the ACAP the importance of a consensus document outlining the public agenda against corruption.

The cycle including expert discussions within the framework of the Task Force, followed by a Policy Workshop and a Policy Forum has been transformed into a permanent year-round Policy Cycle for coordinating the points of view and the priorities of the different participants in initiating concrete anti-corruption activities. Only the final product of this cycle has been changed; after the adoption of the ACAP the annual forums (1999 and 2000) approved the respective annual Corruption Assessment Reports.

The content of the **Anti-Corruption Action Plan** is summarized briefly below. This document includes six major action lines:

## **Box**

Petar Stoyanov's letter (from "Clean Future")

## **End of the box**

### **First Action Line: Creating a Favorable Institutional and Legal Environment for Curbing Corruption**

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<sup>35</sup> The Workshop brought together 50 representatives of business associations, senior government officials, financial experts, representatives of the private sector, and other concerned institutions.

Such a reform is of key significance for the success of anti-corruption efforts, since it raises the social cost of corruption, and in this way provides incentives for anti-corruption behavior on the part of state officials and citizens. The anti-corruption reforms in the public sector are aimed at establishing transparency and accountability in the interactions between state officials and citizens or representatives of the private sector. Moreover, public attitudes and behavior depend on the willingness and capability of those in power to make their offices more transparent and subject to citizens' control. Therefore, from the point of view of the fight against corruption, the essence of these reforms lies in the effective use of prevention instruments through raising the social cost of corruption. (The ACAP recommendations will be presented in greater detail in Part III, Chapter 1.)

### **Box**

The First Action Line provides for the creation of a **favorable institutional and legal environment for curbing corruption:**

- Public Administration Reform
- Establishing new institutions and offices with controlling and monitoring functions, and improving existing ones
- Developing the public procurement system
- Reform of the political party sphere

### **End of the box**

### **Second Action Line: Reforming the Judicial System**

The public in Bulgaria perceives the judiciary as one of the most corrupt sectors. The reform of the judicial system was therefore initiated as an initiative for purging corrupt magistrates from the system, and for the creation of conditions for its greater transparency. The goals of the proposed reforms are thus aimed at asserting both the independence of the judiciary as an autonomous sphere within the democratic separation of powers, and its specific role in the law-enforcement process and in penalizing incriminated forms of corruption.

### **Box**

The Second Action Line focuses on **reforming the judicial system:**

- Implementing a legislative reform in order to curb corruption
- Reorganizing the operation of the judicial system
- Improving staff recruitment procedures and professional training
- Taking measures to expose corruption in the judicial system

**End of the box**

### **Third Action Line: Curbing Corruption in the Economy**

In the absence of clear and transparent rules and civic control, the privatization process has become a natural ground for corrupt practices. ACAP envisions discussions in the areas of different ways of rationalizing privatization mechanisms; changes in the regulation of privatization methods and procedures; the acceleration of privatization via the stock exchange which offers a transparent mechanism for securities sale; optimal use of tenders and competition as a form of privatization; the increased importance of control over the execution of privatization contracts; the establishment of a legally-regulated “embargo” regime for potential investors who have not observed commitments included in the privatization contract, etc.

The document also stipulates the effective monitoring of the post-privatization process for deals that do not require full payment at the moment the privatization contract is concluded.

The liberalization of the conditions for private entrepreneurship through the removal of bureaucratic mechanisms and forms of state regulation is another component of anti-corruption measures to be implemented in the business area.

On the other hand, the Plan envisages restraining corruption within the private sector itself, first of all in financial and economic relations.

**Box**

The Third Action Line is aiming at **curbing corruption in the economy**:

- Transparency and accountability in the privatization process
- Liberalizing the conditions for private business development
- Limiting corruption in financial and economic relations within the private sector
- Enhancing the effectiveness of economic arbitration procedures

**End of the box**

### **Fourth Action Line: Enhancing Civic Control in the Fight Against Corruption**

During the drafting of the Anti-Corruption Action Plan, it was taken into account that while changes in the legal-institutional environment, the judicial system, and the business area are to a great extent prerogatives of the public authorities, the task of organizing anti-corruption education and dissemination activities, and of strengthening civic control over administrative services and other social spheres subject to corruption deals is in the hands of the third sector. It should be acknowledged that despite the progress in the establishment of non-governmental organizations—associations and foundations—during the last ten years of post-communist transition, Bulgaria’s third

sector is not yet an equal partner of the authorities. This situation is often used by politicians for exercising various forms of pressure and insinuations, through which they try to create and maintain their clientelistic networks within the NGOs.

The document makes recommendations for the institutionalization of civic control over corruption in the state administration, political organizations, and the judicial system. An important part of this control would be the introduction of systematic monitoring of the public administration, including the presence of representatives of civic organizations at meetings of state institutions and institutions of local government, and the inspection of documents adopted by them.

In addition, the document contains the task of reviving traditional professional ethics in different areas of life as a counterpoint to corrupt practices. The document focuses on the importance of rebuilding occupational and branch organizations on the bases of codes of ethics for each profession. The success of any civic-public campaign is unthinkable without the interaction and cooperation with the media. The Plan envisages a number of initiatives in this sphere: development of basic anti-corruption rules for the journalistic profession; establishment of an award for journalists who have contributed most to the fight against corruption; organization of courses for young journalists on the problems of corruption and countering its manifestations, etc.

## **Box**

The Fourth Action Line provides for **enhancing civic control** in the fight against corruption:

- Developing the institutional framework of civic control
- Involving professional associations and trade unions in the Anti-Corruption Campaign
- Cooperation with the media in implementing the Anti-Corruption Campaign
- Cooperation with religious institutions to foster moral integrity and counteract corruption

## **End of the box**

### **Fifth Action Line: Changing Public Perceptions of Corruption**

The goal of this campaign is to change public perceptions of corruption—from tolerance of and reconciliation, towards dissociation and opposition against this phenomenon.

When discussing this part of the document, the experts noted that what makes it important is that the rest of the Plan's components depend to a great extent on the professional execution of the information and educational campaign. On the other hand, it is solely organizations from the third sector that define the goals to be achieved in the course of such a campaign.

One of the peculiarities of the campaign is that it is of the “social marketing” type, and it utilizes both a traditional advertising set of instruments and tools specific to the advocacy of socially important causes.

## **Box**

The Fifth Action Line is aiming at **changing public perceptions of corruption:**

- Implementing an Anti-Corruption Public Awareness Campaign (“Clean Future”)
- Public education campaign about the rights of citizens and obligations of the administration in the sphere of administrative services
- The Anti-Corruption Campaign within the system of public education at its various levels

## **End of the box**

### **Sixth Action Line: International Cooperation**

With the globalization of trade and economic cycles, and with the deepening of integration, especially in Europe, the fight against corruption was made a priority in the programs of most international organizations and multilateral agencies. A considerable amount of knowledge and experience has already been accumulated internationally. A number of initiatives for assisting countries that face serious corruption problems are being implemented.

The ACAP focuses on cooperation between Bulgaria and leading international organizations participating in efforts to resolve this problem—the Council of Europe, the Organization for Economic Cooperation and Development, the World Bank, the European Union, the United Nations, and a number of regional initiatives.<sup>36</sup>

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<sup>36</sup> In the period following the Plan’s adoption, Bulgaria was one of the first member-states to sign the Criminal Law Convention on Corruption of CoE, and among the first non-OECD members to sign and ratify the Convention on Bribery in International Business Transactions. Bulgaria’s accession to these conventions has various implications for local legislation. Changes in the latter correspond to a considerable extent to the recommendations contained in the respective sections of the Plan.

Bulgaria’s cooperation with the Council of Europe is especially important. In order to monitor the observance of the leading principles and the implementation of international instruments adopted in compliance with the Council’s 1996 Program for Action, a Group of Countries against Corruption (GRECO) was created in the form of a partial and comprehensive CoE agreement. The agreement will come into force after 14 states declare their intention to participate in it. The Republic of Bulgaria was the tenth country to give its consent for participation in GRECO (January 26, 1999).

Bulgaria also took an active part in the second phase of the “Octopus” project which is carried out jointly by the Council of Europe and the European Commission. The main objectives of this second phase of the “Octopus” program are: assistance for the preparation of legal and institutional reforms; training and practical instruction that would increase the capacity of the member-states to counter corruption and organized crime, and improved international cooperation in this area.

As far as the European Union is concerned, cooperation with it in this area is an important part of the country’s preparation for accession in the so-called “third pillar” sector. It should be pointed out that the so-called “achievements of the *acquis communautaire*” in the sphere of law and domestic affairs include not only the EU anti-corruption instruments, but also the international CoE and OECD instruments in this



## Box

### The Sixth Action Line: **enhancing international cooperation:**

- Cooperation with international organizations and integrated structures
- International economic, financial and trade institutions and organizations
- Cooperation with other international organizations
- Interaction with regional organizations and initiatives
- Regional cooperation on multilateral and bilateral bases
- Cooperation with government aid institutions on a bilateral basis

## End of the box

Following its adoption by the Policy Forum, the Action Plan was perceived as a long-term reference document. Having been agreed upon as a result of an inclusive process of extensive consultations at the expert and policy level by the major governmental, non-governmental, and international organizations concerned with the issues of corruption in Bulgaria, the Action Plan is providing coherence to broad anti-corruption efforts. At the same time, it is an open document directed to society as a whole. In this sense, the ACAP is an attempt to formulate an agenda for Bulgarian society in its fight against this social phenomenon. In other words, the Plan's fate—its successful implementation or failure—is only partially in the hands of the third sector, in the face of the *Coalition 2000* founding organizations.

In line with the principle of separate but complimentary roles of the different actors in the anti-corruption public-private partnership, the leading *Coalition 2000* NGOs have concentrated their activities in those areas and forms of influence that give the third sector an opportunity to most fully realize its potential.

The leading role of the non-governmental organizations is accomplished first and foremost in the area of the systematic monitoring of corrupt practices in the country. Such an activity has benefited from the considerable experience of the founding NGOs in related sociological and marketing research, and from their good reputation and the high level of their work. At the same time, the monitoring of corrupt activities was also a practical realization of extreme importance and unique function of the civil society in offering impartial observation, analysis and assessment of processes in the public sector. In other words, corruption monitoring has not only been of cognitive-informational importance; its products are also a part of the “internal control” process within the initiative. It has also supplied an objective basis for an assessment of the effectiveness

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area. In this way, the participation of the Republic of Bulgaria in the CoE and OECD conventions, which are open to it, and also the harmonization of the country's legislation and legal practices with their standards, as well as with the standards of EU instruments, is becoming a precondition for prospective full membership in the Union.

and achievements of the *Coalition 2000* process itself. These activities will be examined in greater detail in Part II of this study.

The second most important area in the practical implementation of the ACAP was the Awareness Campaign. Launched under the name “Clean Future,” it was aimed at provoking the latent social intolerance towards corrupt practices through an intense awareness of the serious nature of the threat that such practices pose, and their long-term consequences for society as a whole. Simultaneously, the campaign sought to affirm the high standards of transparency and accountability comprising the core of the anti-corruption effort. In this sense, we could say that the Awareness Campaign has a preventive character in the broadest sense of the word; and at the same time, it emphasizes positive messages related to the introduction of modern standards of social conduct that exclude corruption. The main aspects of this campaign will be presented in Part III.

Using the ACAP as a strategic reference point, *Coalition 2000* has nevertheless continued to refine concrete tasks in various areas, in accordance with changing balance of power along the pro-corruption/anticorruption axis. It can be said in this respect that while the NGOs made consistent efforts to convey the program’s objectives in the language of specific anti-corruption activities, those in power, after their initial commitment to the fight for transparency and accountability, later started to demonstrate inconsistencies with regards to anti-corruption reforms in the legal-institutional environment and administrative practice. Likewise, the government gradually distanced itself from serious discussions of the proposed measures for curbing corrupt practices. Respectively, some representatives of public institutions who had committed themselves to the *Coalition 2000* objectives were also disappointed by the growing resistance against the critical approach not only toward the pre-existing non-transparent mechanisms and practices, but also by those manifestations of clientelism and nepotism that implicated the new ruling coalition.

The negative changes in the government’s attitudes to the problems of corruption and the fight against it are attributed to several reasons:

First, anti-corruption was formulated as a party strategy. Government rhetoric referred to the previous socialist cabinet, and it significantly facilitated personnel changes within government institutions that were to some extent inevitable.

Second, the government was confident that its measures for financial stabilization, acceleration of privatization, stabilization of government agencies within the framework of processes of centralization of authority, introduction of a relatively modern legislation in the administration sphere, and so on, were in themselves sufficient for overcoming corruption as a social problem. In this sense, statist illusions proved to be deeply rooted, and they adapted well to transition realities.

In themselves, a number of these measures had a beneficial impact on the macro-framework of the transition:

- Financial stabilization within the framework of the agreement with the International Monetary Fund, and as a result of the activities of the Currency Board;
- Acceleration of privatization in all economic spheres;
- Institutional stabilization and consolidation of the executive branch;

- Acceleration of the country's Euro-integration, definite overcoming of the previous geopolitical ambiguity of Bulgaria in favor of a union with the West;
- Candidacy of the country for NATO membership and initiation of a multifaceted cooperation with the Alliance, etc.

In the course of time, though, some **unfavorable tendencies and processes in the state administration** became evident. Speaking of them as a whole, it can be pointed out that the government's efforts to overcome the financial destabilization, institutional paralysis, and disintegration processes at the level of the central government led to the opposite effect, namely—to **over centralization of power and stronger state interference in all social spheres**.<sup>37</sup> Because this process was going on under conditions of rapid change of personnel at the different levels of the state administration, and in a situation where party demand for loyalty became prevalent, this tendency, in effect, bred a **new symbiosis between the ruling coalition and the state apparatus**. These changes created a new institutional environment charged with high corruption risks, and the control over those gradually slipped from the government's hands (where and when a will to curb corruption existed). In this situation, the otherwise positive acceleration of privatization benefited new clientelistic and nepotistic structures and damaged a large portion of Bulgarian and foreign entrepreneurs and investors, as well as society as a whole. Naturally, the non-transparent reforms and the revival of non-market mechanisms for redistribution of state resources generated renewed alienation between state and society.<sup>38</sup>

These unfavorable tendencies, which deepened during the second half of the United Democratic Forces' four-year term (2000-2001), necessitated a change of emphasis within the framework of the anti-corruption public-private partnership. First of all, it was necessary to re-channel and concentrate more efforts and resources in anti-corruption pressures on political elites, the governing political elite in particular. In this way, the public-private formula itself underwent an evolution, with the non-governmental organizations stating more clearly the need to overcome the ambivalent attitude of the authorities towards a number of anti-corruption priorities. This formula increasingly expressed the necessary balance between collaboration and criticism, and delineated more clearly the various interests within the broad anti-corruption coalition. It can be said that the efforts of the leading NGOs to motivate the authorities to undertake anti-corruption activities became more focused and selective, aiming at the achievement of concrete steps in the direction of greater transparency and accountability.

Changing conditions within the framework of the public-private partnership highlighted the growing significance of the interaction within the third sector itself, as well as between NGOs and the independent media. This experience demonstrated that publicizing the major *Coalition 2000* products, comments upon them and the motivation of journalistic investigations aimed at uncovering corrupt practices turned out to be a very important anti-corruption instruments targeting not only the participants in the

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<sup>37</sup> It is hardly surprising that critics of this policy argue that it leads to the imposition of "state capitalism" in the post-communist setting. (See the *24 Chasa* daily, June 8, 2001.)

<sup>38</sup> This tendency was demonstrated most clearly by the June 2001 parliamentary elections, when the ruling coalition United Democratic Forces lost nearly 2 million votes, and its leader Ivan Kostov had to resign.

corrupt transactions, but also the above-mentioned inconsistency and ambiguity in the actions of the authorities.

Another component of the *Coalition 2000* activities, whose importance stands out especially as a result of the negative tendencies within government institutions, was the anti-corruption partnership with a number of international institutions and national agencies, whose priorities included the spread of transparency and accountability in the transition countries. Their support for the anti-corruption initiative, as well as their constant interest towards its products and results, helped neutralize the attempts of some individuals and institutions in the country to underestimate or openly oppose *Coalition 2000*. It can be argued that the specific domestic evolution of views on the corruption problem provided an additional impetus for a more active involvement of the *Coalition 2000*'s foreign partners, who increasingly saw the Bulgarian anti-corruption initiative as a corrective of the authorities and a source of objective and independent information on some of the most delicate (from a political point of view) problems faced by society.

The redirection of part of the Coalition's efforts towards anti-corruption collaboration at the local level was an immediate result of the complicated partnership between the non-governmental organizations and the representatives of the central government. At the beginning of 1999, a separate program, "Transparency in Local Government," was initiated, and it considerably widened the scope of action of *Coalition 2000*. This step was facilitated by the relative autonomy of local government. Also, there was a better chance that the majority of elected mayors, part of whom did not have a party affiliation and had built their reputations through personal honesty and integrity, would become involved in the anti-corruption initiative. The fact that within the municipalities the "corruption" problem was more clearly linked to the quality of the local government and to concrete bureaucratic obstructions that could be identified and eliminated more easily constituted another favorable prerequisite.

The introduction of projects promoting the transparency in local government as an integral part of *Coalition 2000* activities made possible the inclusion in its activities of dozens of NGOs based in over ten cities around the country. This step created prerequisites for the formation and functioning of a national network of non-governmental watchdog organizations that in the future can form a permanent structure for monitoring and civic control. Activities within the framework of the Coalition's local projects will be examined in greater detail in Part III, Chapter 2 of the present study.

As a result of these changes, in the course of its activities in line with the Anti-Corruption Action Plan, *Coalition 2000* itself has experienced an evolution that has made it more adequate to the political situation in the country, and more open not only to its partner organizations but also to civil society as a whole. At the same time, this redefinition of accents within the framework of the initiative reflects also some necessary developments in the practical execution of the public-private partnership, which point to lessons for other similar initiatives. Without questioning the validity of the formula itself, such conclusions, based on the *Coalition 2000* experience, make possible reconsideration and a stricter definition of the parameters of the anti-corruption partnership. This can be done in a way that permits the complete unfolding of the existing potential in the fight for transparency, accountability and integrity within national boundaries.

The authors of this study have the ambition to outline the achievements, lessons and perspectives of the anti-corruption coalition seen through the prism of the concrete

results and problems of its activities. Last but not least, this effort is part of the necessary *Coalition 2000* recapitulation, with a view to formulating priorities for future activities of Bulgaria's anti-corruption initiative.

## **PART TWO: IMPLEMENTING ANTICORRUPTION IN BULGARIA**

### **[...] Introduction**

#### **Chapter One: Designing and Implementing Anticorruption Reforms**

*Coalition 2000* initiatives endeavour to establish lasting co-operation among representatives of the civil society, the public institutions, experts, advisors, and journalists, so as to ensure the specific contribution of NGOs. This Chapter is dedicated to the following main aspects of the initiative: **1. designing an overall institutional and legal anticorruption framework; 2. judicial reform, and 3. reducing corruption in the economic sphere.** Activities in each of these areas are underlied by the **need to strengthen civil society** and to reconfirm its involvement in developing anticorruption ethics. The formula of public-private partnership has been used directly both throughout the process of drafting and adopting the Action Plan (1998) and during its implementation (1998-2001).

#### **1. Public-private Partnership in Designing an Overall Institutional and Legal Anticorruption Framework**

The existence of operational institutional mechanisms within the political system and the civil society, based on clear and precise rules, is an essential condition for combating corruption. Legal and institutional prerequisites are needed to create a social and political environment hostile to corruption. In addition to their general preventative and stabilising effect, they make it possible to better define corrupt acts and incriminate them, while clearly regulating the procedure for determining liability and the sanctions imposed for corrupt acts.

##### ***1.1 Public Administration Reform and Legislative Framework Development***

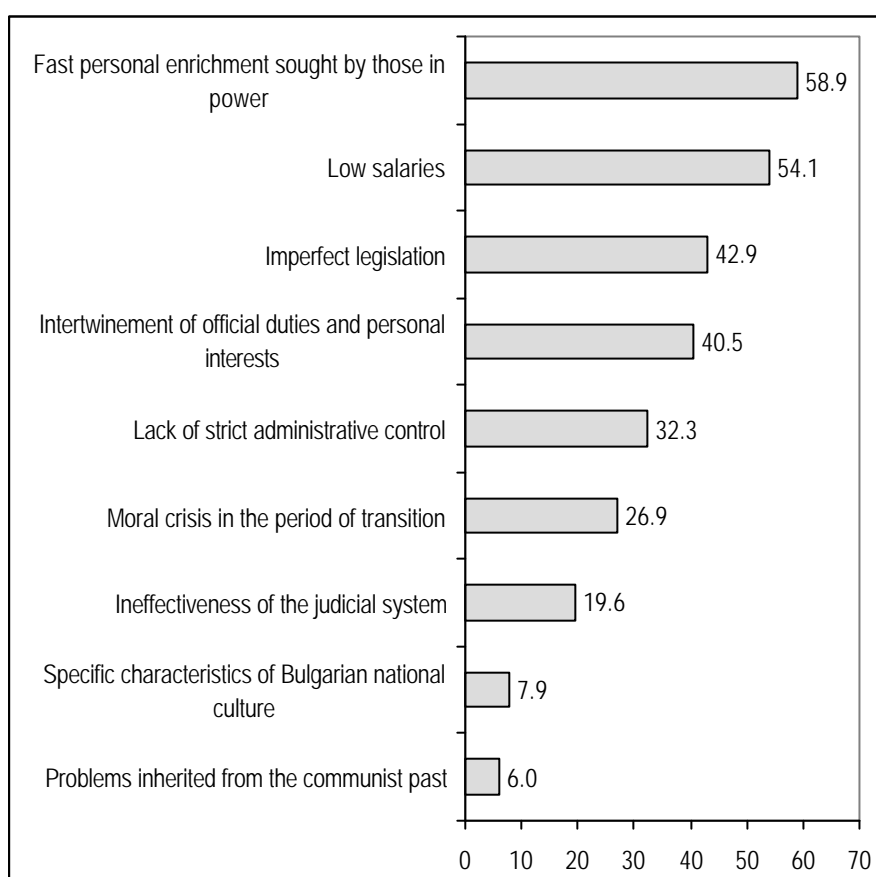
###### ***A) Action Plan Recommendations***

The objectives of the recommended public administration reform and the specific steps for its implementation were formulated based on an assessment of the current status of both the central government and municipal administrations and of the spheres of Bulgarian society most affected by corrupt practices.

The major factors identified as conducive to corruption in the administrative machinery were the unregulated intertwining between public and private interests, the ambiguous criteria for delineating, and distinguishing between, the competencies associated with different government institutions and positions, the lack of professionalism among government employees, modern organisation, and the need for greater transparency in government. The main focus of public administration reform was the use of institutional

reform as a way to combat the factors that are conducive to corruption. Special emphasis was put on legislative measures, because flawed legislation facilitates the spread of corruption. The prevailing public opinion was in favour of this approach.

**Figure 1. Major factors accounting for the spread of corruption (%)**



*Base N = 331*

*Source: Corruption Monitoring System, Business Elite Survey, January 2000*

The spheres most often affected by corrupt practices, *e.g.* license issuance, the collection of government revenues (taxes, customs duties), monitoring and control, the award of public procurements, etc. influenced the determination of the scope of the measures and actions proposed. These were detailed in 16 points that can be brought under several large headings, (depending on the major issue at stake): 1) designing an legislative framework to optimise the structure and the powers of the administration (by *inter alia* regulating the status of civil servant) and putting in place legal and institutional safeguards to assure the transparency, accountability and control of that framework; 2) introducing specific statutory requirements for the work of the administration and, of the relevant procedures as well; 3) introducing internal rules and supervisory mechanisms, including

mechanisms to ensure accountability to and information for the public; 4) complementary measures.

1) To set up a relevant overall legislative framework, the following steps were recommended: to adopt an organic law regulating the work of the administration; to adopt a law on the civil servant; to put in place legislative measures to improve the administrative services; to reduce the number of permission and licensing regimes, so that permits and licenses only exist where strictly necessary; in addition, such regimes should only be introduced by laws, as opposed to secondary legislation, in order to guarantee a maximum degree of transparency and accountability; and finally to pass rules on the criminal, civil and disciplinary liability of civil servants in the event of corruption. The proposal to adopt an organic law for the administration derived from the need to establish an uniform structure of the state machinery and for an efficient control over its units, and the need to avoid overlapping between independent institutions (agencies) and the structures of various ministries, or between central and local authorities. The proposal to regulate the status of civil servants by virtue of a law identified specific anticorruption steps, such as preventing conflicts of interest, eliminating any next-of-kin relationships and nepotism, regulating the receipt of gifts, providing for the compulsory disclosure of income, imposing obligations to undergo the relevant training and qualification and to comply with certain rules of conduct. As regards the legal and institutional safeguards, particularly important were the proposals to set up a body in charge of investigating allegations of corruption and submitting them to the competent authorities for criminal prosecution (or alternatively make some of the existing bodies specialise for that purpose); to set up a public registry of the financial and property status of civil servants in senior positions; to set up units for handling complaints by citizens; to provide information and to develop PR within the agencies; and to make the units funded from extra-budgetary accounts fully accountable or close them.

2) As to the need for special statutory requirements for the work of the administration and the relevant procedures, the focus was on the development of regulations based on primary legislation. These should, among other things, set time limits for considering and pronouncing on a given issue, introduce clear procedures for the exercise of discretionary administrative powers, reduce to a minimum the chances for discretionary decisions, and provide for rotation among civil servants.

3) As regards the internal rules and monitoring mechanisms, the proposals were to adopt internal guidelines and instructions - specific, generally accessible and transparent - for the conduct of the administration in its relations with the citizens, to implement a system to assess the work of civil servants, including efficient in-house disciplinary procedures, and to set up specialised internal control units.



4) With respect to the complementary measures, the transfer of certain activities and services from the administration to the private sector was recommended in order to ensure administrative decentralisation and to lessen the chances and incentives for corruption within the central and local authorities. The purpose of such a recommendation was to create a competitive, more efficient and red-tape-free sector in the services market.

***B) Assessment of Anticorruption Efforts and of the Measures Taken to Date. Future prospects***

The analysis of certain changes made in the institutions and the legal mechanisms, and of the changes that could not be implemented, should be the point of departure in portraying the dynamics of anticorruption measures and depicting the future goals. Anticorruption efforts centred on the sphere most prone to corruption - public administration - and on the legislative framework for its operation. Emphasis was also laid on the possible mechanisms to ensure the distinction between the public and the private sector and to foster a transparent dialogue between them.

The period from end-1998 to early 2000 saw the adoption of a large number of legislative measures recommended in the Action Plan. According to the Plan, 2000 was the deadline to complete the legislative framework, to adopt the necessary regulations and to give a successful start to the enforcement of the new anticorruption legislation. Most of these measures were placed on the agenda of the government and were largely adopted under the pressure exerted by the civil society and due to the efforts of *Coalition 2000*. Certain external factors were also crucial in that respect, *viz.* the international commitments of the country, the conditions for accession to the European Union, etc.

It is worth mentioning the following **legislative measures** passed during the period in question:

- The **Law on Administration** (in force as of 6 December 1998) is quite detailed in distributing the powers between different bodies of the Executive, and setting out the structure of the administration and the organisation of its work. At the same time, however, the provisions concerning a number of key important issues in the fight against corruption are generally phrased and refer to specific laws, regulations or internal guidelines to be adopted later. As a matter of fact, most of these implementing instruments were not drafted and adopted as quickly as needed. While implementing the law, during the year 2000, organic rules were issued for the administration of the executive authorities. They had to bring about greater transparency in their work and dismantle the chances for corrupt conduct within the state machinery. However, the process of bringing those administrations into line with the law during the envisaged one-year period was not sufficiently

transparent. The same was true for numerous agencies and committees whose administrative structure had to meet the same rules.

*Irrespective of the efforts of many NGOs, no functioning mechanisms were promptly put in place to ensure accountability to the public and information about the work of the agencies.*

- Administrative service reform is in its initial stage now. In the beginning of November 1999, the **Law on Administrative Services to Natural and Legal Persons** came into effect. Its enforcement, however, has not produced the expected result yet. In fact, enforcement here is additionally impeded by the slow pace of public administration reform. Arbitrariness and abuse of individual interests can only be avoided on the basis of detailed and clear rules on the organisation and supervision of administrative services, coupled with procedural guarantees. For this purpose, and to bridge some inconsistencies between the regulations in force, the Corruption Assessment Report 2000 of *Coalition 2000* recommended that complaint and appeal procedures should be covered by a single piece of legislation based on the existing procedure for issuing and appealing against individual administrative acts (as set by *the Law on Administrative Proceedings*), while also drawing on the good solutions embedded in the *Law on Administrative Service to Natural and Legal Persons*.

*The view of Coalition 2000 is that administrative proceedings should be codified, albeit partially. This would generate legal guarantees for the rights of private parties in their relations with the administration, ensure larger transparency and control of the workings of the administration, and reduce the scope of malpractice when administrative services are provided and received.*

- The **Law on Civil Servants** (in force as of 28 August 1998) lays down the general requirements attached to the status of civil servants (which remain valid even if the status is acquired on grounds of special laws). It also sets out the appointment procedure, the rights, the duties and the liability (both disciplinary and financial) of civil servants. However, the persons qualifying as civil servants are not clearly defined yet. For example, persons working within the Administration of the Judiciary do not qualify as civil servants. Given the specificity of their work and their responsibility for the standard of the administration of justice, their status should be regulated specifically by introducing the necessary amendments to the *Law on the Judiciary*.

Several instruments of secondary legislation were adopted to implement the *Law on Civil Servants*: *Ordinance on the Official Status of Civil Servants* (in force as of 22 March 2000); *Ordinance No. 1 of 21 March 2000 on the Documents Required to take*

*up position in the Civil Service (in force as of 26 March 2000), Ordinance No. 1 of 22 January 2001 on the Civil Servants Register (in force as of 15 February 2001). A Code of Conduct for Civil Servants has also been drafted but the draft deviates essentially from Recommendation No. R(2000)10 of the Committee of Ministers to Member States on codes of conduct for public officials and the annexed *Model Code of Conduct for Public Officials* (adopted by the Committee of Ministers of the Council of Europe at its 106th session on 11 May 2000). The differences lie mainly in the narrower scope of application (e.g. Bulgarian legislation does not regard as civil servants the members of political cabinets, deputy provincial governors and deputy mayors), the different interpretation of the concepts of loyalty and conflict of interests, the lack of duties to provide information in the context of access to public information, the lack of supervisory mechanisms to ensure observance of the Code, etc. Given these discrepancies, the current Bulgarian Code is insufficient to limit the discretion of the administration and to ensure wider transparency and accountability in its work.*

*In the meantime, an *Institute of Public Administration and European Integration* has been set up. A major component of its activities is to help improve the knowledge and skills of civil servants.*

*The **State Administrative Commission** has been formed as well (*Regulation No. 152 of 28 July 2000 on the Establishment of the State Administrative Commission with the Council of Ministers*, in force as of 1 August 2000; *Organic Rules of the State Administrative Commission* adopted by Regulation No. 259 of the Council of Ministers of 14 March 2000). By virtue of the Law on Civil Servants, the Commission should monitor comprehensively the observance of the status of civil servants and the performance of their duties. It is difficult to forecast how efficient this control would be, especially given the existing rule that the Commission may, but is not bound to, address mandatory instructions to the appointing authorities to make them rectify the irregularities pertaining to the status of civil servants.*

*The stakeholders of the Coalition 2000 process share the view that the steps designed to strengthen the status of civil servant and improve their professional competence should be combined as soon as possible with mechanisms that prevent the conflict of interests and with enhanced internal control, as both of these would have anticorruption effects.*

*In addition, the current rule which prohibits civil servants from making public statements on behalf of the administration needs to be detailed and applied in a differentiated manner. The rigorous implementation of this prohibition in its present form would isolate the public administration and inhibit transparency, thus kindling at least suspicions of corruption and giving ample room for media guesses and interpretations. In that respect as well, the lack of rules on the dialogue with the public should be rectified, in particular rules on communication with the media.*

- The provisions on **financial and property liability** have been developed substantially. Their enforcement is crucial to cut off corrupt practices at the high layers of power. First, an obligation was imposed on civil servants to disclose their property. Afterwards, the *Law on Disclosing the Property of Persons in Senior Government Positions* was adopted (in force as of 13 May 2000). The duty to disclose is now incumbent on a wide range of individuals in senior government positions. The addressees of the law must declare annually their own income and property acquired during the previous year, and the income of their spouses and children under age.

The public register of persons obliged to disclose their property under the law is kept by the President of the Audit Office. The law determines who shall have access to the data in the register and sets out the procedure for obtaining such access. Though the provisions of this law more or less express good wishes, the public disclosure of compliance or failure to comply with the law is expected to have strong moral repercussions. These expectations were actually met once implementation of the law had started - even the announcement of the names of individuals who had not disclosed their income on time stirred public reactions that could become a major deterrent against corruption. Of course, the need to monitor compliance with the law would still be there, quite like the need for appropriate sanctions in the event of violation. It is too early to judge whether the obligation of civil servants to declare their property before the appointing authority (first upon taking office and then annually, by 31 March every year) would be a sufficient brake to corrupt practices and how operational compliance controls would be. It is obvious, however, that **the rules on property and financial disclosure** and their practical implementation are of major importance to the eradication of corrupt practices.

*The rules on financial and property disclosure need to be developed further, while expanding the powers of the supervisory authorities and providing for stricter sanctions. The mechanism of public-private partnership - organising and participating in discussions, drafting specific proposals, etc. - should be used more rigorously to refine the categories of persons covered by the law, the access to the register, and the protection of personal data, and in the longer run - to make possible the transition to an electronic register.*

- The long-awaited *Law on Access to Public Information* (in force as of 11 July 2000) was adopted as well. It is intended to put in place the legal prerequisites for greater transparency in the work of the public administration. The mere adoption of the law, however, would not create automatically the required technical, organisational and legal conditions for its efficient enforcement. First of all, the existing public registers are incomplete, sometimes mistaken and have not been kept so as to enable general access. There are no comprehensive information systems in almost

any area susceptible to corruption, *e.g.* real estates, customs, taxes, etc. Secondly, access to public information depends directly on some other instruments that are not adopted yet, *viz.* the *Law on the Protection of Personal Information* and the *Law on Official Information*. If concepts such as "official secret" are not clearly defined by law, it would be impossible to do away with the judgmental conduct of government agencies. This, in turn, may well impede the access to public information or make certain corrupt attitudes and practices recur. In addition, the protection of individuals against the abuse of their personal information possibly committed by the state or by third parties is impossible unless there are stringent rules, set out in a separate law, on the collection and processing of personal data and on the access thereto. EU directives are also based on the fundamental requirement that personal information should only be collected and processed on grounds of a law. In Bulgaria, various instruments of secondary legislation are now in force which serve as the basis to sustain different registration, permit and licensing regimes and to collect personal data. A number of private-law entities, *e.g.* banks, the Bulgarian Telecommunications Company, the National Electric Company, the district heating companies, etc., also collect personal data they need for their operations but there is no uniform legislative protection for those data.

*The ever wider use of electronic data exchange and electronic communications in business deals and in the day-to-day relations between private parties, on the one hand, and between private parties and the administration, on the other hand, makes it even more urgent to respect the legal provisions concerning personal data protection.*

- The existing draft ***Law on Combating Corruption and Financial Crime*** provides for a special State Agency for Combating Financial Crimes and Corruption. It should be set up as a specialised body with the Council of Ministers, *i.e.* within the Executive branch. The envisaged status and exceptional powers of that body within the Executive and the fact that corruption for the purpose of the law is confined to bribes and crimes committed upon fulfilling official duties have given rise to extensive debates on, *e.g.* whether the law would be efficient, if it would be compatible with the Constitution and whether it would duplicate some powers vested in already existing specialised authorities and bodies.

*Based on the pros and cons of practices in other countries, and taking account of the situation in Bulgaria, Coalition 2000 would recommend that work should continue and efforts should be made to find better solutions in that respect.*

- The newly-adopted *Law on the Organisation of the Territory* (in effect as of 1 April 2000), invited serious criticism among experts, guild organisations and private businesses already with its adoption. The debates concerned the numerous prohibitions contained in the law, the unclear criteria for issuing licenses and permits, the discrepancies or inconsistencies with other laws, the references to non-existent laws and, finally, the incentives for corruption the law allegedly creates.

As regards public administration reform, the experience gained between 1998 and 2000 has shown that *no legal or institutional prerequisites, that would be sufficient in volume or efficiency, exist yet to deter corruption. Regardless of the formal legislative progress, the sectors affected by corrupt practices have not shrunk substantially in real terms.*

The slow and inconsistent evolution of the legal framework of the reform, the lack of sufficient and sustainable legal prerequisites hostile to corruption affect directly the operation of government institutions and of the civil society, and hinder the development of a sustainable anticorruption institutional environment. The state still demonstrates a reflex of self-preservation and self-protection rather than a reflex to develop mechanisms protecting citizens and the society against the misuse of power. The democratic decentralisation of the state has not taken place yet. The amendments to the *Constitution* and the package of draft laws on local government, which had been planned for the period 2000-2001, were not enacted. The intent of these drafts was to make the municipalities more independent, also in terms of taxation. Unfortunately, this was not a publicly defended idea combined with specific solutions or objectives but a topic used mainly as a pre-election argument.

There has been no progress in transferring certain public functions to private subjects, notwithstanding the pressure and the demand on behalf of the private sector. A noteworthy example here is the proposal to pass a law empowering the guild organisations to issue all licenses, except for those bearing on national security, on public health or on activities covered by international treaties.

*The transfer of some state functions onto non-governmental organisations is a feature of any modern democratic state. It is also a must for the development of an anticorruption pattern of relations between the state and the civil society in transition countries.*

## **1.2 Setting up New and Improving the Existing Supervisory and Monitoring Institutions and Units**

## A) *Action Plan Recommendations*

Given that the existing supervisory and monitoring institutions and units are not always able to combat, on time and efficiently, the corrupt practices and the omnipotence of the administration and given that specialised institutions themselves are not by default immune from corruption, the general objective here was to enhance the role of some existing agencies and to set up new supervisory and monitoring institutions in an attempt to effectively deter corruption. The emphasis was placed on institutions outside the judicial system, that were quite different in status and functions, ranging from genuine supervision via monitoring or to intermediary involvement without any powers and resources. In particular, it was suggested to: 1) promote the role of the Audit Office as a supreme state authority exercising independent external (*ex-post*) control for the execution of the budgets approved by the National Assembly and by municipal councils; 2) enhance financial and tax controls, the specialised anti-money laundering control, and internal controls, foster interaction among the Audit Office, the previous State Financial Control, the tax administration, the customs authorities, the Ministry of Interior and the Judiciary, and put in place a single information system linking together supervisory agencies and law enforcement; 3) introduce the institution of the Ombudsman who should be vested with monitoring the administration of social processes and the work of public authorities.

1) The role entrusted to the **Audit Office** is fairly important and, hence, the proposed legislative amendments aimed at improving its operation: to take on board the European and international principles of external and internal control by, *inter alia*, avoiding redundant controls; to expand the forms and methods of macroeconomic control; to enhance the use of methods of current monitoring *vis-à-vis* the units controlled; to reinforce the *ex-ante* control exercised by the Audit Office; to develop its advisory functions; to improve its structure; to introduce clearer rules on its relations with other state agencies (the National Assembly, the Judiciary, Bulgarian National Bank, the State Financial Control) and promote interaction among them, while distinguishing between their respective control functions.

2) The following specific proposals were made for **legislative reform and institution building in the area of tax and financial control**: amendments to the tax legislation so as to clarify the powers of tax authorities and simplify taxation, ensure greater transparency of the internal regulations adopted by various institutions, and lower the taxes and the customs duties; amendments to the *Code of Civil Procedure* to ensure the speedier development and resolution of cases relating to defalcations and proper financial incentives for employees who contribute to the detection of tax offenders; developing a system to control the management of ministries and agencies and improving the internal financial control units; promoting interaction among the State Financial Control, the Audit Office, the tax administration, the customs authorities, the Ministry of Interior and the Judiciary by way

of adopting joint regulations and instructions; reconsidering the role of the State Financial Control to avoid duplication of its functions with those of the Audit Office; setting up a single information system linking supervisory and law-enforcement bodies; developing a system to control the management of ministries and agencies; reinforcing the internal financial control units at different agencies and organisations; enhancing the specialised anti-money laundering control, and expanding co-operation with the European Union and its member states (*inter alia* through measures relative to the introduction of the euro).

3) The recommendation to introduce the institution of the **Ombudsman**<sup>1</sup> came up in quest of new, out-of-court, mechanisms of monitoring and *sui generis* control of the vast area of governance and administrative operations which comprises, *inter alia*, the exercise of executive powers (administration in the narrow sense), the organisation and management of judicial administration, public services and the services provided by non-governmental institutions. This institution would not compete with or copy the existing traditional mechanisms but rather complement them when the division between public and private - an essential feature of the rule of law - has been transgressed, *i.e.* when public authorities or non-governmental institutions vested with certain public functions fail to ensure the free exercise of private rights and freedoms or disrespect, or interfere with, such rights and freedoms.

#### ***B) Assessment of Anticorruption Efforts and of the Measures Taken to Date. Future Prospects***

The measures taken to enhance the anticorruption dimensions of supervisory institutions and to build up new institutions could be best assessed on the basis of the results achieved.

- The passing of the ***Code of Tax Procedure*** (in force as of 1 January 2000), put in place legal rules to prevent and detect tax offences, and to fight corruption within the tax administration. An Agency for State Receivables was set up which is endowed with powers to combat corruption. Internal control units were also formed. The foundations are there for the tax administration to function better but the desired anticorruption effect is not visible yet, despite the wide powers given to the

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<sup>1</sup> *The institution of the Ombudsman has been created and operates successfully, in one way or another, not only in its native land - Sweden - but at a pan-European level as well, within the framework of the European Union. It also exists in almost all European countries and in the whole Balkan region, except for Bulgaria and Turkey.*



tax authorities. Moreover, these powers have invited discussions on possible abuses and on the need for more serious guarantees to prevent such abuses.

*The planned amendments intended to reduce the taxes would alleviate the tax burden on individuals and private entities alike and would foster tax compliance. Indirectly, they would also discourage the attempts to evade taxes through corrupt practices.*

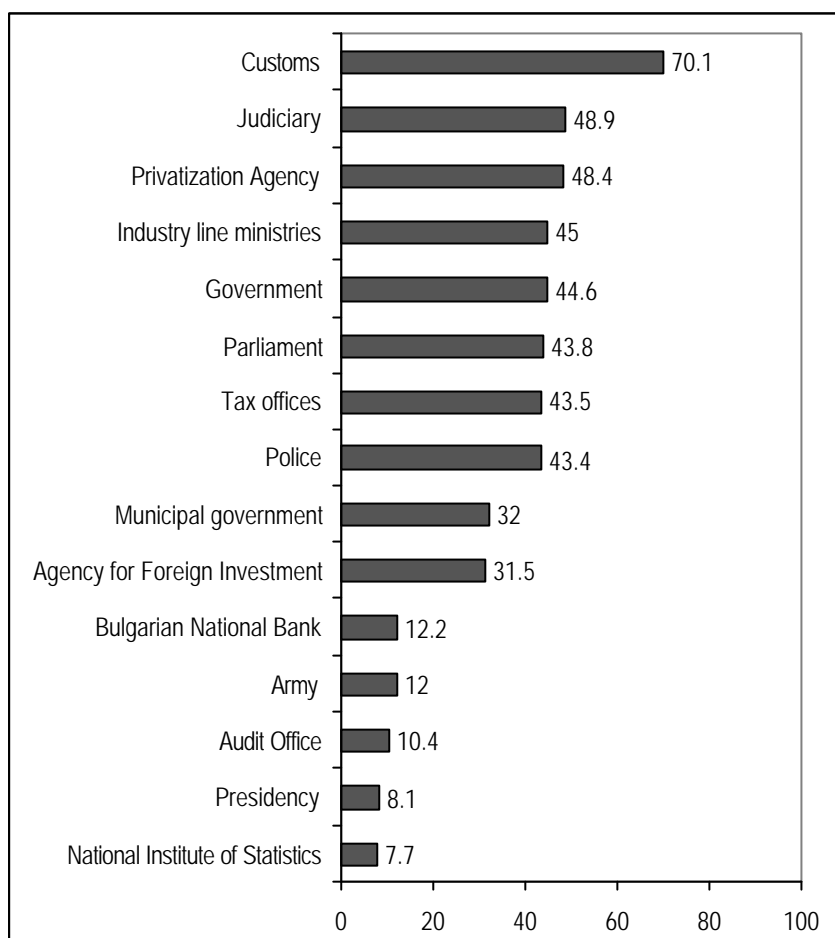
- The ***Law on State Internal Financial Control*** (in force as of 1 January 2001) introduced a modern financial control system based on the *ex-ante* internal control exercised by the Agency for State Internal Financial Control (*Organic Rules of the Agency for Internal Financial Control*, adopted by Regulation No. 35 of the Council of Ministers of 13 February 2001). Internal financial control within the meaning of the law should be combined with the external control of budget expenditure exercised by the Audit Office.

*The need for enhanced supervision of how privatisation proceeds are spent has also come to the fore. Similarly, the rules on administrative and financial liability should be improved in this context.*

- Some steps have been made to start aligning the legislative basis and the practice of the Bulgarian Audit Office with those of the Court of Auditors of the European Communities. The Audit Office is a major player in enforcing the *Law on Disclosing the Property of Persons in Senior Government Positions*, as the register under that law is in fact kept by the President of the Audit Office.

*The supervisory powers of the Audit Office are indeed crucial to reduce corruption. Moreover, the prevailing public opinion is that the Audit Office is one of the least corrupt institutions in the country (Figure No. [2]). Hence, it is recommended to develop further the existing legal rules on the operations of the Office and to provide for some new legislative solutions. This recommendation concerns both the control entrusted to the Audit Office and the supervisory powers of the state internal financial control and the tax administration, in particular the powers of specialised tax compliance bodies. It would be necessary to establish clearer rules on their competencies and on their relations with other government agencies, such as the Judiciary, the Ministry of Interior, and the Financial Intelligence Unit (an agency with the Minister of Finance), and to improve interaction among them.*

**Figure 2. Level of the proliferation of corruption in the public institutions\***



*\*The proliferation of corruption was assessed by 1-5 scale, where 1 means “Not proliferated at all” and 5 - “Proliferated to the highest degree”.*

*The Figure 2 presents the share of respondents who mentioned options 4 and 5.*

*A fully-fledged system should be implemented to keep track of and control the cash flows that are not accounted for, as corruption-related money always takes the form of such flows. The speedier the reforms based on the above recommendations are, the less friendly the environment would be to corruption.*

- **The *Law on Measures against Money Laundering* was amended and supplemented with effect as of 6 January 2001.** The amendments were necessary to align Bulgarian legislation with the Directive of the Council of Ministers of the European Union on Prevention of the use of the Financial System for the Purpose of Money Laundering. The amendments extended and specified the list of entities bound to apply anti-money laundering

measures. There are now specific rules on when customers need to be identified, on the identification procedure, on the procedures for storing and disclosing information, and on the protection of information. The Financial Intelligence Unit set up by virtue of the original text of the law was transformed into an agency, *i.e.* a legal entity with the Minister of Finance, funded through the State budget and having its seat in Sofia (*Organic rules of the "Financial Intelligence Unit" Agency*, adopted by *Regulation No. 33* of the Council of Ministers of 12 February 2001). More detailed rules were also inserted on the internal organisation and control exercised by the Minister of Finance and by the Director of the FIU. International co-operation is tackled as well.

*Further improvements of the legal rules and their enforcement should result in reconfirming the role of specialised anti-money laundering control which should contribute to deterring and detecting any instances of corruption associated with this phenomenon.*

- In September 2000, the Council of Ministers adopted **rules on the new Integrated Information System** that should bring together the data collected by the customs authorities, Ministry of the Interior and the judicial system. The system has been set up with the National Statistical Institute and should mirror the efforts of Ministry of the Interior, the Ministry of Defence, all investigation services, courts and prosecution offices in combating crime. The development of the system is in its initial stage now. There is no technical capacity yet to implement it on a full scale. Such capacity is urgently needed in the courts so that they could keep track of the development of cases and promptly register information on the outcome of litigation. Despite the fact that an interagency task force has been set up for this register, the latter is not yet operational.

*The functioning and effectiveness of the integrated information system would largely depend on the swift adoption of legal rules on official information and on personal data protection, as the lack of safeguards against the misuse of personal information entails significant risks of corruption, especially when data about large-scale crime are at stake.*

Because of *Coalition 2000* initiatives and the joint work with government institutions, with a broad roster of experts and NGOs, it has become widely accepted that **a special institution, along the model of the ombudsman, should be introduced at the national level.** This institution should be outside the branches of power in order to monitor and control the administration and act as a brake upon corruption and arbitrariness that transgress the rights of individuals and their organisations. In 2000, the idea to set up a

specialised institution to supervise and monitor the administration (an ombudsman) - as a mechanism that would complement and parallel the slower judicial, administrative and other existing remedies - was embraced by representatives of core government agencies, members of Parliament, members of the Judiciary and of the Executive, and by the civil society. The concept paper and the *Draft Law on the People's Defender and on Civic Mediators*, developed within the framework of *Coalition 2000*, were widely discussed and publicised. The draft law was talked over at numerous public hearings organised by *Coalition 2000* in co-operation with the standing Parliamentary Committee on Human Rights, Religions and Citizens' Complaints and Petitions. Those hearings were attended by representatives of ombudsmen and similar institutions in Spain, Greece, Canada, scholars and experts from the country and from abroad, guests from other NGOs and international institutions (ABA/CEELI, the Parliamentary Centre of Canada, etc.).

*The public hearings introduced in the practice of the Parliament, as a useful method to promote new ideas generated by the civil society and to improve legislation, were a major component of the public-private partnership model launched.*

*Due to the efforts of Coalition 2000, a number of public hearings took place on the Draft Law on the Ombudsman and on other elements in support of the drafting and advocacy process. The following of them were essential:*

- *Public discussion "The People's Defender of Civil Rights and Freedoms and the Development of Efficient Local and Central Government Administrations", October 1999, Pleven.*
- *First public hearing on the Draft Law on the People's Defender (November, 1999), National Assembly, Sofia.* Organised jointly with the Committee on Human Rights, Religions and Citizens' Complaints and Petitions, and involving representatives of the Committee on Legal Matters and Anticorruption Legislation and the Committee on Public Health, Youth and Sports. Numerous recommendations and remarks were made by the participants. Mr Rovira, First Deputy to the People's Defender in Spain, and Canadian experts shared their views based on their experience in establishing the Ombudsman institution. The members of the drafting task force explained some of the legislative proposals.
- *International conference "Establishing the Ombudsman Institution: the Bulgarian Perspective" (November 24, 2000).* Organised jointly with the Parliamentary Committee on Human Rights, Religions and Citizens' Complaints and Petitions, the American Bar Association / Central and East European Law Initiative, and the Union of Jurists in Bulgaria. Professor Nikiforos Diamandouros, Ombudsman of Greece, explained the Greek experience with the institution and offered extensive comments and recommendations on the Bulgarian Draft Law on the Ombudsman. Ms. Hanne Juncher, expert at the Directorate General of Human Rights, Council of Europe, briefed the participants about ombudsman-related activities within the Council of Europe. Bulgarian MPs appreciated NGOs' involvement in the development of the draft law and expressed their hope that a working piece of legislation would be adopted.
- *Second public hearing on the Draft Law on the Ombudsman, National Assembly (February 2001).*

The final version of the draft law was based on the public hearings held, the opinions expressed, the recommendations and the suggestions made. It was titled ***Draft Law on the Ombudsman*** and was presented to the National Assembly in November 2000 by a group of MPs. The draft provides for introducing an ombudsman and local mediators, and draws on the classical model of ombudsmen in other European countries while reflecting the necessary and possible specificity to tailor the institution to the conditions in Bulgaria. The

idea of the draft is to offer a new type of safeguard for the fundamental rights and freedoms of individuals citizens and their organisations, in parallel to other existing remedies, *e.g.* the traditional parliamentary mechanisms (mostly the parliamentary committees), the Constitutional Court, judicial and administrative review, the media, citizens' NGOs.

Because of the forthcoming elections, however, the draft law dropped out of the legislative priorities of the 38th National Assembly. Nevertheless, the public and political support for it is already there. The passing of this law would be the fruit of a successful public-private partnership and would build up a nation-wide mechanism plus local institutions that would operate on the basis of morality and integrity in resisting abuses by the administration, registering violations of the division between the public and the private sphere, and protecting citizens and their organisations. In some municipalities the partner organisations - the Center for the Study of Democracy and the Centre for Social Practices - have implemented under the auspices of *Coalition 2000* projects for appointing civil observers and civic mediators. These have shown the practical usefulness of such mechanisms for the benefit of the general public.

*The start of public-private partnership to accomplish specific objectives in this area could be assessed as largely successful. On the whole, however, it appears that the public sector should make more efforts and demonstrate more willingness to adopt and implement decisions and monitoring mechanisms that may contribute to restraining more efficiently the major internal factors for corruption, developing an institutional environment intolerant to corruption and encouraging anticorruption attitudes and climate.*

### **1.3 Developing the System of Public Procurement**

#### **A) Action Plan Recommendations**

The main objectives in this area were to align existing legislation and practice with European standards, to speed up the award of public procurements and to enhance compliance controls. In view of the flawed original rules (the first *Law on the Award of Government and Municipal Procurements* of 1997 was repealed later). the suggested measures envisaged legislative amendments and an efficient and transparent system of awarding procurement contracts, handling complaints and arbitration.

#### **B) Assessment of Anticorruption Efforts and Measures**

The legislation on government and municipal procurement has been quite dynamic. The *Law on Public Procurement*, which came into force on 5 July 1999, repealed the previous *Law on the Award of Government and Municipal Procurement* (1997) which had proved to be quite inefficient. However, despite the proclaimed principles of openness and transparency, free and fair competition, equal opportunities for all bidders, etc., the new

law does not provide good enough safeguards. For instance, there is no clear-cut distinction between the three procedures introduced by the law (open procedure, short listing and negotiations) on the basis of accurate criteria, so the governmental and other contracting authorities still have relatively extensive possibilities to make decisions on the basis of expediency and discretion. Proper enforcement of the new law would need some organisational and administrative prerequisites. Failing this, it will share the fate of its predecessor. Moreover, the prevailing opinion among private businesses is that not only the law, as formulated now, but also its incompetent implementation by the contracting authorities discourage the business and are actually conducive to abuse and corruption. Solutions could be sought in the following aspects:

- greater transparency of the procedure of awarding public procurements and stricter performance controls;
- speedier and more efficient appeal procedures;
- revising the relations between the Audit Office, the State Financial Control and the Public Procurement Directorate at the Council of Ministers;
- quicker implementation of the public procurement register and making the information on that register fit to be used as evidence in court (on grounds of the existing *Ordinance on Keeping the Public Procurement Register*);
- setting a threshold for tender deposits;
- setting up an authority (*e.g.* a Public Procurement Agency) that will act as an out-of-court body to settle disputes between contracting authorities and bidders;
- gradually automating the award of contracts on the basis of new technologies and in line with the two proposals (submitted in May 2000) for EU directives on electronic procurements (some estimates suggest that by 2003, 20 per cent of public procurements in the EU would be made electronically).

*Prompt reaction should be given to the criticism that the indispensable organisational, legislative (regulations) and administrative prerequisites are not yet in place to ensure the implementation of the principles proclaimed by the law, viz. openness and transparency, free and fair competition, a level playing field for all bidders.*

#### ***1.4 Reforming the System of Political Parties and the Civil Society (Legal and Institutional Framework of the Third Sector)***

##### ***A) Action Plan Recommendations***

Based on the analysis of the specific reasons for political party-related corruption, the following measures were proposed for its eradication:

- 1) Enhancing the requirements for transparent overall operation of political parties.
- 2) Introducing a system of government funding for political parties.
- 3) Prohibiting local legal entities and foreign individuals and legal entities from making donations to political parties and related organisations.
- 4) Introducing mandatory requirements to ensure the transparent funding of political parties.
- 5) Full transparency of election campaigns.
- 6) Introducing detailed rules on relations between political parties and the State.

As constructive interaction between the political parties is usually impeded by uncompromising political struggles between them, special attention was paid to the possibility of NGOs to initiate a public dialogue to ensure a sufficiently wide support for these ideas, to devise a set of measures to foster transparency and accountability, and to establish a modern pluralistic party system.

Besides the recommendations to reform the political party system, which are an important component of the anticorruption strategy, the reinforcement of the civic control of anticorruption efforts was also tackled. This should include the development of a mechanism of continuous civic control *vis-à-vis* the authorities, based on clear rules providing for dialogue and interaction. Given the existing need to institutionalise the civic control of corruption within the public administration, political organisations and the judicial system, it was recommended to: improve the legal rules on the interaction between the administration and civil society structures; develop a modern regulatory framework on the legal status of NGOs; use appropriate training techniques to enhance NGOs' capacity to exert civic control over the work of public authorities, political organisations and the judicial system.

#### ***B) Assessment of Anticorruption Efforts and of the Measures Taken to Date. Future Prospects***

The system of political parties is not yet based on principles and models that could make it fully transparent and independent of the state. The intertwining between political parties and the government in all societies tempts human beings to present political parties' interests as public interests and pursue them even through corrupt practices. The funding of political parties in Bulgaria has been awaiting its legislative framework for too long. Government funding should be urgently introduced in line with objective criteria and accountability, under strict rules that ensure the transparency of party finances in general, and during election campaigns in particular, in order to do away with corruption in political parties and cut off the unofficial linkage between political parties and private interests.



- The newly-adopted *Law on Political Parties* (in force as of 28 March 2001), contains a number of anticorruption provisions, *e.g.*: a prohibition for political parties to engage in economic activities and to have equity interests in commercial companies; an exhaustive description of possible own revenues; rules on the annual government subsidy which shall be granted to all political parties represented in the National Assembly (based on the number of votes cast in their favour), and to political parties not represented in the National Assembly but having received at least one per cent of all votes validly cast at the last general elections; rules entrusting the Audit Office with the overall supervision of the financial revenues and expenditures of political parties.

Despite the serious objections raised during the debate and the veto imposed by the President, the law-maker did preserve, albeit partially, the anonymous donations to political parties. Although donations are only possible in the cases explicitly listed in the law, the mere opportunity to make such gifts would undermine the complete transparency of political party finances and place a portion of these funds beyond control.

As political party legislation is directly connected with electoral laws, the new Law on Political Parties was actually passed on the eve of the last elections and right before the *Law on Electing Members of Parliament* was voted on. Because of the short time and the election campaign, the adoption of these laws was not accompanied by any democratic public debate.

The system of political parties needs a better legal basis that should enable the proper operation of institutional anticorruption mechanisms. At present, however, the party sphere remains conducive to corrupt practices. This could be attributed to a number of reasons, *e.g.*:

- the insufficient distinction between the government sphere and the political party sphere, between public and private interests;
- the lengthy absence of appropriate legislation on and traditions in developing lawful sources of funding and in controlling the finances of political parties and politicians;
- the inequality between political parties during the election campaigns, and the virtually non-existent conditions for transparent lobbying.

*The slow progress in these areas sets back the reform of the party system and makes it impossible to distinguish between public and private interests.*

The legal framework of the NGO sector, which is a must if we are to institutionalise and reinforce civil control against corruption, has developed at an even slower pace.

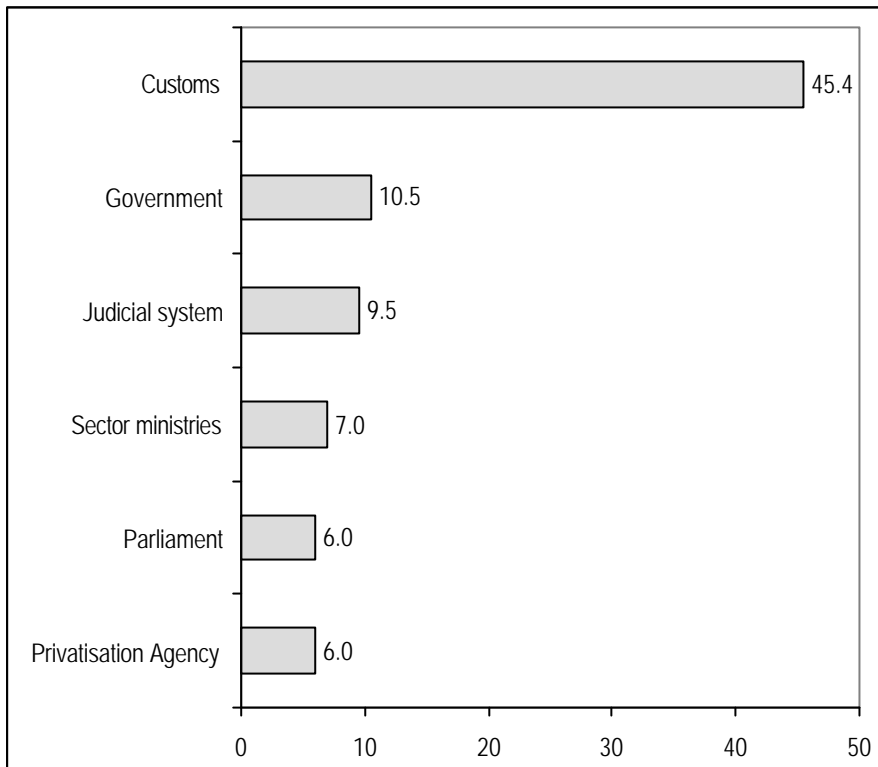
- After a delay of almost ten years, in September 2000 *the Law on Non-Profit Legal Persons* was finally passed (in force as of 1 January 2001). The law lists the categories of non-profit legal entities: public benefit or mutual benefit associations, and foundations. After their formation, public benefit associations should be entered in the Central Public Register at the Ministry of Justice. They are subject to annual audits: by 31 May every year, they should lodge at the Central Registry with the Ministry of Justice information on their activities and on any changes in their court registration; a list of the members of their managing bodies; certified annual financial statements or statements audited by a chartered accountant; annual reports; statements concerning any taxes, customs duties and other liabilities to the Exchequer; any amendments to their statutes or other constituent documents. The requirements for openness and control of the operations and finances of public benefit associations should pave the way towards preventing abuse and corruption.

*Despite a promising beginning, there is no permanent efficient mechanism of civic control over the structures of power yet. The delay in setting up an adequate anticorruption legal and institutional environment in Bulgaria is still a major obstacle to establishing a democratic society and to ensuring the country's economic prosperity.*

## **2. Public-private Partnership with respect to Judicial Reform**

The consolidating objectives in establishing partnership in this area are to put in place the legislative and organisational measures needed to secure legal stability and confidence in the judicial system in Bulgaria, to provide conditions for greater openness and transparency in the administration of justice, to speed up court proceedings, to devise internal control mechanisms to counter the misuse of power and to build a system enabling those working in the judicial system to improve their professional skills. One of the headlines of the recommended judicial reform naturally derived from the need to divert any corruption from the judicial system itself and to insert a set of efficient sanctions to address the various forms of corrupt behaviour. Account was also taken of the fact that Bulgarian public opinion and the business circles perceive the judicial system as one of the six most corrupt institutions in the country (Figure No. 3).

### **Figure 3. The most corrupt institutions**



Base N = 331

Source: *Corruption Monitoring System, Business Elite Survey, January, 2001*

The above general objectives also predetermined the main priorities of the reform: improving the legal basis of the reform, *i.e.* the relevant substantive and procedural laws (legislative reform *stricto sensu*); reforming the way in which the judicial system operates (court administration reform); bettering the recruitment of new magistrates and employees and improving their professional skills by training judges, prosecutors, investigators and court clerks.

The *Judicial Reform Initiative in Bulgaria* supported both the priorities of judicial reform and the view that it had to be accelerated. The initiative brings together eight NGOs, representatives of government agencies and international institutions, following the model of *Coalition 2000*.

The initiative was launched in March 1999 as a joint endeavour of the Association of Judges in Bulgaria; the Union of Jurists in Bulgaria; the Modern Criminal Justice Foundation; the Chamber of Investigators in Bulgaria, the Legal Initiative for Training and Development (PIOR), the Legal Interaction Alliance, the European Network of Women in Police –Bulgaria; the Center for the Study of Democracy, which also acted as a secretariat for the initiative; and representatives of the Legislature, the Executive and the Judiciary. The main objective of the initiative was to develop a detailed Program for Judicial Reform in Bulgaria (PJR) based on a broad consensus throughout the country.

A consensus-based document was drafted under the title **Program for Judicial Reform in Bulgaria**. It was discussed at a number of widely representative fora and was finally endorsed at a Policy forum held in May 2000. The Program identified the areas for priority action and contained specific proposals within the ambit of these priorities. It provides good ground for the future development of the judicial system in the areas in question.

*The Program for Judicial Reform in Bulgaria has been developed by eminent Bulgarian lawyers and benefits from the combined efforts of government authorities, representatives of influential non-governmental organisations, and experts who have offered their expertise to ensure the future successful development of judicial reform in Bulgaria. In its various sections, the Program addresses all the issues that are deemed essential for a successful judicial reform.*

*"The ideas in the Program for Judicial Reform in Bulgaria, developed by the Judicial Reform Initiative, mirror the views of fellow lawyers and point to ways in which the judicial system should be changed in the context of Bulgaria's EU accession and the democratisation of the country."*

*Nelly Koutzkova, Chair, Sofia District Court*

An important change in this area over the past two years has been the ever growing recognition of the need for judicial reform at the highest layers of state power. Under the impact of some objective trends inside the Judiciary and the pressure of the civic society, including the guild associations of magistrates, the Executive, which had previously rejected even the applicability of the term "reform" to the Judiciary, has come home to the inefficiency of the existing court administration, the problems with the administration of justice, the black spots in staff qualification and recruitment and, finally, the need to develop the legal framework of the judicial system.

## **2.1 Legal Basis of Judicial Reform**

### **A) Action Plan Recommendations**

In implementation of the objectives identified - to curb the conditions conducive to corruption to minimum and devise mechanisms for its prompt punishment - and based on the review of the legislation in force, some proposals for consistent legislative amendments were formulated.

In the area of **criminal law and criminal procedure**, the emphasis was laid on developing an overall concept for a new criminal policy and modern crime-prevention strategies that should be mirrored in a set of entirely new pieces of legislation, *viz.* a

*Criminal Code*, a *Code of Criminal Procedure* and a *Law on the Execution of Penalties*. The long-term goal is to modernise the legislation while gradually getting rid of the bad habit of making piece-meal amendments.

The following amendments to the *Criminal Code* were suggested (which could be used in the future new *Criminal Code* as well): to incriminate the so-called "new" offences, in particular economic crimes; to introduce more detailed rules on crimes against creditors, crimes committed on order from an organisation or group, drug-related offences and crimes committed by public officials; to decriminalise the crime of "provocation to bribery" (known as loyalty check) when such checks are intended to expose corrupted magistrates or other public officials; to introduce the penalty of forfeiture for property acquired as a result of corruption; to differentiate between criminal offences and misdemeanour and, based on that distinction, to reinforce criminal oppression for serious crime while alleviating substantially the penalties for misdemeanour; to introduce probation (a penalty served by working for the public benefit under administrative supervision, without isolating the sentenced person from his or her family or normal living environment); to expand the incentives for the law-abiding conduct of offenders, etc.

The proposed amendments to the *Code of Criminal Procedure* were subject to some major objectives, namely: creating conditions for openness and transparency in criminal justice while shifting the emphasis of the procedure to the court stage; enhancing the judicial review of the doings of pre-trial authorities; making the adversarial procedure more flexible by introducing mechanisms for the quick and cheap punishment of numerous petty offences and accelerating the prosecution of the most serious crimes. It was proposed specifically to: use simplified procedures to investigate acts that do not represent a particularly serious threat to the society; make it possible to suspend criminal prosecution and impose administrative penalties in the event of a court-approved plea bargaining in a wide range of cases, save for the most serious offences; transform some crimes from indictable offences prosecuted by the public prosecutor into offences prosecuted on the initiative of the victim (*e.g.* the offence of libel and slander through the media); enhance the tools that enable the parties to control the police, the supervisory authorities and the magistrates involved in criminal matters; introduce reasonably short time limits for delivering verdicts and for undertaking any procedural steps, etc.

As to **civil law and procedure**, the suggested amendments to current legislation in the commercial, contractual and other similar spheres were aimed at restricting to minimum the chances for corrupt behaviour.

The specific proposals with respect to substantive civil law and administrative law were tailored to the following objectives: simplifying the procedures for property acquisition; more transparency of commercial transactions, privatisation, concessions and other similar

activities when private interests are interwoven with state powers; introducing a less stringent regime for real estate transactions; shifting towards a simpler administrative procedure of company registration based on a minimum set of statutory requirements and without any possibility for the registrar to add new requirements; accelerating insolvency proceedings. Essential amendments were recommended to speed up court proceedings in civil, commercial and administrative cases. Some specific suggestions concerned the possible amendments to *the Code of Civil Procedure* and the *Law on the Bar* along the following lines: enhancing procedural economy, the discipline of all parties involved in litigation and speed when the parties exercise their procedural rights; improving the system of summoning so as to avoid the deliberate adjournment of hearings; setting up institutions for alternative dispute resolution (voluntary arbitration courts, mediation), while making their acts fit to be executed by bailiffs; improving the enforcement procedure so that the rights recognised by the court could be exercised swiftly and effectively.

***B) Assessment of Anticorruption Efforts and of the Measures Taken to Date. Future Prospects***

**Criminal legislation and criminal justice** bear directly on corruption. They still develop, albeit on a piecemeal basis, towards introducing penalties adequate to the modern forms of crime, including corruption, and ensuring a speedier and more efficient administration of justice.

The amendments to criminal law over the past years have been impelled by the pressure of the civil society and by the need to match specific public needs, *viz.* to reinforce the oppression of organised crime and to provide rules on white collar crime. In 2000, two laws amending and supplementing the *Criminal Code* were passed.

- The **first amending law** (in force as of 21 March 2000), introduced stricter sanctions in spheres frequently affected by corrupt practices. The law concerned the fight against drugs trafficking and incriminated new elements of crime subject to severe penalties, *e.g.* instigating or forcing someone to use drugs. Imprisonment in the case of libel and slander was replaced with fine and these acts will now be prosecuted on the initiative of the victim only. Finally, the sanctions for motor vehicles thefts and smuggling were increased and the list of criminal offences in this area was extended.
- The **second law** which amended the *Criminal Code* (in force as of 27 June 2000) **increased the sanctions for bribery**. Aggravated elements of crime were introduced, as well as criminal liability for officials covered by immunity. Two new crimes were added: promising and offering a bribe. The elements of the "provocation to bribery" are now reformulated. Agreement by a public official to receive a bribe, and the actual receipt of a bribe by a

public official, were equally incriminated. Likewise, the scope of active bribery of foreign public officials was extended.

The latest amendments to the *Criminal Code* have provided a more extensive coverage of the major forms of corrupt behaviour but the results of the combat against its most serious instances are far from being satisfactory. Corruption-related offences are hard to prove, so **criminal-law measures against them should develop persistently**. Those measures should not be solely confined to sanctioning the guilty offenders but should also prevent corrupt practices, *i.e.* they should both deter such practices and encourage the public to maintain zero tolerance to corruption.

*As a result of the studies made and the discussions held, the Coalition 2000 anticorruption initiative decided to put on the agenda of the public-private debate the improvement of the rules on bribery, which is usually perceived as a synonym to corruption, and to suggest amendments in the following areas:*

- Differentiating the liability for bribery depending on the perpetrator: the list of persons who could possibly commit the offence of bribery has been extended by the *Criminal Law Convention on Corruption* of the Council of Europe which is ratified by Bulgaria. Thus, aggravated elements could be envisaged for passive bribery committed by persons working in the judicial system, both magistrates and the administrative staff, the bribery of municipal counsellors could be incriminated, etc.;
- Certain preliminary steps preparing for bribery could be incriminated as well, *e.g.* requesting a bribe;
- The "traffic in influence" could be incriminated once the legal framework of lobbying has been put in place;
- The list of perpetrators of passive bribery should be extended so as to supplement the previous extension made in 1999 when foreign public officials in international business transactions were covered.
- The offence of "provocation to bribery" (loyalty check) could be decriminalised if it is practised to expose corrupted public officials.

*An important issue to be solved by a possible future amendment to anticorruption criminal rules concerns the immunity from criminal prosecution currently enjoyed by Members of Parliament and magistrates by virtue of the Constitution.*

*In the longer run, it would still be necessary to draft a brand **new Criminal Code** based on a comprehensive new criminal policy and a well-designed strategy to crack down on the modern forms of crime.*

- In 1999, the procedural laws were amended to accelerate the administration of justice and improve its efficiency and transparency. The latest

amendments to the *Code of Criminal Procedure*, in force as of 1 January 2000, are aimed at:

- reconfirming the prevailing role of the court and turning the trial into a central stage of criminal proceedings (in contrast to the pre-trial phase which is not public and is more likely to encourage corrupt practices);
- relieving the pre-trial phase of any unnecessary formalities and creating conditions for speediness and operational development;
- applying police investigation to a significant number of offences;
- building up a system of safeguards for citizens' rights, the most essential of them being the **judicial review** of measures to prevent absconding and other measures interfering with human rights;
- introducing adversarial court proceedings and restricting the *ex officio* intervention of the court;
- introducing **plea bargaining**, *i.e.* court-approved agreements between prosecution and counsel concerning the duration or the amount of penalty, as a procedural technique accelerating criminal prosecution and preventing the unofficial "arrangements" between defendants and magistrates.

The short period since the entry into force of the latest amendments to the *Code of Civil Procedure* has seen contradictory reactions by politicians and magistrates. Some political circles and certain groups within the public prosecution system have voiced reserves about the efficiency of the new rules and have criticised some of them, including *inter alia* the scope of police investigation, the deprivation of the procedural steps made by investigators of any evidentiary force, the squeezing of prosecutors' powers and the judicial review of all the decisions of prosecutors to discontinue criminal proceedings or to suspend the serving of imprisonment sentences. Some have suggested that, instead of accelerating criminal cases, the amendments have slowed everything down and corruption has now found shelter in the courts. The negative reactions against the amendments materialised into several draft laws aimed at abolishing those amendments which were presented to Parliament (and were voted on!) at the very end of its term of office. These drafts had been developed covertly and without taking account of the public debates on the issues at stake. The legal community, represented by its guild organisations (Association of Judges, Modern Criminal Justice Foundation, etc.) and most judges believe that judicial review of procedural steps at the pre-trial phase should be kept as this is an essential feature of any modern criminal justice system and a guarantee for an open procedure which is the best protection of individual rights. Opinions were expressed that the drafts in question are not in line with European standards, that the proposed system of criminal justice is inefficient and not backed up by solid funding. The hasty political decisions made just before the elections,



while neglecting the views of the legal community, of independent Bulgarian and foreign experts and of the whole civil society, could not but undermine the existing good fundamentals of public-private partnership in the area of judicial reform. Given the negative findings concerning the judicial system in the past few years found in the regular reports of the European Commission or announced by a number of other international organisations, such legislative solutions not only fail to contribute to a successful anticorruption strategy but also impede Bulgaria's progress towards accession to the European Union.

*There is an obvious need to evaluate thoroughly the reasons for the inefficient operation of some of the disputable provisions, and to analyse objectively the case-law, which is the final test for the effectiveness of any rule. In parallel, a long-term strategy should be developed as a basis for the **new Code of Criminal Procedure**. This instrument should ensure the openness and transparency of criminal justice, enable the quick and cheap punishment of acts that are less threatening to the society, and accelerate the proceedings for serious offences, such as the forms of corruption. The new code could abandon some of the provisions introduced in 1999 if the case-law reconfirms their inefficiency. It is recommended, however, to proceed to drafting a new code only after a certain period of time in which the new concepts and provisions introduced in 1999 would be put to the test, so that the case-law could approve or reject them. The new Code of Criminal Procedure should have a refined structure and cover the special surveillance techniques. It should also use unified modern terminology, change the law of evidence to emphasise on the safeguards against the arbitrary collection of proofs, etc.*

**Civil and administrative legislation** is not always directly concerned with corruption. Nevertheless, it can favour or deter its manifestation. The numerous amendments to the existing laws and the great number of new laws, which are sometimes inconsistent and give rise to contradictory case-law, may be conducive to corruption, especially when private interests are blended with government powers. Thus, it is necessary to adopt rules that would reduce those risks to minimum.

- A noteworthy piece of legislation in the field of property law is the **Law on the Cadastre and the Real Estate Registry** passed in 2000 (in force as of 1 January 2001). It is expected to be a major step enabling the shift from the current "owner-based" system of property registration to an "estate-based" system so as to provide genuine guarantees for the certainty of real estate transactions - an area characterised by significant instances of fraud and abuse.
- In 2000, the **Commercial Code** was amended and supplemented with effect as of 17 October 2000. One amendment - the new section 613b - is expected to improve the quality of justice in commercial cases and to have tangible anticorruption effects. It has introduced cassation appeals against

orders delivered in insolvency proceedings and against orders to discontinue such proceedings. This would bar the possibility to follow region-specific and divergent case-law, and to handle insolvency cases on the basis of local, non-legal, considerations. Thus, the Supreme Court of Cassation will now be able to exercise its constitutional powers as the final instance ensuring proper law enforcement.

- On 22 March 2001, the National Assembly passed the *Law on the Electronic Document and the Electronic Signature* (drafted by a group of experts at the Center for the Study of Democracy). The law will enter into force on 6 October 2001 and is expected to enhance the certainty and speed of electronic transactions and the electronic exchange of data in general. Its implementation in the relations between the public administration, on the one hand, and citizens, legal entities and merchants, on the other hand, would certainly step up the provision of administrative services, make lucid the whole procedure and narrow down, as much as possible, the possibility to solicit or offer bribes.
- The *Law on Consumer Protection and on the Rules of Trade*, in force as of 3 July 1999, is the first instrument with provisions in this particular area. Already at the outset of its enforcement, some problems have come to light that should be resolved quickly. The law provides for the so-called *class actions* whereby affected consumers can collectively defend their interests by litigation. *The Code of Civil Procedure*, however, does not envisage such actions yet. This substantial gap should be filled through the relative amendment.
- The amendments to the *Code of Civil Procedure*, in force as of July 1999, offered safeguards for the impartiality of the court, introduced summary proceedings, and confined insolvency proceedings to two instances. The amendments aim to restrict to minimum the groundless adjournment of hearings and the chances of parties to abuse their procedural rights. In particular, the following elements are envisaged:
  - accelerated procedure for summoning the parties;
  - summary procedures for some disputes;
  - the so-called "appeal for delay" to ensure the judicial review of unsubstantiated delays in resolving court cases which simply prompt many parties to resort to bribery.

*The latest amendments have not brought about any tangible acceleration of court proceedings since their enactment. Follow-up legislative amendments are*

*needed in this area in order to prevent any deliberate protraction of court cases and the abuse of procedural rights which may, directly or indirectly, foster corruption.*

- According to the *Constitution* the state is liable for the damages inflicted on citizens by illegal acts and acts of omission or commission of the administrative and law enforcement bodies. However, the existing legal regulation, provided by the *Law on State Liability for Damages Inflicted on Citizens* in force since January 1, 1989, does not facilitate substantially the citizens in their quest for legal defence of their violated rights. The legal procedure is slow and complicated. The majority of the citizens are not acquainted with the procedure in which they can retain the liability of the State and to safeguard their rights. The existing legal provision is not sufficiently effective because the institution that has violated the rights of citizens has to explain to the citizens their rights and procedures.
- **Execution of judgements** is the part of civil procedure which puts an end to civil litigation but, unhappily, it remains the one that is least reformed. The clumsy and inefficient execution procedure, where corruption is anything but rare, negates any effort to improve the administration of justice. Amendments are needed urgently to make impossible the endless extensions of enforcement and to give more rights to creditors.
- The rules on **administrative procedure** are scattered across several pieces of legislation: the *Law on Administrative Proceedings*, the *Law on the Supreme Administrative Court*, some provisions of the *Code of Tax Procedure*, the *Law on the Organisation of the Territory*, the *Law on Administrative Offences and Penalties*, and a few references to the *Code of Civil Procedure*. These instruments were adopted at different times, under different social and economic circumstances, and are inconsistent with each other or, even worse, exhibit serious discrepancies. The lack of coherent rules on administrative procedure puts the citizens, the administrative authorities and the courts in an awkward situation.

*It is recommended to adopt a Code of Administrative Procedure that would bring together and systematise the various types of administrative proceedings. That code will address in particular the following issues: legal criteria for the administrative acts excluded from judicial review; equality of the parties before the court with respect to evidence gathering; legal guarantees that administrative authorities would comply with court judgements (e.g. by introducing a more efficient system of fines and other sanctions, etc.).*

- Despite the view - widely shared by professional lawyers - that **out-of-court dispute settlement** is both needed and useful, no particular steps

have been undertaken to introduce and establish alternative dispute resolution techniques.

- The development of solid legal foundations to combat corruption goes hand in hand with the alignment of domestic legislation to well-established international standards in this area. This would benefit both anticorruption efforts country-wide and Bulgaria's role in international co-operation aimed at preventing and detecting cross-border corrupt practices. The process of alignment has been triggered already. In 1999, Bulgaria signed three corruption-related conventions: the *Criminal Law Convention on Corruption* (Council of Europe), the *Civil Law Convention on Corruption* (Council of Europe), and the *OECD Convention of Combating Bribery of Foreign Public Officials in International Business Transactions*. The first instruments ratified were the *Civil Law Convention on Corruption* whereby Bulgaria undertook to envisage in its domestic law efficient redress for persons having suffered from corrupt acts, and the *OECD Convention*. In line with the commitments under the *OECD Convention*, on 15 January 1999 a *Law Amending and Supplementing the Criminal Code* was adopted. The Code now defines the concept of "foreign public official" and giving bribes to foreign public officials in international business is a criminal offence. The penalty in this case is the same as for the active bribery of domestic public officials. In April 2001, the *Criminal Law Convention on Corruption* and the *UN Convention against Transnational Organised Crime* were ratified, as well as the *Protocol against the smuggling of Migrants by Land, Sea and Air*, and the *Protocol to Prevent Suppress and Punish Trafficking in Persons, especially Women and Children*, supplementing the *UN Convention against Transnational Organised Crime*.

*In spite of this important step toward satisfying the special prerequisites, the measures adopted to align domestic legislation to the standards embedded in the anticorruption conventions are still insufficient. This is true mostly for the definition of the forms of corruption, which should be clearer, for the criminal and civil liability for such acts, and for the protection of victims of corruption.*

*The existing legislation has not been comprehensively screened yet. A detailed review would inevitably result in repealing some obsolete or contradictory legal rules, on the one hand, and introducing a modern and consistent legal basis, better aligned with European standards, on the other hand.*

## **2.2 Reforming the Organisation of the Judiciary**

### **A) Action Plan Recommendations**

Echoing the need to improve and modernise the workings of the courts, the prosecution offices and the investigation services, the following main areas of activity were identified: developing and introducing automated document registration systems that would ensure the speedy and safe processing of files and provide citizens with prompt and easy access to the information they need; developing a system to allocate the cases to individual magistrates on the basis of objective criteria, while excluding any possibility to choose a specific magistrate for a specific case; rotation of magistrates and employees who work at units especially prone to corruption; introducing the team approach wherever the exercise of powers entails a higher risk of corruption.

**B) Review and Assessment of Anticorruption Efforts**

Judicial reform cannot be implemented through legislative changes alone. To consolidate independence, the organisation of the Judiciary should be modified, and the work of courts, prosecution offices and investigation services should be modernised.

- Judicial administration has been unduly neglected in the course of judicial reforms so far. It still relies on archaic principles and operates in a fashion and under conditions that nourish corrupt relations between administrators and citizens. Relative share of citizens who in their contacts with judicial administrators have been asked for money, gifts, or services is constantly high and substantially exceeds those of investigators, judges and prosecutors (Table 4).

**TABLE 4. “IF IN THE COURSE OF THE PAST YEAR YOU HAVE BEEN ASKED FOR SOMETHING IN ORDER TO HAVE A PROBLEM OF YOURS SOLVED, YOU WERE ASKED BY:”**

	<i>February 1999</i>	<i>April 1999</i>	<i>September 1999</i>	<i>January 2000</i>	<i>April 2000</i>	<i>September 2000</i>	<i>January 2001</i>
	<i>%*</i>	<i>%*</i>	<i>%*</i>	<i>%*</i>	<i>%*</i>	<i>%*</i>	<i>%*</i>
Customs officer	17,3	27,9	30,7	19,8	29,1	15,8	22,7
Police officer	22,3	22,8	25,9	23,4	19,5	24,0	18,9
Businessperson	13,4	12,0	12,8	13,7	11,9	9,7	11,6
Administrative staff from the judicial system	15,9	20,4	23,6	18,5	10,4	11,5	13,3
University teacher or official	12,4	9,5	16,2	10,1	12,6	13,9	13,2

Municipal official	15,6	11,5	18,0	11,3	11,7	10,3	11,2
Ministry official	5,4	6,7	7,6	3,2	3,7	7,0	8,9
Prosecutor	5,5	7,9	9,5	5,9	4,7	7,8	7,2
Tax official	9,5	6,6	12,1	8,4	7,8	8,3	6,4
Doctor	26,6	21,5	25,1	20,0	18,6	22,1	6,1
Judge	8,6	10,9	11,3	6,9	7,7	9,1	5,8
Criminal investigator	7,4	7,9	6,1	6,1	8,4	6,0	5,5
Member of Parliament	2,5	4,8	3,9	1,9	4,5	6,4	4,2
Banker	-	-	-	8,1	1,8	2,9	4,1
Teacher	3,4	4,8	5,0	4,9	3,0	5,5	3,7
Municipal Council member	8,9	8,6	5,7	6,7	5,6	3,2	2,1

\* Relative share of those who have had such contacts, and have been asked for money, gifts, or services.

Source: Corruption Monitoring System

There are no regulations on the work of the administration at the courts, the public prosecution offices or the investigation services. Numerous registers are being kept, most of them manually, the working conditions are primitive - a fact that makes it very difficult for the citizens and the barristers to obtain information and benefits bribery. The now existing *Ordinance No. 28* of 1995 Laying down the Functions of Servants at the Auxiliary Units and Registries of Regional, District, Military and Appellate Courts does not reflect the need to modernise and optimise court administration and its work. The draft amendments to this Ordinance prepared by the Ministry of Justice have not been adopted yet.

- A concept is currently being developed for automating the administrative work in the judicial system. This should result in: developing an uniform and compatible software product for the registration and processing of papers received at different units of the system; implementing an uniform software product for statistical data at all levels of the system; linking the information systems of different courts with each other and with the information systems of other institutions to enable the exchange and use of data (*e.g.* with encumbrances registration services, the tax authorities and the cadastre).
- Court administration reform is at an even earlier stage now. Work in courts needs to be organised in a new fashion so as to bridle corruption by

infiltrating greater openness and transparency in the administration of justice, by modernising and automating the work of court staff. The co-ordinated efforts in that respect started by setting up, in October 1999, an expert task force with the Supreme Judicial Council. It should devise an overall concept for the automation of court work on the basis of which a uniform software product should be developed to handle court papers. The successful implementation of these ideas would ease the access of individuals to information in courts, bring about transparency, and make possible the administrative and public oversight of that work.

“In order to increase the efficiency in the functioning of the Judiciary it is of major importance to create possibilities for out-of-court settlement of disputes, and to improve the work in administering the cases and the huge amount of written documentation that has to be traced. Therefore, an Integrated Information System has to be developed with the help of the Bulgarian state and international financial institutions”.

Thomas O’Brien, Resident Representative, The World Bank, at the Policy Forum of *Judicial Reform Initiative* held in Sofia on May 17, 2000

### **3. *Improving Staff Recruitment and Professional Skills***

#### **A) *Action Plan Recommendations***

Due to the lack of programmes designed to develop a certain pattern of professional and everyday conduct for magistrates matching the social status of their profession, the lack of a system to assess and recruit magistrates, the low professional skills of servants employed in the judicial system, and to a set of similar factors, *Coalition 2000* recommended the following steps to deter corruption: devising training programmes for newly appointed magistrates (including compulsory discussions on corruption); devising training programmes for experienced magistrates to discuss the latest amendments to the legislation in force; devising training programmes for court staff; drafting codes of ethics; developing objective promotion criteria while taking account of the results of any professional training undergone by the magistrate in question; introducing contests for appointment and promotion to senior positions in the Judicial system; co-ordinating appointment and promotion nominations with the magistrates working at the respective unit of the judicial system (who should be able to express their views by secret ballot); developing a system of collective acceptance of attestations for magistrates who have not completed three years of service in that capacity, *i.e.* who have not become irremovable; introducing a psychological test for applicant magistrates; setting up a Magistrate Training Centre.

***B) Assessment of Anticorruption Efforts and of the Measures Taken to Date. Future Prospects***

A successful fight against corruption should be based on a novel organisation of the Judiciary which would be impossible without well trained and highly qualified magistrates enjoying impeccable integrity, and without efficient court administration composed of good professionals immune from bribery. Thus, special efforts were made to put on the agenda, and in the focus of public debates, the need to carefully select magistrates and improve the professional skills of judges, prosecutors and investigators, to train court staff and to provide appropriate funding.

- In 1999, the first important steps were made to promote the professional skills of magistrates and enhance their ability to apply anticorruption legislation as part of their overall professional background. In April 1999, a **Magistrate Training Centre** was set up as a non-governmental organisation and became operational. The training programmes, however, are not yet developed enough to assist magistrates in detecting and sanctioning promptly the instances of corruption, nor are they sufficient to make them devise sustainable anticorruption patterns of behaviour for themselves. In addition to any further efforts in that respect, some amendments have to be made to the *Law on the Judiciary* in order to supply the training offered with statutory basis and to proclaim explicitly the commitment of the Ministry of Justice to the training process. Steps are also needed to ensure the qualification and training of court staff.
- As a body entrusted with appointing the members of and organising the Judiciary, the Supreme Judicial Council (SJC) has a key role in the recruitment and professional improvement of magistrates. However, the Council itself is still in need of a substantial institution building and of a strategy to solve a number of issues of paramount importance for combating corruption, such as:
  - developing and adopting transparent criteria for the appointment, promotion of and imposing administrative sanctions on judges, prosecutors and investigators;
  - developing a system of controls and standards of professional conduct to be observed by all magistrates, in particular by improving the procedure of lifting immunity from criminal prosecution, where necessary;
  - setting up a specialised unit in charge of investigating allegations of corruption within all the bodies of the judicial system.



Meanwhile, on 27 April 2000 an amendment to the *Law on the Judiciary* was passed which departed from the goals of the reform in that it deprived the members of the Supreme Judicial Council from the right to initiate disciplinary proceedings. This right has been retained to a limited extent by members of the Council by operation of law, *i.e.* the Chairman of the Supreme Court of Cassation (with respect to judges at the Supreme Court of Cassation and judges at the courts of appeal), the Chairman of the Supreme Administrative Court (with respect to judges working at that court) and the Attorney General (with respect to all prosecutors and investigators). Once the amendments came into force, all disciplinary proceedings against magistrates pending at that time were discontinued.

After a fairly difficult beginning, and further to a quite successful partnership in this area, in October 2000 draft amendments to the *Law on the Judiciary* were developed on the initiative of the Ministry of Justice and a number of NGOs. The working draft mirrored many of the core elements contained in the Action Plan of *Coalition 2000* and in the Programme for Judicial Reform. The draft amendments to the law (which is the organic law of Judiciary in Bulgaria) suggest contests as the fundamental method of appointing magistrates, provide for a magistrate status similar to the status of civil servants, and embody measures ensuring the institution building of the Supreme Judicial Council and its better co-ordination with the Ministry of Justice.

*The draft amendments were discussed openly at a public hearing held on November 17, 2000, and co-organised by the Center for the Study of Democracy, the Ministry of Justice, the Union of Jurists in Bulgaria, ABA/CEELI, and the Legal Interaction Alliance. More than 100 representatives of all branches of the Judiciary, the National Assembly and various NGOs attended the hearing and shared their views on the amendments proposed.*

Regretfully, despite the **public hearing** held and the opinions in support of the amendments, the draft did not make its way to Parliament. Instead, the National Assembly was presented with a draft law prepared by a group of MPs which was largely anti-constitutional and undermined the balance of powers - a principle underlying the organisation of any modern democratic state and of the European Union. During the last days of its term of office, the Parliament passed only some of those suggestions, mainly due to the negative reaction of certain NGOs and initiatives, such as the *Association of Judges in Bulgaria, the Chamber of Investigators, the Modern Criminal Justice Foundation, the Judicial Reform Initiative, experts from the European Union, etc.*

*It is of the essence to further amend the Law on the Judiciary so as to ensure the completion of many reform objectives. The overall judicial reform should match to the fullest possible extent the public needs for new legal regulation and for*

*organisational change, in line with the new social and economic processes in the country and with the need for legal stability and confidence in the judicial system.*

### **3. Public-private Partnership to Reduce Corruption in the Economy**

Reducing corruption in the economic sphere is important primarily as this is the sphere most affected by "large-scale" corruption whereby immense national wealth is redistributed illegally. Distorting competition, corruption impacts adversely normal business operations; it places the economic agents in unequal conditions which could be detrimental to those of them having limited financial resources. It is extremely difficult to establish a public-private partnership to counter corruption in this sphere because of the reluctance of public officials to give up the unregulated flow of benefits, which usually goes unpunished, and because of the dual role of businesses which are both the victims of corruption pressure and the source of corruption.

Corruption in the economy flourishes due to the unlimited discretion of the administration, on the one hand, and because of the negative and unforeseen implications of economic reforms, on the other hand. Reforms are normally intended to redefine the role of government and its specialised institutions which form the institutional framework of transition, to transform the state-owned property through privatisation, to set conditions beneficial to market economy development, to devise successful patterns of interaction between public administration and private businesses, to promote the consolidation of market institutions and to encourage the self-regulatory functions of the private sector. One of the consequences, which bears most directly on corruption, is the extremely large share of the informal, or grey economy which exists in most countries in transition. In the view of many experts, the spread of the grey economy is due, among other things, to the numerous and inconsistent laws and regulations, the resistance of the Executive, the lack of experience and willingness to implement adequate legislative changes, etc.

*“As economies begin to liberalize, corruption may emerge within the very process of change. For example, privatization is a key policy component in converting a government-dominated economy into one driven by private initiative. However, this transition process can corrupt public officials when it is combined with a mixture of low government wages and economic stagnation. Clearly, it is pointless to oust leaders for governing a corrupt system if there are no changes made to that system. Simply educating government leaders is not enough...*

*...Equally important is the fact that economic reforms and the adoption of a market-oriented economy also are associated to a great degree with lower levels of corruption. As noted in the text above, corruption flourishes in those countries where governmental decision-makers, especially those at lower levels in the government, have a great deal of discretionary authority. However, a market-oriented economy is not simply an economy where government gets out of the way. This is one of the great*

*myths hampering efforts to build sound economies in emerging markets. Rather, in a healthy market-oriented economy government plays a vital role in enforcing contracts, providing for a level playing field (antitrust and other pro-competition laws and measures), enforcing property rights, and a host of measures to ensure all firms are treated equally (domestic and foreign). Establishing these functions of government while reducing discretionary decisionmaking (usually behind closed doors) are a key part of both anti-corruption and building a sound market system.”*

*John Sullivan, Executive Director CIPE in the Speech “Anticorruption Initiatives from a Business View Point”, given at the Sixth Annual Harvard International Development Conference “Development as a Two-way Street: Merging Social Progress with Financial Profits” – April 8<sup>th</sup>, 2000*

### **3.1 Privatisation**

#### **A) Action Plan Recommendations**

Based on the understanding that privatisation is a key component in the transition from a centralised to a market economy, the anticorruption strategy developed in the Action Plan which set the following fundamental objectives: introducing transparency and accountability in the process of privatisation, setting up conditions for civic control and pressure by private owners (including the participation of civil society structures in designing rules on the interaction between economic agents); and decreasing the role of the administration.

The following specific measures and activities were recommended for the fight of corruption in the process of privatisation: 1) streamlining the privatisation mechanism by, *inter alia*, merging the existing privatisation bodies in a single authority which should be subject to centralized control; 2) accelerating privatisation and improving its transparency by wider use of tenders, auctions and stock exchange mechanisms, as opposed to negotiations with potential buyers; 3) enhancing post-privatization control; 4) imposing embargoes on potential investors found in disregard of their commitments under a previous privatisation contract and sanctions for failure to comply with contractual obligations, up to termination of privatisation contracts; 5) efficient monitoring, including civic control, of the post-privatisation status of transactions in which less than 100 per cent of the price is paid upon closing the contract; 6) introducing rules for transparency of privatisation decisions on all kinds of negotiations; 7) introducing rules on management-employee buyouts (MEBOs)-based privatisation.

#### **B) Assessment of the Anticorruption Efforts and the Measures Taken to Date. Future Prospects.**

The wider the state intervention in the economy and the larger the resources allocated and controlled by bureaucrats on all administrative levels, the wider the possibilities for corruption. The efforts to limit the corruption potential in the economy could be assessed by answering the following questions:

- how has the role of the state as a direct economic agent changed?
- how transparent and "clean" of corrupt practices are the mechanisms of ownership transformation?
- what happens in the area of post-privatisation control?
- what mechanisms have been put in place to manage state-owned property, including holdings of residual shares after divestiture?

Between 1998 and 2000 the share of state-owned property in the economy decreased substantially. In real terms this would mean that the basis of corruption must have shrunk as by the end of year 2000 75 per cent of the state-owned assets subject to privatisation had been divested.

*According to the Privatisation Agency and the Report on the Completion of the Privatisation Program (2000), 589 out of 673 transactions planned for 2000 took place. Of those completed, 429 were for entire enterprises and 160 concerned separate units of enterprises. The number of privatisation procedures launched in the period January – March 2001 is 21.*

The decrease of the share of state-owned assets does not necessarily mean that opportunities for corruption have substantially decreased. As a matter of fact, the threat is still there as the state may withdraw from ownership but nevertheless retain certain mechanisms for control of the business. For instance, the state still owns substantial residual shares in partially privatised enterprises and the delay in the sale of residual shares is not at all free of corruption risks. In addition, some public officials are members of the governing bodies of companies with private majority shareholders which opens the door to undesirable informal links and possibilities to trade in the existing state-owned control.

The efforts to reduce corruption in the privatisation process should be assessed primarily from two perspectives: *privatisation procedures and post-privatisation control*.

- *Privatisation procedures*

The process of privatisation brings into a hub various political, economic, private and public interests, thus becoming especially vulnerable to corruption. The process itself is regulated by the *Law on Privatisation and Transformation of State-Owned and Municipal Enterprises*. Although it has undergone numerous modifications since its adoption in 1992, the myriad of amendments and additional regulations in this area have not uprooted the possibilities for corruption. The prevailing public opinion steadily perceives privatisation as an important source of illicit incomes, widely used by politicians and public officials (Table 5).

**Table 5. Perception of the spread of corrupt practices in the business sphere**

	<i>January 2000</i>		<i>October 2000</i>	
	<b>Low spread</b>	<b>High spread</b>	<b>Low spread</b>	<b>High spread</b>
Bribe-taking by public officials and politicians to influence the award of public procurements	11.2%	78.6%	7.1%	82.7%
Bribe-taking by public officials and politicians to ensure the successful outcome of privatisation tenders	6.6%	88.5%	5.0%	85.2%
Bribe-taking by public officials and politicians to issue licences or permits for lawful operations	7.2%	85.6%	10.7%	79.5%
Bribe-taking by public officials and politicians to ensure tax avoidance or evasion	19.9%	68.6%	19.6%	66.4%
Accepting money or gifts in order to perform official duties	19.6%	73.7%	15.2%	75.0%

*Source: Corruption Monitoring System, Business Elite Survey, 2000*

The first problem in the privatisation process is that there are various agencies in charge of it, namely the Privatisation Agency and the municipal privatisation agencies. This fragments privatization management and makes the entire process more opaque which, in

addition to the lack of clear rules and efficient judicial and financial controls, increases the opportunities for corruption.

The second problem in this area is the existence of a favourite privatisation technique. Regardless of any efforts to establish a public-private partnership in pursuit of transparency as recommended by *Coalition 2000*, negotiations with potential buyers still remain the preferred method of privatisation even for small enterprises. Negotiations with potential buyers take place in the dark and directly invite bribery - they allow for large-scale covert arrangements modifying the official parameters of the privatisation deal in question.

The second privatisation technique most prone to corruption is the management-employee buyout MEBOs. One third of all privatisation deals in 2000 were effected through this technique.

Statistical data suggest that out of 2532 privatisation deals made between 1997 and 2000, 1224 were MEBOs. Only in 2000, those deals accounted for one third of all 1235 transactions.

The current trend of decreasing the relative share of MEBOs could only be partially regarded as a positive one as this kind of deals is frequently substituted by direct negotiations with potential buyers.

The recommendations of local experts and the international financial institutions for a wider use of tenders, auctions and stock exchange techniques still remain just good wishes. In the best case scenario, these are just declarations of intentions in official government documents which are not implemented in practice.

*In its major documents adopted as a follow-up to the Action Plan, Coalition 2000 has recommended that privatisation authorities apply open and public procedures subject to clear, fair and competitive rules. Particular attention should be given to the recommendation formulated at the Second Policy Forum (December 1999), namely to issue a general ordinance on the conduct of negotiations with potential buyers, which can finally regulate the use of this technique in the context of a changed approach to privatization.*

- *Post-privatisation control*

The existing system of post-privatisation control offers no impediment to corruption. The owners of already privatised enterprises often receive inexplicable discounts from the administration, such as alleviating the investment commitments, reconsidering the clauses for keeping jobs and preserving the business profile, remitting liabilities, abolishing environmental requirements, etc.

The Audit Office is the authority that could exercise external post-privatisation control. The existing legislation, however, does not endow the Office with such powers. Moreover, the role of the Audit Office in post-privatisation control is mostly confined to cross-checking of the privatisation proceeds flowing into the Ministry of Finance. What is actually needed is control of specific privatisation deals.

*Coalition 2000 recommends that a solution be sought in adopting clear and transparent post-privatisation rules and procedures which can cut off any corruption temptations currently cherished by the administration. These requirements are also valid for the control on concession agreements, especially in view of their long duration and the lack of any experience in this area as it is logical to assume that after the end of the privatisation process public officials would seek other possibilities to derive illegal benefits.*

The efforts to implement consistent reforms so as to introduce sound principles of *corporate governance* have a serious anticorruption potential. According to John Sullivan, Executive Director CIPE in compliance of internationally accepted principles concepts that contribute to effective corporate governance include:

Instituting independent auditing;

Defining the concept of "conflict of interest" and how it affects members of boards of directors and senior management;

Strong independent boards of directors, with a strong audit committee and internal audit functions;

Laws and regulations guaranteeing shareholder rights, especially the rights of minority shareholders;

Established and accepted standards of financial accountability and transparency within firms;

Commitment to honest and fair dealings with all elements of the community employees, suppliers, customers, and neighbors.

When these processes are fully implemented, it becomes much more difficult for a company to pay a bribe, practice nepotism, indulge in illegal campaign financing, or indulge in other forms of corruption.

The existing practice and foreign experience have shown that the weaker and less efficient corporate governance, the greater the opportunities for corruption. In the opinion of leading experts, corporate governance systems depend on a set of institutions (laws, regulations, contracts and norms) which make self-governing firms the central element of a competitive market economy. These institutions make sure that the internal corporate government procedures adopted by the firms are enforced and that management is

responsible to shareholders(owners) and other stakeholders. The key point in this strategy is that the public and the private sector should work together to develop a set of binding rules which establish the ways by which companies govern themselves.

The efforts of *Coalition 2000* aimed at building up partnerships with representatives of public authorities and private businesses, including co-operation within the *Corporate Governance Initiative in Bulgaria* ([www.csd.bg/cgi](http://www.csd.bg/cgi)). The purpose of this initiative was to draft an Action Plan and a Corporate Governance Assessment Report, to organise joint forums, workshops and discussions.

This partnership is at its outset now and it would only aim at co-ordination of essential measures needed to develop the legal and institutional framework for sound corporate governance. The implementation of these measures is among the major tasks of this developing partnership. Its specific objectives should be formulated and pursued along the following lines: ensuring access to information about the structure of ownership and equity crossholdings, imposing severe sanctions for abuse of inside information, appointing external directors to the managing boards, regular independent audits of companies' accounts and disclosure of the results of such audits, building up an efficient legal and institutional environment to protect creditors' rights, etc. *Regardless of some steps already taken in this direction, corporate governance as a whole remains weak, especially in enterprises offered in the process of mass privatisation or privatised through MEBOs, and these enterprises represent a significant share of private business in Bulgaria.\**

*"As suggested by the analysis, there are no clear rules and practices in Bulgaria to enable efficient governance and control. Thus far, the legal framework and the overall institutional environment have not produced a system that would ensure the efficient management of property to the benefit of all shareholders. One attempt to help these processes evolve in Bulgaria are the efforts of the Corporate Governance Initiative to implement the proposal of its fundamental document, Policy for Corporate Governance Development in Joint-Stock Companies in Bulgaria. Policy Recommendation Paper ([www.csd.bg/cgi](http://www.csd.bg/cgi)). After its approval by all stakeholders at a forum held in the fall of 1999, the coming years should see the implementation of a number of specific measures to improve legislation and the case-law, to support the development of capital markets, to revitalise the presence of institutional investors, to offer training and provide information to minority shareholders." (Corporate Governance and Control in Bulgaria, Center for the Study of Democracy, 2000).*

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\* See March 2001, IMF Country Report No. 01/54.



*Though "the stormy privatisation" is already over, the state still retains a significant presence in the economy. Further consistent efforts are needed to finish the process of divestiture soon enough, close the loopholes for corruption, regulate state intervention in private economic activities and government's role in corporate governance. The new Corporate governance mechanism should be adequate to the changes in the structure of ownership.*

### **3.2. Conditions for private business development and corruption within the private sector.**

#### **A) Action Plan Recommendations**

The objectives in this area are based on the understanding that the change in state ownership and the development of market relations need a novel legal and institutional framework to guarantee free entrepreneurship and less state intervention in the economy - conditions equally necessary for combating corruption. To achieve these targets, it was recommended to: 1) improve the enforcement of existing legislation (the *Law on the Protection of Competition*) and develop anti-trust legislation; 2) ensure the accelerated development of market infrastructure with an emphasis on regulated markets; 3) gradually proceed from licensing business activities to a registration regime for these activities; 4) liberalise foreign trade and the foreign exchange regime; 5) provide rights of control (self-regulation) to professional, trade, guild and specific-purpose associations of economic agents on the basis of their internal codes of ethics; 6) put in place and strictly adhere to regulations on the State and private economic agents.

As instances of large-scale corruption can be found in the private sector as well, the following recommendations and action guidelines were formulated in order to avoid the financial and economic consequences of corrupt practices and attitudes in the private sector: 1) building up an adequate legislative framework for private business development: norms and rules on the different types of economic activities that should guarantee the transparency and accountability of business practices; 2) consistent economic reforms in support of competition and private entrepreneurship; 3) introducing the concept of "financial status" in tax legislation and measures targeting tax evasion and corrupt behaviour; 4) efficient and prompt protection of the interests of private owners and entrepreneurs affected by defaulting contractual partners, fraud and other forms of unlawful behaviour, which can be done, *inter alia*, by creating specific rules on arbitration and settlement of legal disputes which are most typical of small and medium-sized businesses.

#### **B) Assessment of Anticorruption Efforts and the Measures Taken to Date. Future Prospects**

Again, in this sphere there is a strong corruption pressure – the persistence of unregulated payments in order to obtain authorisations, import and export licenses, etc.

comes to show that the withdrawal of the state from the economy and the efforts to reduce the bureaucratic procedures, to provide transparency and accountability still fail to yield the expected results.

In this context, the long-term objective of the *Coalition 2000* partners was to come up with measures which may reduce the corruption pressure on business. This pressure culminates in the growing number of licensing regimes and in the tax policy currently pursued. Further to these efforts and in the context of a wide public debate involving the business associations as collective intermediaries between businesses and the government, in 2000 a government policy was launched to abolish and alleviate restrictive regimes, in particular, the permit and licensing regimes (according to various sources, nearly 130 such regimes, out of a total of more than 400, have already been abolished). This trend, however, is not steady and irreversible, as parallel to the abolition of some regimes new ones have been introduced.

Public opinion polls on competitiveness, conducted according to the methodology of the World Economic Forum, have revealed the perceptions of business circles in the country regarding existing the impact of administrative barriers on the economy. In 2000, the index of administrative barriers to private business was 2.98, i.e. the situation in 2000 was worse than in the previous year as in 1999 the index was 3.53 (*Competitiveness in Bulgarian Economy. Annual Report 2000. Centre for Economic Development, Sofia, p. 51*).

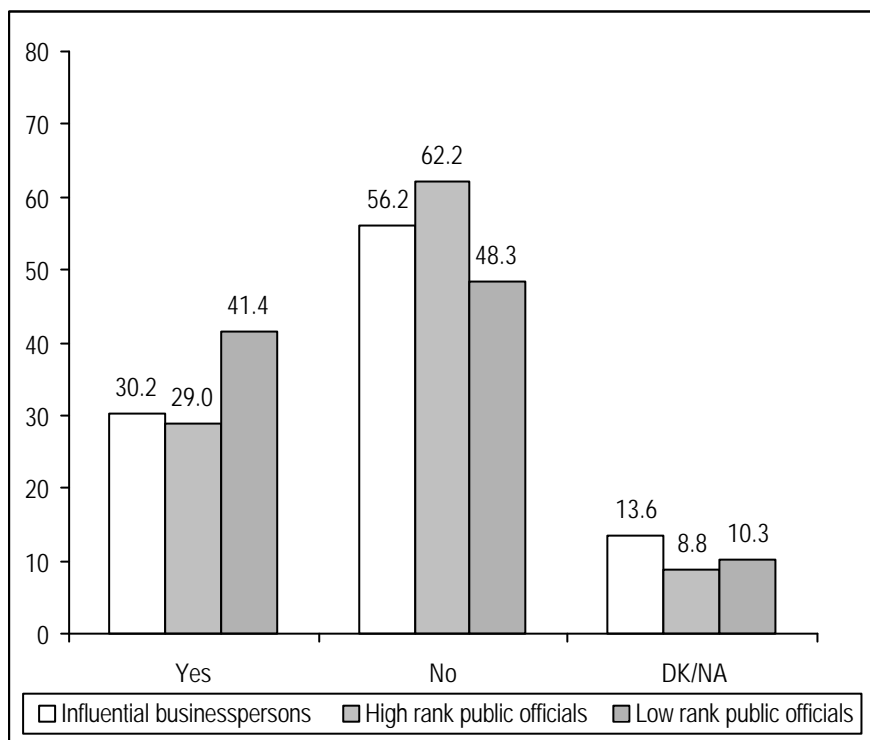
*Thus, in spite of some positive steps to curtail the obstacles to business, a number of bureaucratic practices and administrative barriers to entrepreneurship, business and trade are still there. This process needs wider transparency and should rely on the interaction among actors within the private sector. The registration and co-ordination regimes need to be carefully reconsidered in the context of an overall coherent policy aimed at improving the business climate in the country.*

With regard to taxation policies, efforts were made to establish a partnership in order to initiate a reduction of the tax burden so as to prevent tax evasion and increase tax compliance and make "compromising arrangements" between economic operators and tax inspectors less probable. *Nevertheless, no substantial progress has been made so far.*

The efforts to facilitate private business development could not be assessed as successful either. This finding is especially valid given the persisting scope and importance of the "grey economy". The share of that economy in Bulgaria over the past a few years has reportedly fluctuated between 32 and 35 per cent of GNP (some unofficial data suggest that the figures are actually higher) which creates a significant corruption potential. Similar lack of success has been observed in the efforts to fight smuggling.

One negative assessment is quite eloquent in that respect. It was given by economic managers in Bulgaria when asked about the efficiency of the anticorruption policy implemented by the government. (Figure No.6)

**Figure No 6. Evaluation of the Commitment to Fight Corruption Among Civil Servants and Businessmen**



Base N = 331

Source: Corruption Monitoring System, Business Elite Survey, January 2000

At the same time, one should not forget that private businesses are also frequently a source of corruption or at least sometimes they participate in the misuse of public power to the benefit of private parties. This distorts the country's economic development - foreign investors leave and domestic investors in small and medium-sized businesses either withdraw from the market or move to the informal sector.

As a result of the privatisation process, private business now prevails in the country. Nevertheless, the traditional leading role and functions of the State in the economy have not been replaced by adequate mechanisms or new functions. Another hot issue concerns the relations between the public administration and the private sector. The establishment of new market relations has indeed brought the dominant position of private business. This, however, necessitates a change in the functions of the administration, especially at those ministries in charge of the economy, and requires a new type of interaction and communication. The lack of clear rules on interaction and communication paves the way to

corruption and feeds the public suspicion that corruption really exists. If these relations are placed on a clear-cut legislative basis, this would foster business expansion and the development of a modern and efficient administration while effectively compressing corrupt behaviour.

*Coalition 2000 believes that the success of any measures aimed at limiting the grey economy, smuggling and related corrupt practices would depend on the future co-operation based on public-private partnership in creating a more efficient legal and institutional environment, introducing a uniform information system inside the different agencies and among them, making public the preventive measures and the sanctions for smuggling. It would be essential to underscore the new practice of adopting rules and codes of ethics intended to bar corruption in the private sector itself - this practice gives tremendous opportunities to use self-regulation as a tool to resist both corruption and overregulation by the State. International co-operation and NGOs involvement in the monitoring and control of such criminal offences is also needed for this purpose.*

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The experience gained in the development and implementation of the anticorruption strategy in Bulgaria based on public-private partnership model allows the following conclusions to be made regarding the two main components of this partnership, which can be referred to as "public" and "private" for analytical purposes.

**With regard to the "public" component:**

The state institutions are not yet sufficiently effective in combating corruption and protecting the citizens, nor do they can co-ordinate their efforts well enough. To a great extent the sector of non-governmental organisations is either mistrusted or neglected; it is often perceived as a potential enemy rather than as a natural partner. This finding is more or less true for all the three branches of power.

The **Legislature** still has to devise modern regulatory instruments in line with international standards to efficiently combat corruption while going beyond the narrow frame of the formal legalistic approach. The nuclei of democratic civic participation in the process of law-making should develop further and expand. As a body representing the nation, the National Assembly should initiate legislation to introduce working mechanisms in support of an institutional and legal environment hostile to corruption.

With regard to the **Executive**, there is little progress in terms of dealing with instances of corruption: the discretionary powers of the administration remain too vast and virtually uncontrolled, whereas the rights, obligations and procedures relating to these powers are not regulated clearly enough.

Other goals which still need to be accomplished are the unambiguous independence of the **Judiciary**, which should obey no one but the law, and the efficient operation of the judicial system. The lack of these components hampers democratic rule of law. Further reforms in this sphere should be implemented in order to provide serious guarantees for lawfulness and regain public confidence in the Bulgarian judiciary.

Dialogue and interaction between **central and local authorities** remain inadequate. There is no legal basis for a clear distinction between state and municipal competencies in a number of extremely sensitive areas exposed to corruption, such as public health, education, etc.

**With regard to the “private” component:**

The specific nature and evolution of the **non-governmental sector** and businesses in a transitional setting have led to the formulation of anticorruption strategies and their involvement in the implementation of those strategies. This, in turn, does not necessarily imply a broad civic participation in the anticorruption initiatives, although the experience over the past four years has seen growing civic participation and involvement at the local level. The social and economic hardships faced by most people in the country and the persisting corruption at all levels most often disillusion the citizens and put them in a deadlock, brings pessimism about the efficiency of civic participation and public-private partnership or feelings of helplessness and lack of protection from the institutions. On the other hand, their interests, problems and desires are not always directly addressed and adequately represented by the existing NGOs and businesses.

In general, non-profit organisations and businesses still fail to fulfill their role of intermediaries between individuals and institutions. Often they overlook the genuine needs of the individuals, or groups of individuals, in order to satisfy their own short-term needs and interests. Sometimes NGOs are simply not heard by the central or local authorities and become unable to exert pressure. Further emancipation of the NGO sector is a must for if it is to represent the real interests of the civil society – this would enhance its legitimacy in the dialogue with the public authorities.

**In conclusion**, the establishment and successful implementation of public-private partnership, as a democratic method of resisting corruption, would depend both on the further development (or further reform) of its public and private components, and on the close interaction and dialogue between them.

## Part 3: “Clean Future” Public awareness campaign

### 3.1. Designing the “Clean Future” awareness campaign

The Public awareness campaign is the third component of the *Coalition 2000* process alongside the corrupt practices monitoring in Bulgaria and the Policy Cycle activities within the framework of the public-private partnership, which include the development of concrete anti-corruption laws and measures.

When defining the term “awareness campaign,” we should point out the following main parameters: The comprehensive nature of the awareness activities aimed at positioning the anti-corruption initiative in the public domain, as well as changing public attitudes and perceptions.

- ✓ The mutual complementarity and gradation of these activities (combining the typically informational with the long-term educational tasks aimed at achieving behavioral modifications and initiating anti-corruption activities).
- ✓ The dual nature of the various activities—aimed both at accomplishing specific goals and at changing public attitudes and perceptions (use of the Corruption Indexes and the Corruption Assessment System’s other products for the purposes of the awareness campaign, townhall meetings convened both as an element of building anti-corruption structures at the local level and as a campaign form/focus, etc.).
- ✓ The strategic organization and subordination of these activities, and their timing and placing (center-periphery), meant to guarantee success within a set timeframe, etc.

These parameters make possible and promote the idea of this component of the anti-corruption initiative precisely as a “campaign.”<sup>1</sup> At the same time, the name “Clean Future” was selected in order to mark the anti-corruption initiative’s long-lasting character, as well as the *Coalition 2000*’s main positive message—creating conditions for transparency and accountability in society. In addition, this name evokes the most popular anti-corruption effort at national level—the Italian campaign “*Mani pulite*”, or “Clean Hands.”

In the process of designing the awareness campaign strategy, aims and tools the *Coalition 2000* experts were targeting the very typical ambiguity of both the general public and the elites in this country on the problem of corruption. This is especially valid for the interaction between the public and the private sector: for a large part of the general public it is fairly unclear which interaction mechanisms are legitimate and what the “normal” state of affairs actually means.<sup>2</sup>

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<sup>1</sup> A negative association exists between the term “campaign” and its derivative in post-communist countries meaning sporadic, short-term activities. In this case, though, it presupposes carrying out a long-term set of activities and forming lasting societal attitudes. Therefore, it should not be equated with passing marketing campaigns or with the electioneering activities typical of the political practice in the context of the fluid democratic situation.

<sup>2</sup> It should be noted that in the pre- 1989 period the private sector was considered illegitimate on the whole and that people of the older generations still consider private initiative more or less bordering on the illegal.

The Anti-Corruption Action Plan for Bulgaria (ACAP) **defined the following related objectives of the awareness campaign:**

- ❖ 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 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 of 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.<sup>3</sup>

In addition, some more specific aims were defined in targeting the political and business elites:

- i. To mainstream a concern for corruption within the national institutions,
- ii. To increase understanding of the causal factors and the variety of manifestations of corruption among the staff of national institutions,
- iii. To influence behavior, and
- iv. To create a receptive attitude to the many structural, procedural and administrative changes that will have to take place throughout the public institutions.

In order to achieve them some techniques were borrowed from the **social marketing model**.<sup>4</sup> This model is based on the assumption that curbing corruption could be produced following a three stage process including:

Cognitive change. This stage of the social marketing strategy involves problem diagnostics and assessment, identification of target audiences and appropriate messages, and tailoring these messages to the specific audiences through research and subsequent monitoring (used to track the effectiveness). The most important result of the activities at this stage is the formulation of a research based impact strategy.

Inducing affect. At this stage the major objective is to convert messages into emotional/moral commitments. This would mean that target audiences would not only understand the messages they are exposed to; they would also internalize messages, make them their own “moral standard.”

Behavior change. This final stage is the most difficult to achieve, as it involves inducing people to change some aspects of their actual behavior. The final result of a successful change in this respect would include transforming moral disapproval into an action agenda of the public.

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<sup>3</sup> Clean Future. Anti-Corruption Action Plan for Bulgaria, Sofia, 1998, p. 42.

<sup>4</sup> See Kidra, G. S., Stapenhurst, R., Social Marketing Strategies to Fight Corruption, The Economic Development Institute of the World Bank, 1998.

With a view to accomplishing the objectives of the awareness campaign, *Coalition 2000* concentrated its efforts on the development of the following **main stages**:

1. Defining the problem: informing the public about the spread of corrupt practices and about their socio-economic and political aspects; positioning the corruption problem in a global and national context (i.e., how it relates to the priorities of the international community and to the other aspects of the transition in Bulgaria).
2. Formulating an anti-corruption message (directed to society as a whole, and also to the separate target groups and to individuals).
3. Increasing the popularity of anticorruption as a social cause, and of the social agenda in the fight for transparency and accountability.

There was a consensus among *Coalition 2000*'s experts that the national scope and aims of the anti-corruption initiative made it imperative that the awareness campaign should also be national and will have a long-term impact. It was decided that 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 potential and the first forums planned. The following steps were defined as of essential importance:

- 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 acts 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, in addition to the political and business elite, on the younger audience without, however, ignoring other age groups (in relation to the young audience it will be necessary to devote special efforts to alerting young people to the problems and threats posed by corruption);
- To make use of the most effective and tested forms of social marketing, including audio-visual tools, posters, promotions, thematic campaigns, etc.

The anti-corruption awareness campaign is similar to the various communication methods used to shape public. During the post-communist transition, favorable conditions emerged for the development of a civic initiative aimed at formulating and asserting democratic values. At the same time, these values encountered the bureaucratic reflexes of the authorities and the lack of clear role differentiation between state institutions and non-governmental organizations. Under these circumstances, *Coalition 2000* was the first attempt to introduce the public-private formula in an anti-corruption awareness campaign—a circumstance with rather positive implications, but also entailing some difficulties. Among the first are advantages of the public-private partnership in this area, such as the leading role of civic organizations, complementarity of efforts, more flexible reaction in line with public reactions to the anti-corruption messages, etc. At the same time, *Coalition 2000* had to solve complex problems related to coordination of activities entirely under civic control with those of state institutions. The awareness campaign is by definition decentralized and involves individuals, organizations, the media and



institutions exclusively on a voluntary basis. This type of interaction is more difficult to carry out organizationally, and it precludes the concentration of optimal social resources. One has to mention the specific nature of the anti-corruption issue which requires the overcoming of deeply-rooted attitudes and perceptions reconfirmed by everyday experiences, a process that involves the introduction of moral and behavioral correctives in each person's actions, as well as the promotion of a new public anti-corruption climate. In other words, a campaign with such peculiarities requires far more diverse efforts with various targets: individual behavioral dispositions, public ethics and values such as honesty and transparency, and last but not least—the political sphere which is the object of consistent and continuous efforts aimed at generating and accelerating the necessary legal-institutional reforms.

Taking into account this complex nature of the anti-corruption awareness campaign, *Coalition 2000* noted in the Anti-Corruption Action Plan the serious risks faced by the campaign.<sup>5</sup>: Most of these concerns have been valid. The logic and objectives of *Coalition 2000*, as well as the initiatives and activities within its framework, have encountered different forms of resistance in the context of the subsequent public debate on the corruption-anticorruption set of problems which is part of the Awareness campaign itself.

### **3.2. Campaign tools, forms and activities**

As was already noted, the efforts to change the existing social perceptions and attitudes were aimed at several target groups:

1. The general public in the country
2. The political and professional elite
3. The international community

#### **Defining the target audience**

Identifying the general public as a target group was aimed at achieving maximum support from more people in society as a whole.

This audience includes both law-abiding citizens and participants in corrupt transactions. It was also taken into account that the latter have different kinds of

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<sup>5</sup> “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 a 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.”<sup>5</sup>

motivation and are in various ways responsible for illegal deals. On the one hand, these include political and bureaucratic corruption actors who can play either active or passive roles in corruption transactions. What constitutes corruption in this case is that they illegally re-distribute goods, and benefit personally in return. This is in fact privatization of public authority and state/municipal resources. On the other hand, participants in corrupt transactions include clients of potentially or actually corrupt officials or politicians. Although most of them denounce corruption as a social evil, they rely on it for solving their personal problems and view this phenomenon mostly as a “necessary evil.” This category also includes, of course, those Bulgarian citizens who do not condemn corruption and accept it as a normal type of transaction under the conditions of a market economy.

The *Coalition 2000* expert group on the campaign communication strategy recommended narrowing this target group to the sub-group of young people between 18 and 30 years of age based on the argument that they were less involved in corrupt practices and would dissociate from them more easily. Besides, the young generation typically rejects the totalitarian past, including its corruption traditions.

When addressing the political and professional elite, the communication program had to consider two categories: representatives of the old-type bureaucrats who have often privatized public functions and resources, and representatives of the modern-thinking politicians and technocrats who are not afraid of.

The campaign focused also on NGO representatives, members of the organization itself, and experts at all program levels.

Mass media representatives both at the national and local level can be identified as an additional audience.

The support of the mass media is of key significance for the successful impact on public opinion. At the same time, securing it demands constant efforts and insight into this sector’s priorities and specific nature.

Various means and methods were selected for conveying the messages to the audience in accordance with its characteristics. Numerous print, audio and visual methods were used. The campaign was also put in a timeframe with defined cycles.

For the purposes of the campaign, two types of promotional instruments were used—direct and indirect: Information days

- townhall meetings,
- anti-corruption events,
- competitions for a logo, posters and anti-corruption caricatures, newspaper articles,
- analytical publications in specialized newspapers and magazines,
- press conferences, etc.

The expert group on the campaign communication strategy discussed different versions of the main message. Two opposite views were formed. The first one relied on an aggressive impact upon the audience through an explicitly formulated logical relationship: corruption–crime–punishment. The proponents of this kind of message and campaign pointed out the need for a “shock therapy” against widespread attitudes of tolerance to corruption. The message, according to them, had to provoke and incite both the audience’s conscience and sub-conscience by evoking negative associations of

corruption participation and even tolerance. More specifically, this approach relied on unlocking the latent guilt complex of many citizens in the post-communist countries (because of their participation in corruption transactions), as well as on fear-based protective reactions (through demonstrations of how the corrupt are punished).

The second approach, advanced by part of the experts, involved limiting the campaign and respectively formulating the message entirely on the grounds of positive suggestions. Such an approach stemmed from the campaign's motto ("Clean Future"). Its supporters underlined the advantages of the non-confrontational types of messages which could not only generate positive dispositions but also create favorable attitudes toward the initiative itself, i.e. they could potentially solve two related tasks: 1) suggest anti-corruption behaviors and ethos, and 2) legitimize the *Coalition 2000* initiative.

After a series of focus-group discussions aimed at testing the different communication strategies, both types of messages were approved to be used selectively depending on the concrete situation. Hence, two project ideas were selected in the poster competition held by the Coalition. The first—the positive one—was graphically developed through the image of a smiling child in a swing hung on the globe. The poster features the slogan "Clean Future" and the *Coalition 2000* logo. The second poster was a drawing by a famous cartoonist depicting a typical grotesque bureaucrat with coins instead of eyes. The caption is formulated aggressively and appeals to civic activism: "Do you know him?"

**In a box: the poster published in the newsletter, issue 2, 1999, last page ("Clean Future")**

Some slogans and scripts were also selected, with an eye to producing anti-corruption oriented video for the purposes of the campaign. In the end, the selected video scripts contained an aggressive anti-corruption message formulated in three versions: "Corruption is crime!", "Corruption is humiliation," and "No to corruption!". Each of the clips closes with the *Coalition 2000* logo, which on the one hand identifies the author of the anti-corruption message, and on the other—further positions the initiative in the public domain. All the three video clips had to expose the most common and at the same time the only form of corruption lending itself to visualization—bribery.

**In a box: Three shots from the video clips**

The above-mentioned slogans have the advantage that they show a criminal act which discredits equally the person who gives the bribe and the one who takes it. Several short plot lines demonstrate the misuse of office on part of policemen, customs officers, lawyers and physicians. These situations are typical for many people. At the same time, they are the most common situations that reinforce passive and complicit attitudes among citizens in their dealings with state officials. On the other hand, this type of message—in this case the videos—can entail some risk factors. The major risk is the unwillingness of

the authorities to engage with negative-denunciatory messages which, on the one hand, refer to the behavior of officials at different institutions, and on the other—contradict the official line for praising the reforms and the political coalition which implements them. Another type of resistance comes from a “timidity” traditional for transition societies with reference to depictions of the shortcomings of those in power. These and/or other considerations pushed the management of the Bulgarian National Television (BNT) to refuse to air the *Coalition 2000* videos. Later, the *Coalition 2000* videos were to some extent redeemed. They were shown on private cable channels in Bulgaria, at different anti-corruption forums, including ones abroad, and on CNN.

An important element of the campaign was the circulation of the radio “Mister 10 percent,” composed by the most popular rock musician in the country and a symbol of the protest against the communist regime—Kiril Marichkov (lyrics by Alexander Petrov).

**In a box: the text of “Mister 10 percent”**

**In a box: “Art against corruption”—photo of Marichkov and Petrov from the “Clean Future” newsletter, issue 3, summer 1999, last page**

**In a box: Concert in the Student Town**

In the context of the overall awareness campaign, the following print forms for the dissemination of information and messages were used: news releases, books, newspaper and magazine articles, newsletters and advertisements, brochures, handbooks, electronic newsletters, and facsimiles.

Audio forms: speeches, news conferences, townhall meetings, round table discussions, interviews, face-to-face discussions.

Visual forms: television events, videotapes, photographs, slides, movies, banners, posters, etc.

**Clean Future awareness campaign impact**

Within the framework of the awareness campaign civil society, in cooperation with the independent media and representatives of state institutions, was able to set a number of tendencies in societal attitudes towards the corruption phenomenon:

- ✓ The analysis of the evolution of public attitudes and the dynamics of corrupt behavior in the period since mid-1998 indicates that the country has passed through several distinct states:
  - raising the problem of corruption (1998);

- acknowledgement of the existence of such a problem by the government(1999);
  - outlining the actual scope of the problem through a series of investigative publications (1999-2000).
- ✓ A new tendency emerged towards a shift in the public criticism from everyday corruption to grand corruption. While traditionally the manifestations of this phenomenon were sought primarily in the activities at the lower levels of public administration, gradually public attention turned to the actions of the political class and the high ranks of power. This means that the phenomenon of corruption is increasingly perceived as a problem of politics, and the efforts to curb corrupt practices are considered an inherent part of society's democratic priorities.
  - ✓ As a consequence, there has also been an observable broadening of the scope of public criticism to comprise the more amorphous forms of corruption such as nepotism, trade in influence, and other instances of corruption of a barter type, characteristic of grand or political corruption. Topics and problem areas that used to be taboo until recently, such as privatization of large enterprises, political and economic clientelistic practices, the budget of government institutions, the private lives of public figures, etc., have come to generate civic pressure for transparency and public access to information.
  - ✓ There is less tolerance towards traditional forms of corruption within society. Those forms are increasingly associated with crime, a tendency which testifies to a permanent value re-orientation of Bulgarian citizens from tolerance towards corrupt practices to their exclusion from the sphere of normal and acceptable behavior. It seems, though, that society is only half there: people reject unequivocally the willingness of others to be involved in corrupt acts, but they are still tolerant to their own participation in "petty" corruption.
  - ✓ To a great extent, changes in societal attitudes made possible the realization of one of the important goals of the Coalition—the change in the legal environment aimed at limiting the opportunities for corruption. Such a combination of priorities (efforts to catalyze social support and legislative changes) proved successful in the long run. It suffices to note that a number of normative acts (such as the Law on Civil Servants, the Law on Access to Public Information, the Law on Public Procurement, the Law on Administration, the Law on Administrative Services for Natural and Legal Persons, the Law on Combating Corruption and Financial Crime, etc.) were adopted thanks to the pressure and atmosphere within society created during the campaign.

At the same time, a number of **problems** emerged in the process of disseminating the campaign messages. They all related to difficulties in combining the ethical and rational messages targeted at individuals. This is the most ambitious task of such campaigns, since the comprehension that curbing corruption is in the interest not only of society but also of individuals is at the heart of changing individual attitudes towards this phenomenon.

- ✓ The anti-corruption thesis is easier to internalize in situations where individuals are forced to pay *corruption taxes* for public services that are presumably free of charge, thus violating their basic rights. In this case, however, the people

- themselves do not have distinct pro-corruption attitudes, i.e., anti-corruption awareness efforts just reconfirm the already existing attitudes of intolerance towards this phenomenon.
- ✓ We already mentioned the resistance against the awareness campaign among representatives of some professional groups.. The predominant reaction among representatives of the authorities was imitative, i.e., limited to the verbal condemnation of corruption.<sup>6</sup>
  - ✓ The *Coalition 2000* experience showed that it is most difficult to convey the anti-corruption messages to the young people. First of all, this difficulty can be attributed to the devastating influence of the corrupt environment as an educational model for the new generation. The latter accept corruption to a great extent as a fact, and participation in and even observation of corrupt practices does not stir anti-corruption ethical or rationalist impulses. Moreover, young people are far more skeptical towards social marketing. Because of that, the anti-corruption message directed to the young had an aesthetic rather than an ethical emphasis. Experience demonstrated, however, that such a message remains rather generally formulated and is not embraced by the young audience. What is missing in this case is an existing sufficiently convincing behavior model which embodies the abstract thesis.

### 3.3. Defining the framework of the anti-corruption debate

The comprehensive nature of the campaign, as well as its reliance on the mass media and other instruments of public communication for accomplishing its objectives, demonstrate the significance of the task of shaping and channeling the anti-corruption public debate in such a manner as to stir widening public support for the values of transparency and accountability.

Naturally, the anti-corruption debate in Bulgaria did not begin with the *Coalition 2000* activities. Prior to the awareness campaign, it was unfolding at several levels, with various participants. In the area of political confrontation, the active parties were representatives of the political elite, regardless of their party affiliation. Within the public sphere, the active party were the media which created opportunities for a broad discussion on the problem. On the other hand, an active participant in this debate was the community of analysts and political scientists who periodically disseminated various messages within the public sphere. All these areas intersected, and concrete events were interpreted in different ways and often had unforeseeable consequences.

The most important feature of the corruption debate was that it was taking place in the field of **party confrontation**. In this context, it was extremely difficult to talk about corruption beyond the immediate party aspects of the problem. On the one hand,

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<sup>6</sup> The cooperation of *Coalition 2000* with a candidate for mayor on the eve of the local elections (October 1999) provides a trivial example in this respect. Initially, the candidate expressed full support for the Coalition's ideas for the transparency of local government, and even incorporated the appeal for eliminating corrupt practices in the municipality into his election campaign. After he was elected, however, the new mayor forgot his election promises, did not implement the joint idea to establish an Ombudsman (public mediator) institution in the municipal administration, and terminated all interactions with the anti-corruption initiative.

those in power were suggesting that corruption was limited to the few cases that were being investigated or prosecuted. Understandable attempts were made to redefine the debate by presenting counteraction against corruption as an opposition conspiracy against the democratic alternative to the post-communist rule. In the long run, those in power began to see every criticism against corruption within the government as an attack against the government in general.

At the other extreme were the statements of the opposition that the scope of corruption in Bulgaria during the analysed period (1997-2001) was without a precedent in Bulgarian history. As in all political debates in the last decade, the opposite side's arguments on the corruption issue were not accepted constructively, did not inspire counter arguments, and were used solely for the internal consolidation of political parties and for a total negation of the opponent's thesis.

As far as the substantive debate on corruption is concerned, in the context of the awareness campaign the **following main concepts about the nature of corruption and the counteraction against it** emerged:

❖ **Formal-legal**

The proponents of this concept limit all manifestations of corruption to its incriminated forms. This view is supported by a significant part of the professional legal community. The incomplete legal definition of the term "corruption" in Bulgarian jurisprudence facilitates its reductionist interpretation by jurists. Such an approach is to a certain extent unavoidable because of the typical adherence of this professional group to the strictly legalistic aspects of anticorruption.<sup>7</sup>

In fact, the dominance of the formal-legal interpretation made it possible for leading politicians to insist that corruption was not a serious problem facing the country.<sup>8</sup>

❖ **Market-liberal**

The champions of this view think that no special measures against corruption are necessary, and that the solution to this problem is macroeconomic: the prerequisites for corruption will disappear when the state relinquishes its participation in the economy. In its more extreme versions, such an approach regards anti-corruption initiatives as unnecessary and even counterproductive.<sup>9</sup> Some of the top government officials, adhered to such a concept.<sup>10</sup>

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<sup>7</sup> Such a position, for instance, is maintained by the jurist Alexander Dzherov (Democratic Party): "Since there are no corruption lawsuits, I can say that there is no proven corruption in the state leadership." (See the *Sega* daily, June 13, 2001.)

<sup>8</sup> As the respected *Capital* weekly notes, on this issue the position of Ivan Kostov, leader of the Union of Democratic Forces and Prime Minister in the period 1997-2001, ranges from "there is no corruption in Bulgaria" to "give me some evidence." (*Capital* weekly, April 12, 2000.)

<sup>9</sup> According to the political scientist Ivan Kristev, for instance, "...all attempts to conduct anti-corruption policies have invariably increased the role of the state, and have been anti-market and anti-liberal in nature... If the government really wants to reduce corruption in this country, it should not fight it, but rather continue to reform the state by decreasing regulations, enforcing anti-trust measures, simplifying the tax laws, and promoting competition. (See the *Capital* weekly, October 24, 1998.)

<sup>10</sup> For example, at the conference "Foreign Investments, Transparency, and Economic Growth," held in Sofia in 1999, Ivan Kostov said that by the end of the year 2000 the reforms in Bulgaria will be over, and that this was the best way to fight corruption. (*Capital* weekly, October 24, 1999.)

In opposition to this view, *Coalition 2000* experts and other NGO representatives pointed out that the very forms and mechanisms for carrying out some of the reforms, and most of all the privatization of state property, generate corrupt practices. This leads to the paradox that “the very way in which the state is relinquishing its participation in the economy gives rise to corruption.”<sup>11</sup> Subsequently, the *Coalition 2000* theses were circulated by various public actors who attacked the clientelistic privatization model of the UDF government.

#### ❖ **Etatist-institutional**

The proponents of this approach put an emphasis on the intra-institutional control and the activation of the whole law enforcement system: police, secret services, and the judicial system. This approach also involves disparaging attitudes to or the outright rejection of the participation of NGOs in the fight against corruption. One of the typical critical remarks directed to *Coalition 2000* was that by publicizing facts and assessments of the widespread corruption in Bulgaria it was tarnishing the international image of the country. A direct implication of this line of thought is that publications and statements proving the existence of corrupt practices in Bulgaria drive away potential investors and impair the chances of the country for a faster integration into the EU and NATO.

#### ❖ **Egalitarian**

The adherents to this thesis proceed from the opposite assumptions. They equate corruption with the ideas of class exploitation and robbery popular under communism, and respectively anticorruption—with the egalitarian social criticism and agenda. Such an ideological treatment of the problem obscures its real parameters, and transfers the task of civil society to achieve transparency and openness of state institution into the sphere of political confrontation.

#### ❖ **Pro-corruption**

It is fair to say that the thesis about the utility of corruption as “oiling” socio-economic mechanisms is in fact absent from serious publications and other media channels, and is formulated solely as a scholarly hypothesis within the framework of expert discussions on this topic.

The public debate generated by *Coalition 2000* enhanced the popularity of another concept about the phenomenon under discussion. It highlighted the need for civic control as a form of prevention of corrupt practices. This position, upheld within the framework of *Coalition 2000*, regards corruption as a social evil eroding the basic structures of social relations, and hence—a matter of serious concern for the nation. Through its efforts, *Coalition 2000* was consistently championing the understanding that corruption was not limited to the provisions of the Criminal Code, but was also a phenomenon whose scope could and should be assessed in order to counteract against it effectively. In addition, this approach does not regard corruption as a “threat to the system of government,” but as a threat to the social integrity of the nation, as a potential time-bomb capable of blowing up public support for the reforms. Tolerance of corrupt

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<sup>11</sup> Corruption Assessment Report 1999, p. 15.



practices alienates citizens from the process of reforms, and undermines their sense of involvement. If those in power turn a blind eye on the existing corruption, the inevitable hardships will be distributed unfairly—concentrated upon some social strata while others, with access to the benefits of public office, are being relieved. Moreover, the dynamics of these attitudes should be monitored and measured, and the measuring can become an important source of information for the decision makers.

Such an attitude presumes a clear understanding of the complex nature of the corruption problem. Consequently, the awareness campaign was necessary not only for presenting the phenomenon more adequately; without it most citizens will inevitably remain an object of manipulation—either through a politicized anti-corruption rhetoric, or through efforts to render meaningless the idea of fighting corruption.

3.

In its efforts to influence the anti-corruption debate, *Coalition 2000* set the following **main goals**:

- An obvious goal of *Coalition 2000* was to react against the pervasive formal-legal view on the problem and against the general tendency, common even among the elites. As it was stated earlier, such an endeavor is of key significance for lifting constraints before public initiative, and in this particular case—for motivating the representatives of the elites to actively participate in anti-corruption activities. In other words, those attitudes against corruption, which can be described as quiescent and leaning towards delegating anti-corruption activities to law enforcement agencies, were targeted first and foremost.
- Another aspect of the awareness campaign was overcoming the continuing confusion of terms like “bribes,” “tips” and “gifts.” Given the fact that for a society like the Bulgarian one gift giving as an expression of gratitude comprises part of the national tradition, the absence of any legal differentiation between these terms additionally complicates the task of separating the permissible from the unacceptable, the legal from the illegal. Because of that, in media appearances and publications of *Coalition 2000* the need to adopt clear rules for gift giving was repeatedly stressed. This problem has two aspects: on the one hand, by consciously or unconsciously upholding the ambiguity of societal attitudes on this issue, the authorities facilitate the mimicry of corrupt activities and their perpetrators who can state that non-monetary bribes given or taken by them are an expression of traditional gratitude. On the other hand, societal attitudes towards corrupt practices can be diluted when exchanges of gifts, which are normal for this country, are presented as a form of corruption.
- Placing the emphasis on “soft corruption” (nepotism, favouritism, trade in influence, conflict of interests, etc.) as considerably more dangerous for society is especially important for stimulating public intolerance towards them. The danger lies not only in the destructive consequences of such phenomena for society as a whole, but also in the general tendency to link them to the social practice of using “liaisons”.

Another campaign priority was the correct positioning of the corruption problem. The main goal in this respect was the eradication of the most widely spread explanatory models justifying or ignoring corrupt practices which induce skepticism or rejection of anti-corruption measures among citizens. The main points of these models are as follows:

- Corruption is a very limited phenomenon which can be attributed only to the few officials accused of taking bribes, and therefore, this is not a social/political problem.
- Corruption is widespread, but it is unavoidable for solving the personal problems of citizens. Hence, one's own participation in corrupt transactions and bribe giving can be excused (unlike accepting bribes which is condemned by the majority).
- Corruption as a phenomenon typical of human nature does not inflict big losses on the economy and society. A modification of this thesis is the notion that corruption is even useful in some cases as an "accelerator" of the reform processes.
- Bulgaria is not more corrupt than any Western state, and anticorruption is not necessary since "we are not so bad."

The **anti-corruption thesis** was presented in several directions:

- ❖ Presenting statistics of societal attitudes towards corruption (since the Corruption Indexes of *Coalition 2000* clearly proved that the public was convinced in the seriousness of the problem, they were used as an argument against unfounded assertions of the opposite).
- ❖ Disseminating comparative data about the corruption rating of Bulgaria (the Index of Corruption Perceptions of Transparency International, and other assessments).
- ❖ Developing and disseminating explanatory models which show the relation between corruption and poverty, corruption and a weak interest of foreign investors, corruption and drastic social inequality, corruption and the destabilization of democratic institutions, etc.
- ❖ Suggesting the idea that participation in corrupt transactions has a boomerang effect on individuals, and that in the long run this is an illegal tax which they pay for the enrichment of criminals.
- ❖ Legitimizing anticorruption as a rational and ethical approach aimed at limiting the destructive socio-economic consequences of corrupt practices, consolidating public trust in democratic institutions, and establishing a civic mode of behavior and modern standards for interactions between state officials and citizens.
- ❖ Refuting the thesis that the anti-corruption debate undermines the chances of Bulgaria for integration into the international community: in public appearances initiated by the Coalition, participants emphasized that it is precisely anticorruption as part of the policies of a given state that improves its image in international relations.
- ❖ Defending the thesis about the untenability of egalitarianism as a political philosophy, and also differentiating the anti-corruption idiom from the rhetoric of proponents of that philosophy.

### 3.4. The role of the media in the awareness campaign

The media are a major element in every information campaign. However, they have their own momentum and logic of development. Even independently from other political actors, the media often initiate political acts which are really or seemingly focused on the corruption phenomenon. It was precisely this capacity of the media that became the focal point of the *Coalition 2000* monitoring of the media output during 1999 and 2000.

#### 3.4.1. Media coverage of corruption

Because corruption by its very nature involves a violation of the stipulated “rules of the game,” or activities regulated by unspecified, though necessary rules, it is a covert (invisible) social relation. That is why its media exposure is extremely important, to the extent that the media constitute in a sense the very basis for the public discourse on corruption, and are also a potential instrument for achieving anti-corruption results. During the whole period of the awareness campaign, the corruption issue received increasing coverage in the newspapers, and also in the electronic media that were monitored. In a leading weekly, corruption was justifiably named “the word of 1999”. It remained such in 2000, and in 2001 it became a leitmotif of the election campaign, one of its most prominent themes which determined the re-structuring of the political sphere after the parliamentary elections of June 17 the same year.

#### **The media monitoring of *Coalition 2000***

*The media monitoring of corruption conducted by Coalition 2000 is aimed at outlining the quantitative parameters of the presence of this issue in the national print and electronic media, uncovering the qualitative features of the media coverage of corruption (taking into consideration also its potential significance in shaping social attitudes and opinions), and disseminating information about the media coverage of the activities of Coalition 2000 and the other anti-corruption initiatives. The media monitoring involves 12 national newspapers, including 9 dailies and 3 weeklies, as well as certain program slots in the electronic media. The newspapers include: Democrazia, Duma, Trud, 24 Chasa, Sega, Standard, Novinar, Pari, Monitor, and the weeklies Capital, 168 Chasa, and Banker. The electronic media are: the Bulgarian National Radio, Bulgarian National Television, Darik Radio, Nova Television, and 7 Dni Television.*

*The methodology and techniques of the media monitoring are based on the concept of corruption as a social relation, a transaction between two parties. Because corruption by its very nature involves a violation of the stipulated “rules of the game,” or activities regulated by unspecified, though necessary rules, it is a covert social relation. That is why its media exposure is extremely important, since by covering the problem the media can become an instrument for achieving anti-corruption results.*

*The registration map for monitoring the print and electronic media consists of 26 indicators. They can be clustered in several groups:*

- indicators of quantitative and qualitative parameters of the media coverage of the corruption issue (volume, place, author, type of the communication item);  
- indicators of the level and specific features of the media treatment of the corruption issue (sphere of manifestation, type of the corruption act, intensity, appearance of anti-corruption exposures and activities);  
- indicators of the discourse aspects of the media coverage of the corruption issue (main theses set forth, key words, titles, intonation characteristics).

*The research methods employed make it possible to find out the most important parameters of the media coverage of the issue of corruption in a given period, to perform a comparative analysis of the traits and tendencies of that coverage in different periods, and also to outline the areas of media exposure which affect attitudes and opinions on corruption in society.*

*The results of the media monitoring—started at the beginning of 1999 and continued through the second half of 2000—were presented in regular quarterly summary reports. In addition, separate analyses were prepared on specific media problems registered in the monitoring process. Also, the media monitoring itself became a subject of a number of media publications.*

Following are some of the most salient features of the exposure of the issue of corruption in the Bulgarian media during the monitoring period:

✓ **From generalities to specific points**

The initial hypothesis and expectations about the manner in which corruption is discussed in the Bulgarian media were confirmed by the registration of widespread writing and speaking about the issue in very broad terms. Corruption, of course, is not a transparent, obvious and overt social relation, but the overly general anti-corruption rhetoric and articulation of assumptions did not contribute in any way to greater exposure of the phenomenon. The fact that both in the press and in the electronic media corruption was most often linked to government institutions was actually rendered meaningless and was diluted by the excessively general discourse about it. Very often writings about corruption were not prompted by any particular occasion: corruption exists, corruption is everywhere, corruption is a topic of discussion in society. Although in the process of monitoring there was a shift towards efforts to find evidence and investigate alleged cases of corruption, it should be pointed out that the share of the overly general discourse on corruption remained relatively large during the whole period.

This tendency is largely a result of the belief that corruption and corrupt politicians should not be discussed unless there is clear evidence which can be upheld in court, and even unless there is a conviction. In this way, the media faced a difficult choice: either to continue uncovering cases of corruption involving concrete suspects, and risk being prosecuted for libel, or to skip any specific facts and remain in the sphere of generalities. **From short information publications to longer articles**

The expansion of the corruption theme was clearly demonstrated also by the changed genre distribution of the publications. At the beginning of 1999, there was a

considerable concentration of short information pieces related to corruption. Subsequently, during the whole 1999 the longer types of publications occupied more space, and in the last quarter of the year they comprised more than half of all registered newspaper texts. This tendency continued throughout the year 2000. The same process was observed in the electronic media: while initially the issue of corruption was present mostly in short information pieces, towards the end of 1999 and during 2000 more than one third of the registered items were of considerable duration—up to 7 minutes, up to 15 minutes, and over 15 minutes. This situation reflected a peculiar phenomenon of factual saturation—beyond a certain point, the public was no longer satisfied by “naked sensations” and mere statements of the facts, and naturally the media started to put greater emphasis on the analytical aspect of their publications. The low “efficiency factor” of newspaper articles exposing facts about corruption has probably also contributed to this trend—with no real consequences for the corrupt politicians, journalists started looking for the underlying reasons for this impunity.

✓ **From a supplementary to a main theme**

The shift in the media coverage of the corruption issue was highlighted in 1999-2000 by another indicator as well. During the initial period, even in longer newspaper texts (from 70 lines to a full page) the corruption theme was supplementary, secondary, appearing in the context of another theme. Thus the “print” existence of the issue was similar to the “electronic” one, since it was mostly short texts that had corruption as their main subject. Subsequently, though, corruption increasingly established itself as a main subject, and was registered as such in 76 percent of the newspaper texts covered by the monitoring.

✓ **Quantitative fluctuations of publications on corruption**

In different periods, depending on current political events, the media coverage of corruption had its ups and downs. A peak was registered at the end of 1999 when the government was reshuffled—at least in public perceptions, because of suspicions of corruption. A fall was registered in January 2000, and there was a peak again in the spring of 2000 in connection with the re-ignited war of mutual discreditation between former and acting ministers, in which corruption figured as one of the main accusations. From then on, the interest towards the corruption problems remained steady, and its coverage was constantly increasing through the spring of 2001, when the campaign for the June 17 parliamentary elections was launched.

✓ **From the lower to the upper levels of authority**

During the entire period of monitoring, corruption was consistently linked in the media to state institutions, the judicial system, and local government. In fact, attention was increasingly focusing on state institutions, and corruption was mostly associated with the occupation of administrative posts. This became obvious especially in the second half of 2000, when high-level state officials were identified with increasing frequency as the “top actors.” The term *dalavera* (shady deal) did not replace “bribery” as the most frequently used one, but it turned into a key notion summarizing the abuse of administrative positions for personal gain and for the

benefit of a clientelistic circle. Additionally, at the personification level, former ministers and party functionaries were identified by public opinion as symptomatic corruption figures.

✓ **The media and the information curtain**

The media “explosion” of different accusations of corruption at the upper levels of state administration during 1999 and 2000 could not clearly expose, however, the extent to which corruption processes in society were observable and controllable, and whether there was a consciously imposed media blackout. Even the debate about the cabinet reshuffle at the end of 1999—catalyzed by assertions about corruption among those in power, and itself a media catalyst—did not in practice remove the curtain of non-transparency. The situation partially changed in 2000, but the greater transparency did not lead to positive changes in the political behavior of those in power. On the contrary, the intensification of the anti-corruption debate strengthened their resistance instincts, capsulated the ruling party, and was used just for the opposite purpose—to justify the lack of action against corruption.

✓ **An escape into theoretical models**

The efforts of the authorities to apply a narrow definition of corruption had, however, yet another—somewhat paradoxical—result: the proliferation of texts outlining the typology of the phenomenon, the manifestations of corruption, “the trade in political influence,” the possible means of exercising pressure, etc. The weeklies *Capital* and *Kultura* played an extremely important role in this respect. In a series of publications they encouraged discussions of corruption going beyond its current dimensions, and thus contributed to the overall conceptualization of the problems. In this way, the public (and especially the mediators actively involved in the corruption debate) was better prepared for the further elaboration of the issue.

✓ **The party tint of the media coverage**

Assessments of the scope and range of corruption, as well as of the effectiveness or ineffectiveness of the fight against it, were treated differently by the various media outlets, depending on the views of the political parties they favored. The various “social worlds” of corruption remained firmly entrenched during the entire year, and became visible in the tone of the texts, as well as in the theses that were promoted. While the media favoring the opposition expressed skepticism and pessimism about the results of the fight against corruption, the pro-government media more often conveyed a position of moderate optimism. Throughout the year, the “social worlds” of corruption in the media matched the social worlds present in political discourse and in the political exploitation of the corruption issue.

### **3.4.2. Media exposure of corruption: typology, mechanisms, public reactions**

Regardless of the serious attention of the media towards the issue of corruption, the immediate effectiveness of such publications and TV and radio programs was limited. After the initial revelations, there were very few cases when the journalists continued

their investigations, and brought the matter to its logical end—presenting evidence and proof to the appropriate institutions, and provoking a reaction on their part. Most of the corruption scandals can be considered as “closed” or as stories with an open end, without, however, visible results of the investigations and punishment for the ones guilty of corruption. These results also reinforced the above-mentioned trend in society towards disregarding and underestimating the role of public discussion. There are no moral and material incentives for the investigative journalists who, if they demonstrate professionalism and persistence, encounter great difficulties and risk their careers, and in some cases their lives, too.

In its efforts to contribute to overcoming these obstacles and to encourage the anti-corruption streak in investigative journalism, *Coalition 2000* conducted monitoring of the media stories exposing corruption. This made it possible to analyze the types, mechanisms, and the impact of such publications, and to describe and classify the public offices held by those affected by them. The leading investigative journalists were informed about the results of the analysis; in other words—this product of the activities of *Coalition 2000* also became part of the awareness campaign. Here are the main conclusions of the monitoring of the media exposures:

#### Types of media exposures

There are two types of public exposures of scandals with corruption elements in the Bulgarian media: strictly corruption scandals (non-political), and political scandals with elements of corruption.

The first type of scandal exposures involves abuse of an administrative position in the economic sector for personal/group gain. They have political ramifications to the extent that the interests and actions of individual politicians from the ruling majority (mainly ministers in the economic area) are interwoven with those of the officials and/or groups accused of corrupt practices. The public hypothesis in these media stories outlines a corruption model linked to the creation of a system for criminal group enrichment. Such allegations contain also suspicions of the existence of a clientelistic co-relation between the interests of the managers of state-owned companies and the interests of members of the upper-level state administration, and the specialized institutions (the Privatization Agency, etc.).

Most of the stories exposing scandals belong to the second type. Thus, for instance, 9 of the 12 such stories which evoked wide public reactions in 1999 can be classified in this category. Like the other registered cases of scandal exposures, they have a corruption element. Such political scandals thus fall under the broader definition of corruption including a collective (in this case party) gain. In these cases, representatives of the authorities use their political influence both for personal gain, for re-directing resources towards a particular political party, and for establishing clientelistic enrichment schemes.

#### Mechanisms of corruption exposure

##### *1. Whistleblowers*

- Journalists

In most cases, the hypothesis of a corruption act is formulated by a journalist on the editorial staff of the newspaper where the story is published for the first time. Usually, journalists refer to an unnamed source (who is often called a “well informed source”). Of course, it is routine for every investigative journalist to have sources with access to official information. The downside is that the journalists themselves can be used by a particular institution or by individual officials as channels for deliberate leaks of information, especially in the case of state security and law-enforcement agencies.

- Politicians

Politicians from the opposition (members of parliament, party officials, etc.) are another source of information about corruption at the upper levels of authority.

- Representatives of appropriate state institutions

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*2. Reactions of those accused of corruption/abuse of authority*

Based on the analysis of the monitored corruption exposures, the range of reactions of those affected by the exposures fall into the following categories:

- Rejection of the accusations

- Approaching the competent institutions

- Launching a defense with political counter-arguments

In some instances allegations of corruption are used as pretexts for repeated exchanges of accusations and counter-accusations between politicians, often under the protection of their immunity.

- Ignoring the allegations, or the so-called “tactic of the ostrich”

By keeping silent or mocking the journalists or other opponents, the accused officials imply one of two things: a) that the journalistic investigations or other exposures are simply nonsense and do not warrant comments, or b) that even if these exposures were true, they could not affect those accused because of the powerful positions they occupy.

The comparison between these reactions leads to the conclusion that society should compel the politicians to react in a responsible manner. This involves:

- ✓ Treating seriously and responsibly the accusations and criticisms directed towards them.
- ✓ Avoiding the excessive politicization of the scandal exposures/accusations even if those are made by political opponents.
- ✓ Requiring verification of the accusations by the appropriate institutions.



Obviously, the “tactic of the ostrich” is most damaging for the image of the officials involved. Such a reaction, or rather the lack of any reaction, implies disregard for the media, and indirectly for public opinion and the right of the citizens to be informed. The politicization of corruption-related exposures can be almost as dangerous.

### *3. Public and media response*

The regular coverage of scandals is necessary for maintaining the readers’ interest. At the same time, after the initial exposures, the journalists rarely brought their investigations to their logical conclusion—presenting evidence and provoking the reaction of the appropriate institutions.

Another striking fact is that non-governmental organizations did not take a public stance on the scandal exposures, and this discouraged the journalists and created the impression that society was indifferent to such accusations. The reactions of *Coalition 2000* were an exception to the rule: the Coalition expressed public support for the anti-corruption position of the two newspapers with the highest circulation (*Trud* and *24 Chasa*).

### *4. Dynamics of the exposures*

The overview of the corruption exposures of nation-wide significance makes evident the following feature of the unfolding of the exposures in time: 1. An active initial phase of multiplying publications generated by the exposure. 2. Follow-up publications covering the reactions of those accused and of their accusers, as well as additional discrediting facts. 3. Quick fading away of the scandal (a “high mortality rate” of corruption exposures). 4. In some cases the accusation thesis was revived after a period of several months. This raised to some extent hopes that the exposures were not entirely futile and had left a mark.

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Based on the media monitoring, the following **conclusions** can be drawn:

- Few newspapers have the capacity and/or the willingness to carry out investigations based on suspicions of grand corruption, i.e., those types of abuse of authority which concern political interests and do not belong to everyday scandals/abuse of authority.
- Even when such exposures are made, they rarely have a follow-up provoked by further journalistic investigations. They have a “high mortality rate.” Hence, their social effect is also limited. A stereotypical explanation is established in society that the media only make noise around big scandals, but no real steps are taken for unmasking and punishing corrupt officials.
- There is no tradition of keeping record of corruption exposures. Most of those can be considered as “closed cases” or “stories with an open end” which, however, do not lead to visible results of the investigations and to possible convictions for the guilty parties. This also intensifies the general trend in society towards disregarding and underestimating the role of public discussion.

- There are no moral and material incentives for the investigative journalist who, if they show professionalism and perseverance, face serious obstacles and risk their careers, and in some cases—even their lives.
- The corporate solidarity of journalists is still weaker than the competition and struggles between the newspapers, and the independence of the media as a whole is often impaired by political and/or financial considerations.
- In this respect the positions of the independent press are additionally weakened by the strange passivity of the civic and professional organizations, which by definition are called to protect the freedom of speech, and by the lack of a clearly stated position of civil society as a whole.

At the same time, to a great extent under the influence of the social criticism generated by the awareness campaign, the fall of 1999 saw the emergence of a new trend which departed radically from the press reactions that had prevailed so far. Almost simultaneously the two most popular dailies—*Trud* and *24 Chasa*—started columns in which they constantly urged the authorities to dismiss corrupt upper-level officials.

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On October 26, *24 Chasa* renewed publication of its column “Why wasn’t the corrupt minister dismissed,” which was started as early as September 1997. The newspaper published only the silhouette in black of a deputy minister about whom discrediting facts had become known. Only three days later, *Trud* also started its own column “Who is?” In the following 16 days, the newspaper was printing this question above an empty space on its first page next to its head. The question was directed towards the government, and was related to a statement of the President that those in power tolerated corruption. Eventually, the daily column was discontinued, but appeared from time to time in order to remind the government that the readers expected an answer. /Īēpñ ôâēñîèèâ îð 24 ÷âñà è “Ôðóâ”/.

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### 3.4.3. *Coalition 2000* and the media: joint anti-corruption initiatives

In addition to providing ground for the functioning of different communication forms within the framework of the awareness campaign, the media became also an important partner in the fight against corruption. Joint initiatives for increasing the effectiveness of the public exposures were launched in close cooperation with some leading newspapers and journalists.

One such media initiative was the weekly telephone poll of 50 leading investigative journalists, organized by the Secretariat of the Coalition. Under the title “Scandal of the Week” (corruption exposure of the week), the poll and an accompanying editorial comment were regularly published in one of the most widely-read dailies—*24 Chasa*. The poll was intended to focus the attention both of the journalistic community

and of the reading public on the problems of corruption, and also to offer an adequate form for monitoring the views of journalists. The publications continued during 1999 and 2000.

### **In a box: a facsimile of the *24 Chasa* poll**

Another form of media monitoring was the experimental introduction by *Coalition 2000* of a **register of media exposures** during the period 1998-2000, maintained by the Secretariat of the Coalition. Every media exposure of nation-wide significance was recorded on a registration card with the following facts:

- source of the exposure;
- journalistic accusatory/exposing thesis;
- reaction of the accused;
- reaction of other media;
- unfolding of the scandal, etc.

By initiating such a register and by making it available on the Internet, *Coalition 2000* set for itself several goals:

- ✓ To create a kind of “social memory” of the scandal information, which flows rapidly and usually disappears quickly from public view, thus making it easier for corrupt officials to conceal their actions.
- ✓ To assist journalists, including investigative journalists, to go back to a certain exposure, or to analyze the phenomenon over a longer period of time.
- ✓ To remind the law enforcement authorities that suspects of corruption crimes have been left unpunished, and to provoke self-approaching of these institutions.
- ✓ To foster cooperation between NGOs and the media, and to make the civic monitoring of corruption more focused.

A register of the senior officials investigated as a result of media exposures was also compiled. It contains records of the concrete exposure, the actions of the law enforcement authorities, and the current legal status of the accused high-ranking state official. The Internet version of this systematized information is also available for the journalists.

The partnership of *Coalition 2000* with the media resulted also in concrete joint initiatives involving non-governmental experts, media law experts, and investigative journalists. They were aimed at facilitating further the work of those involved in this most complex and labor-intensive media genre, and at improving the legal-institutional environment for the profession of journalism. In 2000, several seminars on the subject “Investigative Journalism against Corruption” were held in Sofia, Plovdiv, and Varna. As a result of these efforts, the Coalition published the study “The media against Corruption: Obstacles and Risks for Investigative Journalism” (in Bulgarian). It criticizes the Law on the Access to Public Information adopted at the beginning of 2000 as restrictive and creating more obstacles than opportunities for journalists, as well as the closed nature of Bulgaria’s state institutions.

### **Illustration: Cover of “The Media against Corruption”**

One of the achievements of *Coalition 2000* was the collaboration of experts from non-governmental organizations, state institutions, and investigative journalists specializing in the sphere of trans-border crime and the traffic of drugs, goods, and people. Lasting partnerships were formed with eminent journalists, and in this way organizational and professional preconditions for a systematic exchange of information and of analytical overviews were created for the first time. In addition, the efforts of the individual journalists covering the above mentioned areas were put in a long-term context.

The Coalition also intends to organize round tables on the problems of communication between the “third sector” and the “fourth branch of power,” especially in the anti-corruption sphere. The discussions will focus on the need to overcome the existing divergence of the interests, on the one hand, of sociologists and political scientists, and, on the other, of journalists and the media, and on the discrepancies in their interpretations of different aspects of corruption and anticorruption.

Initiatives for stimulating investigative journalism in the sphere of corruption should also be encouraged. Such efforts could include the establishment of awards and other prizes for civic courage and professional skills in this rather risky journalistic field.

### **3.5. The role of the “third sector” in the awareness campaign**

The awareness campaign provides a fertile ground for the activities of non-profit organizations aimed at achieving a real transformation of behavioral stereotypes and the place of corruption in them. After initiating, together with the independent media, the public debate about corruption, a number of Bulgarian non-governmental organizations made anticorruption a permanent sphere of their interests and activities. At the same time, the organized forms of fighting corruption were supplemented with spontaneous initiatives and civic actions which involved the social energy of non-governmental organizations and of citizens in general.

#### **3.5.1. The civic commitment to anticorruption: achievements and problems**

The awareness campaign outlined the independent role of non-governmental organizations within the framework of the public-private partnership against corruption. It highlighted the areas of activities and specific anti-corruption forms in which NGOs have considerable advantages over the state. At the same time, the ability of civil society to gain its own ground in the fight for transparency and accountability is an important precondition for a differentiation of roles within the framework of a multi-faceted initiative like *Coalition 2000*.

We should point out the indisputable anti-corruption effect of a number of **trends in the activities of the third sector**:

- Thanks to civic initiatives like *Coalition 2000*, anti-corruption education was introduced for the first time (we shall discuss this contribution in greater details in the next paragraph), specialized research on different aspects of corruption activities was disseminated, and all this enhanced the awareness capacity of civil society.
- The civic corruption monitoring and especially the quarterly Corruption Indexes of *Vitoshka Research* became an important and often consulted source of information about the actual levels, manifestations, and spread of corruption, as well as a measure for the progress of efforts to curb it.
- Business associations and other professional organizations involved in anti-corruption efforts started to play an increasingly active role. Business associations became very active as “lobbying groups” working persistently for abolishing many permit and licensing regulations, which traditionally provide fertile ground for discretionary power and corrupt practices. The other professional organizations (like, for instance, the unions of journalists, the Union of the Judges, etc.) are actively involved in the development and introduction of professional ethical codes stipulating that corrupt behavior is inconsistent with belonging to a particular professional community.
- A steady trend emerged towards a proliferation of anti-corruption activities from the center to the periphery through the activation of non-governmental organizations based in a number of towns and municipalities. The foundations of a national anti-corruption system were laid through applying the *Coalition 2000* formula at the local level, and through the Internet-based network “Open Municipalities.”
- The professionalization of the civic organizations involved in anti-corruption initiatives is also quite evident. Its most definitive expression was the institutionalization of local Ombudsmen (public mediators), civic monitors, as well as other forms of public mediation at the local level (for example in Shoumen, Smolyan, Varna, Sofia, and other cities).
- The improvement of the collaboration against corruption between non-governmental organizations, the media, and civil society generated new forms of cooperation, and contributed to overcoming the alienation between these social sectors. In particular, important steps were taken towards overcoming the alienation between the non-governmental organizations of the “think tank” type, the human rights NGOs, the professional organizations, etc.

At the same time, the involvement of more non-governmental organizations in the *Coalition 2000* process, as well as the experience of interactions between them and the authorities revealed some **problems**, to some extent also typical of other initiatives of the third sector in Bulgaria:

- ✓ First of all, this concerns the motivation for participation in anti-corruption activities of non-governmental organizations as a whole and of civic experts in their personal capacity. Unlike other types of projects, these have a high potential for conflict: the interests of the civic experts who

oppose corruption are incompatible with the interests both of the corrupt officials and clients of public services, and of that part of the state bureaucracy which through its actions, or rather its lack of action, creates favorable conditions for bribery. The combination of these factors requires from the representatives of the non-governmental sector involved in anti-corruption activities exemplary civic integrity. Often respected organizations and their representatives are under the influence of some power structures, and they cannot conduct independent monitoring of their work; at the other extreme are those consistent fighters against corruption who, however, are perceived as outsiders by society. The selection of organizations and experts to be involved in anti-corruption activities should, therefore, seek to establish a balance between these extremes, which is not always possible.

- ✓ The relationship between the “project existence” of anti-corruption initiatives and the principle of voluntary participation, which is a necessary prerequisite for the activation of civil society in the fight against corruption, is also related to this problem. In this, like in other spheres of the activities of non-governmental organizations, in countries like Bulgaria it is still impossible to rely on substantial charitable contributions from representatives of civil society for economic reasons. The high unemployment, which in some areas and cities reached disastrous proportions, the poverty and the low incomes make the commitment to a certain cause a luxury which most people cannot afford.
- ✓ Another significant problem related to the organizations of civil society is the corruption within the non-governmental sector itself. In a number of cases non-governmental organizations are used for “triangle schemes,” through which payments on corruption deals are made (for instance, instead of directly receiving bribes, some officials collect those under the guise of consultancy contracts from NGOs directly or indirectly connected with them). In order to avoid such situations, an emphasis was placed on the procedure for “recruiting” non-governmental organizations to the *Coalition 2000* initiative in accordance with the criteria tested in the system of Western sponsorship of non-profit initiatives.

### **3.5.2. Anti-corruption education—and innovative civic initiative**

Anti-corruption education, where NGOs play a decisive role, is a natural continuation of the information campaign carried out mainly through the mass media. This element was not among the priorities of the “Clean Future” awareness campaign that were set from the start. In the process of the anti-corruption initiatives, however, it became clear that the complex nature of the “corruption” problem and the importance of long-term anti-corruption objectives in the context of the transition to democracy and a market economy required continuous and intense efforts. The goal to achieve changes in public attitudes towards corruption, defined within the framework of the *Coalition 2000*

initiative, is inevitably linked to efforts to foster a new civic culture, and to the establishment of a modern style of government.

The NGOs taking part in the initiative were initiators and organizers of the consultations aimed at formulating the priority areas of anti-corruption education. The participation of specialists from the spheres of public administration, the economy, sociology, political science, psychology, the media, and marketing not only contributed to avoiding a dissipation of efforts in studying this problem, but became a basis for initiating a scholarly discussion on the ways of achieving the objectives which had been set.

Another important moment in the work of the non-governmental sector was the recruitment of a broad circle of experts from different organizations and institutions of higher learning to write the first corruption handbook published in Bulgaria. This undertaking demonstrated the need for an integrated scholarly-educational discipline in this field, as well as the utility of an inter-disciplinary approach to the problems of corruption.

**The handbook contains the following subjects:**

- *Legal concept of corruption*
- *Models of corrupt behavior*
- *Corruption monitoring*
- *Areas and forms of corruption*
- *Abuse of political power*
- *Corruption in the judicial system and the police*
- *Corruption and the economy*
- *Corruption in international relations*
- *Financing of political parties*
- *Judicial reform against corruption*
- *Administrative reform against corruption*
- *Civil society against corruption*
- *Professional ethical codes against corruption*
- *International cooperation against corruption*

The process of editing the handbook and the subsequent seminar discussions of the book chapters became significant stages for the introduction of these problems into the academic discourse. By inviting university professors from state and private institutions to take part in the discussions, the Coalition managed to engage experts from different fields in the efforts to introduce “anticorruption” as a university course.

Eventually, the following most promising spheres for the introduction of an anticorruption course were identified:

- ✓ A university topics course in a number of social science majors (New Bulgarian University, Department of Journalism and Mass Communications at Sofia University “St. Kliment Ohridski”)
- ✓ A topics course for public administration students
- ✓ A lecture course for employees in the state administration
- ✓ Separate lectures in the system of secondary education

Setting such an ambitious task required also training the instructors needed for it. The absence of anticorruption as an independent discipline necessitates the continuing education of experts in the fields of economics, public administration, management, political science, sociology, etc., in the framework of a course of the type “training of trainers.”

The publication of eight anti-corruption readers was an important step towards providing more information to the expert community and creating appropriate literature for the needs of anti-corruption education. The readers covered the following topics:

- Corruption in Parliamentary Practice and in the Legislative Process
- Counteracting Corruption in Local Authorities
- International Acts for Countering Corruption
- The Judiciary and Corruption
- Combating Corruption and Fraud in Public Administration
- Information Technologies against Corruption
- The Economic Price of Corruption
- Measuring and Monitoring of Corruption: The World Practice and the Bulgarian Experience

The anti-corruption readers contain texts on the respective topics, selected from publications by internationally recognized experts on the subject of corruption. The selection process of texts most relevant to the situation in Bulgaria brought together experts from different non-governmental organizations for workshop discussions on theoretical problems of anticorruption. The anti-corruption readers are intended for specialists in different areas and attract huge interest. The audience of these readers grew up significantly after they were published on the *Coalition 2000* web site ([www.csd.bg/coalition2000](http://www.csd.bg/coalition2000)).

The access to information is crucial in the process of counteracting corruption. That is why *Coalition 2000* pays special attention to providing information to other non-governmental organizations and the citizens. The press office of the Coalition, and most of all its electronic library, fulfill this function. The electronic library facilitates an informed public debate on issues relating to fraud and corruption. It stores online publications and studies in the field of anticorruption, reference links to relevant sources, sites of international organizations actively involved in anti-corruption activities. The Public Information Desk has been used as a major reference point, mainly by the *Coalition 2000* local partners, for information regarding policies, case studies, and best practices in preventing corruption. All the survey findings and policy documents



developed under the *Coalition 2000* project are available and can be ordered free of charge by a request sent via e-mail.

### 3.6. Lessons learned

Based on the experience of the “Clean Future” awareness campaign, the following **conclusions** can be drawn:

- ✓ The anti-corruption awareness campaign is vital for defining the framework of the anti-corruption public debate and for overcoming public tolerance towards corrupt practices; it is both an objective in itself (as an independent component of the anti-corruption strategy), and an instrument for establishing a permanent structure for civic monitoring and control.
- ✓ Optimal results are achieved where and when the public-private partnership goes beyond mere statements and acquires real meaning. The multi-faceted nature of the campaign makes possible and requires anti-corruption roles that are differentiated and yet complimentary, as well as inter-sectional control.
- ✓ The atmosphere of intolerance towards corruption facilitates the reformist efforts of state institutions, and vice versa—impedes the politics of non-transparency and unaccountability of the clientelistic government in general or of separate institutions of political power.
- ✓ Activities aimed at changing the attitudes of representatives of the professional elite yield the best results. The rationalistic nature of the anti-corruption messages targeting this audience facilitates lasting behavioral changes at the expense of corrupt practices. (The most effective explanatory model rests on the direct relationship: corrupt behavior—bad public image—loss of public trust/support—loss of power. In other words, the message is rationalized through an activation of the basic political survival instinct and the egotistic ethos of the object of social marketing. Moreover, concrete facts can be used to persuade the politicians that corrupt mayors and other elected officials have a very small chance of being re-elected. This is especially evident at the local level. The scheme was circulated within the government itself after the disappointing results for the ruling coalition at the local elections in the fall of 1999. It became a constant component of the various national and local discussions, round tables, and anti-corruption workshops. Experience shows that a similar type of reasoning quickly catches the attention and stimulates the interest of the participating elected officials, as well as of other political functionaries who have an understandable and long-term interest in the technology of power.)
- ✓ The Awareness campaign is also an important instrument for building civil society through practical collaboration between diverse non-governmental organizations (think tanks, human rights organizations, etc.), and between NGOs and the media.

Some mistakes and lapses in the planning and the implementation of the “Clean Future” awareness campaign should also be pointed out.

- ❖ The similarities between anti-corruption social marketing and the marketing of non-political issues (smoking, for instance) should not obscure the essential differences between them. The latter result from the fact that the “communication schedule” of anticorruption cannot be imposed by non-governmental organizations. The actions or inaction of the authorities have a leading role, so every attempt to apply strictly the rules of marketing in an anti-corruption awareness campaign will be doomed.
- ❖ The anti-corruption communication messages should take into consideration the actual rather than the stated intentions of the authorities: obstructions to the awareness campaign can be expected when the “political class” merely pretends to embrace anticorruption. Positive messages should be preferred, since they are more likely to go through the censorship still practiced in the state electronic media.
- ❖ Long-term efforts like the anti-corruption social marketing require more resources to improve the communication tools for delivering messages and ideas relevant to the changing political situation. It is important, therefore, to establish satisfactory collaboration with the independent media through inducing ideas, and by influencing to the attitudes of leading journalists.

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### *Clean Future* awareness campaign calendar (1998-2000)

Activities	Description	Number	Phase I (04.1998-12.1998)	Phase II (03.1999-02.2001)
<b>Information days</b>	Anti-corruption Information days were organized in different towns in the country by Local Partners (Local Partners-NGOs working under the Small Grants Program). The events were advertised in advance in the local press inviting the public and grassroots organizations to attend and obtain more information and advice on various corruption-related issues.	19		1999-Smolyan, Sozopol, Tryavna, Lovech, Shoumen, Varna, Pleven, Plovdiv, Haskovo, Vratza.  2000-Chepelare, Banite, Svishtov, Nedelino, Pazardjik, Stara Zagora.
<b>Townhall meetings</b>	NGO representatives and citizens were able to meet with local elites and to present to them their grievances related to corrupt	13		1999-Razgrad, Smolyan, Plovdiv, Rousse.

	practices. Proposals to improve transparency in local government and measures to enhance public control over local administration were considered.			2000–Bourgas, Haskovo, Vratza, Sofia, Chepelare, Nedelino, Smolyan, Lovech, Gabrovo.
<b>Educational radio programs</b>	Educational essays cover different aspects of the fight against corruption on national and international level.	25		1999–ten educational anti-corruption essays by <i>Coalition 2000</i> as in kind contribution were broadcast on the national Radio, the “Christo Botev” program.  2000–15 educational essays were broadcast on the National Radio, the “Christo Botev” program, on different aspects of the fight against corruption on national and international level.
<b>Clean Future Newsletter</b>	The quarterly Newsletter of <i>Coalition 2000 Clean Future</i> was published in English in 1000 copies, and is distributed among local and head offices of international organizations, foreign embassies to Bulgaria and research centers abroad.	7		
<b>Community Round Tables</b>	The major purpose of round table discussions was to raise awareness amongst local elites of the phenomenon of corruption and the harm it causes to local communities and to mobilize support for the Anti-Corruption Action Plan of <i>Coalition 2000</i> . The underlying idea of these anti-	47		1999–19 Round Tables in: Smolyan, Liaskovets, Sofia, Pleven, Rousse, Bourgas, Shoumen, Razgrad, Haskovo, Varna.

	corruption events is that local government directly affects the daily lives of citizens and that they are a natural target of public scrutiny.			2000–28 Round Tables in: Varna, Pleven, Plovdiv, Chepelare, Sofia, Silistra, Svishtov, Montana, Banite, Nedelino, Haskovo, Shoumen, Vratza, Smolyan, Balchik, Veliko Turnovo.
<b>Anti-Corruption Readers</b>	<i>Coalition 2000</i> published the readers' series which covers a broad range of issues reflecting the key aspects of corruption with emphasis on best practices, corruption in transition economies, citizens participation, etc.	8		<p>International Acts for Countering Corruption, 1999</p> <p>Measuring and Monitoring of Corruption: the World Practice and the Bulgarian Experience, 1999</p> <p>Corruption in Parliamentary Practice and the Legislative Process, 1999</p> <p>The Economic Price of Corruption, 1999</p> <p>Judiciary and Corruption, 2000</p> <p>Combating Corruption and Fraud in the Public Administration, 2000</p> <p>Counteracting Corruption in Local Authorities, 2000</p>

				Information Technologies against Corruption, 2001
<b>Monthly Electronic Newsletter</b>	<i>Coalition 2000</i> Electronic Newsletter was published monthly (12 issues) in both English and Bulgarian on the Internet ( <a href="http://www.online.bg/coalition2000">www.online.bg/coalition2000</a> ) In this way the project was able to disseminate relevant materials, new research data, and announce project-related events and activities on a regular basis.	30		
<b>Ombudsman-Public Hearings</b>	Public initiatives connected to the establishment of Ombudsman institution	6		1999–Pleven, Sofia. 2000–Sofia, Razgrad
<b>Newspaper and magazine articles and information pieces</b>	In articles in national, regional and local newspapers, as well as in other publications, the <i>Coalition 2000</i> experts presented both the events within the framework of the anti-corruption initiative (conferences, round tables, etc.), and their own positions on important problems related to corruption in the country.	More than 200 publications in national, regional and local newspapers		
<b>Appearances in electronic media</b>	The <i>Coalition 2000</i> experts shared their views and assessments in dozens of interviews on different TV and radio shows.			

#### **Part 4. Local anti-corruption initiatives: the *Coalition 2000* Local Government Transparency Program**

As an inherent part of the local self-government reform in Bulgaria, the efforts to limit and prevent corruption in local government (including the elected municipal bodies and the municipal administration) occupy a prominent place in *Coalition 2000* activity. The fundamental principles laid down in the Anti-corruption Action Plan -, namely coalition building and constructive interaction between the institutions and the civic structures, unfolded through the local anti-corruption projects of *Coalition 2000*. They were incorporated into the Local Government Transparency Program, which was intended to put into effect one of the strategic goals of the Clean Future public awareness campaign: increasing citizen activity and involving public resources in efforts to foster a climate of non-tolerance and relentlessness towards corruption in all its forms.

Corrupt practices and susceptibility to corruption among members of the administration at both the local and central level exist in combination with a variety of other problems. Many of them bear the mark of state socialism: the formal nature of public organizations and initiatives; popular alienation from government; provincialism resulting from over-centralization; distortion of basic concepts; rendering purposeless essentially democratic institutions, etc. Another factor with adverse implications is the Bulgarian tradition of a conservative and paternalistic concept of the nature of state power.

Some experts estimate that the incidence of corrupt practices at the local level considerably exceeds corruption at the higher levels. The chief reason for this view is that local authorities are interacting most directly with the public in regard to services requested by citizens. The negative consequences of a corruption-based arrangement does not stop at the mere violation of the law; but what often results is that the very object of this arrangement has long-term economic implications for a given municipality, and for the social and economic dimensions of municipal development. Those are the implications of unlawful privatization deals, untaxed company profits, unpaid import duties, violations of the Labor Code, improperly issued licenses, non-observation of public procurement rules, and unregulated financing of political parties.

Even though in terms of everyday life corruption may be viewed as an attempt to find an "efficient" solution to a given problem, most forms of corrupt behavior (trade in influence; abuse of political, economic and administrative power; and other corrupt practices ) in fact represent various dimensions of poor government. This fact seriously threatens the formation and future development of local self-government, which has just been revived after the establishment of democracy following a period of totalitarian over-centralized government. And it is well known that the institution of local self-government is the very bedrock of democratic values, the best means of building the social state, and the driving force behind the greatest part of real developments and progress in public life. In this sense the local anti-corruption initiatives based on the need

for transparency and interaction, and aimed at fostering dialogue and trust, also had the task of improving the image and the actual performance of the local authorities.

#### **4. 1. Local government transparency: legal framework and social practices**

The Local Government Transparency Program was motivated and developed on the basis of analyses made within the Corruption Monitoring System of *Coalition 2000* and expert studies on local self-government. Information was drawn both from local non-governmental organizations, and from relevant international instruments and documents on local self-government of the European Union, as well as the European Charter on Self-Government, which has been ratified by Bulgaria. The factors that proved to be of decisive importance for the implementation of the local government transparency initiatives were, on the one hand, the existing legal and regulatory framework of local self-government and the stipulated forms of civic participation; and on the other hand, social practice, including the adoption of European norms and standards in the process of the negotiations on the accession of Bulgaria to the European Union.

The new legal framework for building up a properly functioning local self-government has been established with the adoption of the Constitution of the Republic of Bulgaria (1991), the Law on Local Self-Government and Local Administration (1991), the adoption of the Administrative and Territorial Structure of the Republic of Bulgaria (1995), and the Public Referendum Law (1996). This legal framework also contains provisions for increasing the openness and transparency of local authorities. The anti-corruption effect of the enforcement of the Law on the Administration (adopted in late 1998), the Law on Civil Servants (1999), the Law on Disclosing the Property of Persons in Senior Government Position, and the Law on Access to Public Information (2000) is yet to be assessed.

In addition, there are regulations in force in each municipality which govern the handling of matters of local importance pertaining to the organization of the work of the Municipal Council and its administration, maintaining public order in the municipality, and to the ordinance on the use and leasing of municipal real estate property.

Civic participation in local policy and decision-making laid down in the acting regulatory framework comprises indirect participation – through the election of the municipal council and the mayor; and direct participation – through a referendum, a general public assembly, a petition.

Civic control over public administration is an important factor for building up and developing a democratic Bulgarian society is referred to chiefly in the National Strategy for Bulgarian Accession to the European Union. As for any guarantees for the legality of the actions of the administration, they are confined to certain intra-institutional control

bodies. There is clearly much to be done to enhance citizen activity, to create new forms of civic participation in addressing local problems, to institutionalize civic control, particularly at the local level where the interaction between the institutions and the public is most intense. No social and political practice adequate for the newly embraced standards and models has been established. The predominant popular attitudes are marked by passivity, apathy, mistrust in the state, ignorance of the norms and procedures for safeguarding civil rights and interests. On the one hand, there is a lack of proper legal and institutional awareness; and, on the other hand, despite the newly passed legislation, the state and municipal administration cannot seem to easily relinquish its role of mentor and guardian of society to become a “servant to the people”. There are unproductive and inefficient mechanisms in the administration, a duplication of functions in the central and local bodies, and a confusion of powers and obligations.

The **main obstacles** which both the local government officials and the civil society encounter in their efforts to secure municipal transparency and accountability may be summed-up as follows:

- ✓ There is no working clear-cut and transparent system of guarantees for the legality of the actions of the municipal administration, and for safeguarding the rights of citizens and civic organizations. Experts also feel that there is the so-called conflict between fundamental and protected rights; and that the rights, for which no effective safeguarding mechanisms have been provided, can turn /have been turned into declarations of a purely advisory nature. Serious misgivings are also voiced that in the absence of definite legal and financial guarantees, local government bodies are left in a critical state that is unequal with, and dependent on the central authorities.
  
- ✓ There are not sufficient preconditions to enhance the role of the mayor of the municipality and to guarantee his independence. Mayors operate within a legal framework containing inconsistencies and contradictions that definitely do not foster transparency and that are conducive to corrupt practices. There have been a number of publicly disclosed cases of mayors who have exceeded their rights or abused their powers, who have been prosecuted or tried in court, or temporarily removed from office, which is contrary to the Constitution as it does not provide for such a measure. The charges typically concern abuse of power for private gain – personally or for the benefit of related groups. In addition, the municipality is in fact carrying out activities without the power to control the management and spending of the funds strictly fixed in the municipal budget.<sup>1</sup>

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<sup>1</sup> According to Art.139 of the Constitution of the Republic of Bulgaria, and Art. 44 of the Law on Local Self-Government and Local Administration (LLSGLA), as a body of the executive power in the territory of the municipality, the mayor is in charge of all executive activity, organizes the enforcement of the municipal budget and the decisions of the municipal council, represents the municipality before third parties, and manages and deals with municipal property. Yet according to the existing regulations, in the basic areas of municipal activity – education, social assistance, maintaining public order and security – it is the central authorities that determine the staff and payroll, structure and governance schemes of the respective municipal institutions



- ✓ The centralization of power practically endorses the discrepancy between powers and obligations, which in turn does not contribute to establishing clear-cut, transparent mechanisms for good governance, including the fight against crime and corruption<sup>2</sup>..
- ✓ Serious difficulties impeding proper, transparent governance are posed by the acting regulations concerning the interrelations between the mayor and the municipal council, i.e., between the local executive and the local legislative branches of power. There is inadequate distribution of rights and obligations between the two institutions.<sup>3</sup> Another inconsistency between the law and existing practices is characteristic of the activities of the permanent municipal committees, which are legally empowered to transmit civic initiatives to the municipal council. It. These committees are entrusted also with the task of exercising control over the execution of municipal council decisions. In reality, however, the municipal committees are the weakest units within the system of local government bodies, especially in the smaller municipalities. Meetings are held informally, if at all. There is even a widespread practice for the chairs of the committees to visit the members at home in order to get their signatures on some document or other, without any prior discussion at all. They are not exercising the systematic control over the implementation of municipal council decisions prescribed by law, nor is such control exercised by civic structures. The possibility provided by the law for the permanent committees to involve experts from non-governmental organizations remains unexploited.<sup>4</sup>

The status and functions of the municipal administration have not been defined adequately by the law which impedes the efforts to curb corruption in local government.<sup>5</sup>

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<sup>2</sup> Owing to the nature of his position, the mayor is placed at the center of public concerns about the rising crime rate and related corruption. Such responsibility is implied in Art. 44 of the LLSGLA which allows the mayor to issue orders binding on the chiefs of police departments. However, this remains a purely notional possibility since it is not backed by adequate powers and is not guaranteed by either LLSGLA or the Law on the Police, or any ordinances of the Ministry of Internal Affairs. As a result, the fight against crime and corruption in the municipalities cannot be effective as long as it is treated as a task chiefly of the central government and its structures

✓ <sup>3</sup> According to Art. 138 of the Constitution, and Art.18 of LLSGLA, the municipal council is the supreme body of local self-government. However, personal responsibility of the municipal council members elected with a party ticket is rather blurred. Experience shows that the municipal councilors perceive themselves accountable mainly before their own party, while the mayor bears personal responsibility before the public. One of the most serious flaws, which often serves to cover up unlawful decisions or corrupt practices, is the political confrontation between the different groups of municipal councilors and voting dictated by party allegiance rather than the interests of the municipality and the public. This blocks the work of the municipality, provokes conflicts between the executive and the legislative powers, and creates conditions for unlawful actions and corrupt practices.

<sup>4</sup> These findings emerged in the course of implementing the Local Government Transparency Program and monitoring the activities of local government authorities. According to *Coalition 2000* experts, this discrepancy has an immediate negative effect on anti-corruption initiatives and the attempts to activate civic control and citizen participation in local self-government

✓ <sup>5</sup> The Law on administration does not deal specifically with the municipal administration referred to only in Art.36, along with the other administrative structures as “having functions related to the exercise of the executive power”. Nor does the Law on Civil Servants contain any specific provisions

- ✓ A recurrent problem in local government is the lack or the inadequacy of the information to the residents of the municipality.. The most common conflicts between citizens and municipal officials arise in cases of denial – directly or indirectly – of information on a given matter. The officials typically refer to the “protection of private interests” and “classified information”, or the Law on Civil Servants. Citizens are unable to object to this since the Law on Access to Public Information does not stipulate in clear-cut terms what constitutes public information. Therefore, officials are actually allowed to interpret the matter as they see fit in the absence of a legal definition of the term “classified information “.<sup>6</sup> To remedy to this situation Public Information Centers have been set up in five municipalities in Bulgaria and a campaign has been launched to turn the municipalities into “effective and user-friendly service providers”. These initiatives were implemented as a result of the joint efforts of the municipalities and the non-governmental sector, and with the financial and technical assistance of USAID and the European programs. New municipal public relations departments were also introduced. In the majority of Bulgarian municipalities, however, information services remain of rather poor quality. Building up working information and communication systems at the municipal level in more Bulgarian municipalities will have a positive effect in the fight against corruption.

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***Citizens and the Local Administration. Public Mediator/Ombudsman Handbook.***  
**Center for Social Practices and Local Initiative Support Association. Sofia, 1998.**

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regarding municipal officials, whose rights and obligations are undistinguished from those of public officials.

The status of public officials is subject to a number of clauses of an anti-corruption nature, such as appointment on a competitive basis, drawing up job descriptions, etc. There nevertheless remain many aspects unregulated in the existing legal framework. The monitoring of municipal activities shows that favors which are granted based on friendship or family ties by the officials are one of the most common barely disguised corrupt practices; and that there is strong public disapproval of appointments motivated by friendship, family ties, and party allegiance. In the smaller municipalities, in particular, staff appointments have become one of the major corruption-generating factors. For instance, one problem that emerged in the process of implementing local anti-corruption projects were the blurred boundaries between a “friendly” and “paid for” favor. This problem is aggravated by the fact that in the smaller municipalities the perimeter of the “non-financial bribe” is expanded by third party “intermediaries” (friends, relatives, and fellow party members).

<sup>6</sup> On this subject see “Media against Corruption: Obstacles and Risks in Investigative Journalism”, *Coalition 2000*, Sofia, 2000 (in Bulgarian).

*“The entrance halls of the institutions are organized along the lines of two typical patterns. At the central institutions there is no information for visitors about whom they should turn to and how they should proceed. At the municipalities the situation is the opposite. The entrance space is overloaded with too much and poorly organized information, and visitors actually need additional help. Communication is particularly impeded by the unintelligible acronyms that are unfamiliar to the general public and that designate different departments.*

*The information desks are still designed in such a way that citizens are placed in a hierarchically inferior position: they have to bend down in order to face the official providing information. Such spatial techniques are sometimes also used in office interior design.”*

- ✓ The lack of computer facilities in a number of Bulgarian municipalities also Risks of arbitrary interference of officials. In addition, corruption pressure exerted both by municipal employees and the citizens could be reduced if standard documents were drawn up and issued in large common office spaces. This would prevent irregular contacts between citizens and government employees and would also reduce to a minimum personal intervention in the drawing up of documents.<sup>7</sup>
- ✓ The most serious problem of local self-government in terms of its transparent and lawful functioning arose in the sphere of municipality financing. Attempts by the local anti-corruption projects to initiate public debates on municipal finances and possible abusive practices encountered a number of obstacles. This was attributed to local revenues and expenditures which are formally voted on by the municipal councils, but the actual limits and priorities are laid down in the national budget and the decrees of the respective ministries. In fact, taxpayers do not even know where their money goes. Local revenues cannot be a factor in pressing for local policy changes since their management is not within the control of the municipal authorities even though the municipality is a cash depository for handling funds intended for centrally regulated policy implementation for education and other social needs.<sup>8</sup>

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<sup>7</sup> In this regard, it would be useful to draw on the experience of the European countries and the United States in introducing mechanisms for avoiding conflicts of personal and group interests for preventing the intertwining of official and personal interests, guaranteeing income transparency, and supervising the observation of the established rules. European Union legislation stipulates norms of professional conduct for municipal officials, which could be adapted and applied in Bulgaria, as well

<sup>8</sup> The financing of the municipalities still follows a centralized model. The new legislation (1997) on corporate income taxation and income taxation of natural persons, as well as the Law on Local Taxes and Fees has not even led to a quantitative increase in local revenues. While from 1994 to 1996, local revenues made up 21 to 22% of total municipal revenues; in 1998, they amounted to only about 17%. The largest part of these revenues, about 80%, came from state transfers. The main source of revenues, income tax, remains at the disposal of the central government. The situation in the European countries with advanced local self-government is the exact opposite; income tax being a purely local tax. This insures stability and autonomy of local finances and the opportunity to address specific local problems in a clear and transparent manner using its own resources

- ✓ One of the covert corruption mechanisms in Bulgarian self-government is the manner of determining the state subsidy. In the opinion of experts, the subsidy is not subject to clear-cut regulations and subjective decisions are possible. Although formal criteria, which have increased from 5 in 1993 to 21 currently, do exist; in reality, the mechanism for the formation and distribution of subsidies is far too complicated and non-transparent. There are no guarantees for fair distribution, which could in turn motivate the municipalities to make the most effective use of the funds. Furthermore, while the Municipal Budget Law provides for sanctions on municipalities failing to fulfill the prescribed obligations, including the payment of salaries, there are no legally regulated sanctions for the Ministry of Finances in the event of failure to transfer regularly and fully, state subsidies due to the municipalities. Within the pyramid of state institutions the municipalities are generally placed in a disadvantaged position.
- ✓ The centralized management of revenues and expenditures remains the greatest problem to the municipality and its executive body – the mayor. The mayors are dependent on the ministers and the cabinet rather than on the voters. Municipal authorities do not seek solutions to local problems in the local communities but in the Capital, where all the resources are coming from. The resulting serious incongruity questions the very existence of real local self-government.<sup>9</sup>

The negative conclusion seems to be that since the outset of reforms in this country, local self-government and the manner of functioning of municipal administrations have not changed much. Bureaucracy, inefficiency, the lack of information, and the lack of concern for users' opinion on the quality of public services are all chronic flaws of local government that create preconditions for corrupt practices. It is generally agreed that corruption is also related to the poor remuneration of the officials, typically making them dependent on other supplementary sources of income.

In this sense the Local Government Transparency Program and the related anti-corruption initiatives were not just a self-contained activity isolated from reality, but a field of cooperation aimed at reinforcing and enhancing local self-government. In a way, the local anti-corruption initiatives served as laboratories for experimenting with various forms of interaction between the government and civic sectors on a local level. The nature of this interaction ranged from constructive cooperation and mutually complementing efforts, to confrontation and obstructionism.

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<sup>9</sup> In this respect Bulgaria is still a long way from the principle formulated in Art. 9 of the European Charter on Local Self-Government which states that local authorities are entitled to sufficient funds of their own, with which they should be able to operate freely in exercising the competencies laid down in the Constitution.

#### **4.2. Types of interaction between civic organizations and government structures on a local level**

The anticorruption initiatives within the Local government transparency program revealed different types of public-private interaction:

- ✓ The first type can be defined as **coalition-based**. It is characterized not only by the declared readiness of the local authorities to participate in the anti-corruption campaign but also by their actual involvement in the various activities under the pilot projects. This type of interaction has certain advantages. Most notably, the personal commitment on the part of the heads of the municipal and central administration provides an “institutional umbrella” for potential cooperation with the lower-ranking system units (for instance, in connection with administrative information requests, etc.). In more general terms, the commitment of the local government executives to the anti-corruption initiative facilitates its legitimization and makes institutional cooperation possible.

Anti-corruption criticism in the case of institutional cooperation between the civic and the government sector is essentially targeted at the middle and lower ranks of the municipal administration. In other words, the active involvement of the local political elite implies the absence of corrupt practices in the top ranks of local government. In such a situation, corruption is typically of a “bureaucratic” type; it involves abuse of discretionary powers by officials, rather than the pressure of political power or the nets of party clientelism.

The disadvantages of institutional cooperation stem from the very assumption that political corruption is non-existent. It becomes an extremely sensitive issue insofar as it directly affects the interests and position of the local leaders involved in the anti-corruption initiative. In other words, cooperation of this type can only be effective if the highest political and administrative ranks of local government are not involved in corrupt deals and practices. In this theoretically ideal case, the coalition principle would help multiply the efforts to curb mass/bureaucratic corruption through the combined use of the resources of the municipal authorities, on the one hand; and those of the non-governmental sector, business, and the local media, on the other.

In connection with the above-mentioned “institutional umbrella”, another likely drawback of institutional cooperation worth noting is the possible appropriation of functions by the mayor, municipal council, etc.; and the bureaucratic absorption of the civic organization and the anti-corruption idea, or their sheer exploitation in the name of party interests. Such practices were observed during the local election campaign in the fall of 1999 in Pleven, for instance.

- ✓ This is approximately where the boundary can be drawn to differentiate the next type of interaction, which can provisionally be defined as “**simulative**”. Cooperation is reduced to the declared commitment of the local government leaders to the anti-corruption cause, while their conduct is simulative. In such a context – when the local

authorities seemingly embrace the anti-corruption goals and ethics through mimicry in the public sphere – public exposure is the most effective means of pressing for the achievement of the above goals. The politicians and high-ranking administration officials should be held accountable; their declared commitment to the campaign should be exploited as a means of pressuring the lower ranks of the local administration.

A test of the genuine commitment of the top ranks of local government to the campaign goals is compliance by the middle echelons of the administration (heads of departments, chief accountants, municipal secretaries, etc.). A situation in which executives grant permission (for instance, concerning access to information) while their subordinates refuse to comply raises doubts of possible passive resistance to anti-corruption activities. In other words, this suggests covert opposition to the ostensibly encouraged efforts of the non-governmental organization (or local anti-corruption structure).

- ✓ The prevailing situation, however, displays a slightly different local configuration. In most of the municipalities studied, it is commonly believed that some local institution leaders are involved in abuse of political influence and/or administrative power. At the same time, there are other senior officials that enjoy a good public reputation and can therefore join the anti-corruption initiative. In isolated cases, owing to the high rank of the respective official, sectorial institutional cooperation can occur. For instance, in one town the mayor may be corrupt but the chief of police is honorable and cooperates with the respective non-governmental organization. In such cases an activist lobby can be said to emerge within the system of local government, which sometimes comprises entire institutions and which is an indication of certain conflicts of interests among the individual representatives of the local political and administrative elite. The public commitment of some leaders tends to exasperate already existing conflicts, which in this case are associated with the different response to the anti-corruption initiative. The particular balance of power in the event of sectorial institutional cooperation implies a long lasting “positional war” between the local anti-corruption coalition and the local government representatives who put up a passive resistance.
- ✓ The most adverse situation occurs when the local authorities prove hostile to the respective non-governmental organization and its initiative, refusing any kind of interaction or even resorting to acts of intimidation or administrative pressure. This type of **confrontational** conduct also displays a certain gradation – from disregard, to ridicule, to outright hostility. Such disrespect for the anti-corruption initiatives of the third sector on the part of the municipal council representatives was for instance noted by the *Coalition 2000* partner organization in Plovdiv.

Under such confrontational interaction between the local authorities and the anti-corruption coalition the nature of the latter’s lobby within the system of government can take a different course. Individual activists involved in the anti-corruption initiative tend to assume a critical or openly negative position with regard to the leaders of the local

institutions. They can be referred to as “opposition lobbyists” without necessarily implying affiliation with the respective political party currently in opposition. The table below summarizes the basic types of interaction with the local authorities characterizing the anti-corruption initiatives:

### **Types of interaction between NGOs and the local authorities**

<i>Situation type</i>	<i>Local government response</i>	<i>Target of the anti-corruption campaign</i>	<b>Lobby type</b>	<i>Description of the municipality</i>
Coalition	Cooperation	Mid ranks of the administration	Institutional; Involves top-ranking local government officials	Transparent/ open
Simulation	Passive resistance	High ranks	Activist; Involves representatives of the administration who support the anti-corruption efforts and are ready to defy the top ranking officials	Transitional
Confrontation	Active resistance	High ranks	Opposition	Closed

In conclusion, the environment in which the *Coalition 2000* anti-corruption initiatives unfolded was affected by a number of adverse factors: flaws of the legal framework of local self-government and most notably, the lack of control mechanisms and institutionalized civic participation; the interaction between local government and the non-governmental sector who essentially still have not coordinated their efforts in fighting against corruption, which is one of the new priorities of civil society and its structures; and inadequate practical solutions and extreme political confrontation which undermine local self-government and the democratic process of expanding the territory of civic action, and of empowering citizens at the expense of the government hierarchy and administration.

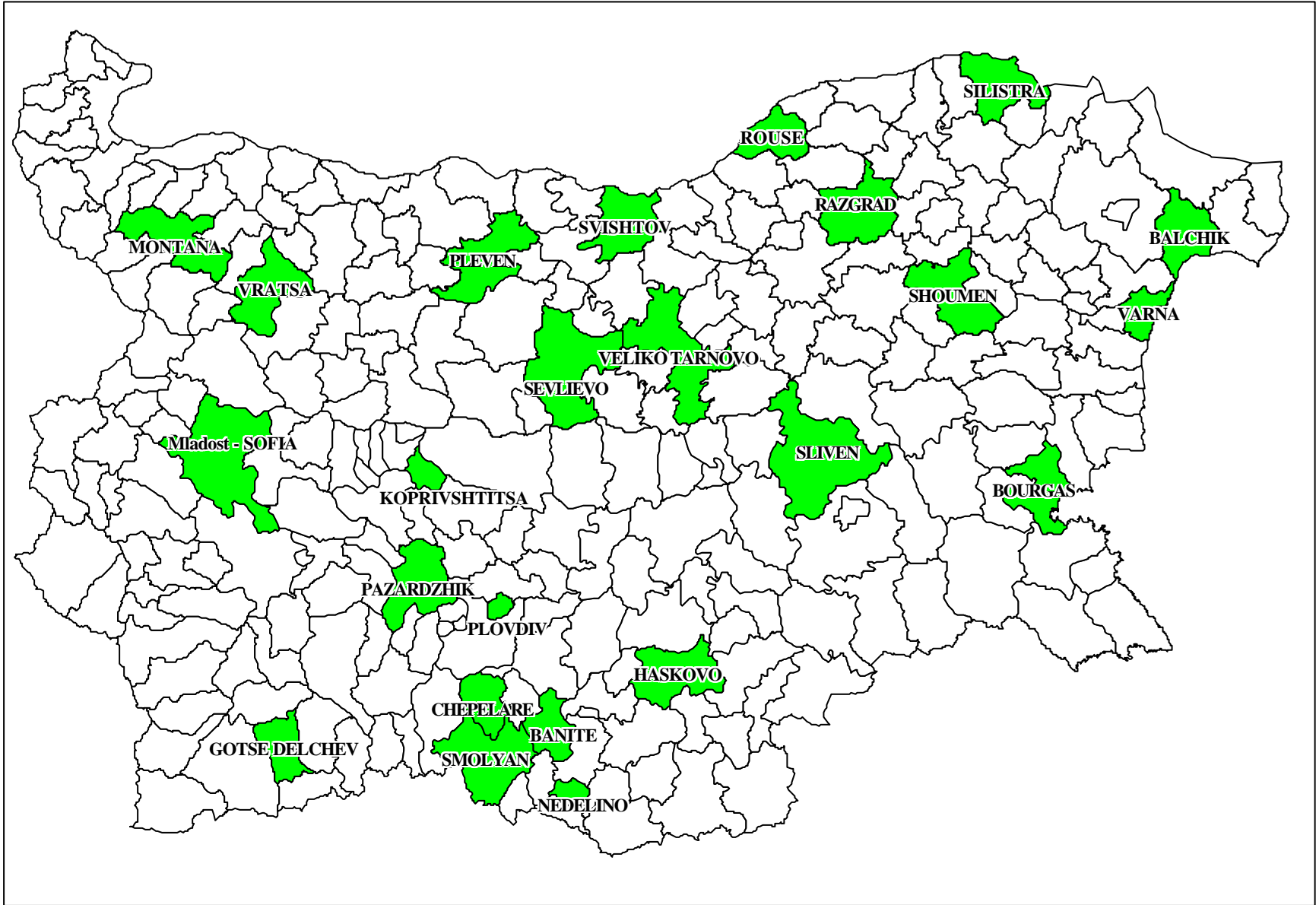
The reform of the legal framework of local self-government and the creation of guarantees for lawful and democratic social practice will clearly be an essential part of the efforts to harmonize Bulgarian legislation with that of the European Union in preparing for Bulgaria's accession to the European Community.

The process of legitimization of the non-governmental sector in the public sphere in the past few years has directly or indirectly revealed the public's potential in counteracting corruption, as well. In some municipalities, though as yet rather sporadically, the authorities are beginning to draw on the knowledge, experience, and unique perspective of civic structures, and on the analytical capacity of non-governmental organizations. This can also definitely be credited to the active position and the financial and technical assistance provided by the international donors, European programs, and particularly USAID.

#### **4. 3. Anti-corruption instruments and sound practices**

The Local Government Transparency Program had a definite practical orientation, focusing on specific local problems in the fight against corruption, and the creation of anti-corruption structures and mechanisms. It helped foster an atmosphere of non-tolerance for corrupt practices in the municipality, and helped establish a sustained dialogue between, the non-governmental organizations and the local authorities. In a short span of time the Program achieved considerable popularity: dozens of non-governmental organizations from the entire country participated in the grant competitions announced by *Coalition 2000*. During the period 1999-2000 a total of 23 non-governmental organizations implemented anti-corruption projects in 24 municipalities in this country. The geographic expansion of the local anti-corruption initiatives was reported in the *Coalition 2000* web site under the Open Municipalities section, which includes information about the municipalities, the local partner organizations, and the activities carried out under the anti-corruption projects.





As a result of the network of anti-corruption structures created in most district centers and large towns, as well as in smaller communities, the anti-corruption idea has reached the grassroots in this country.

The first stage of the Program (April-June 1999) involved certain basic activities related to non-governmental organizations tackling the tough terrain of fighting against corrupt practices for the first time. Taking into account the prerogatives of the authorized institutions of law enforcement and justice administrations, and in cooperation with them, it was first necessary to do the following: delineate the area of activity of civic associations; find specific mechanisms and ways of pressing for a change in public attitudes and fostering an atmosphere of non-tolerance for corruption; raise public awareness of civil rights and the social role of the municipal administration; and last but not least, to cultivate trust in the democratic institutions and encourage motivated proposals for improving their performance.

***Coalition 2000* Local Initiatives 1999 - 2000**  
**Handbook of Anti-Corruption Instruments and Sound Practices**

<b>Local government "Transparency Matrix"</b>	The matrix was developed by <i>Coalition 2000</i> experts for the purpose of measuring transparency in activities of local authorities relating to the municipal budgets.
<b>Public councils at the regional/municipal level</b>	This is a local structure based on the principle of coalition building for the implementation of anti-corruption activities. It includes representatives of the institutions concerned with the problem of corruption, as well as representatives of non-governmental organizations, independent experts and local journalists.
<b>Telephone hotline</b> <b>Mailbox for corruption related reports</b> <b>Mediation groups</b>	In many towns these initiatives were used to collect information on the scope and dynamics of corruption, to provide consultations to citizens affected by corruption, to offer assistance to citizens who have been unduly denied administrative services by the local authorities, and to forward corruption reports to the relevant authorities.
<b>Local sociological surveys</b>	Local sociological surveys on the transparency and anti-corruption efficiency of the municipalities were carried out by <i>Coalition 2000</i> local partners.
<b>Expert groups</b>	These are groups of experts from state-owned and private companies and representatives of government agencies discussing corrupt practices in the local business community.
<b>Youth debates</b>	These included specialized anti-corruption discussions with young

<p><b>Anti-corruption lectures</b></p> <p><b>Concerts/events</b></p>	<p>people and high school students, as well as anti-corruption lecture series based on the educational guidebook <i>Anti-Corruption</i>, edited by an expert group and published by <i>Coalition 2000</i>.</p> <p>Concerts for young audiences, exhibitions of posters and children's drawings, and Clean Future essay competitions were all aimed at raising anti-corruption awareness.</p>
<p><b>Seminars &amp; round table discussions</b></p>	<p>47 round tables took place with the objective of promoting public awareness, and assessing anti-corruption measures in various municipalities.</p>
<p><b>Information days</b></p>	<p>19 anti-corruption days were held for the purpose of providing information and consultations to the local public particularly in the context of the <i>Coalition 2000</i> Action Plan.</p>
<p><b>Town hall meetings</b></p>	<p>13 town hall meetings were organized to enable NGO representatives and citizens to meet with local elites and to present any grievances concerning corrupt practices as well as proposals to improve transparency in local government.</p>
<p><b>Anti-corruption publications</b></p> <p><b>Civil/administrative handbooks</b></p>	<p>Anti-corruption awareness brochures were published and distributed by local non-governmental organizations as part of the <i>Clean Future</i> campaign.</p> <p>This type of handbook includes a summary of the regulations guiding the work of local administration.</p>
<p><b>Civic Observer</b></p>	<p>A civic observer was elected in some Bulgarian municipalities by local non-governmental organizations with the task of monitoring such "gray areas" of increased corruption risk as leasing, public procurement, licensing, and public services.</p>
<p><b>Local Ombudsman</b></p>	<p>A local ombudsman, or public mediator, was introduced at several municipalities by the Center for Social Practices, one of the <i>Coalition 2000</i> founders.</p>
<p><b>Open municipalities web-site</b></p>	<p>It provides a database on local anti-corruption initiatives. The web site features local project reports, information about municipal anti-corruption practices, joint initiatives on local and regional levels, etc.</p> <p><a href="http://www.online.bg/coalition2000">www.online.bg/coalition2000</a></p>

## **“The gray zones”**

One of the major tasks in the initial stage was the identification of the so-called “gray zones”, or spheres in the work of the municipalities marked by higher corruption risk. For this purpose, *Coalition 2000* experts designed the so-called “transparency matrix” – a system to monitor the municipal budget-funded activities, which was applied by local non-governmental organizations.

The transparency matrix was the outcome of three consecutive steps: expert analyses and reports on the likely high-risk sectors in local government, supplemented with interviews with officials from various levels of the local administration; formal classification of the problems registered; and working out a general categorization covering the specific cases encountered. Only then was a table designed to cover the major sectors in municipal administration, such as healthcare, education, social assistance, etc, horizontally; and the size of fixed expenditures, such as payroll, insurance payments, etc, and variable expenditures of those set by various types of municipal bodies vertically.

The matrix for monitoring local government transparency was tested by the *Coalition 2000* local partner organizations. Information was collected through surveys, expert reports, interviews, etc. The respondents included mayors, deputy mayors, and municipal administration officials. The surveys also used budget-related statements and reports of the municipality itself. In order to insure the comprehensiveness of the study of the problems of corruption and local government, surveys and interviews were also conducted with the potential users of public services.

The analysis of the data provided by the local partners revealed the existence of various high-risk or “gray” areas involving the distribution of funds in the “variable expenditures” category. Unlike fixed expenditures, i.e., the itemized funds allocated for salaries, social security payments, etc., the distribution of the funds covering variable expenditures (for office supplies, fuel, free medication, food, etc.) left room for subjective decisions. The reported violations concerning such variable expenditures were the most numerous; and they, therefore, constitute one of the major corruption-generating sources.

Another factor favoring corrupt practices revealed by the transparency matrix was the assignment of responsibilities in different areas of activity such as trade and construction, licensing, etc., which proved to be almost entirely covered by various networks of “soft” and “hard” corruption various schemes for evading procedures and legal regulations concerning public auctions were found in existence. The existing system of distribution of responsibilities generally allows irregular actions and covert corrupt practices.

As a result of the studies conducted it became possible to outline the following “gray zones” (public services where the administration most frequently and directly interacts with the public):

- Public procurement;

- Licensing of commercial and business activities;
- Municipal property leasing, repair and construction;
- Municipal property privatization auctions;
- Supplying municipal sites with fuels and consumables; and
- Administrative services.

opportunities for the personal gain of local government officials and employees exist in these spheres. At the same time, there is readiness on the part of citizens to give bribes in order to have a given problem solved more promptly and easily. Acknowledging that this type of corruption helps people survive is an indication that society is beginning to perceive it as a norm. This accounts for the special focus of *Coalition 2000* local initiatives in these critical areas of municipal activity.

An important practical outcome of the monitoring was the creation of conditions and motivation to experiment with a number of local anti-corruption initiatives and instruments that were inspired by local non-governmental organizations in cooperation with *Coalition 2000*. Sound practices were singled out. Furthermore, a system was approved for interaction between the Secretariat of the Coalition and the local partners. It included training, particularly in financial accountability and measures ensuring full transparency of local project activities.

In the second and third stages of the Local Government Transparency Program (October 1999 – June 2000, and July – December 2000), with the assistance of *Coalition 2000*, the local partners turned their attention to finding real practical solutions and mechanisms for local government transparency; public involvement in addressing local problems; and the introduction of civic control over the work of the municipality and the municipal councils.

### **Public anti-corruption councils**

One outcome of lasting significance has been the establishment of local public councils for the fight against corruption. Their function is to generate and sustain local anti-corruption initiatives, to coordinate anti-corruption activities on a local and district level, as well as to further develop interaction with *Coalition 2000*. The public anti-corruption councils include representatives of local government, non-governmental organizations, the media and business, as well as other anti-corruption organizations.

Such a public council on a district level has been functioning in Smolyan, where it was established by the *Coalition 2000* local partner, “Stefan Stambolov” Bulgarian Youth League. Along with the non-governmental organizations and the representatives of the district administration, the participants include representatives of Smolyan Municipality, the prosecutor’s office, the court system, Regional Bureau of Internal Affairs, Regional Customs Office, other state bodies, the Podkrepa Labor Confederation and the Confederation of National Syndicates in Bulgaria, the Regional Medical Association, editors and reporters from local and regional media, and businesspersons. The monthly

sessions of the public council in Smolyan, which are open to the general public, review problems and monitor the degree of corruption in the region, and report cases of corruption and the measures taken by the respective bodies – the prosecution and the police. The “Stefan Stambolov” Bulgarian Youth League also established public councils on a municipal level in Nedelino, Banite, and Chepelare.

A public council for the prevention and fight against corruption was also established in Varna. It was initiated under the anti-corruption project of the Independent Ecological and Social Inspection, a *Coalition 2000* partner. The Council includes representatives of non-governmental organizations, Podkrepa Labor Confederation, the Economic Development Agency, Regional Bureau of Internal Affairs, Regional Labor Inspection, Regional Employment Service, the Labor Office, Municipal Council, District Administration, and the Chamber of Trade and Industry. The main priorities of the public council in Varna include: studies and analyses of the development of corruption, cooperation with the media for proper coverage of the problems of corruption in the region, providing information to the institutions engaged in the fight against corruption, and assisting the work of law-enforcement authorities with the aim of enhancing their effectiveness.

#### **Independent Social Inspection – Varna**

##### *Program Declaration of the Council for Prevention and Fight against Corruption*

*We, the undersigned,*

*United by the desire to increase the effectiveness of the fight against corruption, as one of the guarantees for the development of democracy and civil society in Bulgaria, guided by civic awareness and our professional obligations*

##### **DECIDED:**

*- To establish a Council for Prevention of Corruption which:*

- Unites the efforts of non-governmental organizations, business circles, the media, law-enforcement bodies, Municipal Administration (body of local self-government), Regional Administration, Maritime Administration, and Tax Service and Customs in their fight against corruption.*
- Defines the priority problems underlying the strategy.*
- Adopts a strategy for the prevention and counteraction of corruption on a regional level.*
- Elects a Standing Committee, which represents the Council for Prevention of Corruption and conducts activities in accordance with the powers delegated by it.*

*The Council is open to other organisations and institutions.*

#### **Telephone hotline**

The public anti-corruption councils were particularly active in collecting information about corruption and thus assisted the law-enforcement authorities, whose official records do not always provide an accurate idea of the actual scope of the problem owing to the large number of unexposed corruption-related crimes. Various forms and mechanisms were tested to enable citizens to file complaints and facilitate the collection of information from victims of corruption as the most reliable source for the assessment of corruption on an everyday basis. Telephone hotlines as well as special mailboxes and public reception offices, were opened in Varna, Vratsa, Plevna, Plovdiv, Pazardjik, Smolyan, and other municipalities for citizens and organizations to file corruption related reports.

#### **Independent Ecological Inspection - Varna**

*In April-May 2000 the telephone hotline of the Independent Ecological and Social Inspection in Varna received 55 reports of corruption. 13 of those were anonymous. The remaining 42 were forwarded to the regional prosecutor's office. Their official reply stated that investigations had been ordered for 14 of the reported cases while for the remaining ones the citizens were advised to seek legal counsel to defend their rights.*

The activity of receiving reports of corruption while guaranteeing anonymity – as one of the new anti-corruption practices – is yet to be assessed and regulated. A number of problems have arisen, including, for example, “ill-willed” and purely defamatory reports.

#### **Egida Foundation – Gotse Delchev**

*The most typical accusations regarding local authorities concern abuse and unlawful gain – personally or to the benefit of related parties. We decided to check an anonymous report of a violation of the Labor Code by a powerful German-Greek company allegedly covered up by state institutions. For this purpose we met with the company lawyer, who asked whether there was any evidence in support of the charges. Once he found out there was no proof, he lectured us on the consequences of the public disclosure of such information, which would impair the image of his employer, and on the expected financial losses for our foundation after losing a lawsuit which was 99% certain to be decided in favor of the company. This is as far as we got with our attempt to check on an anonymous report. Subsequently, we referred such reports to the police.*

#### **Mediation groups**

The groups for mediation and legal assistance to victims of corruption experimentally introduced by the Young Lawyers Association, which is a *Coalition 2000* partner, proved a good intermediary between the public and the local administration in the field of administrative services and helped counter unlawful action or inaction on the part of municipal officials. The positive impact of the mediation groups in Pleven and Lyaskovets is evidenced by the fact that for the duration of two months about 200 citizens in the two municipalities sought assistance for various cases and conflicts with the municipal administration. To further facilitate the public, standard forms were designed and circulated for written consultations, reports, and proposals.

In addition, the mediation groups monitored the activity of the local authorities with a view to curbing corruption and administrative malpractice. The dialogue and partnership established with the local authorities, the working meetings and discussions on the performance of the municipal administrations, the openness, and the access to information brought about specific outcomes through the joint drafting of municipal programs to fight crime and corruption. This helped expand the space of public-private partnership and extended the parameters of the specific mechanisms at the disposal of the non-governmental sector in its efforts to curb corruption. Such a program was adopted by the Maritsa Regional Association of Municipalities, part of which is presented below.

**Newsletter of the Maritsa Regional Association of Municipalities, Issue 2, 2000**

*Program for Anti-Corruption Measures in the Municipalities which are Members of Maritsa Regional Association of Municipalities (RAM)*

*Platform for an effective information policy based on transparent procedures and clear-cut rules and systematic partnership, dedicated entirely to improving the public image of the municipalities.*

- *Developing a communication strategy for Maritsa RAM.*
  - *Holding regular press conferences about the initiatives launched and implemented by Maritsa RAM.*
  - *Becoming familiar with the problems of the individual municipalities, promoting partnership with the media, the non-governmental organizations, and the public in decision-making on important public issues; and implementing these decisions.*
  - *Developing and popularizing clear-cut rules for the announcing and conducting auctions and tenders.*
  - *Conducting opinion polls among service beneficiaries.*
  - *Preparing an index of the municipal services offered.*
  - *Enhancing the control exercised by the municipal executive bodies.*
  - *Enhancing civic participation and public control.*
  - *Assigning the functions of receiving fees and delivering services to different officials.*
  - *Minimizing the bureaucratic requirements in administrative services.*
- Strictly observing legal requirements.*



Concern with corruption-related issues was also demonstrated by the newly established regional associations of municipalities, which joined a number of anti-corruption initiatives already at an early stage of their institutional development. Maritsa RAM, which is also working under other USAID and LGI programs, initiated the adoption of a Code of Ethics of municipal officials. Thus the anti-corruption efforts on a regional level produced another practical result in line with current needs and international standards.

The Hebar Municipal Association, which includes municipalities from the Central Southern Region, adopted an anti-corruption program including local sociological surveys, training seminars for municipal councilors and mayors from the districts of Plovdiv and Pazardjik. The Association of Danube Municipalities, which is the largest of its kind in Northern Bulgaria, focused on enhancing the quality of public services through seminars on the topic of anti-corruption intended for municipal administration members. The favorable developments in this sphere are equally due to the cooperation between *Coalition 2000* and the National Association of Municipalities over the past two years.

### **The local media and the fight against corruption**

The anti-corruption initiatives provoked interest and received support from the local mass media and the journalistic community. Notwithstanding their traditional quest for sensationalism, in a number of cases certain reporters showed lasting interest and commitment to this issue. More than 200 articles in local and regional newspapers covered the anti-corruption initiatives in 1999-2000. The local electronic media dedicated special programs to them. For instance, the discussion on the survey of the Black Sea Legal Community conducted under the joint project with *Coalition 2000* was broadcast live on the Bourgas cable television SKAT. The youth debate entitled “Society is Responsible for the Spread of Corruption,” which was organized by the “Stefan Stambolov” Bulgarian Youth League in Smolyan, was broadcast on the Rodopa regional radio station.

The local reporter associations in Svishtov, Silistra-Tutrakan, and Varna joined the *Coalition 2000* program with a project of their own – Together against Corruption – which was aimed at establishing a permanent dialogue with local government representatives and finding joint solutions for preventing and counteracting corruption in the municipalities. The special surveys conducted among the reporters included questions about reporter ethics, about corruption among reporters; the relations between reporters and the newspaper owners; and the role of journalism in the public anti-corruption efforts. The issues that proved to be of particular concern were relations with the local government, access to information, and whether the Bulgarian municipalities were opening up to civil society. One positive outcome in this respect was the establishment of an informal society, Together against Corruption, with the participation of journalists and local government representatives in Silistra, a local demonstration of real public-private partnership in the fight against corruption.

The partnership between non-governmental organizations, the media, and local government, instituted by some local anti-corruption initiatives and motivated by the earnest desire to address local problems and improve the quality of life of the local community raises hopes for continuing and sustaining development of anti-corruption measures. Such a partnership as of yet has not been observed on a national scale, where centrifugal forces and intensifying confrontation between the “fourth power” and government predominate.

### **Anti-corruption publications**

One useful anti-corruption instrument initiated by Coalition 2000 is the *Citizen's Handbook* presenting in a condensed and accessible form the main administrative services within the competencies of the municipal administration according to current regulations. It includes up-to-date information about the administrative structure of the municipality, the various department and section managers, and telephone numbers and offices. Such handbooks, published by the local partner organizations in the municipalities of Pazardjik, Lyaskovets, and others, are helpful to citizens in their interaction with local authorities and facilitate access to public services. Last but not least, they also enhance the transparency in the work of the administration.

The anti-corruption brochures, newsletters, leaflets, and posters published by the local organizations also proved to be of great importance in achieving the goals of the public awareness campaign. The following leaflets, bulletins, and brochures were among those widely circulated: *How to Fight Corruption* (Black Sea Legal Community, Bourgas), *How to Get Campus Accommodation without Bribery* (Corruption-Free Society Association, Studentski Grad, Sofia), *How to Resist Corruption – Practical Advice* (Young Lawyers Association, Sofia), *Corruption and Civic Culture* (City and Culture Foundation, Varna), and *Anti-Corruption Circle* (Good Hope Foundation, Sofia). Another bulletin, *Municipal Privatization Monitoring*, edited by the the Sliven organization Public Barometer, is a unique publication informing the public about privatization deals concluded by Sliven Municipality during the period 1992-2000.

### **Local surveys**

The importance of conducting sociological surveys and familiarizing the public with their findings was confirmed in the course of implementing the local anti-corruption initiatives. Surveys on the subject of corruption/anti-corruption were organized by the local partners in Varna; Smolyan and the Smolyan district municipalities Chepelare, Banite, and Nedelino; Haskovo and Vratsa; and in Bourgas, Plovdiv, Pleven, Veliko Turnovo, Svishtov, and Silistra.

Two basic types of surveys were conducted: among different social groups (young people, journalists, lawyers, businesspersons, etc.) and separately, among the municipal

officials themselves. Thus, for instance, a survey conducted under a project by a team from the Black Sea Legal Community in Bourgas targeted established professional elites. The respondents included about 90 representatives of practically every legal profession: judges, lawyers, prosecutors, legal experts, academics, and law students. The chief goal of the survey was to examine jurists' attitudes and perceptions of corruption, the spheres in which it occurs, and the factors causing it.<sup>10</sup>

*Citizens – Corruption – Local Administration* was the title of a telephone poll conducted in Pleven under the project of the local *Coalition 2000* partner Revived Civil Society. The poll covered 171 adult residents of Pleven. Its chief objective was to analyze certain tendencies in public opinion regarding the quality of administrative services and corrupt practices in Pleven municipality. The analysis of the results provided useful information about the performance of the various municipal agencies.<sup>11</sup> Generally, local surveys largely confirm the findings of national surveys conducted by the Corruption Monitoring System of Vitosha Research regarding the factors favoring corruption, as well as by the high-risk professional groups and institutions. Furthermore, the local anti-corruption initiatives have been supplementing the monitoring of corruption in other important ways since they have begun to explore corruption-related attitudes inside the high-risk groups and institutions themselves.<sup>12</sup>

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<sup>10</sup> In reply to the question about the causes of corruption, most of the jurists (73%) pointed to the low standard of living of the population in Bulgaria as the chief factor favoring corruption. Poor law enforcement was rated second in importance, with 68% citing that violators remain unpunished; and 62% citing poor control over the observation of the laws. Another important factor that was noted was the non-transparency in the activities of local and central authorities (47%). Other reasons cited included the sluggishness of the administration, lack of coordination between the control bodies, and the flaws of the legislation.

<sup>11</sup> Negative assessments generally predominated, with the exception of education, with 68% satisfied versus 39% unsatisfied; and administrative services, with 58% satisfied and 42% unsatisfied. However, only one tenth of the respondents thought that there were hardly any corrupt officials in the local administration. The rest believed that the officials were more or less corrupt. Asked whether there were any corrupt local administrators, citizens replied as follows: "almost all of them are", 6%; "most are", 32%; "some are", 28%, "there are hardly any", 11%; and no opinion/don't know, 23%.

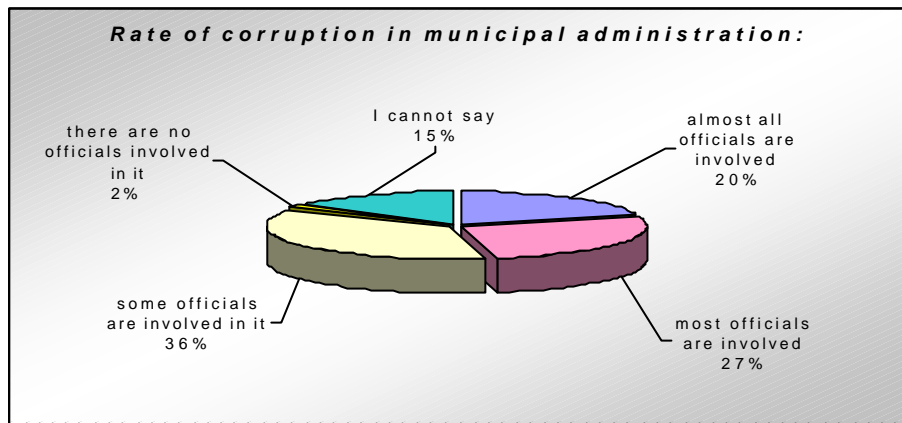
<sup>12</sup> One example is the survey conducted in Veliko Turnovo by the association Local Agenda 21<sup>st</sup> Century within the joint project with *Coalition 2000* on "Corruption Attitudes, Practices, and Mechanisms Common among the Professional Groups under Strong Corruption Pressure." It was carried out in October 2000 and surveyed 195 officials from Veliko Turnovo Municipality, the local tax agency, the customs office in Gorna Oryahovitsa, and Veliko Turnovo magistrates.

A direct group survey covered practically all of the officials in the above-mentioned institutions and the percentage of respondents was proportional to the percentage of those employed: municipal officials, 36%; customs officers, 9%; tax officials, 25%; and magistrates, 30%. In addition, 50 face-to-face interviews were conducted with officials with the longest length of service. Thus, the survey is representative both of the four professional groups in the region and of each group within itself. The entire survey is available on the Internet ([www.coe.veliko-turnovo.com/project/korup.htm](http://www.coe.veliko-turnovo.com/project/korup.htm)).

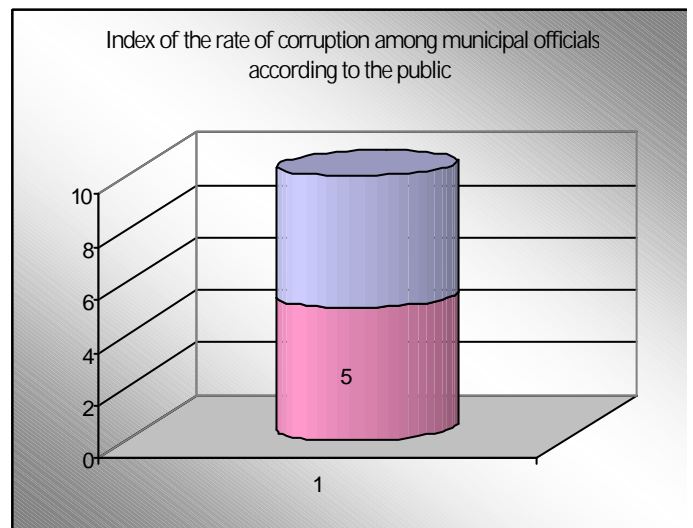
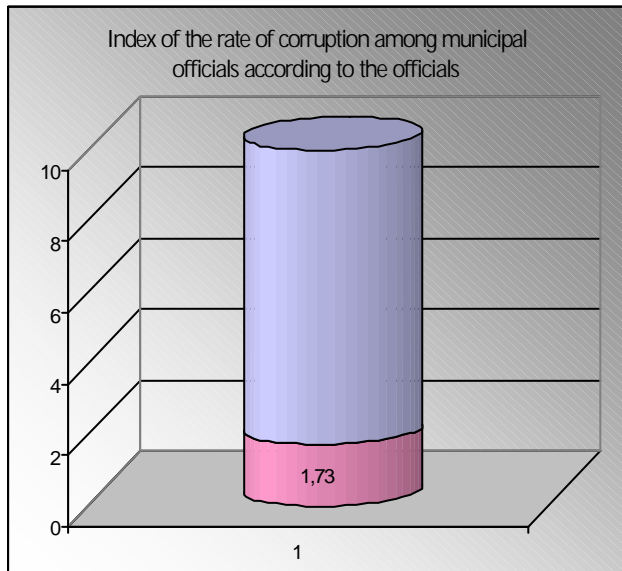


This assessment of the spread of corruption among the municipal administration produce a corruption index of 1.73, i.e., a rather low rate of corruption.

(According to the methodology of the Corruption Monitoring System of Vitosha Research, the index may take values between 0 and 10, with zero value indicating a “corruption-free institution”.)



The citizens surveyed, however, believed the municipal officials were involved in corrupt practices to a considerable extent: barely 2% thought the rate of corruption was low; 20%, that almost all officials were involved; 27%, that some officials were involved; 36%, that some officials were involved; and 15% had no opinion. This resulted in a



corruption index of 5, which represents a high rate of corruption.

There was a striking difference between the public's assessment of officials and the self-assessment of the officials. Provided there is a willingness on the part of the administration itself, these and other survey results could serve as instruments to improve the performance and ethical conduct of the officials. Another positive effect of the local sociological surveys was that most of them contained ideas and suggestions from the respondents on ways to counter corruption, and to enhance the quality of public services and transparency in the activities of the local administration. In addition, there were proposals aimed at greater involvement of the public and civic organizations in the decision-making process and in the exercise of civic control.

### **Expert groups against corruption in the economy**

Groups formed to fight corruption in the economy were experimentally introduced by the Foundation for the Development of Entrepreneurship. From them a multitude of initiatives involving local anti-corruption mechanisms resulted.

One of them, the expert group in Vratsa was organized in collaboration with the Chamber of Trade and Industry in Vratsa. It included one representative each from the municipal and district administrations, and the Regional Bureau of Internal Affairs; a journalist from the regional newspaper; and an independent lawyer. The working agenda of the expert group included collecting information, observing the implementation of anti-corruption programs adopted by the Municipality, and monitoring the municipal auctions and privatization procedures.

Over a period of about 6 months (January – June 2000) the expert group was only allowed a single “glimpse” into the privatization process; they attended the talks with a potential buyer about the privatization of a commercial site in the central part of Vratsa. The observers found that the procedure met the legal requirements and proceeded without any irregularities or violations. However, they did have some misgivings about the selection criteria for the members of the municipal auction committee and whether its members were competent and objective enough to make a decision about the privatization deal. The participation in the committee of a gym teacher, though a member of the municipal council, raised doubts about the usefulness and effectiveness of the committee as a whole. The appointment of municipal auction and privatization committee members is of critical importance in view of the possible incompetent decisions and conflicts of interest that can result. Thus any doubts only confirm the popular view that procedures involving talks with potential buyers provide opportunities for direct bribery and for taking on covert commitments.

Municipal privatization generally continues to be off limits for public organizations and is still exclusively reserved for those in power. The access to information, including that about long archived deals, is impeded if not outright impossible. In Sliven, for instance,

in connection with the *Municipal Privatization Monitoring Bulletin*, the civic association, Public Barometer came up against the following kinds of problems: fear to provide any kind of information regarding municipal officials; in order to obtain factual information it was necessary to seek the intervention of higher authorities and political party leaderships; financial documentation on the deals of 1992-1993, which should have been available at the State Archive was missing; municipal privatization reports weren't available; deliberate inaction on the part of the mayor and refusal to provide assistance on the part of the deputy mayor in charge of privatization deals since the outset of the process of privatization of municipal property.

In the process of the research it was found that the Municipal Council in Sliven did not have any information, nor has it ever requested that it be kept informed about the privatized enterprises. Yet according to data from the Sliven District Court, more than 54 lawsuits have been filed in connection with supposedly successfully conducted auctions. It is worth noting the official reply of the authorities on this issue. In a letter to the Public Barometer Civic Association cited below, the Sliven Tax Agency referred them the municipal committee for post-privatization control for more information. However, it was established that such a committee had only been created in 2000 and did not have any documents.

The local partners devoted special attention to the study of the business environment in Vratsa and Haskovo. They also paid particular attention to the interaction between the municipal administrations and the companies on the emerging problematic issues: high taxes, extensive bureaucracy and corruption, high insurance rates, and the various licensing regulations. Other more specific problems faced by businesspersons in their contacts with the local administration included: inability to treat citizens as clients requesting public services; hostile attitude to the private sector; difficult access to information; lack of transparency; problems in obtaining ordinary services; and inexperienced officials. In view of these facts, the local administrative reform has definitely failed to produce any more notable results so far.

Another noteworthy conclusion can be drawn regarding business and anti-corruption activity on a local level. The local business communities do not appear particularly concerned with corruption; in the sense that they tend to perceive it as a fact of life that can hardly be eliminated or significantly reduced. Business owners and their associations seem to be neither fully aware of their mission, nor of the potential economic benefits from the adoption of anti-corruption measures. And here is the viewpoint of non-governmental organizations from the Gotse Delchev region – based on observations of interrelations between the business community and local government in the smaller municipalities:

## **Educational anti-corruption initiatives**

The local educational initiatives, which are essentially based on the educational component of the *Coalition 2000 Action Plan*, emerged as one of the particularly interesting and promising spheres of anti-corruption activity on a local level. Education on the subject of anti-corruption is assessed by most participants in the local anti-corruption coalitions as possibly the only guarantee for the development of anti-corruption civic conduct and for the future of anti-corruption efforts on a national scale in general. This was the motivation underlying the initiatives targeted at young people, and high school and university students. Based on the *Anti-Corruption* textbook edited by *Coalition 2000* experts, lectures were delivered for the first time in a number of towns before a high school and university student audience. In a professional and accessible manner they dealt with the fundamental problems associated with the phenomenon of corruption, with corrupt practices and their social, economic, and political implications. A broad range of measures and ideas were presented for curbing corruption. The lectures also covered the best practices and concepts developed by Bulgarian and foreign experts in this field, and international instruments to which Bulgaria adheres.

It should be noted that the sphere of anti-corruption education also emerges as the most productive one for partnerships with those state and municipal institutions that take a genuine anti-corruption stand and join the anti-corruption initiatives.

The youth anti-corruption debates held in Smolyan, Nedelino, Banite, and Chepelare under the project of the “Stefan Stambolov” Bulgarian Youth League proved quite revealing in this respect. In view of the great interest demonstrated by the students and young people in the region, at a conference of the district anti-corruption public council, a representative of the Regional Inspectorate of the Ministry of Education and Science included for consideration the subject of anti-corruption in the weekly class discussion hour at the secondary schools in the region.

The idea for cooperation between the non-governmental anti-corruption network and the Ministry of Education and Science was favorably received in other regions, as well. In Varna, in the course of the project on Corruption and Civic Culture, it was established through research that was done and discussions in the specially organized club for students from five Varna high schools, that the problems of the fight against corruption are not considered in class and that knowledge about the institutions in this country is rather insufficient. The students who said they were familiar with the institutions of government were definitely fewer than 10%. Consequently, high school graduates are not sufficiently aware of the essential purpose and functions of the institutions and can hardly be expected to assume an informed civic position and exercise proper control over their activity.



Within the framework of the anti-corruption project aimed at the secondary education system, contacts were established with a number of institutions in Varna: the municipal and district administration, the regional mayoral offices, the regional court, customs, Regional Bureau of Internal Affairs, the Naval Forces, school principals and teachers from more than 10 schools in town. They all expressed their readiness to cooperate for the improvement of civic education in the education establishments in Varna and the region. This led to a public-private partnership that had a tangible outcome, namely the signing of a joint **Protocol of Intent**s by the City and Culture Foundation, and the Education Inspectorate with the Ministry of Education and Science in Varna. It constitutes a program for collaborative activity following up on the Corruption and Civic Culture project, thus guaranteeing its sustainability.

### **City and Culture Foundation – Varna**

#### *PROTOCOL OF INTENTS*

*February 26<sup>th</sup>, 2001*

1. *The Education Inspectorate (EI) of the Ministry of Education and Science (MES), Varna, and the City and Culture Foundation express their common will to work jointly for the improvement of civic education in the education establishments in Varna and the region.*
2. *Realizing the great public importance of the Corruption and Civic Culture project already implemented, both parties declare their readiness to sustain it through the following initiatives:*
  - *Organizing experimental groups from the schools covered by the survey conducted, which are to visit institutions of government in Varna and familiarize themselves with their specific activity;*
  - *Organizing an essay-writing competition on a topic related to modern social processes and phenomena.*
  - *Conducting permanent monitoring to record the evolution of students' attitudes to these processes and phenomena and of their awareness of the institutions in the Republic of Bulgaria.*
  - *Creating a lecture series to present the work of the bodies of local self-government.*
  - *Keeping closely in touch with the institutions.*
  - *Publishing the Civic Culture bulletin.*
3. *The EI of MES will support the efforts of the City and Culture Foundation by:*
  - *Securing access for City and Culture Foundation representatives to the schools in Varna and the region in order to carry out the activities under Art. 2 of the present Protocol;*
  - *Assisting the organization of working meetings and seminars with the participation of school representatives; and*
  - *Providing methodological assistance in the preparation of class topics and*

*assignments, technical facilities, and other forms of support in the education process.*

4. *The City and Culture Foundation will assist the activity of the EI of MES by:*
- *Securing financing through various funds and programs sponsoring civic education;*
  - *Enlisting the cooperation and involvement of competent specialists from the institutions of local self-government; and*
  - *Developing joint initiatives and ensuring media coverage.*

### **Civic observer**

After conducting the proper consultations and taking into account the experience gained and the specific realities in the various regions, the forms of direct and indirect democracy provided by the legislation, and the need to modernize local self-government in this country, *Coalition 2000* proposed the introduction of the institution of **Civic Observer**. This new initiative was endorsed by the Second Public Forum in December 1999 and elaborated in greater detail at a national seminar with the local partner organizations at the Center for the Study of Democracy in early 2000.

### **Report to the Policy Forum of *Coalition 2000*, December 1999**

#### Civic Observer

The civic observer is designated and elected by the local non-governmental organizations and is legitimized before the public, the media, and the local authorities as a key figure in the implementation of civic observation at the municipal forums.

The duties of the civic observer involve monitoring in the following spheres of municipal activity: public procurement, licensing, leasing, repair and construction of municipal sites, discussion of the structure, number of staff members, and remuneration of the municipal administration.

The civic observer monitors the decision-making process in the designated spheres at the sessions of the Municipal Council, the meetings of the permanent municipal committees, and other specialized municipal bodies; and has access to documents, protocols, and decisions of the respective authorities, and is entitled to oral and written information about the work of the municipal administration. This person monitors the observation of legal rules and procedures, and safeguards the rights of citizens and their organizations.

The civic observer submits regular reports about his activity to the partnering organization and *Coalition 2000*, and informs the public and the media of his findings. At the Internet site of *Coalition 2000* a special section will be devoted to the observer's reports, and periodic analyses of the corruption situation in the respective towns and municipalities.

The institutionalization of the civic observer requires the voluntary cooperation of local authorities on the basis of legislation regulating civil rights and participation in local self-

government.

*Coalition 2000* recommends the introduction of already tested practices in order to facilitate cooperation between the civic observer and the municipal authorities, and more notably, the signing of a cooperation memorandum.

The introduction of the civic observer in Shumen, Varna, and Smolyan as a working mechanism of civic presence at the municipal forums was a definite achievement in the course of the *Coalition 2000* anti-corruption campaign. This achievement is, of course, related to the established atmosphere of the good partnership with local government, which did not only simulated cooperation but also proved in practice its readiness to join the anti-corruption initiative. The successful institutionalization of the civic observer is evidence of the improved skills and potential of the local partners to work together. The new function was assigned to properly qualified and motivated persons working in the field of law or public administration.

The rights and obligations of the civic observer were regulated by the memorandum signed by Shumen municipality and the Center for the Study of Political Processes. At the end of the observation period, a report of the Civic Observer was prepared and provided to Shumen municipality, the media, the public, and *Coalition 2000*. The report contained findings of the observation covering the period January 2000 – January 2001. Some of the conclusions and specific recommendations are presented below.

#### **Report of the Civic Observer (Center for the Study of Political Processes, Shumen)**

*As evident from the practice of the **Legal Department**, the municipal official that has caused damage by his incompetence or because of some other reason does not carry any personal responsibility because he acted on behalf of the Municipality. Theoretically, there are certain sanctions provided by administrative control and intra-institutional control bodies, the Law on Civil Servants, the Criminal Code, the Code of Criminal Procedure, and others, but they prove ineffective in practice. **Hence the problem of the “low price” of corrupt behavior, i.e., the official stands to gain a lot more from corrupt practices than he might lose should the violation be exposed.** In the case of unlawful administrative acts and subsequent lawsuits, the losing side is either the Municipality or the citizen (legal or natural person), but never the official who actually issued the act.*

*The issuance of administrative acts and orders is typically handled by several officials. This is basically a positive practice since it excludes the opportunity for uncontrolled individual decisions. On the other hand, this practice also excludes personal responsibility, and collective responsibility can sometimes turn into collective irresponsibility.*

*In the course of the past year, the number of lawsuits filed by Shumen municipality against irregular tenants of municipal property has been increasing. Some of the cases are won by the debtors owing to certain contract clauses disadvantageous to the*

***Municipality. Concluding lease contracts that are disadvantageous to the Municipality is a typical corrupt practice – difficult to prove but with tangible results.***

*The administration, and the Legal Department respectively, do not always keep the deadlines for filing complaints against administrative acts by legal and natural persons addressed to the Regional and District Courts through the Municipality.*

*In the opinion of legal experts, this constitutes a refusal to administer justice and could be eliminated as a practice if the legislators substitute the term “implicit refusal” with “implicit agreement”. When an institution fails to deal with an appeal against an administrative act in the manner provided by law and within the legal deadline it should be assumed that it has itself repealed the act. This would save citizens a lot of time and stress and would make administrative proceedings more expedient.*

*The activity of the **Technical Department** draws a lot of criticism from citizens and companies applying for construction and reconstruction permits, legalization of unlawful construction, change of zoning, issuing of tentative maps, etc. The complaints typically concern:*

- *Failure to keep the established deadlines for delivering the services;*
- *A selective approach in the absence of clear-cut criteria about what is lawful;*
- *Certain companies offering construction and development services enjoy preferential treatment and their documents are processed more expeditiously than those of others. This places them in a covert monopolistic position in the market of construction and development services in the municipality.*

*All of those interviewed said they would prefer to give a bribe in the form of money, a favor, or a fictitious consultancy fee in order to save time and financial resources, and be able to proceed with their plans.*

*The administration at the Technical Department is subject to strong corruptive pressure on the part of citizens and companies. On the other hand, the legal framework of this sector itself generates corrupt practices. The changing legislation regulating construction related activities (Territorial and Urban Zoning Law, the Rules on the Enforcement of TUZL, Ordinance N 1 and Ordinance N 5, and the newly adopted Territorial Zoning Law), the numerous by-laws and regulations, and intra-institutional ordinances are often inconsistent and mutually exclusive. This leaves officials far too much room for subjective interpretation and a discriminatory approach to individual cases.*

*Sometimes, as in the case of the Law on the Organization of the Territory (promulgated in the State Gazette on January 2<sup>nd</sup>, 2001 and in force as of March 31<sup>st</sup>, 2001) there is a lapse in time when the old provisions have been repealed but the new rules for the enforcement of the law still have not been adopted. This leads to chaos, non-observation of the legally established deadlines, and discontent both on the part of the public and the administration.*

The civic observers have been functioning for a relatively short period of time – since early 2000. In this initial ground-breaking stage, useful experience was gained both in structuring relations with municipal authorities, and in identifying the spheres of municipal activity, in which this type of monitoring proves a necessary and appropriate instrument for good governance on the one hand, and for civic participation, on the other.

One emerging important local problem is related to public procurement procedures. Civic observations in Varna and Smolyan found out that it was a common practice to assign government financed sites to companies registered outside the region. This reduces the local budget revenues and has other adverse social and economic implications. It provokes doubts of possible cover-up of violations and corrupt practices. In Varna, in particular, a Memorandum for the Protection of Local Economic Interests was drafted in cooperation between the Civic Observer and experts from the business community, and proposed to the Municipal Council members. The Memorandum stipulates:

#### **Memorandum for the Protection of Local Economic Interests**

*The goal of the Memorandum is to safeguard and promote local interests in decision-making concerning public auctions and tenders. For this purpose the parties agree:*

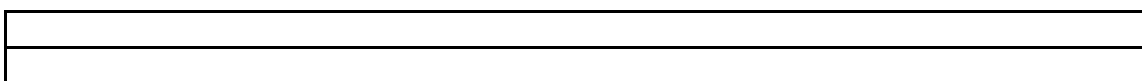
*In the case of public procurement procedures concerning sites financed by government or municipal funds and/or international grants, when setting the applicant evaluation criteria and their relative importance in the overall assessment, the **Commissioner** shall adhere to the following principles:*

- *Other terms being equal, precedence shall be given to the applicants with local registration and those who exercise their activity in the territory of the municipality in which the site is located.*
- *Each applicant participating in the public procurement procedure shall take on the commitment, either by a declaration or in some other appropriate written form, to assign at least 50% of the planned construction and assembly work to sub-contractors that are members of the Bulgarian Chamber of Commerce and are registered and active in the region where the site is located.*
- *Other terms being equal, precedence shall be given to the applicant who will hire workers through the local labor offices subject to a collective labor contract.*

The civic observer initiative started off well in Plovdiv, where the *Coalition 2000* local partner, Lecturers' Association, launched a broad media campaign and public debate on the topic "Does the city of Plovdiv need a civic observer as a mediator between the public and local government?" Despite the considerable support from the non-governmental sector and journalists, the initiative was cut short by the refusal of the Municipal Council members. Their position is an example of the confrontational attitude of local authorities

demonstrated in other municipalities as well, which verges on a deliberate attempt to undermine civic participation in anti-corruption efforts.

The idea of a civic observer in healthcare establishments in Bourgas met with equally firm, though differently motivated, opposition from the leadership of the Bulgarian Medical Association in Bourgas. Their chief motive for declining the proposal of the Black Sea Legal Community, a *Coalition 2000* partner, was that such observation by a civic organization would intensify the pressure on members of the medical profession, which has been the most adversely affected by the ongoing healthcare reform.<sup>13</sup>



Regardless of the failures in Bourgas and Plovdiv, the local civic observation initiatives were put into effect in other towns where proper understanding of the need for mediation between the public and the authorities was demonstrated. Many of the local anti-corruption initiatives spurred lasting interest in the local ombudsman institution, which is essentially new to Bulgaria, as a safeguard for civil and human rights, but also, as an anti-corruption mechanism.

### **Local Ombudsman**

The national campaign for the popularization of the ombudsman draft law, which was developed within *Coalition 2000* and was submitted to the National Assembly, played an important role in the introduction of the local ombudsman or civic mediator. A pilot project was also launched by the Center for Social Practices, one of the founders of *Coalition 2000*, to test the local ombudsman institution under the designation “public mediator”.

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<sup>13</sup> *Coalition 2000* received the following letter from the management of the hospital:

Esteemed Ladies and Gentlemen,

Without meaning to ignore the problem of corruption, a highly alarming issue for the whole society, our position as the management body of the professional organization of physicians in the Bourgas region is that it is inappropriate to first implement the proposed measure in the sphere of healthcare.

We are well aware that our area of activity is of particular public concern and that this kind of problem provokes intense reactions. On the other hand, we have been placed in the position of assuming responsibility for all the negative aspects of the present transition period. The medical profession is subjected to incredible pressure generated by the ongoing reform in healthcare: the resulting layoffs, the shortage of funds for medicines and supplies, and the irregular payment of salaries – a mere pittance for our work.

A program conducted in the form of a survey among doctors and citizens will further exacerbate the situation in healthcare establishments and increase social tension.

Respectfully: Chairman of the Management Board of the Regional Board of the Bulgarian Medical Association in Bourgas: Dr. L. Tomov

The elaboration of the local ombudsman model drew on the European experience and local research. An analysis was made to examine the existing legislative possibilities to legitimize the institution in the municipality. On the basis of the documents drawn up – Public Mediator Statute and Work Code – the various municipalities proceeded to legitimize the institution by voting at a municipal council session, through a framework agreement with the mayor ., etc.

One of the more sensitive issues, that of the appointment of the local ombudsman, was addressed by forming committees including representatives of all parties concerned: municipal councilors from all political groups, municipal officials, and experts. Local and regional media representatives were present at each stage of the public mediator election. The most qualified candidates were selected at municipal council sessions.

The media campaign to promote the institution itself comprised special programs on the national radio station, Hristo Botev, which dealt with relations between citizens and institutions and the role of the ombudsman as a mediator in conflict situations. Numerous articles appeared in the local and regional press on the possible ways in which the new institution could help citizens in their dealings with the local government, including cases of corruption.

#### **Public Mediator (Center for Social Practices)**

##### ***Mladost Region - Sofia***

*The Mladost Region, Sofia, is the largest municipality in the project and possibly the one facing the most complicated problems. The local public mediator faces the task of reconciling the positions of aggrieved citizens and members of the administration, and facilitating conflict resolution. The public mediator reviews complaints by citizens regarding instances of malpractice on the part of the administration. He may intervene in cases involving failures to keep legally established deadlines, displays of humiliating attitudes toward citizens, incorrect or incomplete information about the rights of citizens and the terms under which administrative services are provided; and abuses of power. The public mediator in the Mladost Region is authorized to deal with complaints related to housing or other real estate property; registration of commercial sites; waste disposal and street cleaning, etc. The office does not handle complaints that date back over one year or that have already been filed in court, cases involving citizens' private lives, or union and labor disputes.*

##### *Public Mediator Work Code:*

- *Provides equal opportunities for citizens to defend their rights, regardless of their sex, race, nationality, ethnic identity, social origin, age, economic status, and political or religious beliefs.*
- *Respects the rights of all parties and informs them of his actions and intentions,*

*hears them out and takes their views into consideration, and gives them the possibility to reconsider their own positions.*

- *Does not disclose the names of persons involved in the various cases and other information of a confidential nature.*

*In his work the public mediator from the Mladost Region has the support of the mayor of the municipality, which ensures him the necessary access to the administration and to information on individual cases. The mayor of the municipality believes the ombudsman system will significantly facilitate the handling of complaints and will thus help improve the quality of the services in the Municipality.*

## **Center for Social Practices**

### ***Koprivshitsa Municipality***

*The office of the ombudsman in Koprivshitsa Municipality is in the local culture center. This was decided so as to differentiate the office from the local administration. Several complaints have been successfully dealt with, leading to specific changes in the practice of the municipal administration. One example is a complaint by an elderly citizen, who is a shepherd and lives high up in the mountain. His wife is deceased; however, the telephone was registered in her name. The plaintiff was not informed of the six-month deadline to change the name of the subscriber; and subsequently failed to keep the registration. He then received a letter informing him that he was to pay 120 lev for telephone service. The inquiry of the ombudsman found out that the six-month deadline had been announced in the bulletin of the Bulgarian Telecommunications Company but that the subscribers were unaware of the deadline. Only the telephone company employees knew about it. After long negotiations with the local automatic telephone station an agreement was reached for the shepherd to pay only 6.10 lev. The municipality also agreed to provide monthly updates to the telephone company about deceased subscribers so their families could be promptly informed of the procedures, terms, and deadlines for changing the subscription.*

Providing counseling for citizens is one of the principal areas of activity of the public mediator. It was established that citizens are insufficiently aware of their rights and of the powers of the local administration. This lack of knowledge is used by the administration to refer citizens from one department or agency to another without actually addressing the problem. Therefore one of the main functions of the ombudsman is an educational one: to inform citizens of their rights and obligations, and to counsel them regarding the powers of local government and administrative procedures. In this way citizens can seek remedies for violations of?????. In this connection, the public mediator in Koprivshitsa is preparing a guide listing all the services offered by the Municipality, including a pricelist.



## Center for Social Practices

### *Sevlievo Municipality*

*The public mediator in Sevlievo Municipality started operating a little later because the institution proved highly politicized and initially the local elite did not trust the ombudsman. The status of the public mediator had to be approved at a session of the municipal council but the representatives of one of the political powers boycotted the meetings claiming the ombudsman was a useless institution. Thanks to persistent efforts to clarify the nature of the institution, an agreement was finally reached with the Mayor of the Municipality about the functioning of the local ombudsman. In a poll conducted on the local radio station most of the town residents said they would use the services of the ombudsman if need be.*

*The Mayor of the town works actively with the public mediator and refers some of the complaints addressed to him for review and investigation to the ombudsman. He believes that such an institution is important and useful for society. The regular broadcasts on the local media explaining the functions and public importance of the ombudsman also prove helpful to his work.*

*In the course of the project the functions of the local ombudsman were extended in view of the needs of the communities included in Sevlievo Municipality (a total of 32). Temporary offices were opened in many of them in order to popularize the functions of the public mediator and provide assistance to the citizens.*

In conclusion, the introduction of the ombudsman institution in the three municipalities can be said to have been a process of adjustment to the conditions and problems in each of them. Whereas the traditional institution has specific and strictly defined powers, in Bulgaria the public mediators took on additional activities, mostly in the area of civil rights education and awareness raising. It should be noted that most of the local administration members perceived it as an institution facilitating their work rather than monitoring their own performance for possible malpractice and violations. This provides further motivation for the educational and counseling function of the public mediator in Bulgaria.

The main conclusion to be drawn from the pilot project is that there is potential for the establishment of the local ombudsman institution while bearing in mind the following recommendations by experts of the Center for Social Practices::

- The role of the ombudsman should not be confined to the classical model, as it could successfully take on the functions of a Civic Service Office, as well.
- In the larger municipalities it might be appropriate to limit the functions and focus on poor administration only. Here the problems are numerous and difficult to address.

- It is appropriate to extend the functions of the ombudsman in the smaller municipalities where this institution could help address regional problems .
- It is crucial to address the problem of the independence of the ombudsman institution, which is largely dependant on outside financing.
- In cases when the ombudsman works in cooperation with the mayor it is necessary to have a mechanism to balance their interrelations so as to avoid possible conflicts of interest - too strong influence of the mayor over the institution or use of the ombudsman for purely political purposes.

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The above conclusion finds confirmation in the case of Pleven, where in his election campaign the present mayor committed himself to introducing the ombudsman institution in the municipality. The association Revived Civil Society, a *Coalition 2000* partner, made serious efforts to draw up the Public Mediator Statute and Work Code, conducted a public awareness campaign, and enlisted public and media support. However, once the mayor was elected and assumed office, the ombudsman idea was abandoned and never put into effect.

The problem of coordinating party-and-political considerations and leanings on the one hand, and public interest on the other, which looms with particular urgency in a pre-election situation, remains of fundamental importance for the partnership of the non-governmental sector with political agents or local government representatives. The introduction of a local ombudsman in particular, or of other mechanisms for civic control over institutions, is basically dependent on the subjective factor: measure of commitment, lasting or conjuncture-motivated concern, and the capacities and resources of both sides involved. It should be noted that the adoption of an ombudsman law would help create a more favorable environment for anti-corruption efforts on a local level, and for

promoting and safeguarding civic institutions and civic control mechanisms initiated by them.

In spite of the lack of legal regulations and largely as a result of efforts from the non-governmental sector, more than 30 municipalities across the country have expressed interest and readiness to implement projects for the introduction of a local ombudsman. Some of them, such as Veliko Turnovo Municipality, are even ready to finance such a project with their own funds. Sofia Municipality is already in the process of introducing an ombudsman in the capital.

The Ombudsman Regional Association in Stara Zagora, created in early 2001 with the assistance of *Coalition 2000*, has already managed to establish itself in public as a mediator between citizens and the municipal institutions. In one of the first conflicts it dealt with, the association conducted the appropriate inquiry and started negotiations with the respective agencies.

#### **Ombudsman Regional Association - Stara Zagora**

*The first substantial case in which the Ombudsman Regional Association legitimized itself in public concerned contracts provided by the Water Supply Company (WSC) to its clients. The psychologists were the first to object to the approach chosen by the WSC. The company offered ready, signed and sealed contracts. This runs counter to the provisions of Art. 8 of the Law on Obligations and Contracts, defining a contract as “an agreement between 2 or more persons, who freely determine its content to best defend their interests”. The lawyers objected in most resolute terms to the “10% penalizing interest in addition to the interest owed for delayed payment based on the annual interest rate set by the Bulgarian National Bank” referred to by Art. 2.4, Par. 2 of the proposed contract. This is contrary to the provisions of Art. 10 of the Law on Obligations and Contracts.*

*A proposal for amendments was drafted on the basis of the legal analysis submitted to the WSC in Stara Zagora. Through the press the Ombudsman Regional Association advised c to sign the proposed contract because it imposed monopolistic conditions in an essentially contractual deal.*

*As a result of the negotiations, the WSC in Stara Zagora acknowledged part of the arguments of the Ombudsman Regional Association and announced that it would revise the contracts to abolish the 10% penalizing interest. The WSC further accepted the idea of a dialogue with the taxpayers in cases involving group interests.*

*This case, which was extensively covered by the media in Stara Zagora, was an illustration of a situation where the Ombudsman Regional Association acted as a mediator between citizens and the municipal institutions. The results achieved confirmed the need for a mediating institution and for other forms of civic control.*

The fact that mediating institutions – under different designations and in different forms, as part of the anti-corruption projects – were established in Stara Zagora, Shumen, Varna, Smolyan, Koprivshitsa, Sevlievo, Razgrad, Veliko Turnovo, Sofia, and other towns is evidence of the progress made by Bulgaria in this transition period in terms of emancipating civil society, increasing awareness of its role as a partner in social relations, and being ready for civic participation and exercising control over local self-government. There is reason to applaud the emergence of a definite potential for far-reaching institutional reforms in local government by a number of mayors, municipal councilors, and other local government officials, who intend to govern according to the authority conferred on them by law and in line with the rights and interests of the citizens that have elected them.

Nevertheless, the question of the institutionalization of civic mediators – whether the designation is civic observer or local ombudsman – is still up for discussion. The issue has actually been explored in a far more active and committed manner in the local and regional papers than in the central press. The discussion on the pros and cons of civic mediation has transcended the framework of anti-corruption projects to assume a place in its own right in public debates mainly about the so-called “open municipalities”, where the different forms of public-private partnership were tested as a new anti-corruption mechanism.

#### 4.4 Lessons Learned

The local anti-corruption initiatives of *Coalition 2000*, which brought about the introduction of innovative forms of civic participation and specific anti-corruption mechanisms to public-private partnerships, offer ample material for analyses, conclusions, and recommendations. The experiences gained in this pursuit, which are essentially new to Bulgaria, could be used to pave the way for more promising forms of anti-corruption partnerships and to enhance the effectiveness of anti-corruption efforts. The main conclusions and recommendations as well as the assessments of some emerging problems can be summarized along the following lines:

1. The foremost emerging conclusions and recommendations concern **local self-government reform**, where the anti-corruption initiatives established themselves as allies to the reforming powers to achieve good governance on a local level and in modern municipal administration.
  - In order to achieve greater transparency of local self-government and create an anti-corruption environment in the municipal administrations, it is necessary to improve the legal and institutional framework through specific legislation aimed at deterring and limiting corruption. There are serious arguments against the centralized methods of governance and financing of municipal authorities, which continue to function under the old model and favor the continuation of

corrupt practices. Reforming local self-government to bring it in line with European standards, including the expansion of anti-corruption legislative measures, constitutes one of the imperatives of the transition and of Bulgaria's ascension to the European Union.

- The anti-corruption mechanisms and sound practices tested within the local anti-corruption initiatives reveal the potential for the multiplication of organizational and legal forms of civic participation and control, which could be used to draft amendments and to improve the legal framework of local self-government. These would include extending the mechanisms of direct democracy, guaranteeing the rights of civic organizations, relieving the municipal administration of some of its functions and delegating certain public services to non-governmental and professional organizations, which would be in keeping with modern tendencies to improve the quality of public services. Such a “withdrawal” of the municipal administration would not only reduce the bureaucratic apparatus, but also bureaucratic corruption as well.
  - The need to make optimal use of available anti-corruption instruments in Bulgarian legislation and to activate and rationalize already existing bodies of control and civic participation emerges as another key element in efforts to achieve good governance and transparency on a local level. More active and effective use could be made of the legal powers of municipal councils to adopt rules and ordinances applicable in the territory of the municipality, as well as to endorse framework agreements or municipal programs of anti-corruption initiatives. In this respect, in addition to broad public awareness campaigns targeted at the local communities, it is important to reach the political elite as a key factor in involving the participation of local government authorities and identifying competent local leaders.
  - The anti-corruption impact of the local ombudsman institution (local public mediator) speeded up its legitimization. Unlike other countries in transition, where the ombudsman law preceded the social practice, the reverse process was observed in Bulgaria: the pilot projects introducing public mediators on a local level have constituted a definite resource for the adoption of the draft law. It should be noted that in the course of implementing the local anti-corruption initiatives there appeared certain characteristics in terms of the functions, election procedures, etc., , which makes it possible to speak of a Bulgarian model for local public mediator, including an instrument for preventing and counteracting corruption on a local level. Speeding up the adoption of an ombudsman law, which contains a special chapter on local public mediators, would no doubt play a key role in democratizing municipal institutions and institutionalizing civic participation and control.
2. The local anti-corruption initiatives integrated themselves in the **revival of civil society** and established its social role in fostering civic awareness within the municipality and the region. In the broad context of arising problems, innovative practices and anti-corruption mechanisms, successful or unsuccessful partnerships, etc., it is possible to highlight several basic conclusions and recommendations:

- For the first time the fight against corruption became a priority of local non-governmental organizations, which helped uncover the potential of civil society in counteracting corruption in a given municipality or region. A partnership was initiated between non-governmental organizations, media, and business on the one hand; and the local institutions, on the other. The anti-corruption structures created in a number of “open municipalities” proved the viability of the coalition model, which implies a capacity for dialogue and integration, mutual trust, and overcoming existing negative attitudes to non-governmental organizations on both a national and local level. Moreover, what the anti-corruption initiatives have proposed to the authorities is implementation of reforms aimed at transparency and openness in local government, and the process of formulating the public agenda in the fight against corruption on a local level. Underlying this new partnership is realizing the concurrence of the goals and priorities of the civic anti-corruption initiatives and those of the municipal authorities, and the competent anti-corruption bodies. At present, however, this is only tendency and its future largely depends on the further recognition of civil society as a partner and on the democratization and modernization of local government factors.
- Civic participation in the anti-corruption efforts still encounters lack of understanding or opposition on the part of both institutions and the local communities. In some cases there seem to be deliberate efforts to undermine civic anti-corruption initiatives. Such opposition typically cites “legal” arguments: that the inclusion of civic organizations in anti-corruption campaigns is illegitimate, that the fight against corruption should be left to the respective law-enforcement authorities – the police, courts and prosecution, and to the state control bodies – National Audit Office, Agency for State Internal Control, Financial Intelligence Unit Agency, as well as to members of parliament and parliamentary committees. This position as a rule only refers to the criminalized offense of corruption, i.e., bribery, which is covered by criminal law and working law-enforcement mechanisms. This is used as a reason to reject the need for any broader public involvement with anti-corruption tasks. Another type of opposition uses institutional arguments, in the sense that there is allegedly no room or need for new institutions (ombudsman, civic observer) in the Bulgarian institutional system. Deliberately or because of lack of knowledge, such an institution is claimed to be a superfluous bureaucratic luxury. In any event, however, opposing, underestimating or ignoring civic participation in the fight against corruption is deeply rooted in the notorious past practice of centralized regulation and control over all forms of civic activity.
- Countering these arguments against the institutionalization of civic participation in anti-corruption initiatives may not be easy but is nevertheless possible. It is necessary to realize and overcome the lingering etatist stereotypes requiring and creating preconditions for civic passivity and withdrawal, as well as the traditional perception of corruption solely as bribery.

- The local anti-corruption initiatives provide examples of at least two functions with which civil society can become a viable partner in the fight against corruption on a municipal/regional level. Above all, this is the mediating function. In view of the present state of local self-government and existing well-known psychological attitudes – primarily the alienation from power and mistrust in the institutions – mediation assumes particular importance for the creation of channels for filing complaints, for protecting the victims of corruption, and watchdog monitoring; and the resultant proposals for better and transparent governance.
  - The second critical function tested in local anti-corruption initiatives is related to certain areas of activity and services in which the administration has proved ineffective; or which compensate for certain shortcomings of the information environment and the media, the educational system and the community culture. It can provisionally be called the compensatory function and can be illustrated by examples from two areas: one is the anti-corruption education initiative by *Coalition 2000* and its local partners; and the other is the use of the new information technologies and local monitoring aimed at greater transparency and openness in local self-government. It is in these two areas that the most tangible results were achieved in establishing the partnership between civil society and the local authorities.
3. Last but not least come the conclusions and recommendations directly related to the functioning of *Coalition 2000* and the legitimization of non-governmental organizations of a coalition type in the fight against corruption on a local level.
- ❖ In the course of implementing anti-corruption initiatives, considerable experience was gained in structuring the network of non-governmental organizations engaged in the fight against corruption. A policy of finance and activity decentralization was implemented. At the same time, as the organizer of the national campaign, *Coalition 2000* provided solid argument for legitimizing its partners before local communities and local government authorities.
  - ❖ Both the positive and the negative results point to the need for a better grasp of the mission of anti-corruption organizations, which implies a clear-cut definition of the activity parameters and the setting of feasible goals. It is of primary importance to focus the efforts of local anti-corruption organizations on developing the capacity to establish partnerships and maintain a genuine dialogue with local government authorities. In this respect it is worth promoting a certain balance between the critical/destructive approach along the lines of “fighting corruption in local government” and the constructive approach, which stresses the task of achieving greater transparency and openness of the municipal authorities. At the same time, local anti-corruption initiatives can only benefit if the organizations manage to resist submission to narrow party interests; preserve their civic identity independently from the political context and the power structures; and gain the trust of the local community through effectiveness, transparency,

long-term and lasting commitment to public interests, and through their personal and professional integrity.



