

CORRUPTION AND ANTI-CORRUPTION IN BULGARIA (2011 – 2012)

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After an improvement in 2010, the level of administrative corruption among the population increased in 2011 – 2012, still placing the country in the group of EU Member States experiencing high levels of corruption.

The average monthly number of corruption transactions in 2011 was approximately 150,000. In 2011, a quarter of all citizens who dealt with the state administration had to resort to some kind of irregular payment to receive administrative services. This indicates that corruption is a systemic problem of the Bulgarian society. It stems from the inadequate structure and poor functioning of the administration. **This problem cannot be solved with law-enforcement tools alone** (i.e. by prosecuting corrupt officials and citizens), but requires **fundamental reform in the public administration**.

One such fundamental reform and major catalyst of change was the country's membership in the EU: **in 2007 the level of corruption in the business sector declined by half**, although it did not decrease any further in the following five-year period.

No progress on political corruption. After 2009, the government's efforts have been overwhelmingly focused on tackling administrative corruption at mid and low levels. Despite the fact that political corruption to a large extent is the prerequisite for administrative corruption, it is often wrongly assumed by government institutions that combating political corruption is not viable. Political and

KEY POINTS

- Following a period of improvement (2009 – 2010), administrative corruption experienced by citizens in Bulgaria is once again on the rise in 2011 – 2012, although still below the levels observed under the previous government (2005 – 2009). The average monthly number of corruption transactions in 2011 was approximately 150,000.
- Corruption pressure in Bulgaria stems from the very structure of the public administration, and the lack of customer-oriented culture and approach in delivering public services to citizens and businesses. A sustained improvement of the corruption situation is possible only through measures that would systematically change this environment.
- The scale of corruption in Bulgaria is such that, without a radical administrative reform, even a substantial increase in the capacity and efficiency of law enforcement would not provide sustained decrease of corruption, neither within law enforcement itself nor in the society at large.
- Administrative corruption experienced by businesses has declined in 2011 – 2012, reaching the lowest levels on record. Although this decline has not been deep enough to produce a marked improvement in the past 3 years, the positive fundamental changes that took place in the business environment and reduced corruption pressure after Bulgaria's EU accession seem to have taken root.

administrative corruption interlink interests at various socio-economic levels (buying electoral votes to rig elections, corrupting law-enforcement bodies to escape prosecution, corrupting aimed at securing political protection over white collar and organised crime). Thus, controlling administrative corruption is not possible without curbing political corruption.

Pressure on the media. The anti-corruption role of media as a major tool in revealing incidents of corrupt relations between public officials and businesses (including criminal ones) has been impaired recently. With the economic crisis media has become vulnerable to pressure from public officials and journalism has gotten more commercialized. Under these circumstances, media corporations owned by oligarchs have expanded. Professional media standards have fallen victim to economic interests and political affiliations. Investigative journalism is often abused as a tool to discredit business and political rivals. A large share of the electronic and print media are now owned or controlled by oligarchs. These trends accelerated with the emergence of some new media groups and with the sale of previously foreign-owned media outlets to local businessmen. Reports of politically important events, including corruption scandals and/or anti-corruption efforts, are used as bargaining chips by media owners to trade in influence: securing public procurement deals, tolerating of illegal business practices and/or tax fraud.

Politicization of civil service and law-enforcement bodies. The lack of space for independent actions by the police, the customs and revenue agencies (without an intervention from the top of the political pyramid) renders political flavour to the law-enforcement and penal process and limits the efficiency of anti-corruption measures. Due to the politicization of the state administration, investigation of administrative corruption most often triggers political interests. To prosecute these cases, law-enforcement bodies need political sanctions.

Lack of effective reforms in the judicial system. The inability of the judiciary to reform itself is exacerbated by the government's tactics of politically convenient appointments and tolerance of magistrates prone to corruption practices. Instead of promoting prosecutors and judges for their proven professional and high ethical standards, magistrates vulnerable to corruption practices are preferred as they are easier to influence. Clear criteria for appointments in the judicial system and evaluation of the performance of magistrates are still missing.

Methodology of Measuring Corruption

The data on the dynamics of corruption used in the current report are the result of the *Corruption Monitoring System (CMS)*, designed and developed by the Center for the Study of Democracy (CSD) and Vitosha Research. CMS combines significant research and powerful anticorruption advocacy potential. The purpose of CMS is to measure the **actual** level and trends in the spread of corruption in the country, as well as to identify related public attitudes and expectations. It was first put to use in 1998 and one of its notable benefits is the accumulation of trend data on the structure and dynamics of corrupt practices in Bulgaria in the past 14 years.¹ CMS was acknowledged by the UN as a best practice national system for corruption monitoring. It has several important advantages:

- Coherence with the UN victimization approach to measuring administrative corruption levels, as well as with the Eurobarometer surveys of the European Commission on measuring the levels of administrative corruption;
- Reliance on diverse sources of information and combining quantitative and qualitative methods for monitoring and assessment;
- Use of nationally and internationally established methods and indicators for assessment of the actual spread of corruption and the public's perceptions about it.

¹ More details on the CMS methodology are provided in: "Clean Future. Anti-corruption Action Plan for Bulgaria. Monitoring. Corruption Assessment Indices", Center for the Study of Democracy, Sofia, 1998.

The general levels of actual and potential corruption are measured through two corruption indexes:

1. **Involvement in corruption transactions.** This index is calculated based on the frequency of self-reported instances when citizens and businesses informally provided money, gifts, or favours in order to have a problem solved. It reflects the level of actual corruption in the country over a certain period of time.²
2. **Corruption pressure.** This index is constructed on the basis of the frequency of self-reported cases when citizens and businesses were asked for money, gifts, or favours in order to have a 'problem' solved by the public administration. It reflects the level of potential corruption in the country.

Levels of Corruption

The level of corruption experienced by citizens and businesses remains high. Despite the reduction of registered levels of administrative corruption under the current government, they are not substantially different from the overall "corruption environment" specific to previous governments.

For the period between 1998 and 2012 the CMS registered several phases in the evolution of participation of the population in corruption activities:

- Until 2001 corruption reached was at its highest levels, with a tendency towards a decline.
- In the period from 2001 to 2004 the number of corrupt interactions decreased and reached its lowest level (at index value 0.4).
- After 2005 corruption levels increased again and reached an index value of 0.8 in 2008, the highest for the whole period since Bulgaria's EU accession.

- After 2009 the index of involvement in corruption transactions decreased again and was in the range of 0.4 – 0.5.

Corruption pressure

The dynamics of the corruption pressure by public officials on the Bulgarian population after 1998 follows a similar trend as the participation in corruption transactions. Each government after 1998 has had a sort of a standard corruption band – a level of corruption, which is specific for its time in power, and which results from its unique governance style. The band remains relatively stable for the entire government term. The lowest band values were registered during the term of NMSP government: 1.0 – 1.1 (2001 – 2004). The corruption pressure index reached its highest value during the next government, led by BSP, 1.5 – 1.7 (2005 – 2009), after which it stabilized at 1.1 – 1.3 during the term of the present GERB government (since 2009).

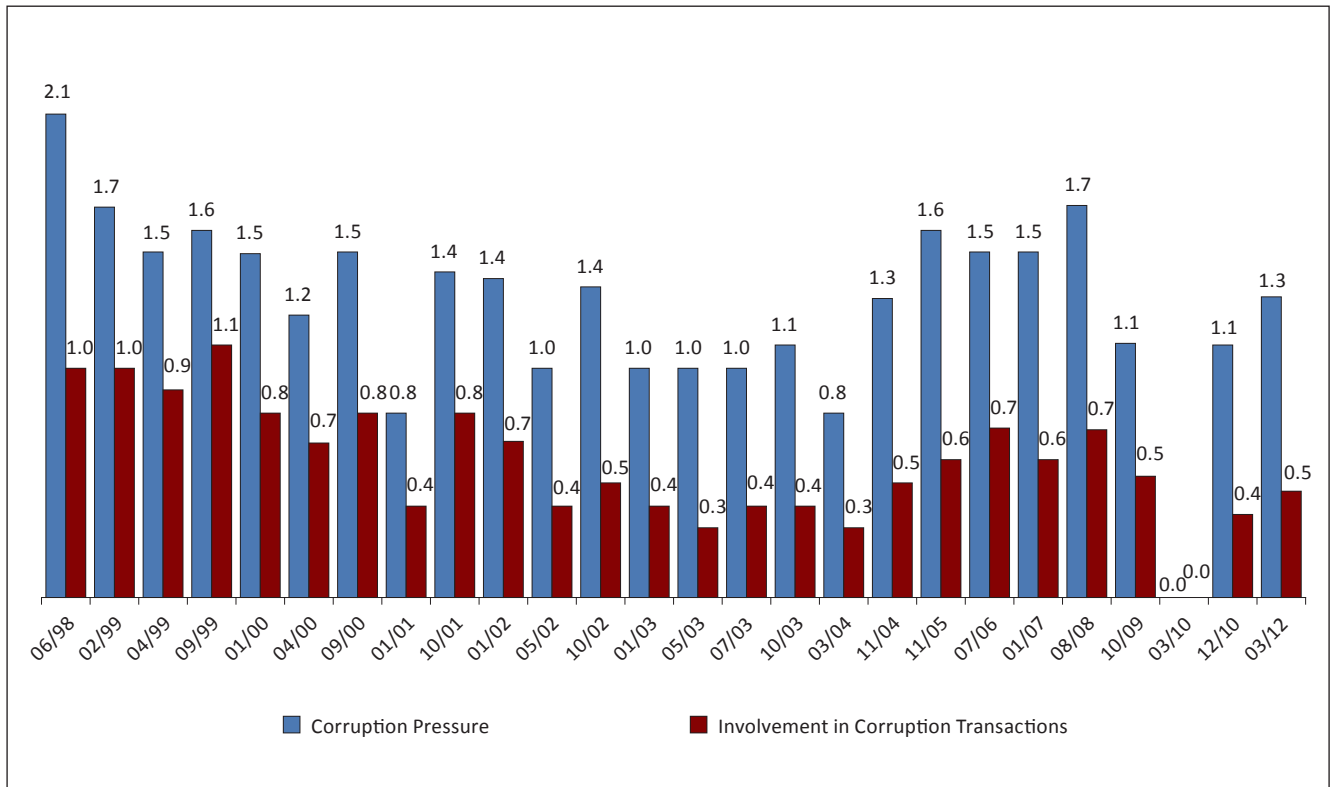
In 2011 – 2012, the acceptability of corruption practices by the Bulgarian population remained relatively low and was on the decline. However, non-acceptance does not necessarily translate into fewer corruption transactions.

According to the CMS, one in four citizens who had an interaction with the state administration had to "give something" to receive administrative services.

By April 2012, the average number of corrupt interactions was approx. 150,000. In 1998 – 1999, the average monthly number of participations in corrupt interactions, admitted by adult Bulgarian citizens, was between 180,000 and 200,000 per month. Their lowest level was registered in the period July 2003 – March 2004, ranging between 80,000 and 90,000 per month. After 2004 the number of the corruption transactions increased again and in 2008 the average monthly number of corrupt interactions reached 175,000 – 180,000. Between 2009 and 2011, their number ranged between 140,000 and 150,000.

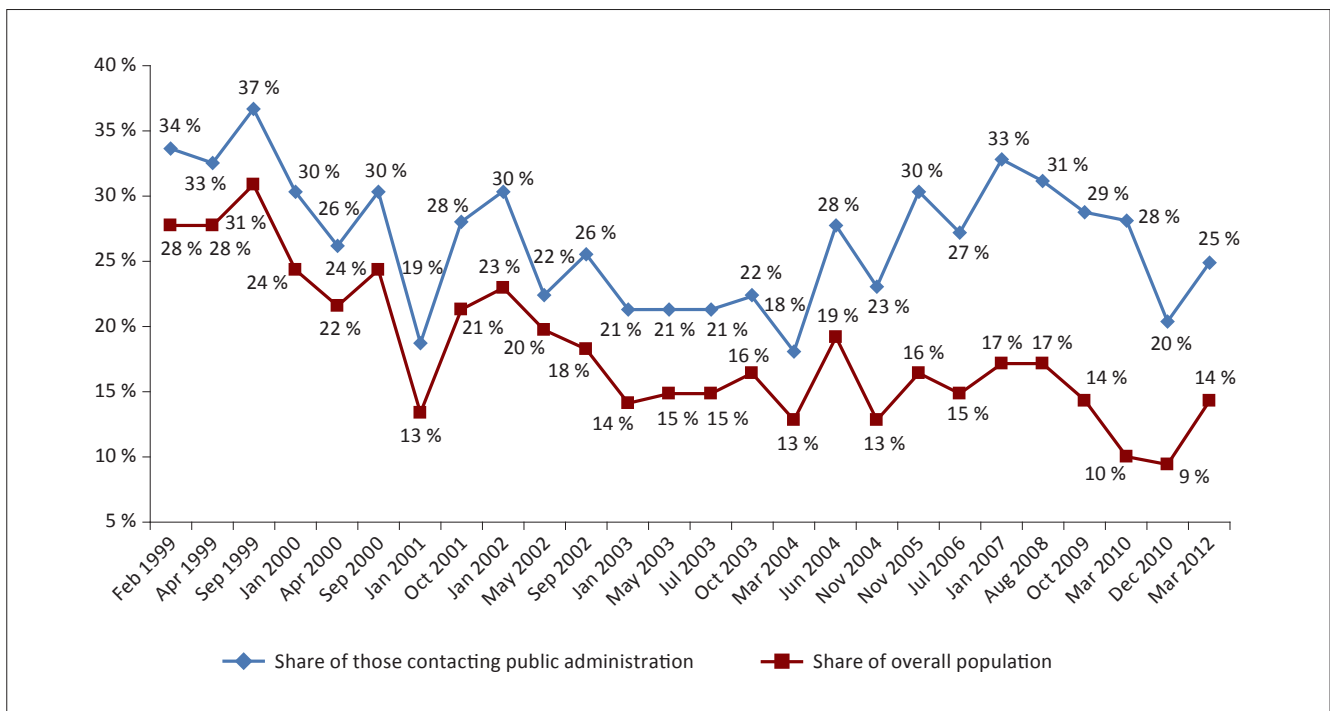
² The lowest value of the two indexes is zero, when there is no participation in corruption transactions and no corruption pressure has been exerted. The maximal value is 10, when all interactions of the citizens with the public administration involved corruption elements.

Figure 1. Dynamics of involvement in corruption transactions and corruption pressure among the population



Source: CMS, Center for the Study of Democracy/Vitoshka Research

Figure 2. Involvement in corruption transactions (% of the population and % of those who dealt with the state administration)



Source: CMS, Center for the Study of Democracy/Vitoshka Research.

Corruption pressure from public officials is a central factor driving corruption transactions.

In the past decade, on average between 50 % and 70 % of the citizens who were asked by the public administration to provide extra (informal) payments, had actually complied. The number of cases in which citizens gave bribes without being asked, on the other hand, ranged between 2 % and 12 % in the period from 1998 to 2012. The correlation between “asking” and “giving” (or demand and supply of bribes) is statistically significant (Cramer approximately 0.7, $p = 0.000$). In this sense, the assumption that administrative corruption in the country is culturally engrained seems to hold little validity. The changes in this index stem mainly from structural changes in the administrative environment.

After 2007 some distinctive changes in the prevailing corrupt behaviour patterns among the population can be detected. On the one hand, a trend has emerged of a **growing citizen resistance to corruption pressure**: the proportion of people who gave bribes to administration officials who had requested a bribe

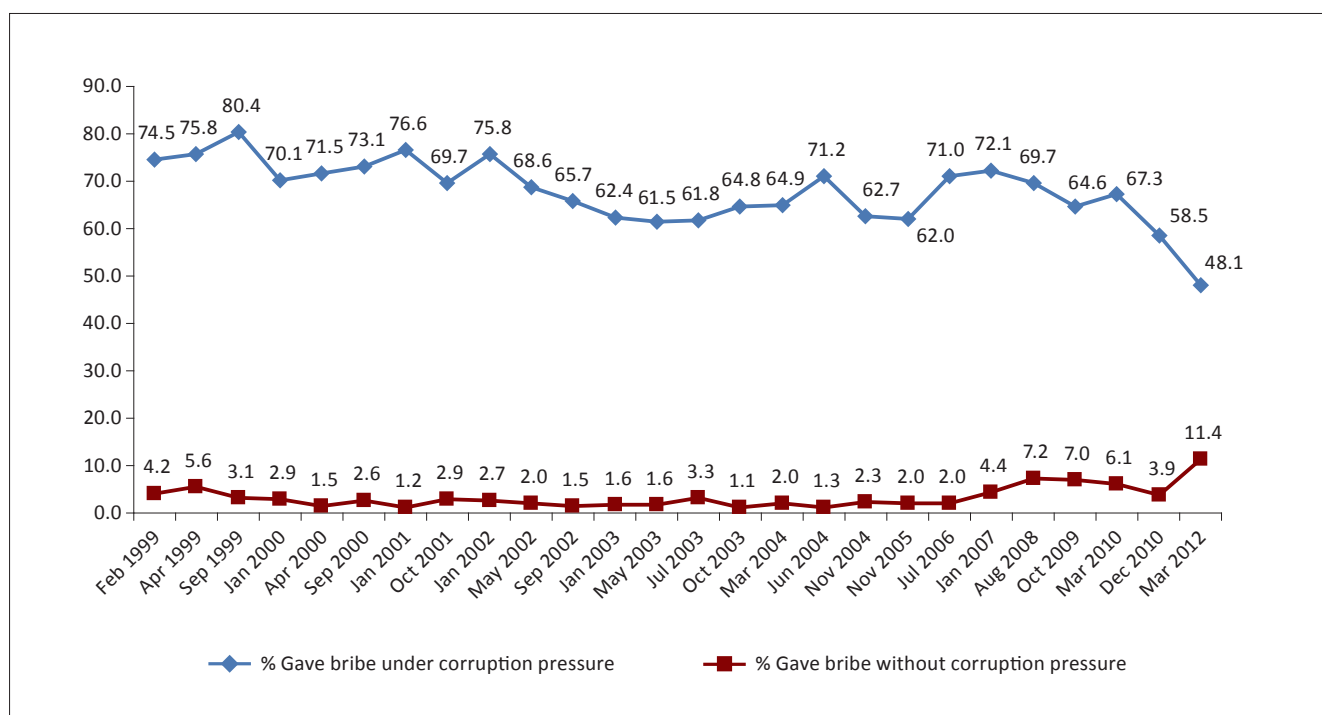
fell from around 70 % in 2007 to 48 % in 2012. On the other hand, the percentage of those who bribed administration officials on their own initiative grew from around 4 % in 2007 to around 11 % in 2012, i.e. **the proactive corruption behaviour of citizens has evolved into a new component of the present social environment** that shapes the corruption phenomenon.

The following are the most plausible reasons for such a contradictory evolution:

The invigorated activity and widened powers and scope of the controlling institutions: control, especially when applied selectively in an otherwise uniform milieu, is becoming a new form of corrupt pressure, which pushes citizens to “willingly” offer bribes.

And the same time, the increased control and monitoring of the lower strata of administration officials’ behaviour has also a preventive effect, limiting both corrupt pressure by the civil servants and citizens propensity to succumb to such pressure.

Figure 3. Involvement in Corruption Transactions among those Contacting the Public Administration



Source: CMS, Center for the Study of Democracy/Vitoshka Research.

No substantial changes occurred in the corruption levels concerning the business sector during the last 5 years (either regarding pressure from officials or corrupt behaviour of firms).

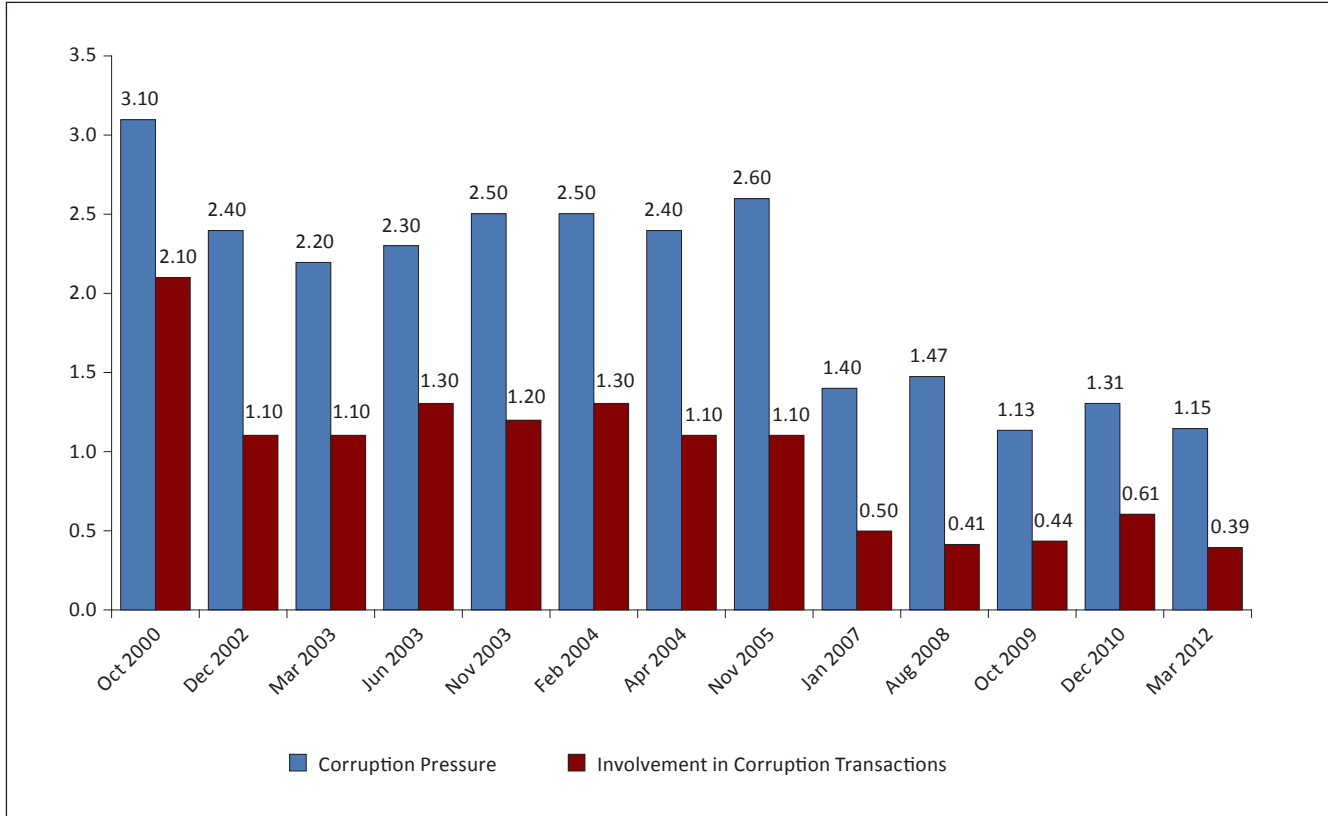
There are some noticeable differences between real and potential corruption prevalence in the business sector when compared to the citizens' administrative corruption figures, identified by the *Corruption Monitoring System*. After the noticeable fall of the corruption indices in the business sector in 2007 (from 1.1 in November 2005, to 0.41 in August 2008), in the period 2009 – 2011 they remained fairly stable. The exception was the crisis-stricken 2010, when a small rise was recorded. This means that, on average, following a decline of corruption in the business sector at the beginning of the incumbent government's term, no further changes were registered compared to the previous government's term.

Corruption in the EU context

The findings of Eurobarometer (2009 and 2011³) by the European Commission show that:

- In 2011, the share of people who came under corruption pressure (were asked for bribes) in Bulgaria was **higher than the average for the EU and in comparison with the levels registered by the 2009 Eurobarometer survey**. The situation in Bulgaria is better than that in Romania, Lithuania and Slovakia, but is significantly worse than in countries like Slovenia, Germany, Ireland and Denmark.
- Despite the growing incidence of corruption, the **citizens' perceptions of the levels of corruption** have become increasingly optimistic. Bulgaria's corruption levels in 2011 are higher than the EU average in all sectors. Moreover, in some key

Figure 4. Involvement in corruption transactions and corruption pressure among businesses



Source: CMS, Center for the Study of Democracy/Vitoshka Research.

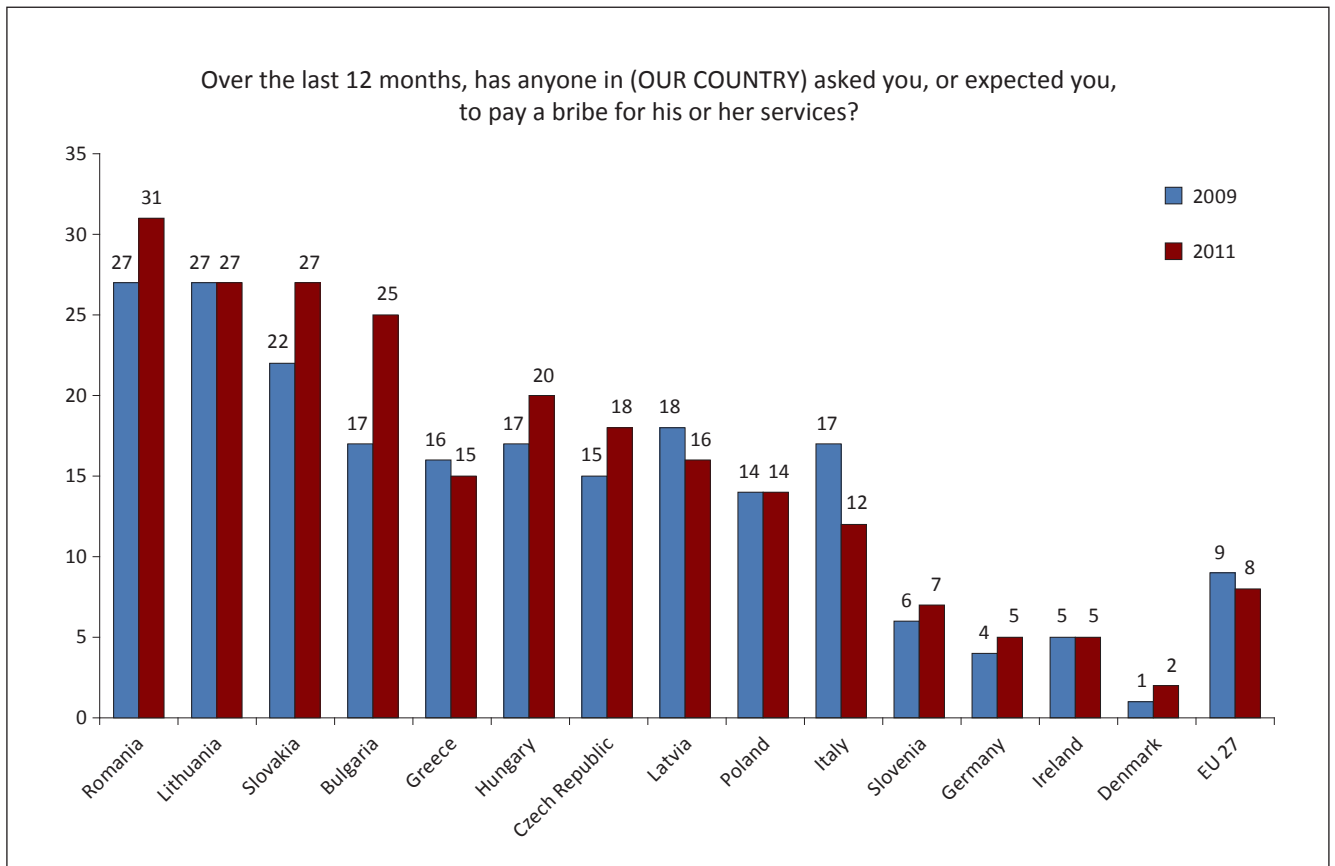
³ See Eurobarometer 76.1 (September 2011) and Eurobarometer 72.2 (September 2009).

sectors (customs, judiciary, police, healthcare, and education) these are twice higher. The discrepancy between citizens perceptions and experiences means that **the main effect of the anti-corruption measures undertaken by government in the last 2-3 years resulted primarily in changing the public's perceptions of corruption rather than the actual situation on the ground.**

- With respect to the corruption among professional groups, when compared to other EU countries, the corruption pressure from two specific groups remains at levels much higher than the EU average: employees in police and health care.

Eurobarometer shows that in 2011 7 % of the population was asked by police officers to pay bribes⁴ (no change since 2009). Bulgaria is followed by Latvia (6 %) and Lithuania (6 %). **Bulgaria is the country with the most significant increase in requested bribes from employees in the healthcare system (7pp).** As a result, 12 % of the population was asked to pay bribes to healthcare professionals. Thus Bulgaria is ranked in the group of EU countries with significantly higher levels of corruption in the healthcare system, along with Lithuania (15 %), Hungary (13 %), Romania (17 %), and Slovakia (13 %).

Figure 5. Frequency of experiencing corruption pressure 2009 vs. 2011



Source: Eurobarometer 76.1 (September 2011) and Eurobarometer 72.2 (September 2009).

⁴ Based on answers to the following question: "Over the last 12 months, has anyone in (our country) asked you, or expected you, to pay a bribe for his or her services?" (Eurobarometer 76.1, p. 138).

Table 1. Corruption perceptions in Bulgaria and the EU

	Bulgaria		EU 27	
<i>You are personally impacted by corruption in your everyday life.</i>				
	2009	2011	2009	2011
Agree		45 %		29 %
Does not agree		48 %		67 %
Does not know		7 %		4 %
<i>Do you think that in Bulgaria giving and accepting a bribe and using of public power for personal benefits is common among some of the following groups:</i>				
Customs employees	87 %	77 %	36 %	31 %
Judicial system employees	82 %	76 %	37 %	32 %
Police	80 %	70 %	39 %	34 %
Public health employees	65 %	63 %	32 %	30 %
Politicians at the national level	76 %	60 %	57 %	57 %
Public servants issuing commercial licenses, permits, etc.	61 %	54 %	38 %	33 %
Inspectors	62 %	52 %	39 %	35 %
Public education employees	45 %	34 %	19 %	17 %
<i>Government's efforts to combat corruption produce results.</i>				
Agree	28 %	29 %	23 %	22 %
Does not agree	63 %	65 %	71 %	68 %
Does not know	9 %	6 %	6 %	10 %

Source: Eurobarometer 76.1 (September 2011) and Eurobarometer 72.2 (September 2009).

Anti-corruption Measures

There are two main approaches in anti-corruption efforts:

- 1) Changing the environment:** reforming the way governments and the administration provide public services, and thus changing the structure of interests and mechanisms that generate corruption practices.
- 2) Control over the performance of administration and citizens:** identifying, investigating and punishing individual corruption transactions.

In their half-hearted fight against corruption, Bulgarian governments (from the end of the 1990s to the present) have given preference to the second approach. Anti-corruption measures are considered priority only for the judicial system, police and other law-enforcement bodies, i.e. the justice and

home affairs area. If the level of corruption were low and corruption were not a systemic problem, this approach would be reasonable. However, in Bulgaria corruption has been a systemic, widespread phenomenon for a long time. **The scale of this phenomenon significantly exceeds the capacity of the criminal justice or law-enforcement systems.** These systems themselves are under corruption pressure, which undermines their anticorruption efforts. Thus the efficiency and effectiveness of the judiciary and police are weakened as they simultaneously try to prosecute intricate corruption crimes while attempting to limit corruption within their own ranks.

Structural and administrative reforms

The way public administration and citizens interact is a fundamental factor affecting the level of

corruption. The following principles are crucial for the still uninitiated administrative reform:

- Public administration and government are supposed to serve the citizens and the public interest (not their own); this concept still remains foreign to most public servants.
- The more mechanisms are used by the administration to control and manage public processes, the more likely are public servants to get corrupted.
- The basic mechanisms for control over the public administration are not specialised control bodies, but rather the transparency and accountability of administrative bodies. For instance, through e-government citizens could access information about any institution that has collected personal information about them. As a control tool, this access to information is infinitely more powerful than any specialised agency for protection of human rights.
- Every social agent who manages public resources is responsible in proportion to the value of the managed resources. Public administration should be directly responsible for the resources it manages and the way it interacts with citizens and businesses.

Reform in the judiciary

Fragmentary reforms of the judiciary in the period 2011 – 2012 did not result in a substantial improvement in countering corruption and organized crime. Despite the public expressions of political will, the judiciary, the executive and the legislative branches still find it difficult to cooperate.

Following Bulgaria's accession to the EU the expected consensus about the main parameters of the judicial reform and the priorities in countering crime and corruption did not materialize. No such consensus was reached even amongst the pre-trial authorities (the police and the prosecution) and the courts. Instead, conflicts emerged between the three branches of power, and within the judiciary as well.

Shared responsibility or rather the absence of it, resulted in several unresolved, yet substantial problems:

- **The over-complicated laws and procedures in place** limited the scope of those who can master the ever changing laws, some of which (and their amendments) are introduced with the expressive aim either to conform to outside pressure “for change” or to better serve private agendas, which often clash with the public interest, also opening opportunities to circumvent the law and to profit from corruption. The continuing practice of speedy adoption of laws without the much needed public discussions or impact assessments is another negative feature of the current situation.
- **The continuing delays in the introduction of the Unified Information System for Countering Crime**, despite the substantial financial resources already involved. Almost fifteen years have passed since the Parliament's decision to implement such a system. The lack of progress in its introduction indicates a deficit in political will to improve the interaction between the institutions countering crime and corruption.
- **The lack of a reliable and comparable data** on the detection, investigation and punishing of **corruption related crimes**. The courts, the prosecution and the investigative authorities use their own indicators for gathering statistics and follow their own definitions of corruption crimes, which make it impossible to compare the available data and to assess the effectiveness of the different institutions and their interaction in combating corruption.
- Several problems in **the pre-trial phase of criminal proceedings** exist; these are related to non-professional gathering of evidence, excessive workload, low-levels of crime-detection, and insufficient capacity.

The number of criminal cases concerning corruption reported by the law enforcement institutions is significantly lower compared to the number of corruption practices identified in the 2011 CMS (which tops 1.8 mln corruption transactions). In the

period January-September 2011 the prosecution has submitted to the court only 164 indictments related to corruption crimes⁵. A decline in the number of convictions for bribes is also evident – from 103 in 2010 the number of cases for bribe-related crimes decreased to 95 in 2011. Accordingly, the number of convicted persons also diminished from 113 in 2010, to 90 in 2011.⁶

The judiciary continues to be reluctant to take proactive steps in countering internal corruption, conflicts of interests and other forms of abuse within the system.

The Supreme Judicial Council continues to react slowly and reluctantly to investigating signals of corruption in the judiciary, unless serious public pressure is applied. The public prosecution is not pro-active and lacks institutional and professional capacity for prosecuting political corruption, including in some key economic sectors, such as energy, where numerous cases of large-scale abuse of public funds have been revealed.

The lack of clearly defined and consistent criminal justice policies undermines society's confidence in court and police, and in more general terms – confidence in the political authorities' ability to guarantee the principles of good governance and rule of law.

Several factors contribute to the low public confidence in the professional qualifications, impartiality, independence and moral integrity of prosecutors and judges:

- The ineffectiveness in detecting and prosecuting crimes committed by persons who occupy high social positions and have huge economic levers at their disposal.
- The limited number of convicted judges, prosecutors, investigators, which prompts public perceptions about impunity of magistrates.
- The corruption issues marring the administrative and civic litigations, which naturally shape most of the experiences of citizens and businesses with the judiciary.
- The scandalous and publicly exposed information of real estate acquisitions by relatives and friends of high-placed magistrates via administrative irregularities.

Reforming the security sector: structural and functional changes in the police

The anti-corruption efforts of the Ministry of Interior are mainly focused on internal investigations.

The main resources that the Ministry of Interior (MoI) presently employs to investigate corruption are concentrated within the Internal Security Directorate (ISD), which is exclusively investigating corruption cases within the MoI. The 90 or so investigators serving in this directorate outnumber by far the resources deployed to investigate corruption outside the MoI system (the anti-corruption unit of the Chief Directorate for Combating Organised Crime (CDCOC)). The results achieved by the ISD in 2011 show that the impact of their anti-corruption efforts are far greater in comparisons with the activities of all the other law-enforcement personnel in the country. Despite this impressive effort, however, several shortcomings limit the effectiveness of law enforcement in this area, namely:

- Radical measures to combat police corruption are still lacking. The integrity tests are not used as there is reluctance to employ them out of

⁵ Анализ на дейността на териториалните прокуратури по движението, срочността и резултатите на делата от особен обществен интерес за периода м. януари – м. септември 2011 г. [Analysis of the activities of territorial prosecutor's offices in terms of disposition, timeframe and outcome of cases of particular public interest for the period January – September 2011], Supreme Prosecutor's Office of Cassation, 9.11.2011, <http://www.prb.bg/main/bg/Information/2405/>

⁶ Престъпления, завършили с осъждане, и осъдени лица през първото шестмесечие на 2011 година (предварителни данни) [Crimes punished with convictions, and convicted persons in the first half of 2011 (preliminary data)], National Statistical Institute, 14.11.2011, www.nsi.bg/eventbg.php?n=1131; Престъпления, завършили с осъждане, и осъдени лица през второто шестмесечие на 2011 година (предварителни данни) [Crimes punished with convictions and convicted persons in the second half of 2011 (preliminary data)], National Statistical Institute, 28.05.2012, www.nsi.bg/eventbg.php?n=1387

fear that they may be considered as a form of provocation.

- The MoI Inspectorate continues to be seriously understaffed with only 10 people who are exclusively given counter corruption assignments. It lacks a comprehensive system to manage complaints or signals of misdemeanours.
- Anti-corruption capacities that fight corruption within other law enforcement institutions (National Revenues Agency, Customs Agency) and in the security sector (State Agency of National Security, National Guard Service, National Intelligence Service) remain far less developed compared to the MoI. The main body responsible to counter corruption in these institutions, the CDCOC anti-corruption unit, lacks both sufficient access to data and the manpower to investigate corruption within all these institutions. On the other hand, the Ministry of Finances' Inspectorate has limited powers in countering corruption within both the Customs Agency and the National Revenues Agency.

Political influence in the government administration runs so deep that political appointments even of middle and low level officials within the administration make most corruption investigations politically sensitive.

The tight political control over the police by the MoI has the effect of imposing limits to objective investigations of cases involving political appointees, especially high-level officials. For such investigations to be conducted at all, an informal political sanction is needed. The net result is that the main investigation activities are focused on low-level civil servants in the central and local administrations, and on members of the judiciary who lack political protection. Corruption cases involving magistrates and state officials in high places are in practice off-limits to investigators.

The instances of investigations of the use of corruption by organized criminal groups are extremely rare. This is due to both insufficient capacity of anti-corruption

units and the lack of a political vision for the need of such investigations. Investigating money laundering and assets' confiscations in parallel with corruption investigations is also rare.

The current capacities' shortage which prevents the uncovering of complex economic and financial crimes also impacts the limited potential in dealing with more sophisticated corruption practices and schemes. Creating a Tax Police (within the Ministry of Finance) would significantly increase the corruption investigation capacities.

The present strategy to tackle corruption used by the organized criminal groups in Bulgaria is inadequate and brings little results.

The corruption mechanisms and schemes used by criminal groups in Bulgaria do not differ significantly from those used in other European states. Some EU Member States register different levels of the organized criminal groups' corruption activities. For instance, some 17 % of the criminal groups in Spain use corruption as an influence-peddling tool. In Belgium there is an indication that 23 % of the criminal groups use some form of influence mainly targeting the private sector, the police and the customs. In Bulgaria, almost 45 % of the criminal groups use some form of corruption influence. Nevertheless, even in the context of the so-called "landmark cases" against organized crime, the use of corruption is not investigated.⁷

Still, there are also some encouraging trends in countering organized-crime related corruption. One example is the **limiting of corruption related to the illegal drugs market**. The dismantling of some large criminal groups with control over big regions of the country and the capital has reduced the corrupting influence that such groups had over entire police departments. A similar trend is evident in the sex services sector, where the increased use of the internet for establishing contacts with prospective clients and the closure of many brothels reduced everyday exposure of policemen to corruption opportunities.

⁷ *Serious and Organised Crime Threat Assessment 2010 – 2011*, Sofia: Center for the Study of Democracy, 2012.

On the other hand, the upward jump in the sales of illicit tobacco products is signalling the emergence of a new area, where organized crime is increasingly resorting to corruption instruments.

Corruption influence-peddling among political parties' members represents one of the most serious threats from organized crime, and is increasingly damaging on a local political level. In some municipalities criminal leaders have succeeded in establishing their own political entities or infiltrated local structures of existing political parties and municipal councils. Such positions are then used to trade in influence by pressuring local law enforcement and judiciary structures and manipulating public procurement procedures. The oligarchic structures exert a particularly damaging influence, which is not limited to local government, but also to some members of the National Assembly. On the one hand, oligarchic influence is often rooted, on the one hand, in economic clout at a local level or dominance in certain sectors of the national economy. On the other, it relates to control of illegal markets and criminal schemes (for example in the illicit trade with timber and scrap materials, in the smuggling of excisable goods, and in the energy sector).

The role of the anti-corruption institutions

The emphasis on law-enforcement as the main instrument in controlling corruption hurts the economy and private business. Although perceived as beneficial at the outset of the crisis, the proactive control-and-punish-across-the-board approach in tackling economic crime of the key business service institutions of the government (National Revenue Agency, Customs Agency, Employment Agency, National Construction Inspection Directorate, Public Financial Inspection Agency, Food Safety Agency, Drug Agency, etc.) gave way to **arbitrary and self-serving administrative actions towards citizens and the business community alike**, facilitated by the lack of effective civic control.

It is a must that the limited financial and human resources of these institutions be redirected towards countering corruption in the higher levels of the political echelon and the public administration, and dismantling local or national oligarchic networks. At the same time, the long-term reduction of corruption pressure has to be pursued through the redirection of the administration's efforts from control and punishment towards service provision to citizens and the business. Only such a strategy can create positive incentives for sustained voluntary compliance with legal rules.

Countering high-level political corruption

The impunity of corruption in the upper echelon of the political system remains the main challenge to the success of Bulgaria's anti-corruption policies. The lack of new investigations of representatives of the political class has rendered Bulgaria one of the few EU Member States without an effective indictment of corrupt politicians.

A number of high profile corruption cases uncovered by the media involving allegations against representatives of the upper political echelon over the misuse of their official functions for private gains still remain without an adequate response. As investigations follow routine patterns, they target almost exclusively lower level functionaries and small and medium size businesses. No systematic effort to investigate high-level white-collar business corruption, related to the existing influence-peddling political networks have been undertaken so far. Economic and organized crime investigations usually ignore corruption aspects as they are difficult to prove and/or politically sensitive.

There are no signs of improvement in the **corruption environment in public procurement**, including EU-funding. Public procurement remains the most effective instrument of political corruption. The current crisis increased the competition between companies over public contracts and gave an additional lever to both politicians and the administration to extract corruption fees.

Table 2. Public tenders in Bulgaria (2008 – 2011)

Volume/year	2008	2009	2010	2011
Volume ('000 BGN)	6,493,353	9,282,624	3,544,644	5,114,851
Number of public tenders	18,549	15,192	15,692	17,467
Average value of tender ('000 BGN)	350	611	226	293

Source: Public Procurement Agency.⁸

On the other hand, the pressure by the European Commission aimed at introducing additional controlling mechanisms to prevent abuses, strengthened the “bargaining position” of the administration in its dealings with the political cabinets, while at the same time increasing the bureaucratic leverage on the citizens and the business community. This led to the continuing presence of a **stable administrative/political graft market in the public procurement sector**. Moreover, with the economic crisis the value of public tenders fell sharply, which redirected corruption pressure towards EU-funded tenders. However, despite the rise in the number of public tenders in 2011, the absolute volume of the average public procurement tender remained lower than before the crisis, which limited the average amount of corrupt payments in comparison to the pre-crisis years.

Political corruption is further facilitated by the deliberate over-bureaucratization of public procurement procedures. The high number of bidding requirements and the subsequent audits create a non-transparent milieu, which makes independent supervision impossible and induces the participants to seek political patronage in order to circumvent requirements and rules. A comparison between the documentation portfolios required for participating

in tenders in Sofia and in Brussels revealed that the administrative burden in Bulgaria is on average four times heavier – a fact which implies wider risks of corruption. Systematic efforts are needed to simplify tendering procedures and to increase transparency. A positive step in this direction would be the introduction of rules requiring the publication in a public register of all public tender contracts with their detailed parameters. Similarly to public procurement, the corruption situation remains precarious in the opaque process of subsidies distribution in the agricultural sector.

A huge potential for improvement exists in the public procurement process in energy and health care sectors. Achieving a progress there is likely to have wider positive implications for the society and the economy. In the field of **health care**, the effect of decentralizing public procurement procedures from state to regional levels is yet to be objectively analyzed. In the **energy sector** there are substantial opportunities for introducing transparency in the process of gas import, distributions and transit, as well as in relation to the conduct of large public procurement tenders (over EUR 2.5 million). Very little transparency is provided about the criteria used by state-owned energy companies in managing their free cash resources.

⁸ Only tenders denominated in BGN are included in the table.

Publications by the Center for the Study of Democracy

Countering Organised Crime in Bulgaria: Study on the Legal Framework, Sofia, 2012.

ISBN: 978-954-477-189-8

Serious and Organised Crime Threat Assessment 2010 – 2011, Sofia, 2012.

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