National Integrity Systems

Country Study Report

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Bulgaria

Country, Political and Government Structure of Republic of Bulgaria

According to the Bulgarian Constitution in force form 1991, Republic of Bulgaria is a Parliament Republic with a President and Vice-president.

The Constitution provides for regulations dividing the state power into three specific and separately acting powers: Legislature (represented by the Bulgarian National Assembly); Executive (Council of Ministers) and Judicial Power (Judiciary, Public Prosecution and Investigative Magistrates).

Bulgaria is a Parliament Republic, not a President one. The Bulgarian President has powers that are only representational. Most of his acts need reassignment from Prime Minister or line minister. The institution of the Bulgarian President now is a discussing issue and an attempt is done to be enlarged its competitions in order to be a guarantee figure between the three acting powers.

Bulgaria is a unitary republic. According to its Constitution no separate or autonomy territory structures are allowed.

The main power in the government structure is the Legislature, represented by the Bulgarian National Assembly. The Assembly is situated in the city of Sofia and consists of one chamber and of 240 parliament members.

The political party life in Bulgaria is based on pluralistic approach. According to the Bulgarian Political Party Act a number of 500 Bulgarian citizens may form a political party and have to registrate it in the District Court of Sofia in a specific register for the political parties in Bulgaria. The law forbids in the purposes of the party to have a clause that the party aims at ruing the democracy in the country or to associate the party with the Bulgarian nation and to speak form the name of the society at large. At the moment in Bulgaria there is round 50-70 registret political parties, but only 10-15 are actively participating in the Bulgarian political life.

The structure of the Police is centralised. There is one central Police and Headquarters as well as local (municipal) police officers. The Bulgarian Police is part of the Ministry of Interior and the Minister of Interior is the head of all police forces.

The new amendments in the Criminal Procedure Code allow the police to do investigation on specific number of criminal cases. The police forces are obliged to perform a “short-term” investigation – 36 hours to one week or an investigation not lasting that two months.

The Administration in Bulgaria is on central and municipal level. There is a specific Law for the Administration, regulating all the rights and obligations of the Bulgarian Administration – supreme or on a lower level. There is a Code of Conduct for the Civil Servants. The Civil Servants are divided into categories and levels. The new Administration Act is 60 % accepted by the English one. But it implementation is at its beginning and there is not so well established regulations for the civil servants obligations.

Introduction

The democratic Changes in Bulgaria (1989-1990) led to development of a new Constitution (1991) and new legal framework of institutions that to control the decision making process in Bulgaria and to avert the damage that corruption causes to the public interest. At the time being the institutional components of the Bulgarian National Integrity System consists of:

- President and Vice-President of the Republic
- Prime Minister and a Council of Ministers (Executive), Local Self-Government (Regional Governors, Mayors, Municipality Council)
- Civil servants (elected and appointed public officials included in the decision-making)
- The Bulgarian National Accountancy Chamber (the National Audit Institution)
- Council of Electronic Media (CEM - responsible for the mass media regulations and drafting the provisions of the new mass media laws and electing the chief-directors of the public TV and Radio; November 17 2001 – New law on electronic Media – was established a new monitoring public Body CEM. It was said in the law that CEM will be responsible for the licensing of the electronic media. Most of the permissive regimes for the electronic media were replaced with registrative regimes in order to be restricted the possibilities of CEM members to abuse their power.)
- National Commission for Protection of the Competition – has the right to self-set up a case if it is against the completion rules in the private, business sector
- State Security Commission - regulator on bonds and securities listed at the Stock exchange in Bulgaria
- Chamber of Commerce
- Public Procurement System – public sector procurement
- Public Privatisation System – New law on privatisation (still on first reading) – the Privatisation Agency doesn't have the right to negotiate with the potential privatisators. All privatisation transactions can be implemented by two legal methods – open bidding or competition procedure. A new controlling public body was set up – National Agency for post-privatisation control.
- Supreme Judicial Council – administrative judicial body, responsible for nominations and appointments of all magistrates in Bulgaria (judges, prosecutors and investigative magistrates), National Investigative Agency and Chief Prosecutor
- Independent Judiciary, Investigators and Prosecutors
- Free, independent and autonomous Bar (Supreme Attorney Council) and Notary Chamber
- National Assembly – elective legislature with power to hold public officials to account
- Grand National Assembly – consists of 400 members elected by a generally established procedure and adopts new Constitution, resolves changes in the territory of the Republic, ratify international instruments envisaging such a change, resolves changes in the form of Statute Structure or form of Government
- Constitutional Court – non-judicial body with power to interpret the Constitution and observe the compliance of the laws with the Constitution of the Republic of Bulgaria
- Civil Society – NGOs, trade unions, students organizations, the press

National Integrity System

President and Vice-President of the Republic

The President is the head of state. He shall embody the unity of the nation and shall represent the state in its international relations.

According to the Bulgarian Constitution a Vice President shall assist the President in his actions.

The President shall be elected directly by the voters for a period of five years by a procedure established by law (special Law for election of President and Vice-president). According to that law eligible for President shall be any natural-born Bulgarian citizen over 40 years of age and qualified to be elected to the National Assembly, who has resided in the country for the five years preceding the election. To be elected, a candidate shall require more than one-half of the valid ballots, provided that more than half of all eligible voters have cast their ballots in the election. Should none of the candidates for President be elected, a second round vote shall be held within seven days between the two top candidates. The winner shall be the candidate who wins the majority of the vote.

A presidential election shall be held not earlier than three months and not later than two months before the expiry of the term of office of the incumbent President.

The Constitutional Court shall rule upon any challenge to the legality of a presidential election no later than one month after the election.

The Vice President shall be elected at the same time and on the same ticket as the President, on the same conditions and by the same procedure.

The President and the Vice President shall be eligible for only one re-election to the same office.

The President and the Vice President shall not serve as Members of the National Assembly or engage in any other state, public or economic activity, nor shall they participate in the leadership of any political party. The President and the Vice President shall swear before the National Assembly.

The President's or Vice President's authority shall expire before the expiry of his term of office upon any of the following occurrences:

- resignation submitted before the Constitutional Court;
- lasting incapacitation caused by a grave illness;
- pursuant to Art. 103 of the Bulgarian Constitution.
- death;

In instances 1 and 2, the prerogatives of the President or Vice President shall be suspended upon the Constitutional Court's establishing the existence of the respective circumstances;

In instance 1, the Vice President shall assume the duties of the President until the expiry of the term of office.

Should the Vice President be incapable of assuming the President's duties, the President's prerogatives shall be assumed by the Chairman of the National Assembly until the election of a new President and Vice President. Elections for President and Vice President shall then be held within two months.

The President of the Republic shall:

- schedule the elections for a National Assembly and for the bodies of local self-government and shall set the date for national referendums pursuant to a resolution of the National Assembly;
- address the nation and the National Assembly;
- conclude international treaties in the circumstances established by the law;
- promulgate the laws;
- on a motion from the Council of Ministers, determine the borders of the administrative territorial units and their centres;

- on a motion from the Council of Ministers, appoint and dismiss the heads of the Republic of Bulgaria's diplomatic and permanent missions at international organisations, and receive the credentials and the letters of recall of the foreign diplomatic representatives to this country;
- appoint and dismiss from office other state officials, established by law;
- award orders and medals;
- grant, restore, relieve from and withdraw Bulgarian citizenship;
- grant asylum;
- exercise the right to pardon.
- cancel uncollectable debts to the state;
- name landmarks and communities of national importance;
- inform the National Assembly on basic problems within his prerogatives.

Following consultations with the parliamentary groups, the President shall appoint the Prime Minister-designate nominated by the party holding the highest number of seats in the National Assembly to form a government.

Should the Prime Minister-designate fail to form a government within seven days, the President shall entrust this task to a Prime Minister-designate nominated by the second largest parliamentary group.

Should the new Prime Minister-designate also fail to form a government within the period established by the preceding paragraph, the President shall entrust the task to a Prime Minister-designate nominated by one of the minor parliamentary groups.

Should the consultations prove successful, the President shall ask the National Assembly to elect the Prime Minister-designate.

Should no agreement on the formation of a government be reached, the President shall appoint a caretaker government, dissolve the National Assembly and schedule new elections. The President's act on the dissolution of the National Assembly shall also establish the date of the new general elections.

The President shall be the Supreme Commander in Chief of the Armed Forces of the Republic of Bulgaria.

The President shall appoint and dismiss the higher command of the Armed Forces and shall bestow all higher military ranks on a motion from the Council of Ministers.

The President shall preside over the Consultative National Security Council, the status of which shall be established by law.

The President is free to return a bill together with his motives to the National Assembly for further debate, which shall not be refused. The new passage of such a bill shall require a majority of more than half of all Members of the National Assembly.

Executive

The structure of the Executive Power in the Republic of Bulgaria is described in Chapter Five of the Bulgarian Constitution (Art. 105-116).

The Constitution determinates that the Council of Ministers shall head the implementation of the state's domestic and foreign policy as well as shall ensure the public order and national security and shell exercise overall guidance over the state administration and Armed forces. The Council of Ministers has the obligation to manage the implementation of the state budget; organize the management of the state's assets; conclude, confirm or denounce international treaties when authorized to do so by law.

The Council of Ministers consists of a Prime Minister, two Deputy Prime Ministers and several deputy ministers appointed and dismissed by the Prime Minister. Each member of the Council of Ministers must head a ministry, except when the National Assembly resolves otherwise. Each minister shall account for his own activity.

The members of the Council of Ministers shall swear before the National Assembly the established in the Constitution Art. 76 Para 2 "Oath". The oath is obligatory for the minister to exercise his/her office.

Eligible for election to the Council of Ministers shall be any Bulgarian citizen qualified to be elected to the National Assembly (18 years of age).

A member of the Council of Ministers shall not hold a post or engage in any activity incompatible with the status of a Member of the National Assembly, that means that a deputy minister shall not occupy another state post, nor shall engage in any other activity which the law defines as incompatible with the office of a high public official.

The Executive consists also of state employees, which are the executors of the nation will and interests. In the performance of their duty they must be guided solely by the law and must be politically neutral. The conditions of the appointment and dismissal of state employees and the conditions providing public services will be discussed in Chapter VI "Civil service".

Legislature

The Legislative Power of the Republic of Bulgaria is regulated by the Provisions of the Bulgarian Constitution and the Statute of the National Assembly (Parliament).

Art. 8 of the Constitution (S.G. 1 56, 1991) determine that the power of the State shall be divided between legislative, executive and judicial branches.

Chapter three of the Constitution named NATIONAL ASSEMBLY comprise the basic regulations on the structure of the Legislative Power in the Republic of Bulgaria.

According to Art. 62 the National Assembly shall be vested with the legislative authority and shall exercise parliamentary control. Art. 63 determines the number of the members of the Parliament. According to it the National Assembly shall consist of 240 members, elected for a term of four years.

In case of war, armed hostilities or another state of emergency occurring during or after the expiry of the National Assembly's term, its mandate shall be extended until the expiry of the circumstances. Elections for a new National Assembly shall be held within two months from the expiry of the mandate of the preceding one.

Eligible for election to the National Assembly shall be any Bulgarian citizen who does not hold another citizenship, is above the age of 21, is not under a judicial interdiction, and is not serving a prison sentence.

A candidate for a National Assembly seat holding a state post shall resign upon the registration of his candidacy.

The legitimacy of an election may be contested before the Constitutional Court by a procedure established by law (Art. 66 of the Constitution). The statute and procedure of the Constitutional Court are arranged in separate Law for the Constitutional Court.

Members of the National Assembly shall represent not only their constituencies but also the entire nation. No Member shall be held to a mandatory mandate. Members of the National Assembly shall act on the basis of the Constitution and the laws and in accordance with their conscience and convictions.

A Member of the National Assembly shall not occupy another state post, nor shall engage in any other activity, which the law defines, as incompatible with the status of a Member of the National Assembly.

A Member of the National Assembly elected as a minister shall cease to serve as a Member during his term of office as a minister. During that period, he shall be substituted in the National Assembly in a manner established by law.

Members of the National Assembly shall not be held criminally liable for their opinions or votes in the National Assembly.

According to Art. 70 of the Bulgarian Constitution a Member of the National Assembly shall be immune from detention or criminal prosecution except for the perpetration of a grave crime, when a warrant from the National Assembly or, in between its session, from the Chairman of the National Assembly, shall be required. No warrant shall be required when a Member is detained in the course of committing a grave crime; the National Assembly or, in between its session, the Chairman of the National Assembly, shall be notified forthwith. That provision was a matter of change in the recent amendments (13-16 February 2001) of the Bulgarian Constitution initiated from the Ruling party. The debate was not successful and the changes of the Constitution were postponed for the new National Assembly.

According to Art. 73 the National Assembly shall be organised and shall act in accordance with the Constitution and its own internal rules. The National Assembly is a permanently acting body. It shall be free to determine its recesses.

A newly elected National Assembly shall be convened for a first session by the President of the Republic within a month following its election. Should the President fail to do so, it shall be convened by one-fifth of the Members of the National Assembly.

The national Assembly is working on sessions. The first session of the National Assembly shall be opened by the senior present Member. At the first session the Members swear the following oath: "I swear in the name of the Republic of Bulgaria to observe the Constitution and the laws of the country and in all my actions to be guided by the interests of the people. I have sworn." On its first session the National Assembly elect its Chairman and Vice Chairmen.

The National Assembly elects permanent and ad hoc committees from among its Members. The permanent committees shall aid the work of the National Assembly and shall exercise parliamentary control on its behalf. Ad hoc committees shall be elected to conduct inquiries and investigations.

Any official or citizen subpoenaed by a parliamentary commission is obligated to testify and present any required documents.

The National Assembly is free to hold a session and pass resolutions when more than half of its Members are present.

The National Assembly passes laws and other acts by a majority of more than one-half of the present Members, except when a qualified majority is required by the Constitution.

Voting is personal and open, except when the Constitution requires or the National Assembly resolves on a secret ballot.

Sessions of the National Assembly are public. The National Assembly may by exception resolve to hold some sessions behind closed doors.

Ministers are free to attend the sessions of the National Assembly and the parliamentary committees. They have the priority in addressing the Members.

The National Assembly and the parliamentary committees can order to the ministers to attend their sessions and respond to questions.

Art. 84 of the Constitution determines the legislative authorities of the National Assembly. According to it the National assembly can:

- pass, amend, and rescind the laws;
- pass the state budget bill and the budget report;
- establish the taxes and their size;
- schedule the elections for a President of the Republic;
- resolve on the holding of a national referendum;
- elect and dismiss the Prime Minister and, on his motion, the members of the Council of Ministers; effect changes in the government on a motion from the Prime Minister;
- create, transform and close down ministries on a motion from the Prime Minister;
- elect and dismiss the Governor of the Bulgarian National Bank and the heads of other institutions established by law;
- approve state-loan agreements;
- resolve on the declaration of war and conclusion of peace;
- approve any deployment and use of Bulgarian armed forces outside the country's borders, and the deployment of foreign troops on the territory of the country or their crossing of that territory;
- on a motion from the President or the Council of Ministers, introduce martial law or a state of emergency on all or part of the country's territory;
- grant amnesty;
- institute orders and medals;

- establish the official holidays.

The National Assembly have the exclusive right to ratify or denounce by law all international instruments which:

- are of a political or military nature;
- concern the Republic of Bulgaria's participation in international organisations;
- envisage corrections to the borders of the Republic of Bulgaria;
- contain obligations for the treasury;
- envisage the state's participation in international arbitration or legal proceedings;
- concern fundamental human rights;
- affect the action of the law or require new legislation in order to be enforced;
- expressly require ratification.

Treaties ratified by the National Assembly may be amended or denounced only by their built-in procedure or in accordance with the universally acknowledged norms of international law.

The conclusion of an international treaty requiring an amendment to the Constitution has to be preceded by the passage of such an amendment.

The National Assembly has the right to pass laws, resolutions, declarations and addresses.

The laws and resolutions passed by the National Assembly are binding on all state bodies, all organisations and all citizens.

The National Assembly is the only government body that can approve the state Bill. The State Budget Bill must be drawn up and presented by the Council of Ministers.

All Bills are read a nd voted upon twice, during different sessions. By way of exception, the National Assembly may resolve to hold both ballots during a single session. All other acts of the National Assembly shall require a single ballot. Each passed act must be promulgated in State Gazette within 15 days of being passed.

Members of the National Assembly have the right to address questions and interpolation to the Council of Ministers and to individual ministers, who are be obligated to respond. A motion by one-fifth of the Members of the National Assembly can turn an interpolation into a debate on which a resolution must be passed.

The National Assembly accept its own Stature, regulating the procedures for voting, lobbying etc. But there is no obligation of the Members of the Parliament how to behave in case of “conflict of interest”.

Recently was accepted a Law for Public Access to the Declared Assets and Property of Persons in High State Office (S.G. ¹ 38, 9 June 2000). The law obliges the Members of Parliament to declare received grants for education for themselves or their relatives, funds for travel or gifts over 500 Bulgarian levs (one lev is equivalent to one DM) when the expenses are not made by the budget of the institution he or she represent.

There are no registers for natural and legal persons who have made gifts, introduced grants or any other services in favour of a Member of Parliament or High Public official.

Political Party Funding

Art. 11 of the Constitution of Republic of Bulgaria

- Politics in Bulgaria shall be founded on the principal of political plurality
- No political party or ideology shall be proclaimed or affirmed as a party or ideology of the state
- All parties shall facilitate the formation and expression of citizen’s political will. The procedure applying to the formation and dissolution of political parties and the conditions pertaining to their activity shall be established by law.
- There shall be no political party on ethnic, racial or religious lines, nor parties, which seek the violent seizure of state power.

The basic normative act, which entirely and fully regulates the activity of a political party, is the Law for the political parties (State Gazette No 29, 1990). This Law is to a great extent harmonized with congenial and kindred laws in the countries of the European Union.

The Law allows free set up of political parties, which can realize their party programs solely in a democratic way, in accordance with the Constitution and laws of the Republic of Bulgaria.

The liberal model of political representation permits the registration of numerous political subjects at a benign procedure. At the current moment there are registered more that two hundreds political parties in Bulgaria, some of them possess symbolic number of members.

That was a serious problem of the Bulgarian political and electoral system. Because of it in January 2001 two draft laws for amendments of the Law of Political parties were initiated and deposited in the parliament. The amendment draft-law provisions demand for an establishment of new regulations increasing the number of the founders required for an establishment of a new political party – from 500 to 5000. This provision is very helpful for the Political party life in Bulgaria, which has more than 250 political parties and only nine of them are really active. But there are some complications in the new amendment provisions. The new draft-law procedure for registration of a new political party to actively participate in the elections, requires a list of 10 000 personal signatures to be deposited in the Central Election Commission (that is the responsible government body which takes the decision whether the regulations of the Law of political parties in Bulgaria is fulfilled by the candidate – political party – which want to participate in the elections). That provision will not only complicate the procedure for registration but shall make impossible the registration of some political parties and in some cases will take a bigger part of time needed for political organisation and agitation to be pointed out to the process of gathering signatures from the electorate.

Art. 17 of the law regulate the property status and the way of subsidizes and grant of the political parties and election campaigns in Bulgaria. The fund sources for parties could be the following: affiliation fees, donations, wills, testaments, incomes from economic activity, grants and subsidies from the State Budget.

Specified laws for organizing and conducting the national and local elections determine the specific rights and obligations of the political parties during the election campaigns. A great number of requirements are laid down for cooperation of the party centers in the head office and at local place with the chosen independent local and central election committees.

According to the law, the political parties could not receive aids, donations and testaments from foreign countries and organizations.

It is forbidden to receive donations from anonymous sources - physical and legal bodies, local or foreign.

Donations from state and municipal institutions and enterprises are forbidden too. It is allowed to receive donations from foreign physical (natural) persons in the amount up to five hundreds USD and up to two thousands us dollars from group of people during a certain period of time - one calendar year.

During each tour of the lead elections, the political parties receive according a determine way loans for political agitation activities and advertisements in the press, which credits are then check up on the base of collect votes during the elections.

The incomes got as a result of an economic activity are to be tax as economic subject. The profit, after taxation, from such an activity could be used without limit in the political activity. Earnings from printing activity also, after taxation can be used for political purposes.

There are no strict rules for spending the party resources, received in a legal way. The law indicates only, whether the financial activities of the political party are transparent and publicly announced.

There is a strict regulation, that an amount of money and property, that has been received through illegal way has to be confiscated on the behalf of the State, but sensitively, it is a dead legal text, because up to the moment there is no a single case, when such an action of inquire has been started and then a particular sanction has been put of a political party.

The political parties are obliged each calendar year up to the end of March to declare in front of a special Standing Committee in the Parliament, their property and financial situation for the past year.

The form for such a declaration is through a special report, in which are described the income resources and the persons, who have granted the donations.

A requirement exists, these reports of the political parties to be published in the State Gazette.

The parties are obliged to render an account of the above-mentioned order the sums, received for participation in the elections - national or local.

A defect and a fault of the shown normative organization for report of the political parties is the lack of penal and administrative amenability, when there is non-performed requirement from a political party.

The only sanction for non observe and obey the above requirements is the publication of an announcement in the press, that a particular party has not respect its requirement according the law.

Up to the current moment the specialized Standing parliamentary commission has not approach such a matter and did not started a single inquire for a case of illegal financing of a political party.

A similar lack of activity from the side of the commission depreciates and devalues its creation and its financing of the Budget of the Parliament.

Under the pressure of the public opinion at the moment of the second discussions in the Bulgarian Parliament, it debates a new variant of a law for the political parties, where is supposed to the state financing of the political parties for participation in the elections and perform a political activity.

It is expected the law to be voted before the hold of the regular national elections in June 2001.

Supreme Audit Institution

By means of the special Law for the Accountancy Chamber /State Gazette N0 71, 1995/ was provided for creation in the Republic of Bulgaria of an independent from the executive, legislative and judicial power a control body, called Accountancy Chamber.

The Chamber is a juridical body with self-contained state budget. It consists of ten members, as each of the members is appointed with a mandate of nine years.

On their first session after convocation of the control body, they elect the Chairman of the Accountancy Chamber. The law provides a provision for a particular order for election and appointment of the staff of the Chamber. According to the envisaged in the law order, the leading staff of the Accountancy Chamber has to be elected from the Parliament by means of explicitly determined criteria, bearing in mind the requirement for independence from the political parties, the Government and the President.

The Chairman and the members of the chamber must be graduated in economic or law sciences, not to have been members of the government or other central government institution throughout the last three years before to elected at a position of a member in the Accountancy Chamber.

The Chairman and the members are absolutely independent and they are responsible and they rejoin solely for infringement of the law.

They have no responsibility to report to the government or to any other body of the executive power for carried out examination or audit

According a decision of the Constitutional Court of the Republic of Bulgaria the official and functionary officer, elected with a definite mandate, envisaged in a special law, could not be dismissed before the mandate set, except in the cases of infringements of the provisions of the same law. Therefore the Chairman and the members of the Accountancy Chamber could not be discharge ahead of schedule because of transfer of the executive majority in the Parliament and because of change of the government.

The limited grounds for replacement of the chairman and the members of the Chamber are entirely numerated in the Law for the Accountancy Chamber - i.e. as per personal application, when there is an accuse of a crime with malice aforethought, the member is convicted or when the person is in a durable and a lasting impossibility to fulfill his own duties for more than six months.

According article 2 from the Law for Judicial power, the Accountancy Chamber performs annual and sudden, unexpected verifications to establish as follows:

- In conformity with the law, expediency and advisability fulfillment of the state budget, the budget of municipalities and other budget amounts granted from the state to the public institutions - for example to the National indemnity insurance institute.
- The use of budget resources given to persons, who perform economic and non-economic activity.

- The use of out of the budget accounts /extra budget accounts/, resources to discharge the State debt.
- Funds statement and expenditures of budget accounts, funds statement and expenditures of Cash execution.

This is the way of control and checks up. The Accountancy Chamber controls not only with budget institutions, but also juridical bodies, that receive and spend budget resources, no matter are they foreseen in the Republican Budget or in the Municipality Budget.

All budget and other public expenditures are to be checked up and announced publicly.

The legislator foresees this to be performed through the account and report of the government for the previous year, deposited for approval and acceptance of the Parliament.

Before the account of all indicated above expenditures to be incorporated in the report of the government, they are check up and audit from the Accountancy Chamber. According to the law, the Chamber presents a report on how the resources have been laid out.

The annual reports of the Chamber are performed as per definite methodology and definite indexes are followed each year.

There is a possibility, the matically controls /checks up on definite questions/. They are performed by a decision of the chairman of the Accountancy Chamber or initiated by a parliament proposal. In these cases the results are to be declared publicly immediately after they are finished.

The Accountancy Chamber performs checks up of extra /out of/ budget funds, as for example the fund "Agriculture", the fund "Tobacco", funds created with the aim to overcome and decrease of unemployment and others.

Performing the agreement of the Republic of Bulgaria with the International Monetary Fund from 1998 Bulgaria sharply has decreased the out of budget accounts and funds. Following the items of the Agreements all extra accounts and funds are monitor from special General department in the Ministry of Finance.

To a special control also are put the resources, received from the privatization process in Bulgaria.

The Accountancy Chamber performs annual examinations for convertibility with the law and the correctness lay out of the resources, gathered in these accounts and funds. Determined pre incorporation and pre annexati on funds of the European Union are monitored from the European audit institutions with the consent and assistance of the Republic of Bulgaria.

Judiciary

In a special law - The Law for the Supreme Administrative Court (State Gazette No 122/1997) is foreseen the possibility for judicial control from the side of the Supreme judicial body - the Supreme Administrative Court of the Republic of Bulgaria.

According to art. 5 of the Law for the Supreme Administrative Court all normative acts of The Council of Ministers, deputy ministers and other ministers' acts, as well as the acts of the Heads of different central institutions, municipality governors and other acts, subject to monitoring on specific laws of the executive power, are liable on control for conformity wi th the law and expediency and advisability.

The Supreme Administrative Court can revoke as not being in conformity with the Law an act of the executive power, and also can refer back it to the same administrative body with mandatory injunction.

The acts of the President of the Republic do not possess normative character, i.e. they do not cause rights or obligations for the citizens and the economic legal bodies and that is why they are not liable to any control.

According to the Constitution of the Republic of Bulgaria the judicial power is independent and free from the executive and the legislative powers. To the judicial power belong the judges, public prosecutors and examining magistrates, who are official bodies with masters in law degree, and their rights and obligations are regulated in a particular Law for Judicial power (St.Gazette No 59\1994).

The judges, the public prosecutors and the examining magistrates are absolutely independent when they fulfill their ostensible jurisdiction authority. They possess immunity as members of the Parliament. It is absolutely prohibited for them to be members of any political party, to participate or to help any political actions. After a defined probationary period as a judge, a public prosecutor or as an examining

magistrate they become irremovable, i.e. they could not be dismiss until they reach the retire age, except strictly defined cases, shown in the particular law.

The promotion and reduce in rank of the magistrates performs according special criteria, indicated in the law. The appointment in a higher magistrate post can be received after servicing a defined number of years in a lower rank court, public prosecution office or inquiry department.

Special juridical body, independent from the Ministry of Justice - The Supreme Judicial Council votes the appointments, transfers to and dismisses of the magistrates. Its acts are subject to judicial control from an independent juridical body - the Supreme Administrative Court. The Supreme judicial Council impose also the discipline obedience of the magistrates after the submit of the Public Prosecutor in chief of the Republic of Bulgaria, the Chairman of the Supreme Administrative Court or the Court of cassation or the Directors of inquire departments.

The appraisal of the Supreme Juridical Council for promotion or dismiss of a magistrate has to be done in complex. Except the compulsory probationary period as a magistrate at a definite appointment, the professional characters of an applicant are taken in account, his abilities to deal in a collective judicial body, educational level and moral qualities.

During the last years have been set up disciplinary proceedings against many magistrates, who were under suspicion for corruption infringements.

Additionally the prosecution office has put forward for the period 1998 - 2000 three indictments for bribery activity against defendants - magistrates. Up to the current moment there are two sentenced for bribery, ex-examining magistrates, and according the law there are magistrates and they bear criminal responsibility after their immunity is declined, according the established order.

The problems of disclose and impose of bribery among the high level magistrates are connected with the lack of Moral and behavior Code of Magistrates, which will assist the fast dismiss of persons, under suspicion and accessible to bribery.

The specialized institutions, dealing and struggling with the bribery are trying to avoid the proceedings of high level magistrates, because of the immunity, spread over numerous aforethought malfeasance, and also because of the very complex order for receiving permission to use special intelligence and reconnaissance means to collect evidences against the defendants.

It can be concluded, that the counteraction to the bribery criminality with a perpetrator, representative of the magistracy is not quite successful.

Actually because of that at the present moment in the Parliament are introduced amendments to be voted of the Constitution of Republic of Bulgaria, aiming a considerable decrease of the sphere of immunity of the magistrates.

The system of the professional qualification of the magistrates does not pay enough attention for the problems of the counteraction of the corruption from the point of view of the integrity of the institutions, struggling with it.

The interactions of the magistracy with the other institutions, which form the National Integrity System, are incident and non-system. The local magistrates do not participate in local initiatives - municipality or private in the struggle against the corruption.

After the critics of the European Union in the annual reports, concerning the progress of Republic of Bulgaria for the integration to the European Union, for high level of corruption and lack of effective counteraction has been taken first concrete measures and steps from the Supreme Judicial Council. It has been created in a very short time an organization for acceptance and adoption the Magistrate's Behavior Code. It has been also improved the system of lodgement of signals for accomplished bribery infringement and malfeasance.

The magistrates do not keep relations with non-government institutions that fight the corruption and do not present at seminars and other forms of training disclosing the methods and the ways of struggle with the corruption.

The achieved progress in this sphere is not considerable and that is why the public opinion is not positively directed towards the efforts and acts of the judicial power against the corruption activity.

The public investigations constantly reflect and cover the very law prestige of the judicial power and its association as the basic bearer of the action corruption in Bulgaria.

Civil Service

Chapter eight, section sixth of the Penal Code of the Republic of Bulgaria is titled "Bribery". In eight texts of the Penal Code of the Republic of Bulgaria are regulated criminal compositions - corpus delicti - of different forms of the felony bribery: active and passive bribery, provoke to bribery, demand for and receive of bribery from an official servant, being on a very top position and so on.

Generally speaking the criminal regulation according the Bulgarian criminal legislation includes the basic normative acts of Criminal judicial convention of the Council of Europe /No 173/, excluding the incrimination of TRADING IN INFLUENCE and criminal responsibility for legal entities.

Bulgaria in 1999 signed this Convention, which enables the changes in the material criminal law and criminal proceeding legislation, in a view to harmonization with the articles of the Convention.

There are no administrative normative acts for administrative responsibility in cases of active and passive bribery.

According to the Law for the State Servant /St.G. ¹67,1999/ and the Law for the Administration /St.G. ¹130,1998/ the state servant, fulfilling his duties has to be politically neutral, unbiased and impartial /art. 4, p. 2 Law for the State Servant/. The behavior of the State servant must be appropriated with the Law, the rights and the interests of the citizens and the interests of the State.

Detailed regulation of the rights and the duties of the state servant are given in the Code of behavior of the state servants /December, 2000/.

The basic principle for promotion of the state servant is the commitment of the status of the state servant with his professional qualities. The state servants are ranked in two groups:

- State servant with junior rank;
- State servant with senior rank;

While the rank expresses the level of the professional qualification of the servant /Art. 73, p.1 Law for the State Servant/.

The Law for the State Servant provides for provisions for material norms and standards, by means of which are prevented nepotism and cronyism. In article 7, p. 2 Law for State Servant is forbidden to be appointed for state servant, a person in relative relations with the head of the state institution or in any way to be connected with the leaders of the institution.

At the appointment for the service the state servant fills up a declaration that he suits the specific need and serves the purpose.

In the Code of conduct, the state servant is forbidden to receive presents and services from the citizens. That is why there are no similar registers.

A weak point in the Law is the lack of limit for ex state servants to establish an activity, close or similar by nature to the previous activity, made as a basic one in the past.

There are no restrictions, to be appointed in other state, municipal or private institutions or enterprises. But in the Bulgarian Legislation there are examples of some restrictions. In the Commercial Code of the Republic of Bulgaria is foreseen such a restriction for prosecutors of commercial entities - two years after they leave the occupation with the owner, not to be able to establish their own company exercising the same concurrent trade activity, peculiar to the businessman they have left.

The licensee and permit regimes are regulated with specific laws. Particularly, the permits are given based on the concrete text from the Law, as the act of the administration is subject to compulsory juridical control of the relative competent court.

The availability of numerous countersigned and newly legalized and permit regimes is a problem extremely actual for countries in transition.

The multiformity of the license regimes always has been indicated from the World Bank and other non-government organizations, as a basic problem, enabling the increase of the corruption in the different countries.

The issue of a license concedes the possibility of discretion authority of the Administration, which in 90 % of the cases lead to abuse of power (abuse of administrative position), aiming benefit of the public official officer or third natural or legal persons.

It has been checked this practical problem in Bulgaria and at the present moment there is an inspection for most of these regimes. There has been created a special group under the leadership of the Deputy Prime Minister Peter Zhotev. It has been cancelled more than one hundred regimes for the past year.

The state servant is protected by the law, when legally fulfills his duties. He does not bear material responsibility, when there is an infringement due to imprudence and carelessness. In a determine from the Law cases, the state servant is defend from responsibility - the disciplinary, property and criminal, if he has reported to his chief properly and has taken measures for exposure of the corruption activity.

Therefore, according the existing legal frame in Bulgaria the state servant bears responsibility only for deliberate, intentional infringements when or because of he does his official duties.

A special protect and program for whistleblower, enabled the exposure of the corruption infringement are not foreseen in the normative acts and are not implemented practically.

Such regulations are recommended from the Council of Europe and their vote and acceptance is of great importance for the increase of the exposures of the criminal infringements of the state administration. The statistics at the moment shows dissatisfied exposure compared with the other European countries from Central and Eastern Europe. At the same time the media publish constantly information for actions, that could not be taken if the state servants do not fulfill properly their duties, indicated with the law.

The Law for the State Servant foresees a strict and clear system for arising a penalty-registration of complaints and appeals towards state servants. Each member of the society could complaint against a corruption behavior of a definite state servant as he appeal to the straight chief in higher administrative office for the abuse with the service position of a state servant. Except the administrative way of filing a complaint graves; citizens, based and supported by the provisions of the law, may appeal to the competent court of law or prosecutor.

According to the Bulgarian Penal and Proceeding Code every body is obliged to announce the criminal infringement of common character, if it has been known to him suddenly.

Police, Prosecutors and Bar

According to the current legislation of the Republic of Bulgaria all state servants (police servants and employees of the National Service on Combating organized Crime) of the Ministry of Interior are subordinate only to the Minister of Interior, who is a member of the government.

There are no departmental or municipal police servants or militia offices.

Recently there was drafted a new institution on combating bribery - Bureau for Financial Intelligence with the Ministry of Finance.

All state servants of the Ministry of Interior, independently of their official position are to be appointed, transferred or dismissed from the Minister according to determined criteria.

The dismiss orders of state officials of the Ministry of Interior are subject to judicial control for conformity with the law at the relative Region court of law, according to the office of the police officer or civil servant. Subject to a court control according to a definite system are orders of straight chief officers of police, which impose administrative or discipline sanctions.

In numerous sub law normative acts are determined strict criteria for promotion or reduce in rank of the personnel in the police, including the conferment of police ranks and titles.

Dismisses or any kind of job transfers of police servants or officers from the national securities could be carried out only on the grounds out of the law.

When there is incorrect or inexact law apply, the courts could reinstate the police officer on his position and rank, in cases of irregular and wrong treatment from the police chief or the Minister of Interior.

It does exist an obligation, the state officers of the Ministry of Interior not to dabble in politics / out of political parties and intrigues/. The Law definitely forbids the possibility for the officers to be members of political parties and to participate in political actions, initiated from the political parties.

According the Constitution of the Republic of Bulgaria and Chapter Seven of the Law for judicial power /S.G. No 59,1994 / the Public Prosecutor Office is an independent institution and is a part of the judicial power of the Republic of Bulgaria.

In contrast to other countries, in Bulgaria the Public Prosecutor office is not a part of the Executive power, as the Constitution does not concede to the Minister of justice the opportunity to appoint and govern the Public prosecutors.

Solely the Chief Public Prosecutor of the Republic of Bulgaria possesses such authority. The Chief Public Prosecutor is elected from the Supreme judicial Council after the nominations has been placed from the judicial power, the Prosecutor's office, the Bar's office and the Minister of justice.

The Chief Public Prosecutor's mandate is seven years (Art. 129 Para 2 of the Bulgaria Constitution/1991).

Issuing of a decree of the President of the Republic of Bulgaria on a motion from the Supreme Judicial Council completes the appointment and dismissal of the Chief Prosecutor.

In case of a conflict between the two institutions, the President of the Republic shall not deny to issue the decree for an appointment or dismissal on a repeated motion of the Supreme Judicial Council.

The Chief Public Prosecutor, the Chairman of the Supreme Court of cassation and the Chairman of the Supreme Administrative Court shall not be eligible for a second term of office. /Art. 129 p.2 the Constitution of the Republic of Bulgaria/.

The indicated regulation is a part of the prevented measures underlying in the Constitution of the Republic of Bulgaria for the establishment of independent state institutions and being a tendency towards counteraction of the corruption between the top and the most official state bodies.

The Public Prosecutor Office is a centralized official body, where each public prosecutor is subordinate to the relative higher position public prosecutor and all public prosecutors are subordinated to the Chief Public Prosecutor of the Republic of Bulgaria.

All promotions and penalties or dismisses of public prosecutors are enacted by the Supreme Judicial Council according to a preliminary written suggestion of the Chief Public Prosecutor of the Republic of Bulgaria (Art. 132 Para 2 of the Constitution of the Republic of Bulgaria).

In particular cases the procedure requires to hear out the public prosecutor in front of the Supreme Judicial Council. The decisions of the Supreme Judicial Council are administrative acts and they are subject to judicial control of the Supreme Administrative Court for conformity with the law and regularity and objectiveness.

In realization of the functions of bringing an accusation against someone and starts a prosecution for a criminal offence the public prosecutor is an independent and he obeys only the Law.

He is an equitable litigant in the criminal process and possesses the same procedure authority and possibilities, similar to the accused defendant and his defense lawyer.

In the Bulgarian Legal System does not exist special departments of public prosecutors and investigative magistrates, who execute an activity in exposure and proof of infringements, connected with the corruption as a criminal concept and term /similar centralized bodies exists in Romania/.

Recently (from 2000) the Bulgarian Authorities established at the Supreme Cassation Prosecutor's Office, Special unit for fighting corruption in the Investigative Department for organised crime and Corruption.

In difficult cases with huge society resonance the Chief Public Prosecutor could take the case from the relative public prosecutor and to assign it to another public prosecutor in the Supreme Cassation Prosecution for inquire and for supervising for conformity with the law during the preliminary inquire. Just the same was the case with the accusations and indictments against the ex leader of the communist Bulgaria Todor Zhivkov, whose criminal acts in the past have been examined from staff of public prosecutors in the Supreme Cassation Prosecution.

Each one suffered and distressed from a corruption infringement, accomplished from a state servant of the Ministry of Interior could orally or in written form complaint to the local prosecution office. The Prosecution office could approach from signals and information for perpetrating infringement, published in the press.

The performing of an inquire, connected with an eventual corruption infringement, committed from a state servant of the police is to be established in a way, not to be different from a similar inquire, undertook against defendant - civilian. If it imposes somebody to be arrested and detain, for such an action the Minister of Interior should be reported to, who has no right to involve and interfere in the inquire.

During the exam procedure, as per the request of the examining prosecutor, the person under investigation is temporary and provisionally suspended from his duties, in order not to use his official state position to influence negatively the process and to cause difficulties in collecting the proofs.

Other independent mechanism to gather complaints for malfeasance, connected with corruption practices from employees of the Ministry of Interior does not exist.

It is not regulated the participation of citizen structures of the society in gathering data for infringements, carry out from employees of the Ministry of Interior. The participation of citizen formations is acceptable in judicial, public phase of court proceeding as observers of the process. The civil representatives have no free access to the collected evidence for the case, but they could receive copy from the judgment-at-law.

There is no a definite statistic for perpetrated corruption infringements and malfeasance from employees of the Ministry of Interior. The judicial statistic also does not gather and analyses data for culpable and felonious deeds of policemen.

Also the information for impose disciplinary penalties, including the dismissal of policemen, incriminated in corruption is confidential and is not a public one.

The specialized department in the Ministry of Interior called "Inspection", which collect data a nd offer disciplinary measures towards employees of the Ministry of Interior placed them to be secret and does not publish information for the taken administrative measures.

According to the public information up to the present moment there is no a single public prosecutor or judge sentenced for bribery in the true and full sense of the Bulgarian Penal Code.

There are only two cases of sentenced examining magistrates for bribery, but in both cases the performance of the sentences has been postponed.

After the adoption of some amendments in the Penal Proceeding Code it was accepted the use of special intelligence and reconnaissance means - electronic wire-tapping and bugging, surveillance, superintendent acts, anonymous witness to proof a corruption act, after court permission.

These procedures inquire, special investigative measures - widely used from the police, to be given permission by the Chief of the District Court of law and the fulfillment of the permission to be monitored by the Prosecution Office.

At the present moment is leading a wide discussion to what extent these means are used on appropriate purpose, whether is an abuse with them available.

The ground for such serious suspicions and misgiving, concerning the legal use of special intelligence and reconnaissance means is the discovered electronic wiretap and bug in a constant working regime at the home of the Chief Public Prosecutor of the Republic of Bulgaria.

Generally it could be concluded, that the results from the application of these special intelligence and reconnaissance for collecting evidence are disputable and contestable.

A support of this opinion is the text of the actual Penal Proceeding Code of the Republic of Bulgaria where it is state that a sentence could not be based only and solely on the information, received from special intelligence and reconnaissance means and/or witness testimony with well-saved anonymity.

According the Bulgarian legislation private corruption offences are covered by the acting criminal texts.

After the sign and the ratification of the Civil Law Convention on Corruption /2000/ from the Parliament and after the Convention operates according the regulations of the Council of Europe, the State will bear the responsibility for damages, resulting from a corruption offence, made by an employee. At the present moment Bulgaria is under amenability and bears heavy responsibility for damages, caused by state servants to citizens, but only fulfilling administrative obligations, not included as a corruption offence in the Law.

The cases of sentenced individuals for corruption are insignificant and nominal.

During the period 1995 - 1999 on the average of twenty-five individuals have been sentenced for bribery, a figure quite confusing on the background of the high level of corruption in the country, sized up through sociological surveys.

The imposed offences suggest an exceptional and unusual liberal regime concerning the perpetrator - individuals, accepted from the courts.

It is pointed out in the official commentaries of high judges, that the collected evidences in the criminal processes are insufficient for imposing serious penalties and the amounts of the given or received bribery are obviously no consequent, so it supposes lower judgment.

Out of the applied ground of the law there are huge briberies, published in the press. The information about these cases was given from local or foreign individuals during the process of privatization to the press.

It is underlined in depth, the necessity of closer interaction between the judicial power and the police in gathering evidences in the process.

Notwithstanding the high intolerance of the society to bribery as a social and criminal judicial effect, the public pressure towards the judicial power for adequate reaction to the phenomena bribery is not quite effective.

According to the Attorney Law (Pro., SG, No. 80/27 September 1991, amd., No. 104/1996, No. 59/1998) the Bar in the Republic of Bulgaria is independent body. It has a specific structure and Statute which guarantees its independence (General Assembly, Attorney Council, Control Council, Disciplinary Council, General Assembly of the Attorneys in the Country, Supreme Attorney Council, Supreme Control Council, Supreme Disciplinary Court).

Supreme Attorney Council

The Supreme Attorney Council shall be a juridical person with aseat in Sofia and shall be composed of 15 principal and 10 reserve members. As members of the Supreme Attorney Council may be elected attorneys with not less than ten years practice.

The Supreme Attorney Council shall:

- convene and hold a General Assembly of Attorneys, execute its decisions and report before it;
- determine the initial and annual fees of attorneys towards the budget of the Supreme Attorney Council in accordance with the length of service;
- issue directives entrusted to it by the present Law;
- make pronouncements with regard to claims against unlawful decisions of the General Assembly General Assembly and the validity of elections of Attorneys Councils;
- rule as regards claims and protest against rulings of Attorneys Councils for acceptance for training and appointment of attorneys;
- prepare samples of documents which are to be kept by the Attorneys Councils;
- keep the register of attorneys in this country which is published in the last annual issue of the State Gazette;
- manage, husband and deal with the property of the Supreme Attorney Council;
- give opinions on statutory documents and make suggestions as to the improvement of the legislation;
- address proposals to the chairman of the Supreme Court of Appeal with regard to the issuing of ordinances and interpretations and prepare opinions on them;
- approve the number of full-time employees and fix their remuneration;
- ensure and approve expenses relating to the legal activities of the Supreme Attorney Council and the Supreme Disciplinary Court.

Supreme Control Council

The Supreme Control Council is comprised of five members. Attorney with at least 10 years of practice may be elected as members. The Supreme Control Council oversees the financial legal activities of the Supreme Attorney Council and controls the legal activities of the control councils of the Attorneys Colleges.

The Supreme Control Council reports before the General Assembly of Attorneys in this Country.

Supreme Disciplinary Court

The Supreme Disciplinary Court is composed of 15 members. Attorneys with practice of over ten years may be elected as members. The Court reviles disciplinary cases against members of the Attorneys Councils, controlling councils and the disciplinary courts of the Colleges, of the Supreme Attorneys Councils the Supreme Control Council.

The cases are heard by the Supreme Disciplinary Court composed of: a chairman and four members. The cases against members of the Supreme Attorney Council, the Supreme Control Council and the Supreme Disciplinary Court shall be heard by seven members.

The decisions of the Supreme Disciplinary Court sitting as court of first instance are subject to appeal before the Supreme court of Appeal within fourteen days of pronouncement.

Public Procurement

Public Procurement is a pressing device issue for the last 10 years in the Bulgarian Society. Public Procurement and Privatization were two of the main mechanisms for building up an effective and competitive economy market. The structural reform in the Bulgarian economy is one of the three main criteria that have to be fulfilled by the Bulgarian government for its accession to EU. That explains how important is the procurement and privatization process for the Bulgarian Society.

The basic Act for establishing the procurement proceedings is the Act on Public procurement (published in State Gazette ¹ 56 on 22nd of June 1999). According to its provisions all major procurements in Bulgaria require competitive bidding.

The main aim of the Act is to strengthen the effectiveness of the public resources through: providing higher level of transparency, enlarging the conditions for competition, stimulating the economic development.

Art. 7 of the Act provides for strict obligation that for limited number of procurement cases such as infrastructure projects over 600 000 Bulgarian levs, supplies over 50 000 levs or different public services over 30 000 levs a competitive bidding shall be held.

According to the cited articles the announcement of public procurement procedure must be public and published in the State Gazette at least 45 days before the day of the procurement. The State Gazette is obliged to publish the procedure rules and the day of the procurement 5 days after the announcement has been received.

Also the procedure and the day of the procurement must be published in two main newspapers not late than 45 days before the day of the competition.

Art. 37 and Art. 38 of the Public Procurement Act provides for obligation for every procurement competition to be drafted a commission – Procurement Team (at least of 3 members) by the entruster of the procurement and the decision is not sole sourcing.

Art. 38 provide strict requirements (criteria) for the members of the commission – professional requirements and not binding to the decision of the entruster.

Also the major public procurements and privatization transactions are advertised in the main western economic newspapers and magazines (ex: the BTC privatization and GSM licence in Bulgaria, the privatization of the several chemistry entities in the country, the wine and beer producer industry companies etc.).

The transparency is the main core issue of the new amendments of the public Procurement Act (S.G ¹ 92 and ¹ 96 of 2000). These recent amendments provide for regulations for the Procurement Team to publish in the State Gazette and in two main newspapers its decisions, as well as the decisions for the opening and closure of the procurement competition.

Chapter VII, paragraph II, art. 56 of the Public Procurement Act provides for mechanism for reviewing of procurement decisions by the competent court of law. There has to be filed a grievance against the decision of the procurement commission in 7 days term after it had been laid out. The reviewing of the decision can be made by the Regional Court of law in compliance with the Law for the Administrative Procedures.

Art. 57 of the Public procurement Act provides for procedure for reviewing of the procurement decisions by a request from the Accountancy Chamber and the Government Agency for Inner Financial Control.

The Public Procurement Act provides for procedures on “conflict of interest” but no procedures for nepotism.

Ombudsman

According to the current Bulgarian legislation, there are no provisions regulating the institute of the neither Ombudsman nor similar regulatory body.

The bench research come across some drafts on Ombudsman Acts, which were lodged in the Law Committee of the National Assembly by different NGOs and one draft-law of the Council of Ministers named: “Law for equal rights of the citizens” where there is a specific Chapter on Ombudsman structure, rights and obligations.

During the past 2000 there were several international Seminars and workshops on the legislative matter of the Bulgarian Ombudsman and its development as an acting institution.

My personal opinion is that till the end of 2001-year Bulgaria will have its institution on protecting the citizen rights.

For the moment that role is committed to the Courts of law.

Investigative/Watchdog Agencies

According to the Bulgarian Legislation – Law of Ministry of Interior; Law on the Judicial Power, there are two different structures out of the Police and the Prosecution, which are drafted to combat corruption – the National Service for Combating Organised Crime with the Ministry of Interior and the Bureau for Financial Intelligence with the Ministry of Finance.

They have their own staff and organization but are financially and supervisory dependent from the Ministry of Interior and Finance.

These anti-corruption watchdog agencies are obliged to report to the Parliament Standing Committee on Organized Crime and Corruption, chaired by the Chairman of the National Assembly.

The research on the Investigative/watchdog agencies gave the following results:

Specialised Units for fighting corruption

- Police:
    - National Police Service Department, Sector “Organised Crime”
    - National Service Combating Organised Crime, Sector Combating Corruption and Money Laundering
    - Regional Police Departments, unit “Organised Crime”
- Specialised investigation Service, Special Department for serious offences
- Supreme Cassation Prosecutor’s Office, Special unit for fighting corruption in the Investigative Department for organised crime and Corruption

After the ratification of the Convention on Money laundering, Bulgaria actively participate in the Select Committee for the evaluation of anti-money laundering measures PC-R-EV of the Council of Europe

An expert group, composed of representatives of the Ministry of Justice, the National Service for Combating Organised Crime with the Ministry of Interior and the Bureau for Financial Intelligence with the Ministry of Finance takes an active part in PC-R-EV procedures on self-esteeming the reached level of harmonisation of the legislation on money laundering, the improvement of the law enforcing practices in combating this phenomena and the institutional building of respective authorities. The Bulgarian experts took part in the FYROM assessment.

There are few provisions in the Legislation about the structure, organization and operation activities of the said agencies. This lack explains the shortness of this chapter.

Media

The Constitution of the Republic of Bulgaria within its Temporary and concluding provisions § 6 INCORPORATED the obligation for the legislator (Bulgarian National Assembly) to provide for regulations securing Free Media – rights and obligations of all national and private Media, by passing a

new legislation concerning Bulgarian National Television, Bulgarian National Radio and the Bulgarian News Agency.

This obligation was not fulfilled from the Bulgarian legislative authorities.

Till 5th of July 1999 when the new Radio and Television Act was promulgated there was no contemporary legislation with regard to the new principles of free access to information, free and independent media and protecting the fundamental civil rights of the citizens. There were separate regulations in the President and Vice President elections Act as well as in the Law for electing the Grand National Bulgarian Assembly and in the Political Parties Act. These provisions concerned the access of the political parties' headquarters and their members to the National Media – State National Radio and National TV.

The new Radio and Television Act (RTA) was more than necessary. The Act was expected to elaborate the new Media law framework based on the Constitutional provisions (Art. 40 and Art. 41), which announced in general the press and other mass information freedom and the prohibition for subject the Media to censorship.

The Constitution entitled everyone to seek, obtain and disseminate information, which right should not be exercised to the detriment of the rights and reputation of others, or to the detriment of national security, public order, public health and morality. The citizens were entitled also to obtain information from state bodies and agencies "on any matter of legislative interest to them" which is not state or official secret and did not affect the rights of others.

With respect to the Constitution regulations the new Radio and Television Act (Art. 10) announces the independence of free mass media and the principles shall be observed by the Radio and TV operators in the course of their work.

It was said that the Radio and TV operators had to:

- Guarantee the right for everyone to express freely an opinion or to publicise it through words, written or oral, sound or image, or in any other way
- Guarantee the access to information right
- Protecting the source of information secret
- Personal inviolability of the Bulgarian citizens (The Act did not clear the issue if there was a breach of foreign citizens rights or rights internationally acknowledged to the nonpartriats).
- Forbidding of TV and Radio Programs provoking intolerance among the Bulgarian citizens
- Forbidding TV or Radio programs and shows introducing or tolerating cruelty and violence
- Guarantee the right of Response
- Guarantee the copyright and related to it rights in producing TV and Radio programs
- Providing the pureness of the Bulgarian Language

The Radio and Television Act guaranteed the right of the author to the private producers as well as the right of any radio and TV operator to transmit radio and TV programs and shows in other ethnic languages spoken on the Bulgarian territory.

The Radio and Televisions Act is well-organized law material and the provisions of the Act gave enough freedom to the TV and Radio mass information Media.

The Act anticipated and established a new independent controlling body – National Council of Radio and Television (NCRT). The NCRT consists of 9 members. The National Assembly appoints 5 of the members and the President of the Republic of Bulgaria appoints 4 of them. The very idea of this act is to provide the NCRT with independent members representing the interests both of the governing political party as well of the opposition parties represented in Parliament and the interests of the President as "a representative of the whole nation" (Art. 92 of the Bulgarian Constitution).

The NCRT members are appointed or elected for 6 years. The team of both the Parliamentary and the Presidential quote is renovated every 2 years in compliance with the principle of rotation. The elaborated mechanism is a guarantee for abuse of office from the NCRT members and is a hindrance for bureaucracy and bribery in the decision-making process.

According to Art. 20 the NCRT is an independent collective body with specific powers, established to protect the freedom of speech, the independence of the radio and Television-operators as well as the interests of the TV- and radio-audience.

The Constitution provides for the independence of the Media.

Art. 40 of the Bulgarian Constitution declare that the press and the other mass information media shall be free and not subjected to censorship. The NCRT, established by a special law, in compliance to the constitutional requirements, is empowered to provide for the work of a media free of censorship. In terms of providing for the freedom of speech of the citizens of Republic of Bulgaria, art. 39 of the Constitution declares that everyone is entitled to express an opinion or to publicise it in words, written or oral, sound or image, or in any other way. The only restriction of this provision is use of freedom of speech in order to abuse the rights of the others. The right shall not be exercised to the detriment of the rights and reputation of others, or for incitement of forcible change of the constitutionally established order, the preparation of a crime, or the incitement of an enmity or violence against anyone.

The right to privacy of every citizen limits the freedom of speech as well of the rights declared in Art. 39 of the Bulgarian Constitution.

The Constitution banns the violation of the privacy of citizens by means of Media. It is considered a crime to illegally interfere in anybody's private or family affaires. The encroach of the honour; dignity or reputation of the citizens is illegal.

No one shall be followed, photographed, filmed, recorded or subjected to any other similar activity without his knowledge or despite his express disapproval, except when law permits such actions.

The problem was that the issuing of an independent mass media Act had 8 years delay and during this period of time the mass information media was far from being independent. A significant problem was NCRT's lack of administrative capability to fulfil its supervising power. In most cases during this period the NCRT members were not professionals but political activists, appointed to promote political interests. They were therefore unable to supervise a job they have never practiced themselves. They were unqualified and inefficient and their work was not quite successful. It is especially true for the first year of the work of the NCRT, when the gap between the supervising body and the media itself was quite apparent.

Another problem was that the new Radio and Television Act had a very restricted area of regulation- only part of the mass information media. The printed media as well as the publishing are out of the scope of Act's regulations and are under the provisions of the Regulations dating from 1989. This old-dating regulatory framework is not with compliance with the democratic principles declared in the new Bulgarian Constitution and with the new economic and public society changes.

Civil Society

Existing of a Civil Society needs strict regulations about the rights and the obligations of the society and its representatives – Civil Society Organisations (NGOs).

Bulgaria recently promulgated a new Access to Information Act (State Gazette 55 from 7th of July 2000).

Since 1998 there was a long discussion in the public society concerning the issue of access to information and the debate resulted in the pass of the Act two years later.

The very Act regulates only the access to public information. The major problem was the elaboration of a definition of the term "public information" as well as identifying the mechanisms facilitating the access to information of the citizens, which is one of their irrevocable human rights.

As it is said in Art. 2 of Access to Information Act Public information is: "All kind of information, concerning public life in the Republic of Bulgaria which provides the Bulgarian citizens with the opportunity to draft their own personal opinion about the activities of the institutions regulated with the provisions of this Act".

The access as well as the reviling of personal data and any private information is out of the law framework of the Information Act. The Act regulates only the access to public information, necessary for the assessment of the office of public institutions and public officials' activities.

The right of access to information concerns the information available for the institutions on national as well as on local level.

According to Art. 4(1) of the Access to Information Act every citizen of the Republic of Bulgaria has the right of obtaining any kind of public information regulated by this Act. The Act conceded the foreigners and nonpartriats the same access to information right as the one conceded to the Bulgarian citizens. That right shall not be exercised to the detriment of the rights and reputation of others, or for the incitement of a forcible change of the constitutionally established order, the perpetration of a crime, or the incitement of enmity or violence against anyone. That right shall not be used against the National Security of the Republic of Bulgaria, public order, public health service and against the moral principles.

A substantial element of the Civil Society in Bulgaria is the Civil Society Organizations.

In 2000, S.G. 181 of 6th of October was accepted and published a new law on the non-governmental organizations in Bulgaria. The law is enforced from the beginning– first of January - of the 2001. The law regulates the establishment, activities and terms for closing down of NGOs as well as the control over the purposes of the NGO, because of which it is established.

The NGOs in Bulgaria are substantial part of the Bulgarian Civil Society. According to the existing registers there are over 5000 NGOs in the Republic of Bulgaria. The scope of their activities is very large – from education to monitoring and from environment to corruption.

The new law provides for regulations for non-government participation in the NGOs activities and organization life, which regulations are in compliance with the right for association of citizens and legal persons proclaimed in the Constitution of the Republic of Bulgaria.

Local Self-Government and Local Administration

According to Art. 135. (1) of the Bulgarian Constitution the territory of the Republic of Bulgaria is divided into municipalities and regions. The territorial division and the prerogatives of the capital city and the other major cities is established by law Other administrative territorial units and bodies of self-government shall be establishable by law. (Local Self-Government and Local Administration Act, published at S.G. 177, 17.09.1991, last amd. S.G. 185 2000 and 11 2001).

The municipality is the basic administrative territorial unit at the level of which self-government shall be practiced

Citizens can participate in the government of the municipality both through their elected bodies of local self-government and directly, through a referendum or a general meeting of the populace.

The borders of a municipality are always established by a referendum of the populace.

According to the Bulgarian legislation each municipality is a juridical person and the Councils of different Municipalities are free to associate in the solution of common matters.

The ruling body of local self-government within a municipality is the Municipal Council elected directly by the populace for a term of four years by a procedure established by law.

The mayor is the body of executive power within a municipality. He is elected by the municipal council for a term of four years by a procedure established in the above cited municipal Act of law.

In his activity a mayor is guided only by the law, the acts of the Municipal Council and the decisions of the populace.

According to Art. 140 of the Constitution and the provisions of the Local Self-Government and Local Administration Act each municipality has the right to posses its own municipal property, which shall be used to the interest of the territorial community.

Each municipality in the republic of Bulgaria must have its own municipal budget. A ll municipality's permanent sources of revenue are established in the. Local Self-Government and Local Administration Act. The state has the obligation to ensure the normal work of the municipalities through budget appropriations and other means.

According to Art. 142 of the Constitution several municipalities established one regions. The region is an administrative territorial unit entrusted with the conduct of a regional policy, the implementation of state government on a local level, and the ensuring of harmony of national and local interests. Each region is governed by a regional governor aided by a regional administration.

A regional governor is appointed by the Council of Ministers.

The regional governor ensure the implementation of the state's policy, the safeguarding of the national interests, law and public order, and shall exercise administrative control.

These central bodies of state and their local representatives exercise control over the legality of the acts of the bodies of local government only when authorised to do so by law.

The organisation and the procedures of the bodies of local self-government and local administration are established in the law – Local Self-Government and Local Administration Act.

Articles 18-29a of the Act regulate the rights and obligation of the municipality council – the legislative body of the Local Government.

According to Art. 28 Para 1 of the Local Self-Government and Local Administration Act the local Governments sit on sessions. The sessions of the municipality council are publicly held and open to the public at large and the mass media.

Art. 29 of the Act said that for each session shall be drafted special minits and these minits are free to public access.

The sessions of the local government council can be closed for the public by an except when there is a majority decision of its members (Art. 28 Para 2 of the Local Self-Government and Local Administration Act).

The Municipality Council must be summoned up to sessions at least 6 times a year (Art. 27 of the Act).

The Municipality Council is helped in its work by permanent commissions and commissions "ad hoc". (Art. 48 of the Act)

Progress with Government Strategy

Corruption turned into a serious problem of the transition for the countries of Central and Eastern Europe, one creating favorable conditions for destabilization of the state governance and the process of reform. Unfortunately, Bulgaria was not spared this negative phenomenon.

The notion of "corruption" comprises every misuse of public resources – economic, political and administrative power, leading to personal or collective benefit at the expense of the lawful interests and rights of the individual and society as a whole. This broad definition is the result of the fact that the combat against one of the most dangerous phenomena not only on the national, but on global scale as well requires coordinated efforts that will call for the commitment of both the states and the structures of civil society.

The efforts of the Bulgarian government are focused on three main directions:

Policy on the confinement of the opportunities for the flourishing of corruption

The government policy, as defined in the Bulgaria 2001 program for combating corruption, sets the establishment of a modern administrative system in the Republic of Bulgaria, the structural reform in the economy, a reform in the system of justice and more transparency and accountability of the process of governance as essential factors of the confinement of the opportunities for corruption.

At the same time the government of the Republic of Bulgaria directed its information policy towards the creation of atmosphere of intolerance to corruption in Bulgarian society. The focus of this policy was the public price of corruption.

The long-term objective that the government had set was to confine corruption and its consequences for the public to the highest possible degree. In a medium term the goal was to get control over corruption and change the public attitude towards it.

Diagnosis and periodical assessment

The diagnosis of corruption includes continuos monitoring over the performance of the administration and the compliance with the legislation in order to establish the level of pervasiveness of the different forms of corruption among the spheres of public life.

Alongside with it the development of the public images of and the attitudes to corruption and those of the private entrepreneurs, the public administration and the politicians are being periodically surveyed.

International cooperation

The cooperation and experience of the international organizations and the rest of the countries are of crucial importance for the Bulgarian government in defining the parameters of the initiatives for

corruption combat and the integration of the Republic of Bulgaria in the global multilateral efforts to confine corruption.

Essence of the policy of the Bulgarian government for combat against corruption

Establishment of modern administrative system of the Republic of Bulgaria
The state of the Bulgarian administration corresponds to the transitional character of the public relations in Bulgaria and the lack of an adequate legal and institutional culture in combination with a bad organization, unclear criteria and vague competencies between the institutions and the different positions in the administration. The spheres, most pervaded by corruption, are licensing, collection of budget income (taxes and duties), execution of supervision, including sanctions, granting of public procurement etc.

The government of the Republic of Bulgaria adopted in 1999 a Strategy for the establishment of a modern administrative system, whereby the main objective is to build a neat organization system of the administrative structures and define the status of the public employees. On the basis of the government strategy a new legal frame was developed, including a pack of laws for the structure, the activities and the status of the employees in the administration; the administrative services for the public; the public procurement; the access to public information. The new legislation contains legal mechanisms, institutional and administrative measures for the effective confinement of corruption and creates conditions for the consolidation of governance and organizational stability. The new administrative organization provides mechanisms for effective control on the conformity with the laws, both on behalf of the public institutions and the public itself. The end of 1999 will complete the process of adapting the administration with the new legislation. Within the process the functions of all the administrative structures in the system of the executive power will be defined, paying special attention to the supervisory units inside the administration (The Tax Administration, The State Financial Control, The Customs Offices, the ministerial control units). In compliance with the rules of organization it is intended to improve radically the performance of the law-security bodies in the Republic of Bulgaria by focusing on prevention.

The Civil Servant Act outlines the rules, obligations and responsibilities of the public employees, as well as a number of restrictions, connected with the participation of public officials in commercial companies, political and other organizations and also concerning the direct relations of hierarchy between persons with family relations. These restrictions aimed to guarantee loyalty, independence and objectivity in the performance of the public offices.

The government of the Republic of Bulgaria takes concrete steps to raise the ethic and the professionalism of the public officials, which is still another factor in the process of confining the corruption in the administration. A system of assessing the public employees has been introduced as a base for raising their salaries in combination with reliable mechanisms for control and evaluation. The primary body that will control the ethic and status aspects of the work of the public employees according to the Civil Servant Act will be the State Administration Commission at the Council of Ministers.

Reform in the System of Justice
In the recent years the system of justice in Bulgaria has invariably stood among the institutions, attracting public criticism and lacking the necessary trust of both the citizens and the rest of the public institutions. It is a widespread belief that it remains clumsy, ineffective and corrupt. The need to reform it is shared by the majority of the magistrates, too.

In answer to these public expectations and in compliance with the Bulgarian Constitution the Parliament, by proposal from the government, adopted new legislation for the organization and the activity of the system of justice. A three-instance system of justice has been introduced. The transparency of the process of justice and its acceleration has been secured. Internal mechanisms of control against the abuse of office have been created.

The changes in the Penal Code are adapted to the changes in the public relations, introducing a modern system of punishment that provides a new definition of the “fine” form of punishment and the introduction of alternative ones. This will create conditions for effective opposition to corruption.

Apart from the general rules of structure and procedure the Parliament adopted specific measures against the dirty money laundry and for the incrimination of the “new” crimes, especially in the field of the economy. For instance the use of legal persons for criminal actions, the establishment of illegal monopoly, enrichment at the expense of the consumers etc.

Economic measures for fight against corruption

The economic measures for fight against corruption that the Bulgarian government is carrying out are directed at the building of an effective market economy. The accent in the government policy is the privatization process and the withdrawal of the state from direct interference into the economic life. In itself the privatization process is another opportunity for corruption and therefore the government of the Republic of Bulgaria developed and is successfully applying new privatizing schemes that will guarantee its transparency and publicity. At the same time the government attempts to accelerate privatization as much as possible and practically complete it by the end of 2001 year.

The second element of the economic measures set by the government program is the transfer of certain activities and services from the administration to the private sector by means of the legally established system of public procurement. It provides the legal possibility of freeing the administration from certain activities and aims at the application of market mechanisms in the use of the public funds.

The third element is the new attitude towards the regime of permits and licenses. They were limited to the spheres where only the state can effectively guard the public interests, provided that does not destroy the competitiveness of the market subjects. In the spheres where the permit regulation will keep functioning, greater guarantees for transparency will be secured. Besides, the permits and licenses regulations will only be introduced by force of legal regulations.

These measures are designed to improve the mechanisms of performance, the methods and the technology, used in the administration and, consequently, to secure the improvement of the administrative services for the public.

International Cooperation

Corruption is a world phenomenon, directly influencing the international relations and the world economy and policy. This focuses the attention of the international community on the necessity for transparency and accountability as underlying conditions for successful economic development.

The active cooperation of the Republic of Bulgaria with the international organizations, working on the problem and the exchange of experience in the solving of particular cases is extremely important for the Bulgarian government.

The joint activities in confining corruption make a serious contribution to the success of the integration efforts as part of the process of integration of the Republic of Bulgaria in the European Union and to the building of stable and foreseeable relations with the international financial institutions.

The participation of the Republic of Bulgaria in the multilateral cooperation of the Council of Europe for the creation of a common penal policy for fighting against corruption induced integrity measures for the application of the programs and recommendations of the Council of Europe on combat against corruption.

In December 1998 the Parliament of the Republic of Bulgaria rectified the Convention for the fighting of the bribery of foreign officials in the international trading relations, signed by 33 countries in Paris on December 17. The rectification of the convention allows the adoption of national legislation, incriminating the active bribery of a foreign official in a coordinated way. The Convention contains a broad definition of bribery, imposing the incrimination of not only the actual giving, but of the offering or promising of bribery to a foreign official. The Convention demands responsibility of the legal persons for bribing a foreign official.

The optimization of the cooperation inside the United Nations Organization on the problems, concerning the fighting against corruption and the Commission for crime prevention and penal justice plays a particularly important part in the consolidation and development of the international cooperation in this respect.

The World Bank and its research unit – the Institute of International Economics – have a serious contribution to the development of a global strategy and specific measures for combat against corruption, whose practices and experience are used, by the Bulgarian State.

The communication with the representatives of the World Bank and the International Monetary Fund for the attaining of the mutual goals for confining corruption has been executed within the frames of the reforms in the Republic of Bulgaria and especially as regards the privatization process.

Conclusion

For the Bulgarian government confining corruption is closely related to the quality of the general policy.

The public support that the government of the Republic of Bulgaria needs for implementing its strategy on combating corruption, requires mobilization of all available forces for the establishment of stable and reliable system of governance, based on the supremacy of the law and providing a strict and effective execution of the adopted policy and defending it from distortions in the process of application. Both the democratic governance and the stability and growth of the economy depend on it.

The results from the four years of applying the government policy are promising but require even more active actions, mostly in the application of the adopted legislation for the maximum confinement of the opportunities for corruption in the Bulgarian society.

Assessment of the Effectiveness of the Bulgarian Legislation Against Corruption and Recommendations on its Improvement

Adoption of International Instruments

International Instruments and Monitoring Mechanisms	**Measures taken or envisaged to be adopted and implemented**
Criminal Law Convention on Corruption Council of Europe: ETS 173 (1999)	On 27 January Bulgaria, together with 20 other States, signed the Council of Europe Criminal Law Convention on Corruption, on the very day it was open for signature.
Civil Law Convention on Corruption - Council of Europe: ETS 174 (1999)	On 4 November 1999, the Republic of Bulgaria signed the Council of Europe Civil Law Convention on Corruption. On 10 May 2000, the National Assembly ratified the Convention (SG No 42/23.05.2000). On 8 June 2000, during the Conference of European Ministers of Justice held in London, the Bulgarian Minister of Justice, thus making Bulgaria the first country to ratify that international document, officially handed in the Convention ratification document.
Convention on Combating Bribery of Foreign Public Officials in International Business Transactions	Our country signed the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions on 17 December 1997, the day it was open for signature in Paris. The ratification instrument was deposited on 22 December 1998 and thus Bulgaria became the first Non-member State of OECD to ratify the Convention. In July 1999 the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was promulgated in the State Gazette and now, in accordance with the requirements of Article 5(4) of the Bulgarian Constitution, it is part of the national law. A definition of foreign public official was introduced in the Penal Code (Art. 93, p. 15). With the Law on the Amendments and Addenda of the Penal Code bribery of foreign public officials in international business transactions was criminalised.
Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime - Council of Europe: ETS 141 (1990)	The Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime was signed, ratified and promulgated (SG - No 43/1994). The Law on the Measures against Money Laundering was adopted in 1998.

Participation of Bulgaria in the Select Committee for the evaluation of anti-money laundering measures PC-R-EV of the Council of Europe	An expert group, composed of representatives of the Ministry of Justice, the National Service for Combating Organised Crime with the Ministry of Interior and the Bureau for Financial Intelligence with the Ministry of Finance takes an active part in PC-R-EV procedures on self-esteeming the reached level of harmonisation of the legislation on money laundering, the improvement of the law enforcing practices in combating this phenomena and the institutional building of respective authorities. The Bulgarian experts took part in the FYROM assessment.
Participation in the Group of States against Corruption (GRECO) of the Council of Europe	On 26 January 1999 Bulgaria notified the Secretary General of the Council of Europe of the wish to participate in the Group of States against Corruption (GRECO) responsible for the mutual evaluation of the measures taken by the States to combat corruption. The Group was formally established on 1 May 1999 and by virtue of a Government decision of 1999 the Ministry of Justice is entrusted with the organisation of our county's active participation in its activity.

Criminalisation of Corruption

Criminal offences and list of additional offences as appropriate. Legal texts and the sanctions provided.

The Penal Code criminalises bribery – passive and active, but there are other forms of corruption as well.

In pursuance of the assigned tasks by the Law of Ministry of Interior (LMoI) and in particular Art. 46 (1) par.9 "countering corruption in the state system with involvement of foreign agencies and organisations, and Art. 90 (1) par.10 "countering organised criminal activity in connection with corruption in state and local administration and in connection with the realisation of the operative and investigative activity pursuant to Chapter XVII of the LMoI, the police services within the MoI are using a casual definition of corruption and according to that definition corruption is an action of malfeasance by an official empowered by administrative, political or economic power, which leads to gaining special advantages in favour of the person or a group at the expense of the legal rights and interests of any individual , community or the society in general.

This definition has been set up on the basis of a number of different corpus delicti in the criminal legislation, related to the use or abuse of official position in terms of benefit (personal or any other one's).

Types of offences	Answer	Legal texts and sanctions foreseen
Active bribery of domestic public officials	Yes	Penal Code Art.304 (1) A person who gives a gift or any other material benefit to an official in order to perform or not to perform an act within the framework of his service, or because he has performed or has not performed such an act, shall be punished by deprivation of liberty for up to six years. (3) (Former paragraph (2), renumbered-SG, No. 7/1999) If in connection with the bribe the official has violated his official duties, the punishment shall be deprivation of liberty for up to seven years, where this violation does not constitute a graver punishable crime. Art. 304a – see the next page
Passive bribery of domestic public officials	Yes	Penal Code Art. 301, amended – 8 June 2000, in force 27 June 2000 (1) An official who accepts a gift or any other undue material benefit, in order to perform or to fail to perform an act connected with his service, or because he has performed or failed to perform such an act, shall be punished for bribery by deprivation of liberty from 1 to 6 years. (2) If the official has received the bribe in order to violate, or for having violated his service, where this violation does not constitute a crime, the punishment shall be deprivation of liberty from 1 to 8 years. (3) (As amended - SG, No. 95/1975) If the official has received the bribe in order to perform or because of having performed another crime in connection with his service, the punishment shall be deprivation of liberty for one to ten years. (4) (As amended - SG, No. 89/1986) In the cases of the preceding paragraphs, the court shall rule deprivation of the rights under Article 37, sub-paragraphs 6 and 7. Art. 302 For bribery committed: 1. by a person holding a responsible official position; 2. through blackmail with abuse of one's official position; 3. (as amended - SG, No. 28/1982) for a second time, and 4. on a large scale, the punishment shall be: a) in the cases of Article 301, paragraphs (1) and (2) - deprivation of liberty from 3 to 10 years and deprivation of rights under Article 37, sub-paragraphs 6 and 7. b) in the cases of Article 301, paragraph (3) - deprivation of liberty from three to fifteen years and confiscation of up to one half of the culprit's property, and the court shall rule deprivation of rights under Article 37, sub-paragraphs 6 and 7.

		Art. 302a (New - SG, No. 89/1986) For bribery in particularly large amounts, representing a particularly grave case, the punishment shall be deprivation of liberty from ten to thirty years, confiscation of the whole or part of the culprit's property and deprivation of rights under Article 37, sub-paragraphs 6 and 7.
Bribery of members of domestic public assemblies	Yes	See passive and active bribery of domestic public officials
Bribery of foreign public officials	Yes *active bribery in international business	Penal Code Art.304, paragraph 2 (New-SG, No. 7/1999) The punishment provided in paragraph (1) of Art.304 (active bribery of domestic officials) shall be imposed also on a person who gives bribe to a foreign official (in relation to the performance of international business activity).
Bribery of foreign public assemblies	Yes*	See Bribery of foreign public officials
Active bribery in the private sector		The definition of “official” covers also officials in the private sector.
Passive bribery in the private sector		See Passive bribery – Art. 301 Penal Code
Bribery of officials of international organisations	Yes*	See Bribery of foreign public officials – Art. 304, paragraph (e) – active bribery
Bribery of members of international parliamentary assemblies	Yes*	See Bribery of foreign public officials
Bribery of judges and officials of international courts	Yes*	See Bribery of foreign public officials
Trading in influence	Yes (to some extend)	Under the court practice the relevant provision of the Penal Code is applicable in case where an official receives undue advantage in order to exert an improper influence over decision-making of another official. Penal Code Art. 283 (As amended - SG, Nos. 26/1973, 28/1982) An official, who

		uses his official position to acquire unlawful benefit for himself or for another, shall be punished by deprivation of liberty for up to three years.
Money laundering of proceeds from corruption offences	Yes	See 1. (Legislation related to money laundering) – Art. 253, 253a Penal Code – see last page
Account offences	Yes	Penal Code Art.260, paragraph 2 A certified public accountant who certifies an untrue annual financial report of a trader, being aware of that fact, shall be punished by deprivation of liberty for up to one year and deprivation of rights under Article 37, paragraph (1), items 6 and 7. Also other provisions of the Penal Code.
Participation in corruption offences	Yes	Complicity in corruption offences is established as a criminal offence under articles 20 to 22 of the General Part of the Penal Code. Under article 21 of the Penal Code, a person who aids or abets a crime is liable to the same punishment provided for in respect of the full offence, except that due consideration must be given to the "nature and degree" of the person's participation.
Other corruption-related offences for which there are provisions in your legislation	Yes	Penal Code Art. 282, 282a, 283, 283a, 284 Section II Malfeasance Art. 282 (1) (As amended - SG, No. 28/1982) An official who violates or fails to fulfil his official duties, or exceeds his powers or rights for the purpose of acquiring a benefit for himself or for another, or to cause damage to another, from which significant harmful consequences may set in, shall be punished by deprivation of liberty for up to five years, whereas the court may also rule deprivation of the right under Article 37, sub-paragraph 6, or by corrective labour. (2) (As amended - SG, Nos. 28/1982, 89/1986) If from the act major harmful consequences have set in, or the act has been committed by a person occupying a responsible official position, the punishment shall be deprivation of liberty from one to eight years, whereas the court may rule deprivation of the right under Article 37, sub-paragraph 6. (3) (New - SG, No. 89/1986) For particularly grave cases under the preceding paragraph the punishment shall be deprivation of liberty from three to ten years, and the court shall also rule deprivation of the right under Article 37, sub-paragraph 6. (4) (New - SG, No. 62/1997) The punishment under paragraph (3) shall also be imposed on officials who have committed the crime with the participation of persons under Article 142,

		paragraph (2), items 6 and 8. Art. 282a (New - SG, No. 62/1997) A person who, notwithstanding the availability of conditions stipulated in a normative act as necessary for issue of special permit for pursuing certain activities, refuses or delays such issue beyond the terms provided by law therefore, shall be punished by deprivation of liberty for up to three years, a fine to the amount of five hundred thousand Bulgarian levs and deprivation of rights under Article 37, paragraph (1), item 7. Art. 283 (As amended - SG, Nos. 26/1973, 28/1982) An official, who uses his official position to acquire unlawful benefit for himself or for another, shall be punished by deprivation of liberty for up to three years. Art. 283a (New - SG, No. 62/1997) Should the crimes under Article 282 and 283 be related to privatisation, sale, letting or leasing, as well as depositing with companies of state, municipal and co-operative properties, as well as such of legal persons, the punishment shall be: 1. under Article 282 - deprivation of liberty from three to ten years, a fine of three million to five million Bulgarian levs and deprivation of rights under Article 37, paragraph (1), items 6 and 2. under Article 283 - deprivation of liberty from one to three years, a fine from one million to three million Bulgarian levs and deprivation of liberty under Article 37, paragraph (1), items 6 and Art. 284 (1) An official who, to the detriment of the state, of an enterprise, an organisation or private person, informs another or publishes information which has been entrusted or accessible to him officially and about which he knows that it constitutes an official secret, shall be punished by deprivation of liberty for up to two years or by corrective labour. (2) The punishment for an act under the preceding paragraph shall be imposed also on a person who is not an official, who works in a state institution, enterprise or public organisation, to the knowledge of who information has come, in connection with his work, constituting an official secret. (3) If the act under paragraph (1) has been committed by an expert, translator or interpreter with respect to information which has become known to him in connection with a task assigned thereto, and which such a person has been obliged to keep in secret, the punishment shall be deprivation liberty for up to two years or corrective labour. Art. 285

		An official who consciously allows a person subordinated to him to commit a crime, related to his office or work, shall be punished by the punishment provided for the committed crime. Penal Code Art. 305a (New - SG, No. 28/1982) A person who mediates for giving of receiving of a bribe, if the perpetrated act does not represent a graver crime, shall be punished by deprivation of liberty for up to three years. Art. 224 (1) (As amended - SG, No. 10/1993) A person who receives a gift or other material benefit in order to give, or because he has given, to a foreign country, foreign organisation or company, or to a foreign citizen, information from which considerable damage has ensued or may ensue for the economy, shall be punished by deprivation of liberty for up to five years and by a fine of twenty thousand Bulgarian levs, if his act does not constitute a graver crime. (2) The same punishment shall be imposed also on a person who has given the gift or the material benefit. (3) The object of the crime shall be confiscated in favour of the state.

Discussing issues in the Bulgarian legislation

Corporate criminal liability?

According to the Bulgarian Penal Code, criminal liability is personal and only natural persons can be subject to such liability. In order to comply with the European standards, on 5 May 2000, the Council of Ministers submitted to the National Assembly a bill amending the Administrative Offence and Punishment Act. It imposes criminal administrative liability on legal entities for offences of corruption committed by their managing staff and bodies in the interests of the company. In this way, legal entities will be charged with administrative liability for certain types of crime, which is in full compliance with the EU standards. The National Assembly schedules the draft for enactment in the autumn of 2000.

Freezing and/or confiscation of proceeds from crime?

Bulgarian Penal Code differentiates between “confiscation” and “seizure”.

The confiscation is punishment included in the system of punishments. The imposing of this punishment depends on the penal responsibility. Under Art.44 of the Penal Code the confiscation is compulsory appropriation without compensation of property in favour of the state, of assets belonging to the convict or of part thereof, of specified pieces of property of the culprit, or of parts of such pieces of property. The confiscation is provided as punishment for grave cases of passive corruption Art.302 b) and Art.302a)

The seizure is a measure applied notwithstanding the penal responsibility. Under Art.53 of the General Part of the Penal Code, notwithstanding the penal responsibility, seized in favour of the state shall be objects belonging to the convict, which were intended or have served for the perpetration of intentional crime, and objects belonging to the culprit, which were object of intentional crime - in the cases expressly provided in the Special Part of this Code (Art. 307a of the Special Part of the Penal Code states that “the object of the crime under articles 301-307, i.e. passive and active bribery shall be seized in favour of the state and where it is missing, a sum equal to its value is adjudged The object of money laundering shall be expropriated in favour of the state, and if it is missing or has bee alienated, payment of its counter value shall be adjudicated (Art.253/4/) The property acquired by racketeering

shall be appropriated in favour of the state, provided the persons from whom such property has been acquired, or their heirs, are unknown (Art.321a/3/). Seized in favour of the state shall also the acquired through the crime, if it does not have to be returned or restored. Where the acquired is not available or has been disposed of, an equivalent amount shall be adjudged.

Effectiveness of the anti-corruption legislation

Types of corruption offences	Cases registered in 1998	Cases registered in 1999
Bribery	95	114
Crimes of officials	2489	2376
Crimes against tax system, including account offences under Art. 256 and 257	112	220

In 1999 the police solved 2,367 cases of service offences committed by executives in order to profit either for there own or for someone else's benefit, as well as 114 instances of bribery. In the first half of the year 2000 were detected 1,830 crimes, of which 1,797 service offences and 33 cases of bribery. As a result of the increased measures to disclose and prevent corruption, the bulk of solved service offences have gone up by 40 percent compared to the same period of 1999.

In 1999 the police found undeniable proof of the steady corruption-based connections between state administration officers and 11 organised criminal groups (15.5 percent of the total cracked cases), involving 30 civil servants (14 customs officers, 7 officers working for the authorities exercising quality control on imported goods for customs tariff purposes, 5 tax service officers, 3 local administration officers and 1 policeman). Another 93 investigations of smuggling and other grey economy crimes yielded intelligence on chance utilisation of the services of corrupted officers by organised criminals. Their criminal perpetration is subject to further substantiation.

Full picture of the connections between corrupted officials and organised crime and the outlining tendencies can be drawn early next year, when the annual target survey of organised criminal groups will take place.

Judicial statistic data on bribery cases

Cases related to Art.301-303 of the Criminal Code (passive bribery of domestic public officials)

Regional courts				
Year	**Offences**	**Convicted persons**	**Acquitted persons**	**Exempted from criminal punishment**
1997	34	20	26	3
1998				
Penal Code provision				
Art. 301 – passive bribery	11	10		
Art. 302 passive bribery with	52	10	43	

bribery with aggregative circumstances			
Art. 304 active bribery	5	4	1
1999			
Penal Code provision			
Art. 301 – passive bribery	15	14	1
Art. 302 passive bribery with aggravating circumstances	63	9	53 1
Art. 304 active bribery	8	8	

Cases related to Art.304, 305 and 305 "a" of the Criminal code (active bribery of domestic and foreign public officials, and "intermediation"). This statistics was introduced in 2000 and the data are collected from January to July 2000.

Year	Registered cases	Sentences	Sentenced persons	Pending cases
2000/1	9	2	4	7

New amendments to the Penal code of the Republic of Bulgaria in force from the end of 2000/the beginning of 2001

Art. 307 PC

"A person who deliberately creates situation or conditions to provoke offering, giving or receiving of bribe, aiming to prejudice the person giving or receiving the bribe shall be punished for bribe provocation by deprivation of bribery up to three years".

Art. 304a PC

(1) A person who promises or offers a bribe to an official shall be punished by deprivation of liberty up to one year.

(2) The punishment under paragraph 1 shall also be imposed to any person who promises or offers a bribe to a foreign public official.

(3) An official who requests or consents or receive a bribe shall be punished by deprivation of liberty up to five years.

Art. 253 PC

(1) A person performing a Financial transaction or other deals with means or property in respect of which he knows or suspects to be acquired through a crime shall be punished by deprivation of liberty from one to five years and fine from three to five thousand levs.

(2) The punishment is deprivation of liberty from one to eight years and fine from five to twenty thousand levs, when the act is committed:

- by a group of persons, colluded in advance or by an organized
- group;
- two or more times;

- by an official within his duties;

(3) When the means of property are in particularly large amount or the case is particularly grave the punishment shall be deprivation of liberty from three to twenty years and a fine from then to thirty thousands levs and the court shall deprive the guilty person of rights accordingly to Art. 37, items 6 and 7.

(4) The object of crime shall be forfeited in favour of the state, and if missing or alienated payment of its counter value shall be adjudged.

Efficiency of the legislation for combating corruption

Efficiency of the legislation as a whole

In the field of combating organised crime, for the period 1998-1999 there has been an increase in the legislation efficiency.

Efficiency of the legislation related to different types of corruption - problems and measures.

Due to the problems found in the collection and verification of substantiation of bribery, a Law on the Amendments and Addenda of the Penal Code was adopted in June 2000 (SG N. 51/23.06.2000), which envisages more severe penalties for bribery under Art. 301, Para. 1 and 2; Art. 302a; Art. 304, Para. 1 and 3. The new punishment term allows the use of special investigative means for the collection and verification of substantiation. The same Law amends the *corpus delicti* of Art. 307 - provoking a bribe, for the purpose of eliminating problems in police work when documenting active and passive bribery.

Citizens are not yet inclined to report to law enforcement authorities cases when public officials create conditions for receiving bribes or committing service crimes. For this reason, we can note the distinctly latent character of corruption, the scale of which can only be determined by preliminary criminal investigations.

Efficiency and difficulties in the different sectors.

Gaps and controversies in the secondary legislation and the additional administrative regulations, which are based on them makes it difficult to establish the official duty which has been abused or has not been performed in cases when a public official has acted in order to acquire property benefit for himself or for another person.

Recommendations for improvement of the Bulgarian Legislation

- To broaden the concept of object of crime, including not only the tangible advantage but also intangible advantage of bribe – Art. 301 and 304 of the Penal Code;
- In view of ratification of Criminal Law Convention on corruption to criminalise the “trading in influence” as defined by Art. 12 of said Convention
- The existing rules on authorising the application of the Special investigative means (SIM) by the court does not provide for sufficient control over the activities of the respective services of the Ministry of Interior applying these means. The control function in respect of the use of SIM should be also entrusted with the prosecutor who exercises control and surveillance over the pre-trail phase – that is why amendments of the Penal procedure Code and the Law on SIM are needed
- To enhance the adoption of the Law on funding of the Political Parties providing clear rules for funding the parties
- To enhance the adoption of Codes of Conduct of Public Officials, Magistrates and Police Officers
- To strengthen the institute of witness protection through funding special programs and establishing a special unit to administrate these activities
- To increase public awareness for corruption and to promote “zero tolerance” in society
- To ensure transparency of all administrative procedures and to limit to the maximum possible extend the licensing regimes and to announce these measures in public in order to establish trust between state and citizens

- To choose the most appropriate form and method for public procurement (public bidding, publicity etc.) to prevent corruptive practices
- To train police officers in implementing the legislation and the respective forms and methods of disclosure and investigation of corruption activities and to promote teamwork among police officers, investigators and prosecutors
- To entitle the prosecutor to impose interim measures at the pri-trail phase to ensure future possible confiscation of proceeds of crime – that recommendation needs amendments to the Penal Procedure Code of the Republic of Bulgaria

Conclusive Comments

The National Integrity System in Bulgaria is institutionally build up, but the interaction among the different separate components of the System is not effective, due to the lack of legal regulations on the collaboration of the Public Institutions. On the opposite, the entire Bulgarian Legislation is based on the principle of increasing the independence and autonomy of the different components of the Bulgarian National Integrity System – the independence and the separation of the three powers (legislative, judicial and executive) is essential.

Some of the components of the Bulgarian National System (President, Vice-President and Civil Servants) are not recognizing the combat with bribery as a main immediate purpose, which stands on the way of building a unique strategy for fighting the corruption in the state.

There is also a deep lack of specialized scientific (criminological) research on the factors that cause the specific action form of the corrupt practices in the Republic of Bulgaria. The Policy-making bodies (Executive and Legislative Power, Civil servants and Police) are either unfamiliar with or do not implement in practice the results of the existing criminological research.

There is a necessity to build up a new national program for combating organized crime and corruption, The one that exists at present does not define the specific obligations of all of the institutions that constitute the Bulgarian National Integrity System. The main emphasis in the new program should be put on the regulations providing for transparency and motivation in the implementation of the specific actions taken against the corruption by each of the participants of the NIS as well as providing for regulations for encouraging the mass media and the press to watch over the activities of the Civil Servants.

Standardization and harmonization of police, prosecution and judicial statistics is obligatory in order to increase the adequate level of receiving information about the varieties and tendencies of the corruption practices in Bulgaria.

The law implementing governmental bodies in Bulgaria needs a new universally structured methodology for the contributing for the proper gathering of the necessary statistics.

The specialized government body for analysis and estimation of the criminal practices– the National Council for Criminological Research, which is part of the Supreme Prosecution, must be institutionally consolidated. In order to improve the interaction of the NIS, an obligation for all of the Public institutions should be set up, so that the Council could be provided with the adequate information on the criminal activities and corruption generating practices in Bulgaria. This would lead to the possibility of the Council to analyze the gathered information and to elaborate a preventive mechanism for curbing corruption and organized crime (future preventive legislation). The lack of preventive mechanisms is a focal point in all the ex-communist countries, including Bulgaria, is the major factor generating the corruption. A common trend in their legislation, built on applying post factum sanctions after the realization of the corruptive act, leads to separate non-harmonized actions of separate bodies of NIS. This is the actual reason for the lack of positive results following the actions of the different governmental bodies. The elaboration of legislation based on prevention would harmonize the acts of the different bodies of NIS and would definitively increase their efficiency in the fight against corruption and organized crime

The anti-corruption national policy should combine the efforts both of the governmental structures and the civil society. So far such cooperation is not quite obvious in Bulgaria and this is a serious shortage of the NIS. The counteraction of corruption should include the work of the independent and well-trained experts, working for the NGOs. The participation of TI-Bulgaria in the process of monitoring of the Bulgarian Telecommunication transaction and the second GSM open bidding Auction confirmed this thesis. It was also recognized by the Bulgarian government as well as by the international participants in the BTC transaction and the GSM bidding Auction. The participation of independent experts observing the transparency of any transaction raises the confidence of the foreign investors towards the Bulgarian economy and the state governance. This is a typical example of the possibility of the governmental structures and the civil society (both of them components of NIS) to combine their efforts and fight corruption more effectively.

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