

Main Corruption Challenges in Bulgaria

***SELDI Policy Advocacy Workshop:
Improving Governance in SEE: a CSO Update and New Public-Private
Partnership Solutions***

Istanbul, Turkey

20 June 2014

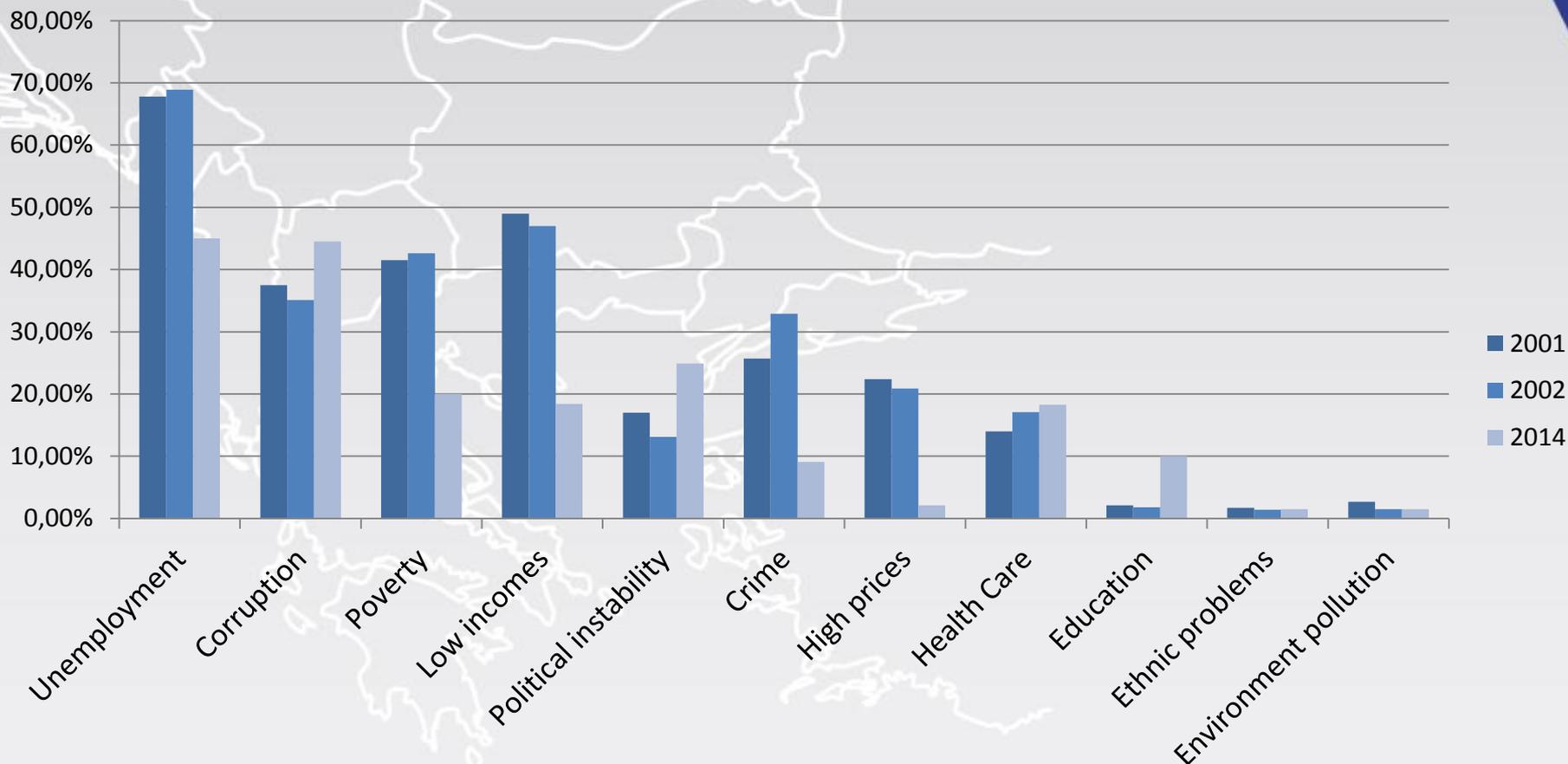
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Corruption Environment in Bulgaria

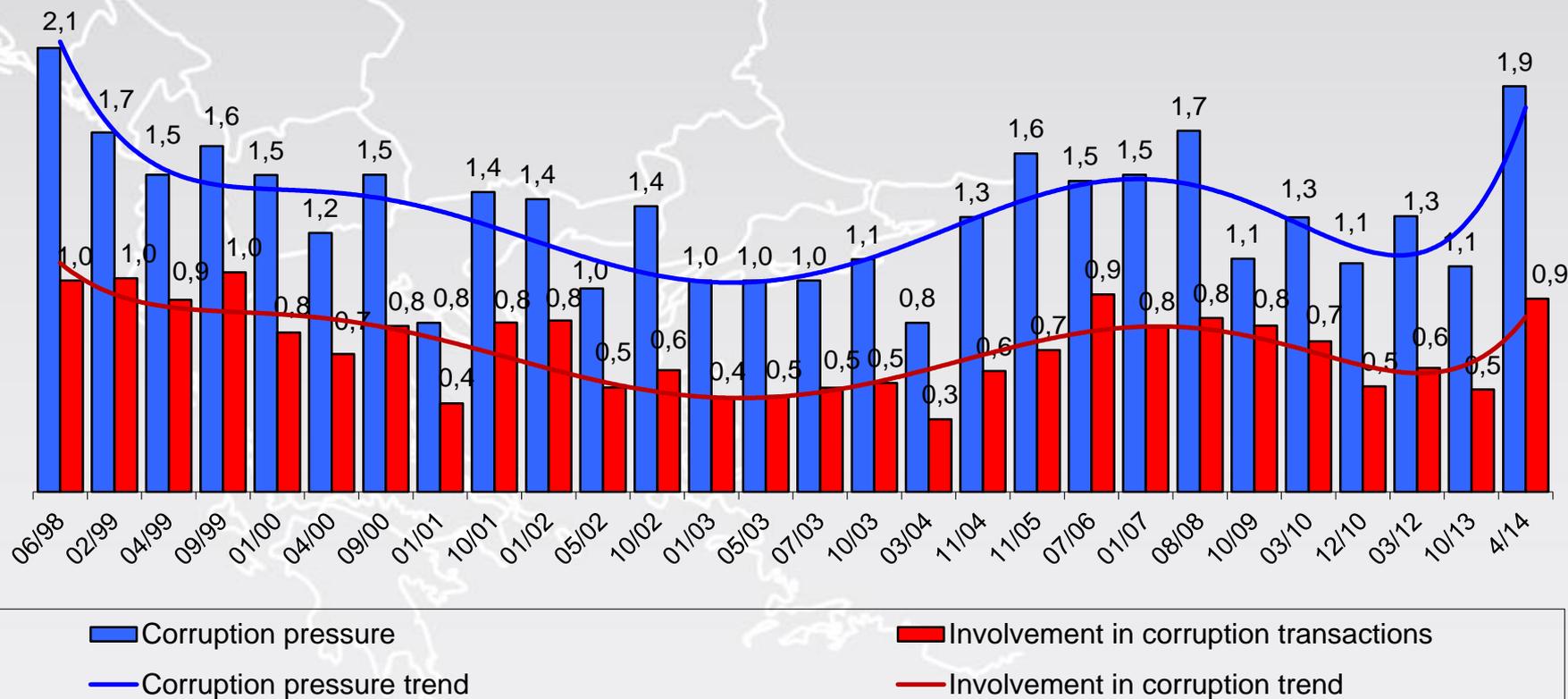
- Bulgaria is still among the top five most corrupt countries in the European Union.
- Dynamics of corruption in the last 15 years were correlated with the political cycle.
- Corruption continues to be an effective tool to solve personal problems. Corruption practices are perceived to get more widespread in the last four years (CMS index 5.9 in 2010; 7.2 in 2014).
- Government measures are considered ineffective.
- Highest in 1998-2001 and lowest in 2001-2005.
- Slight decrease in 2009-2013, followed by sharp increase in 2014 (administrative corruption; when pressured, between 50% and 70% of the citizens enter into a corruption transaction).

Which are the three paramount problems in Bulgaria today?



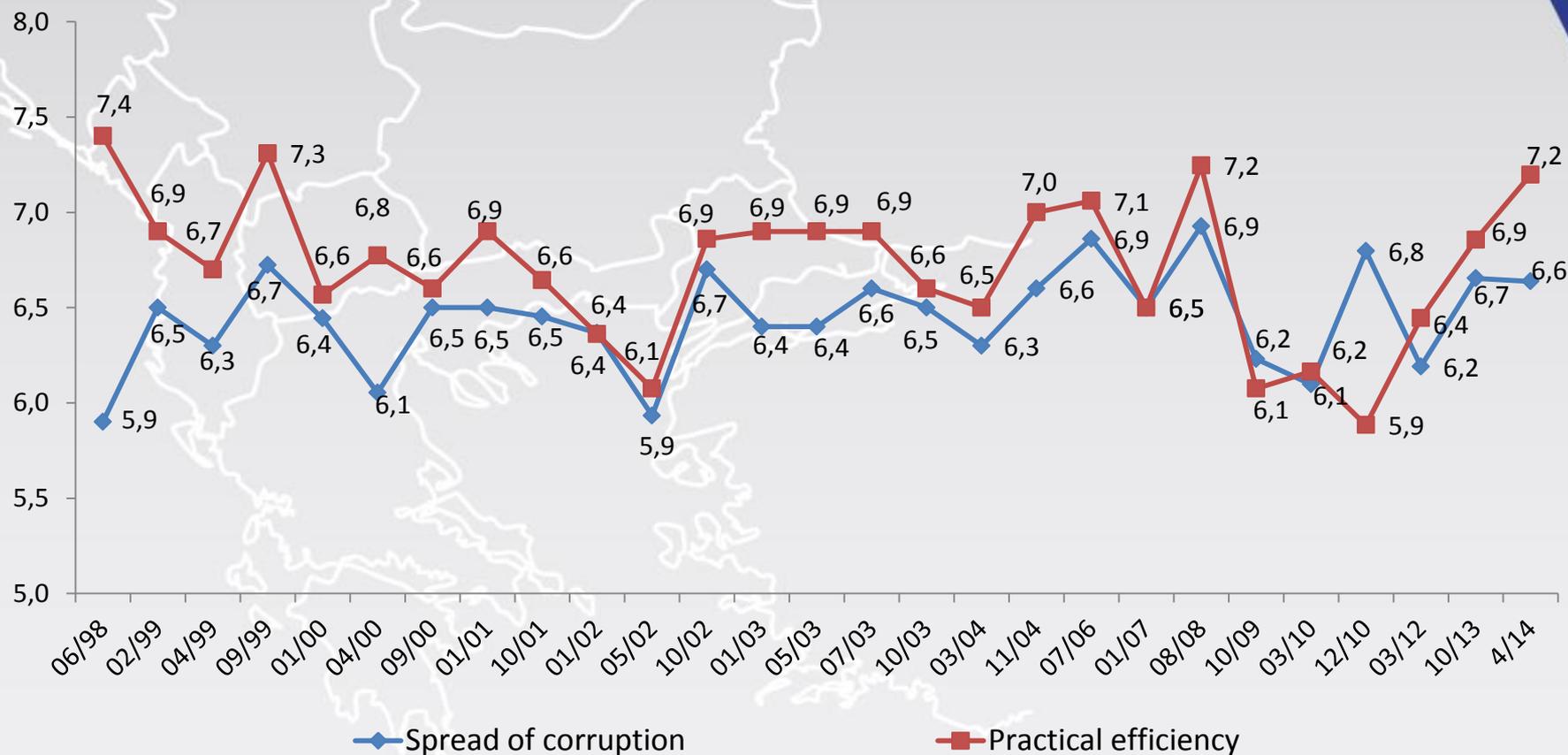
Source: SELDI/CSD Corruption Monitoring System, 2014.

Involvement in corruption transactions and corruption pressure among the population (1998 – 2014)



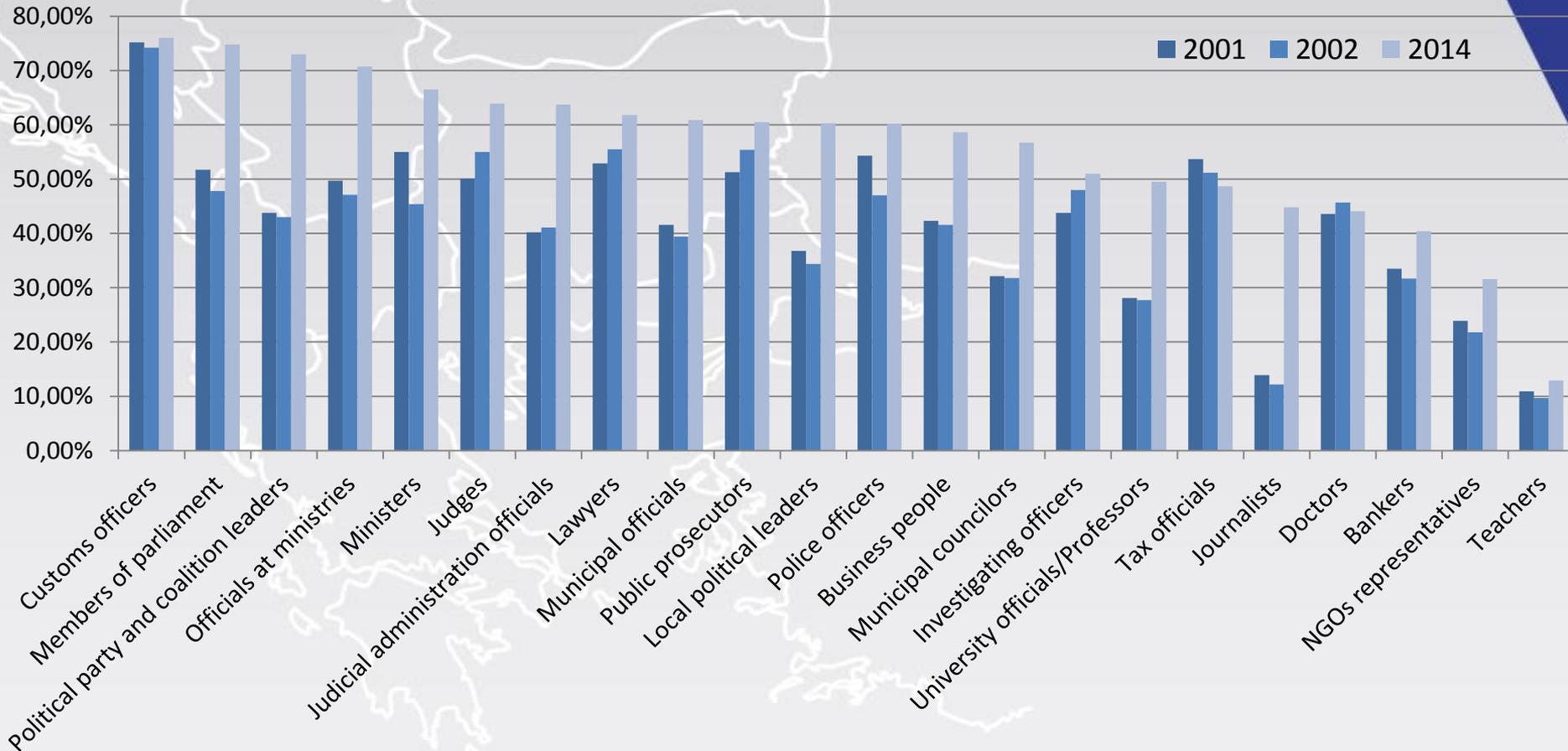
Source: SELDI/CSD Corruption Monitoring System, 2014.

Subjective assessment of corruption spread and its practical efficiency



Source: SELDI/CSD Corruption Monitoring System, 2014.

How far is corruption proliferated among the following groups?



Note: The results represent the answers: Almost everybody is involved, or Most are involved.

Source: SELDI/CSD Corruption Monitoring System, 2014.

Corruption in Bulgaria in the EU context

(comparative analysis of Eurobarometer data)

- Notable decrease in personal experience of corruption: 2011 (25%) - 2013 (13%), still higher than Germany (3%), Finland (3%), or Portugal (5%).
- The level of corruption is slightly lowering and converging with the EU level, but still remaining high.
- Bulgarians are the most trustful nation towards EU institutions – only 41% think there is corruption in Brussels compared to 70% in EU.
- Less trust towards healthcare, police and judicial system. 67% of the Bulgarian believe corruption is widespread among police (36% EU average)
- 16% EU average and 23% of the people in Bulgaria believe that corruption is widespread in the education sector in 2013.
- Bulgaria is the country with the least trust in the judicial system with only 7% willing to report corruption to them (27% EU average).
- 36% are willing to report corruption to the police (57% EU average).

Anticorruption Policies and Regulatory Environment

Integrated Strategy for Prevention and Countering Corruption and Organised Crime adopted in 2009

Specialised anticorruption institutions

- General Inspectorate (GI) at the Council of Ministers
- Commission for the Prevention and Combating of Corruption, at the GI
- Inspectorates within the ministries and government agencies
- Centre for Prevention and Countering Corruption and Organised Crime ("BORKOR") at the Council of Ministers
- Parliamentary Commission on Fighting Corruption and Conflicts of Interest
- Committee on Professional Ethics and Prevention of Corruption in the Judiciary

Inspectorates and agencies also perform numerous checks however with limited number (and financial amount) of sanctions and fines imposed.

Anticorruption Policies and Regulatory Environment

- Unstable political environment, lack of coordination, delays in implementation, sporadic action plans
- 197 measures across all action plans - 119 indicators produced, leaving 78 measures with no indicators and data to track the progress
- Implementation reports list examples without integrated analysis
- Scarce information on the activities undertaken on regional/local level
- Pursuing high-level corruption has not been specifically addressed neither in the action plans, nor in the reports on implementation

Institutional Practice and Enforcement of the Law

- There is no specific legislation on lobbying in Bulgaria.
- Effective administrative arrangements for whistleblowing are not yet in place.
- Conflicts of interests and incompatibilities regarding persons occupying public positions. Administrative penalties range from EUR 500 to EUR 10,000 and involve mainly low-profile public officials at local and regional level (e.g. mayors).
- As stated in the EU Anti-Corruption Report, the asset declaration has not tackled illicit enrichment.

Public Administration

- 10,932 received signals, one-third towards the National Revenue Agency (4072).

Received signals and conducted inspections for the period 2009-2012



Source: Reports on the state of the public administration.

Regulatory agencies

- State Commission for Energy and Water Regulation (SEWRC)
 - Commission for Protection of Competition (CPC)
 - Bulgarian National Bank (BNB)
 - Communications Regulation Commission (CRC)
 - Financial Supervision Commission (FSC).
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- The focus is not on tackling irregularities and identifying corrupt practices, but showing large quantities of inspections.
 - Most if not all agencies are understaffed and underfunded.

Regulatory agencies

Reporting activities of the regulatory agencies

(financial information in BGN thousands)	SEWRC	CPC	BNB	CRC	FSC
Annual Report	Yes	Yes	Yes	Yes	Yes
Staff	128	7 members of the Board (total staff unknown)	1237	255	240
Budget	160,000	6,000	84,130	60,000	7,241
Reporting of control activities	Yes	Yes	Yes	Yes	Yes
Proceedings started	Not published	1553	N/A	5	327
Number of Checks provided	28	Not mentioned	41	3123	14059
Sanctions (number of cases or amount)	Not published	8,580	N/A	422	1,232
Quality Assessment Report	No	Not published	Yes	Not published	Yes
Internal Audit Rules	Yes	Not published	Yes	Not published	Yes

Source: CSD, Annual Reports of the Regulatory Agencies

Institutional Practice and Enforcement of the Law

- Merging the State Agency for National Security (DANS) and the General Directorate for Combating Organized Crime (GDBOP) (May 2013). Transfer of functions and personnel from the Ministry of Interior to DANS (CoM).
- Dissolution of the **Mol Specialized Directorate “Operative-Technical Operations” (SDOTO)** and the launch of a separate agency subordinated to the Council of Ministers – State Agency “Technical Operations” (SATO).
- **The new Commission of Forfeiture of Illegal Assets (CFIA)** (since February 2013). In 2013 of all the 3 348 signals, 2 951 checks were carried out (i.e. even more than in 2012), but only **one forfeiture case was launched**. The **Center for prevention and countering corruption and organized crime (BORCOR)** established back in 2010 under the supervision of the Council of Ministers did not succeed to give practical proofs of its utility as an executive tool.

The Judiciary in Anticorruption

- Loaded with high public expectations, the current **Supreme Judicial Council (SJC)** (October 2012), did not enhance the accountability and transparency of the judiciary. Non-transparent selection of delegates influenced by the administrative heads of the courts and prosecutor's offices.
- Non-transparent election of the **Prosecutor General** (December 2012).
- A number of **appointments** of administrative heads of various courts and prosecutor's offices in 2014 are viewed highly sceptically by judicial reform monitors.
- The **Code of Ethical Behaviour of Bulgarian Magistrates (2009)** does not discern the procedural roles of judges and prosecutors and their often different ethical duties.
- No specialized anticorruption courts. **Specialized criminal court** was formed in 2010 to examine organized criminal group cases. Jurisdiction of defined expansively without applying clear and justified criteria.

Corruption and the Economy

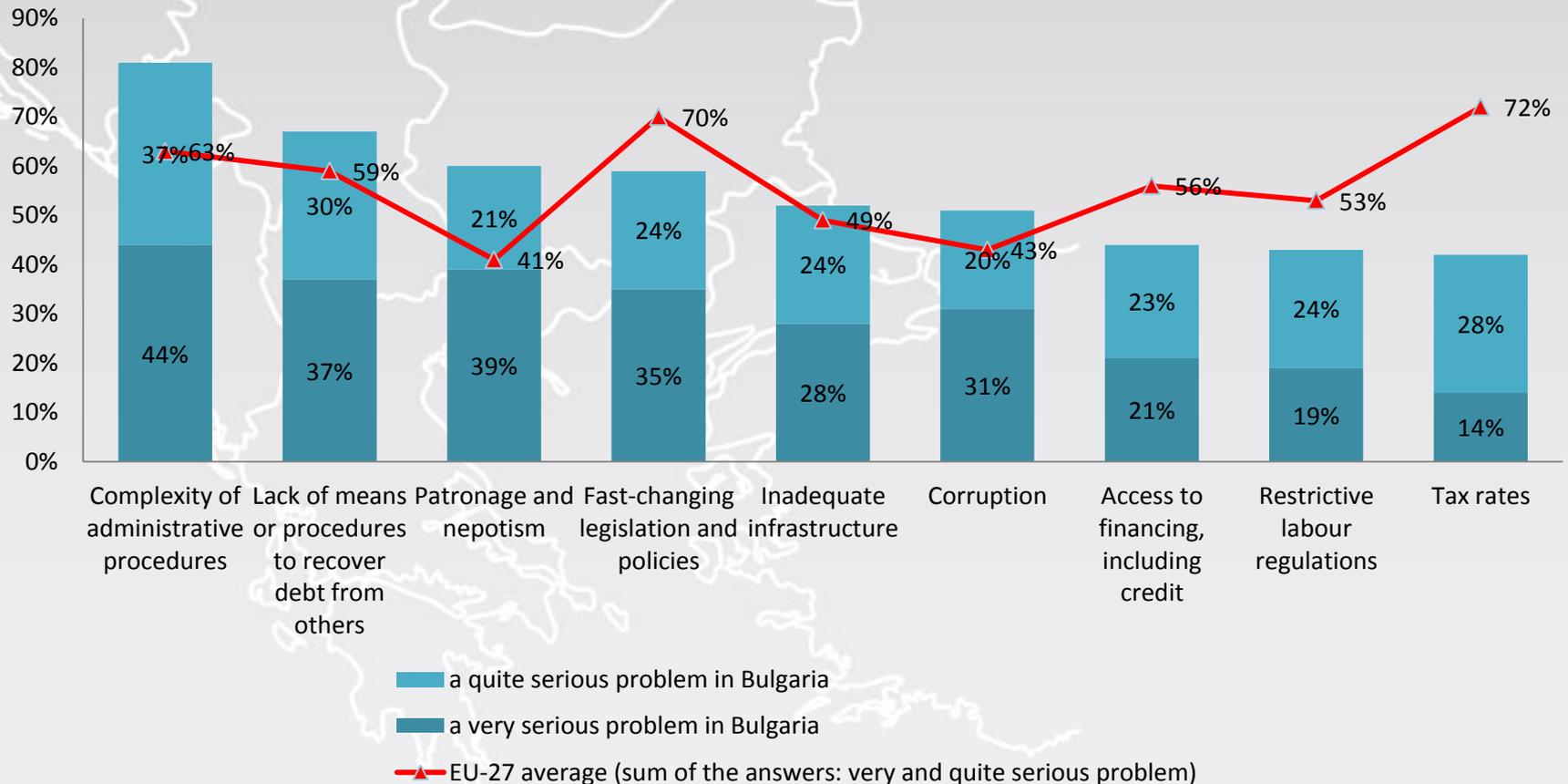
- The widespread corruption has clear consequences for the **willingness of businesses to invest** in Bulgaria.
- In 2013, **about 14%** of the adult population took part in corruption transactions **at least once per year**. (CMS)
- Bribes have in effect become **part of the price** for certain administrative services. (CMS)
- **Concentration and monopolisation of businesses** have pushed corruption to the higher strata of administrative and political power, at the expense of corruption at lower administrative levels. Higher competition among business groups to obtain certain benefits from the state. (CMS)

Corruption and the Economy

- Corruption is **obstructing the business**: Czech Republic (71%), Portugal (68%), Greece and Slovakia (both 66%), Bulgaria (51%). 85% of the Bulgarian and 69% of the European firms consider that bribery and the use of connections is often the way to **obtain public services**. (Eurobarometer survey 2013)
- 74% of the Bulgarian consider that people and businesses caught for bribing a **senior official** are not appropriately punished (64% EU average). (Eurobarometer survey 2013)
- 52% of the Bulgarians and 46% of the Europeans agree that appropriate punishments are being administered for **petty corruption**. (Eurobarometer survey 2013)
- Only 12% of the Bulgarians firms perceive that the corrupt persons will be **heavily fined or imprisoned** (most pessimistic among all EU-27 countries).

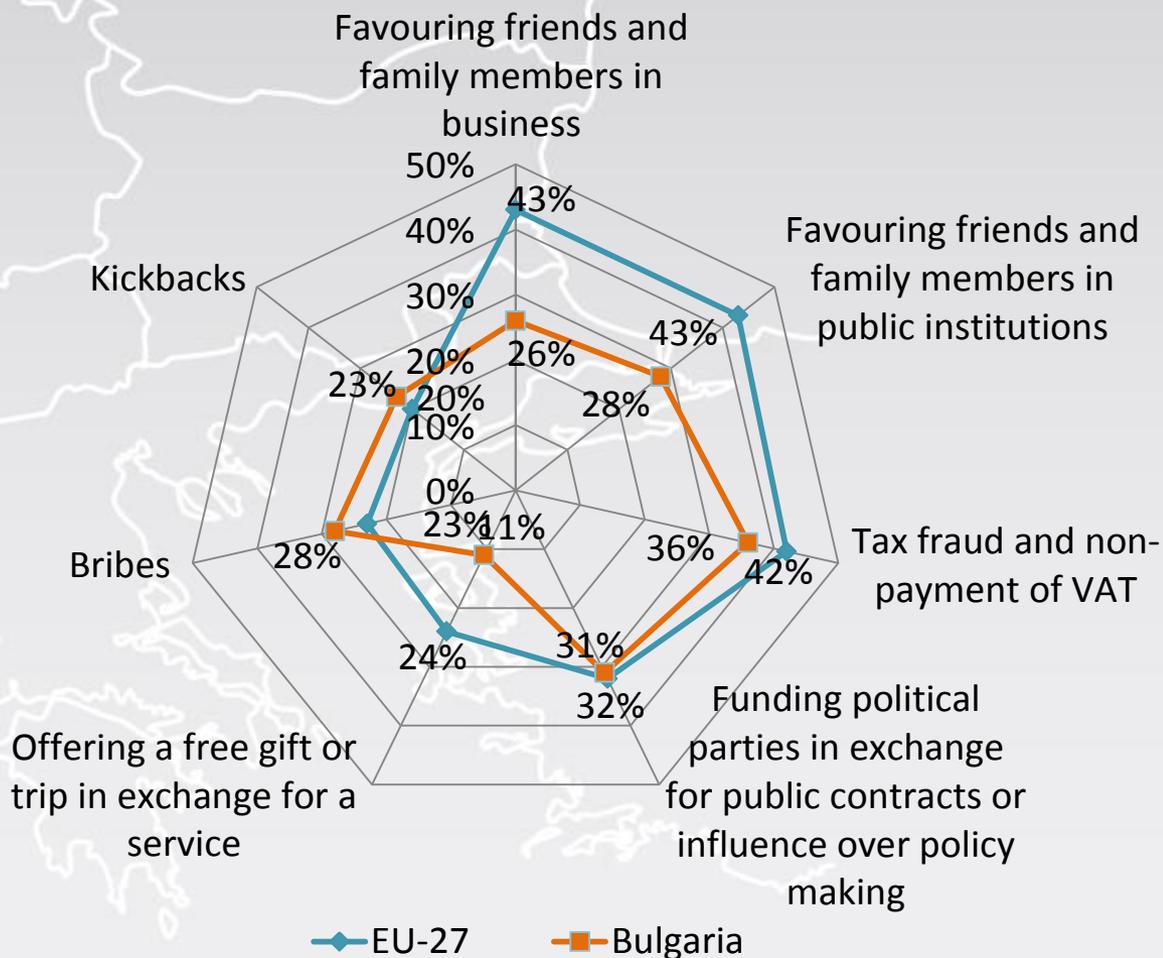
Corruption and the Economy

Problems encountered in doing business



Source: Flash Eurobarometer - Business, EC, 2013

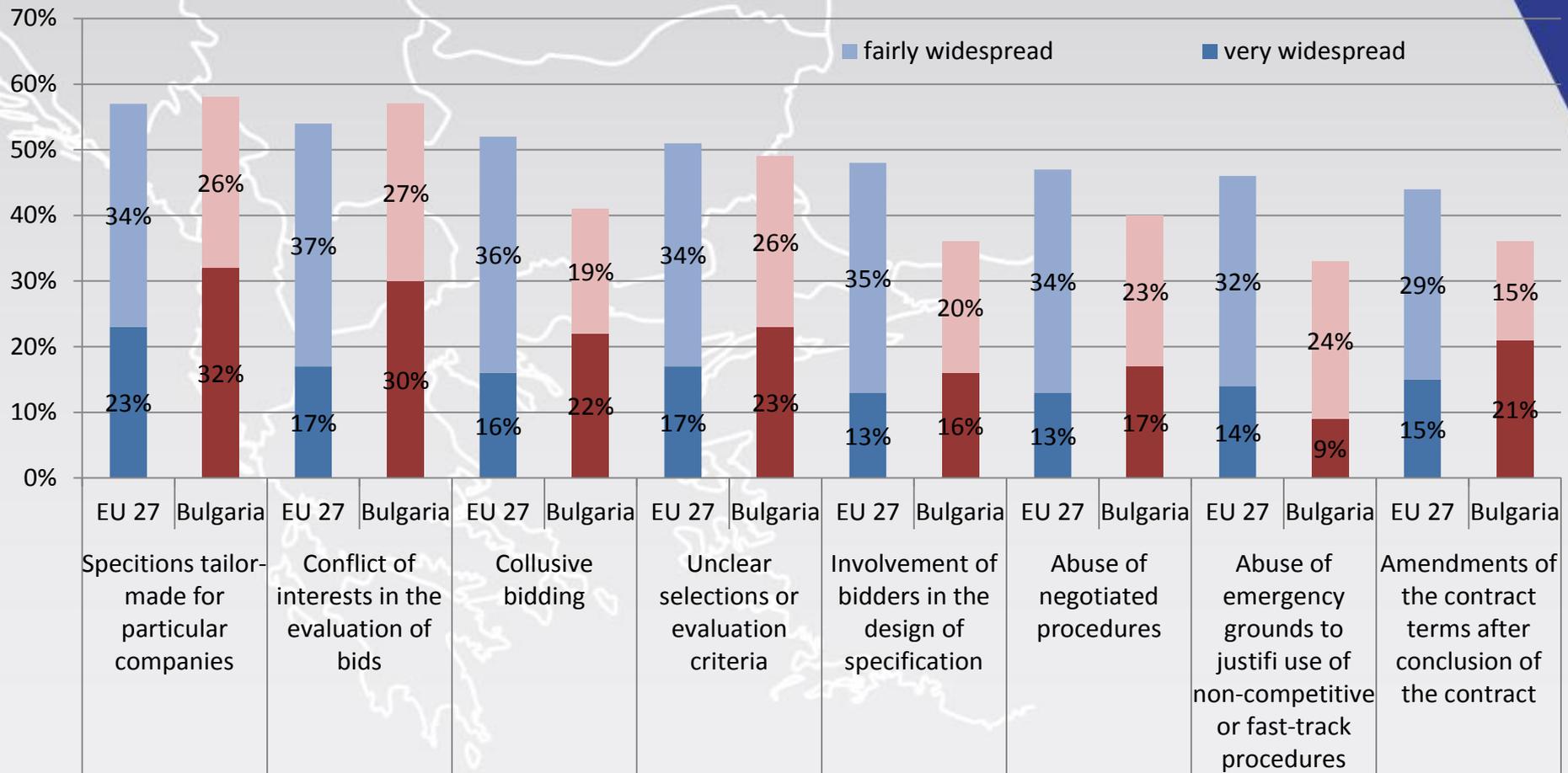
Which of the following practices do you consider to be the most widespread in your country?



Source: Flash Eurobarometer - Business, EC, 2013

Corruption and the Economy

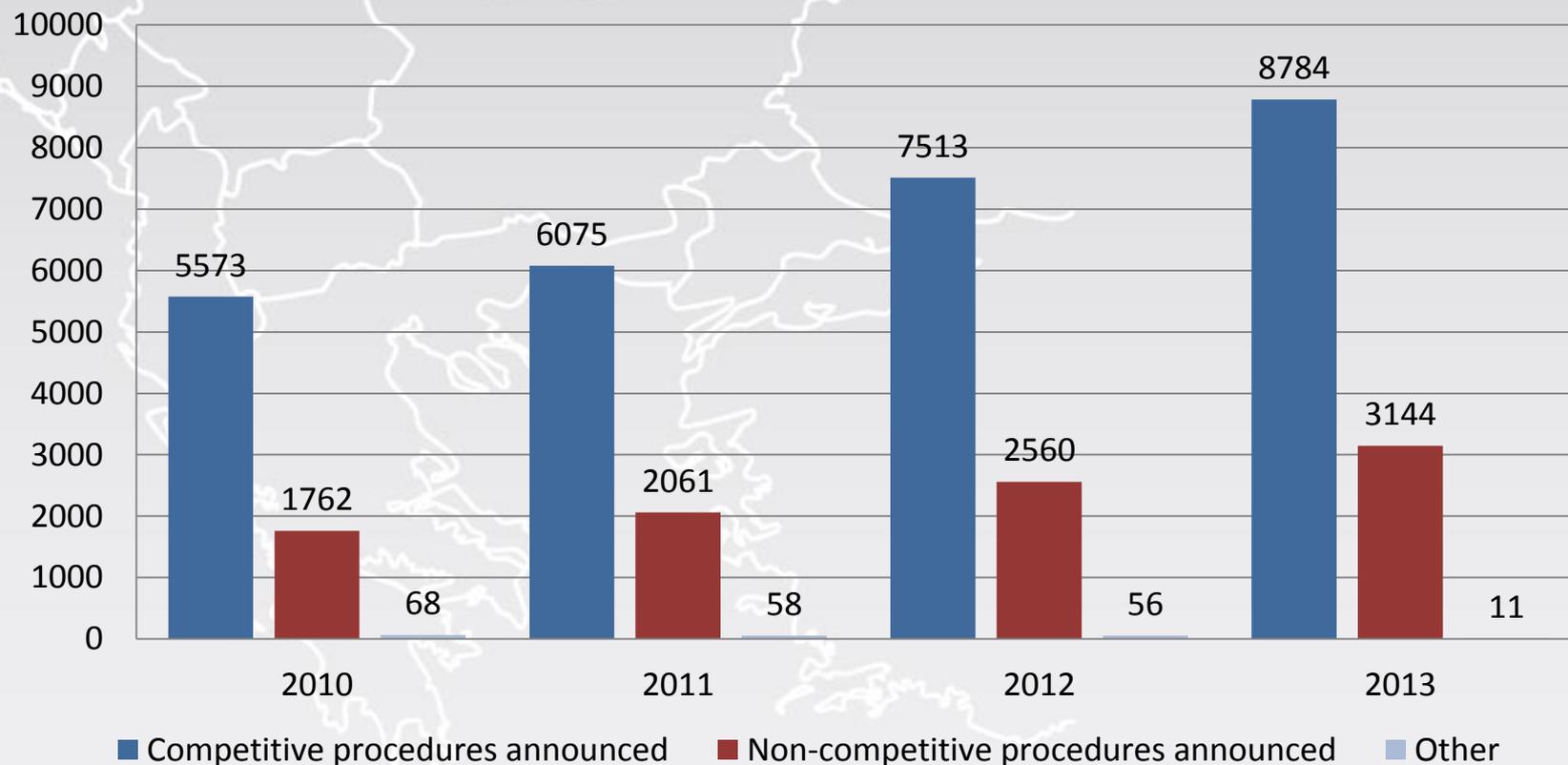
Irregularities in the Public Procurement



Source: Flash Eurobarometer 2013 (business).

Corruption and the Economy

Number of announced public procurements by type of procedure (2010-2013)

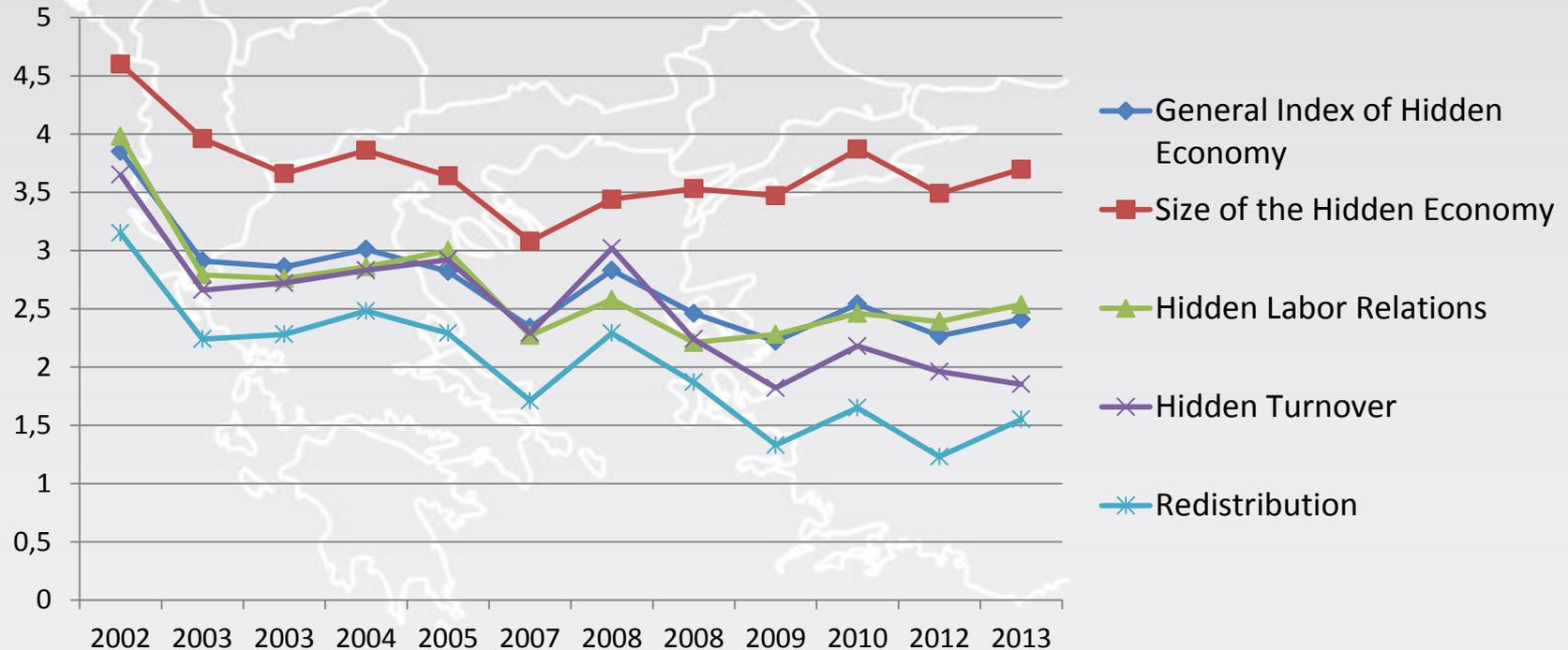


Source: Public Procurement Agency

The Hidden Economy

- Decrease over the last 10 years (economic convergence , checks, deepening of the credit markets, mandatory employment contract registration in 2003)
- Increase in 2013 due to high unemployment , consistent poverty, harsh labor market conditions, political instability

Hidden Economy Index 2002 – 2013



Source: *Hidden Economy Index*, Center for the Study of Democracy/Vitoshka Research, 2013.

The Hidden Economy

2013 *Hidden Economy Index*:

- In 2013 the hidden economy indexes show **slight increase**. For the whole 2002-2013 period the hidden economy levels have notably decreased. Relative progress during the 2011-2012 period, based on punitive measures in tax collection and regulatory changes, had only a **short-term effect**.
- Increase in **hidden employment**, estimated **BGN 245.6 mln (EUR 125,5 mln)** lost in social payments from underreporting and non-reporting of income in 2013.
- Increase in public perceptions on **tax evasion** and mild deterioration in terms of the government's tax collection rates.
- Almost **BGN 1.45bn (EUR 0,74 bn)** annually is lost to **VAT evasion** and social security contribution gaps (approximations, real figure could be even higher).

Civil Society in Anticorruption: the bright side

- Instruments for **social, political and economic transition**, which are independent from the political system, have limited path-dependence, small, competitive and legitimate partners of foreign state donors
- **Institutions of democracy and social entrepreneurship**, often in a privileged position vis-à-vis private business, hence subject to higher transparency and different motivation to work for
- Excellent success cases throughout the world in **mobilising grassroots and responsible businesses for public benefit**

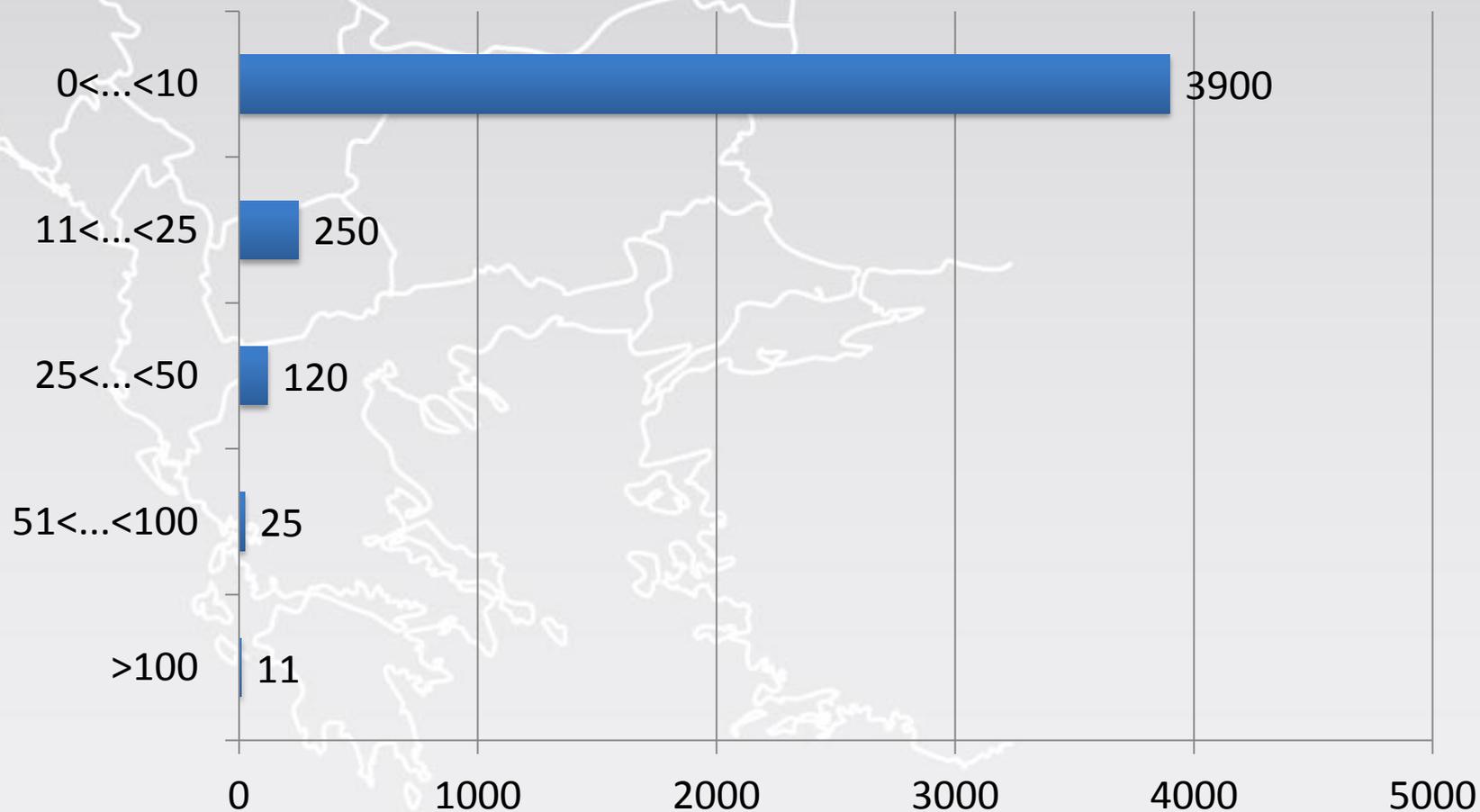
Civil Society in Anticorruption: the dark side

- **Similarly to state capture there is a civil society capture** where CSO instead of watchdogs become influenced by politicians through financial dependence, direct control by institutions or even by board participation.
- **Misuse of tax and other benefits or funds and low transparency and accountability undermines public trust in CSO** thus limiting the effect of the ones at the bright side
- **Outside effect:** some donors turning into management consulting and partners in crime for politicians

NGOs in numbers

- Close to 40,000 registered NGOs
- 25% active in terms of reporting to the National Statistical Institute (NSI)
- Just 11% socially insured at least one person in 2013 (compared to 16% in 2012)
- 30% of those reporting to NSI have income from commercial activities
- Half of those have more income from commercial activities than not-for-profit activities
- 25,000-30,000 people employed full or part-time in the sector

Number of NGOs by employed



Major areas of anticorruption engagement

- Monitoring of perceptions, attitudes and spread of corruption, gray economy and contraband
- Institutional innovations
- PPP in signaling irregularities and violations
- Awareness raising, civic activism and protests

Key lessons for efficient CSO sector

- Sequence:
 - accept (a problem),
 - agree (on measures) and
 - seek public support in implementing it
- Pillars:
 - significant level of trust (between involved parties),
 - international pressure for actions and results and
 - substitution avenue (alternatives for stakeholders in corruption)

Recommendations

- Improve procedural legislation, investigation process, collection of evidence, capacity of prosecutors and investigating authorities.
- Address delays in investigations and judicial proceedings. Consider revision of rules on provocation to bribery and introduction of lighter penalties for those cooperating.
- Pursuit of high level corruption.
- Reduce the corruption risk in public procurement.
- Adopt the necessary changes in the Criminal Code.
- Set in place a Law on Lobbyism.
- Provide effective administrative arrangements for whistleblowers.
- Speeding-up VAT re-funds and reducing control checks on law-abiding companies.
- Improve legal framework on late payments and business-to-business private debt. Targeting the practice of backdating insolvency.

Recommendations

- Use of e-Services and e-Justice.
- Strengthen the control on the state (natural) monopolies. Improve the enforcement of anti-monopoly legislation.
- Increase the quality of services, including payments from European programmes.
- Establish regular monitoring mechanisms and set common efficiency indicators across government regulatory agencies. Improve collection of statistical data on criminal cases, incl. corruption cases. Train investigating authorities how to collect evidence on corruption cases.
- The Prosecutor's Office needs to undergo further reforms. Expand the jurisdiction of the specialised court; pre-trial proceedings; increase the responsibility of the prosecution to conduct investigations; improve judicial practice for dealing with corruption cases.
- Increase publicity regarding corruption disciplinary proceedings.
- Find appropriate balance between preventive and punitive measures.

Thank you !

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