

Republic of Bulgaria

NATIONAL ANTI-CORRUPTION STRATEGY

In the last years corruption has become a global threat not only for the economic development of the countries themselves and their international relations, but also for the global economy and politics. The different forms of misuse of power for personal or group interest at the expense of society are especially damaging in the countries of transition, which are forced to build at the same time the new democratic institutions and to create the prerequisites for a market economy.

As a complex phenomenon corruption is the opposite of free competition in the economic field, discourages entrepreneurship, stimulates the grey economy and economic crime, diminishes the quality of public services and makes the social burden of transition harder. In this way, corruption enlarges the gap between rich and poor in the framework of transition to a market economy and becomes a direct threat to the democratic foundations of society.

During the last few years Bulgarian society has focused its attention on the problems related to corruption. The public discussion from 1997 till 2000 indicated the ways for limiting and placing it under control, by increasing the law enforcement and regulatory functions of the State, guaranteeing of transparency and publicity of administrative and governing processes, endorsement of civil control and such values as honesty and ethics in society.

The current reform in the administrative system of the Republic of Bulgaria and several newly adopted laws and regulations introduced a number of measures with anticorruption potential in the social practice. These steps together with the curbing of the activities of semi-criminal groups contributed to some stabilisation in the corruption environment in the country. A better rating of the Republic of Bulgaria in the framework of the comparative index of Transparency International is evidence of that: while in 1998 it was ranked 66th (out of 99) in 2001 it was ranked 49th, thus approaching the status of Central European countries in this respect.

The necessity for the development of the National Anti-Corruption Strategy stems from the seriousness of this problem, as well as from the need of setting the efforts for its overwhelming in a long-term frame of political and socio-economic development of the country in the beginning of 21 century. On the other hand, the efforts for introducing of up-to-date international standards of transparency and publicity in social relations are a significant prerequisite for the acceleration of the process of integration of the country in the international community, for guaranteeing the membership in EU and NATO, and for the improvement of co-operation with the international financial institutions.

1. Creating a Common Institutional and Legal Environment for Curbing Corruption

The National Strategy for countering corruption is aimed at establishing a modern legal framework of administrative activities and public services. The strategy implies managerial and organizational development and clear-cut regulation of interrelations between government authorities on the one hand, and the private sector and citizens, on the other. The strategy objectives include increasing the role of already existing institutions and a creation

of new ones with controlling and monitoring functions. In order to achieve these objectives, activities in the following directions are envisaged:

1.1. Guaranteeing Transparency in the Work of the Public Administration

Legislative changes are needed in order to enhance the anti-corruption impact of recently adopted/amended legislation, including the Law on Administration, Law on Administrative Services to Natural and Legal Persons, Law on Civil Servants, Law on Disclosing the Property of Persons in Senior Government Positions, and the Law on Access to Public Information. The amendments will provide for considerable limitation of the possibilities for discretion in the decision-making process at the lower administrative level:

- clear regulation of the rights, obligations and procedures related to decision-making based on discretion;
- regulation of the admissibility and exercising internal control on receiving gifts by civil servants;
- introducing mechanisms for preventing conflict of interests;
- introducing the principle of “one-stop-shop”, regarding the administrative services;
- improving staff recruitment procedures;
- elaboration by the government institutions/ the Council of Ministers of a handbook defining and including an inventory of the public services, instructions on the procedures, time limits, the responsible authority and the right of complain in cases of bad administrative service. In this respect, the Proposals, Signals, Complaints, and Petitions Act which regulates the rights of citizens under Article 45 of the Constitution of the Republic of Bulgaria needs to be updated;
- transfer of public functions to the private sector and further promotion of its role as provider of public services;
- creation of the necessary technical, organisational and regulatory prerequisites in order to achieve efficient implementation of a modern law on the access to public information;
- introduction of anti-corruption training for staff at different administrative levels.
- upgrading of the Code of conduct of civil servant in view of its harmonization with the European standards.

Responsible: Minister of State Administration

1.2. Improvement of the Financial and Fiscal Control

Financial discipline, transparency and responsibilities of the institutions should be completely ensured based on the Internal State Financial Control Act and in compliance with the new economic and social environment. This can be achieved through improvement of the forms of liability such as increased fines in cases of administrative liability and extended applicability of full financial liability for unlawfully inflicted damages. There is also a need for changes in the tax legislation aimed at:

- Clearer regulation of the powers of tax authorities and simplification of the taxation process;

- Increase in incentives for officials contributing to a greater exposing of tax evasions;
- Introduction of a public register of the income of tax administration officials;
- Improving the efficiency of interaction between State Financial Control, the National Audit Office, tax administrations, National Social Insurance Institute, General Labor Inspectorate Agency, the Ministry of the Interior authorities, and the judiciary, through the adoption of joint instructions for prevention and combating corruption;
- Feasibility study on Establishing an integrated information system for control authorities and the law-enforcement agencies in compliance with the laws regulating the protection of personal data;
- Improving the internal financial control offices within the various agencies and organizations.

Responsible: Minister of Finance, Council of Ministers

1.3. Anti-Corruption Reform in the Customs Agency

In spite of the measures undertaken in the last few years, aimed at enhancing the efficiency of the customs control, it is necessary to continue the implementation of a series of measures related to the development of a modern regulatory base, improvement of the internal control and monitoring, introduction of independent monitoring of customs activities and promotion of the self-regulative mechanisms within the Customs Agency.

Further efforts are needed in the following directions:

- Further development of an integrated information system, in order to apply operational control over the turnover of goods as well as instant tracing of customs revenue, excise duties and VAT down the chain customs-tax administration-banks.
- In this respect, the introduction of timeframes for customs processing of goods and control of physical and legal persons on the borders and in the interior of the country is particularly necessary, as well as reduction of the timeframe for managerial decision-making and consideration of complains and signals.
- Introduction of technological models for customs processing of goods and mechanisms for control, which are not influenced by discretion.
- Raising the level of professional skills of the Customs Agency staff.
- Introduction of public-private partnership practices regarding the fight against corruption in the customs. Involvement of associations of the citizens, independent experts and the media in the debates on the anti-corruption measures in this area. Providing information to the public on the rights and duties of the customs officers and the citizens undergoing customs checks.
- Enhanced international co-operation with foreign customs administrations as well as participation in regional and international initiatives in this area.

Responsible: Minister of Finance, Executive Director of the Customs Agency

1.4 Anti-corruption Measures in the Ministry of the Interior system

- granting a higher status to the units engaged in countering corruption;
- further improving the internal control units in the Ministry of the Interior and its divisions;
- developing a mechanism to regulate the provision of information to the public, the executive authorities and the Parliament with regard to the results of control and cases of corruption;
- including specialized anti-corruption courses in the training program of the Higher Institute for Training of Officers, Science and Research to the Ministry of the Interior, to provide knowledge on the issue of combating corruption on the national and international level.
- Increasing the level of career development and staff stability of Ministry of Interior officials.

Responsible: Minister of the Interior

1.5. Combating Corruption at the Local Government Level

Corruption on a local level (in the locally elected bodies and the local administration, where every-day contact with the citizens is taking place with regard to the most frequently demanded services) is defined as wide-spread or “small/low level” corruption. However, it has long-term and long-lasting negative consequences, which distort the local self-governance and affect society negatively.

There are mechanisms and instruments in place, which increase the transparency of the activity of the local authorities and which are provided for in the new legislative framework for the creation of a functioning local self-governance in the country – the Constitution of the Republic of Bulgaria, the Local Authority and Local Administration Act, the Administrative and Territorial Governance Act and the Referenda Act. These should be applied more efficiently through:

- improving the efficiency of the local councils and better implementation of the legislation for the local administration (the Regulations for the Organization and the Activity of the Local Council and the Local Administration, the regulations for disposing and renting of local property etc.) for limiting the possibilities for exercising of corruption pressure on the local administration;
- improving the activities of the permanent and temporary local commissions and better implementation of their functions of control over the local municipal council decisions as provided in the Local Authority and Local Administration Act. Involving of civil organization’s experts when important decisions on local issues are taken;
- improving the civil control over the elected local representatives by creating legal mechanisms for their deselection;
- improving the efficiency of the local public relation services and the information activities.

In parallel to that, the existing mechanism for centralized management and financing of the local structures should be reconsidered. The current one affects negatively the local authority and creates prerequisites for misappropriations and corruption. Better solutions should be found in crucial areas such as:

- allocating of State subsidies for the municipalities;
- abolition of the low-effective practices in the administration and overlapping of functions and activities among central, regional and local authorities, as well as more precisely defining their responsibilities.

A public debate should be initiated on the issue of financing the municipalities. This should provide for legislative measures, to provide the local authorities with legal and financial instruments indispensable for their independence. This will be in conformity with the principles of the European Charter for Local Self-governance, Article 9, under which the local authorities must have access to sufficient funds, which they can freely use in accordance with their competence under the Constitution.

Responsible: Council of Ministers

1.6. Anti-Corruption Measures in the Financing of Political Parties

The adoption of the Political Parties Act provided for the regulation of the financing of political parties as well as guaranteeing clearer rules, criteria, accountability, and transparency of party financing. However, it is necessary to focus the attention towards increasing of the anti-corruption efficiency in the following areas:

- Full transparency and financial accountability of election campaigns;
- Detailed regulations of relations between political parties and the State as a way to make a clearer distinction between the public-and-state and the private-and-party spheres; fewer possibilities for party influence in the management of State ownership, in appointment and dismissal of public officials at higher administrative positions;
- Legal regulation of lobbying in line with existing practices in the EU.

Responsible: Minister of Finance, Council of Ministers

2. Anti-Corruption Reform in the Judiciary and Penal Legislation

2.1 Legislative changes

The Anti-corruption reform in the judiciary system aims at removing the favourable conditions for originating of corruption, as well as the creation of mechanisms for its control.

Amendments to the Penal Code

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

- Further improving the regulation in the Penal Code of crimes against creditors;
- Amendments of the Penal Code, related to the crime of “bribery” for achieving conformity with the EU acquis;
- Legal provision for the confiscation of property acquired as a result of corruption, including those cases where the property has been transferred to third parties in order to be preserved;
- Harmonisation of the legislation regarding corruption with the relevant provisions in the EU Members States, in order to assure in the future effective protection of the EU financial interests.

2.2. Reform of the Operational Organization of the Judicial System

With respect to the organisation of the judicial system, it is necessary that a comprehensive and competent reform be implemented and made subject to a broad debate, which will eradicate the conditions for corruption and will guarantee speedy and effective functioning of the system. It should lead to improvement and modernisation of the methods of operation of the courts, prosecution offices, and the investigative services, precise selection of magistrates and enhancement of professional qualification of judges, prosecutors, and investigators, training of court personnel, financial security.

The following steps are needed in this direction:

- Develop and implement automated filing systems which should guarantee speed and reliability in processing case files as well as fast and easy access for citizens to the information they need;
- Develop a system of case assignment to magistrates based on objective criteria, precluding the possibility of preferentially appointing a specific magistrate to work on a given case;

Responsible: the Ministry of Justice shall provide assistance to the judiciary in implementing the reform

3. Curbing corruption in economy

The immediate objectives of the anti-corruption reform in economy are directed towards increased transparency, publicity and accountability in activities where State and private interests interrelate. Together with the process of further liberation of business from State control, deregulation, guaranteeing of free competition and introducing ethical standards in business, this will further entrench market economy institutions and help the establishment of modern mechanisms of interaction between the State and private sector.

Achievement of these objectives would require that the regulatory mechanisms and improved enforcement and internal audit and government control be combined with independent public monitoring of economic relations.

3.1 Transparency and Public Accountability in the Privatisation Process

So far experience clearly shows that the privatisation process lacks sufficiently clear, detailed, transparent rules and the necessary control and is particularly vulnerable to corruption. This requires the following measures:

- Coordination of privatisation functions and mechanisms within a single national institution - the Privatisation Agency
- Clear regulatory basis of the procedure of "negotiations with a potential buyer"
- Abolishing the preferential treatment of management-and-employee companies in the privatisation deals
- Encouraging privatisation through the stock market, which has a well-organized and transparent mechanism for the sale of securities of joint-stock companies
- Enhancing the role of post-privatisation control including public control on implementation of the privatisation contracts and introducing refined and consistent procedures for its implementation.
- Enhancing control over implementation of concession contracts with consideration of the long term of their implementation and the lack of relevant experience
- Reforming corporate governance (providing access to information on the structure of property and crossed participation of joint-stock companies, imposing strict sanctions for abuse with internal information, appointing of "external" directors in the managerial bodies, regular independent audits, etc.)
- Effective monitoring of the post-privatisation process for deals, which do not require 100% payment upon signing the privatisation contract, and also introduction of legal regulations of public control in such cases
- Increasing liability and transparency in privatisation decisions, including those concerning the sale of significant assets of State companies
- Legal provisions for public access to information on negotiations and privatisation deals, including those involving intermediaries

Responsible: Executive Director of the Privatisation Agency, Council of Ministers,

3.1 Liberalizing the Conditions for Private Business Development

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

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

- Accelerated efforts to build up the market infrastructure with an emphasis on the development of organized markets;
- Gradual transition from permit- and license-requiring economic activity to a system of registration and notification. Transfer of specific activities connected with licensing branch organisations, by directing State institutions to control functions, including refusals to issue permits and licences
- Minimizing the need to seek authorization from a State body - discretionary decisions ought to be avoided and officials should adhere strictly to existing legal regulations;
- Delegating (self-) control functions to professional and business associations on the basis of codes of conduct;
- Adoption and strict implementation of regulations on the economic relations between public and private entities (for instance with regard to the system of public procurement).

Responsible: Minister of Economy, Council of Ministers

4. Anti-Corruption Co-operation between the Government Institutions, Non-Governmental Organizations and the Mass Media.

International experience shows, that even in countries with well-developed administrative system and monitoring mechanisms, corruption cannot be overcome without co-operation from the civil society and the independent media. The experience of the consolidated democracies shows the great importance of involving professional organizations and other civil structures in the efforts for further reinforcement of the values of transparency, accountability and democracy. The capacity for setting up of mechanisms and successful practice of partnership among the State institutions, non-governmental organizations and the media in the area of public control on the activities of the administration, protection of the rights of the citizens, self-regulation through the introduction of efficient codes of conduct, initiating of independent monitoring, further reinforcement of anti-corruption information and educational activities is also of significant importance.

An increased activity of the civil organizations and the independent media in tackling corruption can be observed in the last couple of years in Bulgarian. A large number of nongovernmental organisations are taking part in different ways in anti-corruption projects. Cooperation between representatives of governmental institutions and nongovernmental organizations was set up in the framework of the anticorruption initiative *Coalition 2000*, *Transparency sans Frontiers* and *Transparency International - Bulgaria*.

Responsible: Minister of State Administration