

Political Corruption Practices in Bulgarian Post-Communist Executive Power: Case Study Analysis of Bulgaria

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Executive Summary

“Political corruption,” as defined by Transparency International (2004) refers to “Political corruption is the abuse of entrusted power by political leaders for private gain.” (Transparency International 2004, 11) Its direct effect on democratic institutions reads for low level of accountability and transparency in their functioning. This explains the need of East European democracies in transition to develop various combating corruption mechanisms to curb the level of political corruption.

The purpose of my research is to define and analyze different corruption case studies of Bulgarian high ranking politicians and magistrates and their interactions with grey economy and organized crime.

The contribution of my research is to fill the gap in the existing Bulgarian corruption literature in providing a narrow in-depth qualitative analysis of particular cases of public officials at high political and judicial positions, in reference to abuse of state resources for personal enrichment and slow and ineffective proceedings conducted by the Bulgarian prosecution as well as to propose a definition of political corruption to be enacted in the Bulgarian legislation.

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Chapter I: Introduction

“Political corruption,” as defined by Transparency International (2004) refers to “Political corruption is the abuse of entrusted power by political leaders for private gain.” (Transparency International 2004, 11) Its direct effect on democratic institutions reads for low level of accountability and transparency in their functioning. This explains the need of East European democracies in transition to develop various combating corruption mechanisms to curb the level of political corruption.

The undermining effects of political corruption on the post-Communist countries contributed to the initiation of my research on Bulgaria. The goals of this research is: 1) to define, classify and analyze high ranking political and judicial officials in Bulgaria according to their status, scope of professional responsibilities, and practices of misuse of power; 2) to provide policy recommendations for enhancement of the Bulgarian combating corruption tools in the Executive, Legislative and Judiciary as well as filling the gaps of the present Bulgarian Legislative system in the financial laws and the Judiciary system, especially in enacting definitions of political corruption and audit.

Moreover, when one opens a Bulgarian newspaper, he/she finds:

German companies did not register any improvement in the traditional weak points of Bulgaria’s business environment: corruption, the lack of transparency in public procurements, as well as the poor state of the country’s infrastructure. These were the findings of a survey, published on April 9, carried out by German-Bulgarian Chamber of Industry and Commerce (GBCIC) among 61 member companies in February 2008.

(Sofia Echo [Sofia] , 18 April 2008)

Violations in reference to public procurement and tender procedures are present in many countries in the world but when foreign investors do not want to engage in business affairs with a country because of the presence of a weak state, such as the case of Bulgaria, this should be a clear signal that the country should change the course of its present politics in

strengthening its legal control in the public finance sphere and anticorruption monitoring. The problem is simultaneously important and controversial and it needs further research to be solved. This explains the significance of my MA Thesis, in terms of providing policy recommendations for the issue.

1.1. Case selection

The country, which I selected for my research is Bulgaria. The reasons for choosing Bulgaria as a case study for my research are two. First, it is a representative of the bloc of the East European Post-Communist countries, most of them now full members of the European Union but performing differently in reference to governance and institutionalization. In addition, European Commission questions recent performance of Bulgaria “the European Union's executive body and many of the bloc's 27 member states are growing increasingly dissatisfied with a failure by newcomers Bulgaria and Romania to tackle corruption and implement other reforms.” (Reuters [London] , 10 May 2008) My second criterion is based on the yearly ranking perception estimations for the level of corruption in Bulgaria by Freedom House (2006a) and Transparency International (2007).

Freedom House (2006a) rates Bulgaria's judicial performance lower than other East European transitional democracies, such as Czech Republic, Estonia, and Hungary. (Freedom House 2006a) Moreover, there is no significant improvement in assuring independence in Bulgarian Judiciary in the period of 2001-2006; it changed from 3.50 to 3, in a scale of 7 to 1, where 1 is the lowest level. (Freedom House 2006a) Certainly, this is an alarming fact for the efficiency of the Judiciary and it produced the need of my research in the Bulgarian high ranking magistrates' corruption practices, such as the Bulgarian Prosecutor General.

Transparency International (2007), “which reflects the findings of a public opinion survey focused on perceptions and experience of corruption by average citizens in 60 countries and territories,” expressed the same preservation of the status quo of the impotence of the Bulgarian Judiciary in its functioning. (Transparency International 2007) The performance of the Bulgarian Judiciary was rated as 4.4. In 2007, it changed slightly to 4.3. The ranking is made in a scale of 5 to 1, where 1 is the less corrupted. (Transparency International 2007)

Moreover, political parties and Parliament, respectively the Legislative are ranked with 4.3, which is one of the highest ranking in the period of 2004-2007. (Transparency International 2007) The preservation of the status quo in the inefficiency of the Judiciary and the negative trend for the performance of the Bulgarian political parties and Parliament instigated the second part of my research, respectively analyzing corruption violations in Bulgarian financial legislation by high ranking politicians.

1.2 The selected area of corruption

Initiating an investigation on political corruption is important for many reasons. In my evaluation, the most important for a scholar is to narrow down the scope of his/her research in order to produce a qualitative in-depth observation of the problem. Furthermore, Transparency International (2004) rightly outlines “After political parties, the next most corrupt institutions worldwide are parliaments.” (Transparency International 2004) Political parties comprise of high ranking politicians, whose decision-making in Parliament define the legislative framework of a country. Thereafter, my inspection of particular case studies from the professional practices of Bulgarian officials at high political level is worth for enhancing corruption fighting mechanisms and law system in Bulgaria.

1.3 Research Questions

During the development of my research, I will attempt to answer the following questions:

1. Why there is a high level of political corruption in Bulgaria?
2. What amendments should be implemented in the present Bulgarian anticorruption architecture and legislative system to enhance its efficiency?

Corruption in Bulgaria, in terms of particular case studies from the professional practices of Bulgarian high executives at both political and executive level, is quite understudied. Consequently, my contribution in this MA Thesis is to provide a new and interesting way for limiting the research to in-depth examination of crucial, in my consideration, examples of corruption violations of high ranking politicians and magistrates. The goal of the research is to fill gaps in the Bulgarian legislative system, proposing a definition of political corruption as well as to offer recommendations for solving of the issue at executive, legislative, and judiciary level.

1.4 Findings

My findings for the conditions, which contribute to the proliferation of political corruption, in particular high ranking politicians and magistrates and their connections with the grey market and organized crime in Bulgaria will be based on examination of three criteria:

- 1) governance. The concept is defined by Daniel Kauffman and al (1999) as:

the traditions and institutions by which authority in a country is exercised. This includes the process by which governments are selected, monitored and replaced; the capacity of the government to effectively formulate and implement sound policies; and the respect of citizens and the state for the institutions that govern economic and social interactions among them.

(Kauffman and al 1999, 1)

- 2) performance of the Bulgarian Judiciary system;
- 3) lapses in present Bulgarian Legislature and not effective adjudication of laws by the Bulgarian Judiciary.

The goal of my analysis in case studies of corruption violations by public officials at both high political and judicial levels based on the above-mentioned criteria, is to make preliminary conclusions for the low engagement of Bulgarian civil society in political corruption and anticorruption matters, which further contributes to the low institutionalization and ineffective Legislature in the country. Moreover, if the Judiciary is subordinated to the Executive, which is the case in Bulgaria, this presupposes an underdevelopment of a state, tending more to a dictatorship than to a democracy rule. Paul Hutchcroft (2002) explains this phenomenon in terms of the economic lagging of most East European post-Communist states as “each of these factors contributed to undercutting the emergence of a consolidated democratic system with clear norms and rules for the exercise of public office.” (Hutchcroft 2002, 63) In order for a democracy to function well, there should be a clear separation of its branches of power, respectively Executive, Legislative and Judiciary.

Political corruption is generally viewed as negative to the development of a state's economy and institutions. More precisely, it “erodes the institutional capacity of government as procedures are disregarded, resources are siphoned off, and public offices bought and sold.” (Wikipedia) Although there is still no consensus in the scholarly debate during the last years for the effect of corruption on state's institutions and economy, my understanding of the problem is as a contribution to the underdevelopment of a both state's financial system and institutional architecture.

Before examining the literature review on political corruption, I will introduce corruption in political financing, in particular abuse of state resources in the public sector, and

state capture, in its organized crime aspect, which I am going to explore in my case studies' analysis of officials at both high political and judicial levels. Below I will give brief conceptual framework of the relevant notions.

First, Transparency International (2004) describes corruption in party financing as "Corruption in political finance takes many forms, from the use of donations for personal enrichment to the abuse of state resources" (Transparency International 2004, 19)

Second, the dimension of the phenomenon, which I am going to assess in my case studies' analysis of high ranking corrupt politicians in Bulgaria, refers to abuse of state resources:

Certain state resources, such as money and infrastructure, that are available to office holders may be extensively used for electioneering. In addition, the political party or candidate may capture state resources through the unauthorised channelling of public funding into companies, organisations or individuals.

(Transparency International 2004, 20)

In terms of state capture, I will assess its applications in the Bulgarian context, reviewing and analyzing different case studies from the practices of Bulgarian high ranking magistrates, in the field of the prosecution. More precisely, the aspect of state capture, which I attempt to inspect in relation to the case studies equates to organized crime. For further clarification, here I provide a conceptual classification.

State capture in the words of Anti-corruption Resource Center refers to: the capacity of firms to shape and affect the formation of the basic rules of the game (i.e., laws, regulations, and decrees), through undue influence like private payments to public officials and politicians. [...] Alternatively, if interests outside of the state - private business interests in particular, and mafias- are the stronger party and able to shape the laws, policies, and regulations to their advantage, we are talking about state capture.

(Anti-corruption Resource Center)

Furthermore, the notion of organized crime in the Bulgarian context of state capture is most appropriately explained by Center for the Study of Democracy (2004):

Third, “purchase” of selective application of certain laws to the detriment of competitors. The third type (although almost invariably complemented with the first two types) is often characteristic of the strategies of organized crime and is particularly difficult to counter.

(Center for the Study of Democracy 2004, 10)

1.5 Literature Review

Now, I will present influential sources in the studies of political corruption and anticorruption to reveal the present gap in the literature, especially when applied to the Bulgarian context. At first glance, it may seem that my sources in the studies of political corruption and anticorruption are randomly chosen. By contrast, they all have in common their investigation of different types of political finance corruption, emphasizing on the abuse of power of high ranking politicians for personal gain. In addition, the review of the two most valuable in my consideration anticorruption researches on the case of Bulgaria attempts to explain the weaknesses of the Bulgarian institutional design in fighting political corruption and to propose effective tools for combating corruption in party financing. Below, I will introduce and analyze each of them briefly.

The first influential book on corruption, which I am going to introduce, is by James Scott “Comparative Political Corruption.” (1972) His understanding of the phenomenon is “corruption arises from demands people make on government.” (Scott 1972, 11) Although his research assesses political corruption in countries such as England, Thailand, and Ghana, the book is important for conceptualization of the problem, explaining its negative effect on both development of the state institutions and economy of a country, and a search for policy recommendations for successful solving of the issue, when applied to cases in Bulgarian political corruption practices.

Second publication, which I am going to examine is called “Ballots, Bribes, and State Building in Bulgaria” (2006), by Venelin Ganev. It deals with corruption related to party financing during 2001 Bulgarian national Parliamentary elections. The elections ended with no clear winner and the condition for forming a government was not successfully met “with 116 seats the envisaged coalition fell 5 short of the minimum required to appoint and maintain a stable government.” (Ganev 2006, 76)

The contradiction came from the NDSV (National Movement Simeon II), the party ruled by the former king of Bulgaria Simeon II, which “wanted nothing to do with parties like the BSP and the MRF.” (Ganev 2006, 76) The former stands for Bulgarian Socialist Party (BSP), while the latter for Movement for Rights and Freedoms. However MRF and NDSV established a grand coalition with BSP, forming a cabinet with Stanishev, the present Prime Minister of the Republic of Bulgaria. (Ganev 2006, 76) Although BSP and MRF are known for their “fiscal irresponsibility” as well as “political incompetence” NDSV chose them as partners in forming the coalition. (Ganev 2006, 76)

Moreover, Ganev (2006) introduced the concept of a “social bribery fund” in terms of MRF leader’s party campaign financing in 2005 Parliamentary elections. (Ganev 2006, 84) The leader, himself, “answered that he relied on a “circle of firms” that they gave him as much money as he needed, while in return he made sure that they were awarded as many government contracts as they wanted.” (Ganev 2006, 84)

To sum up, Ganev (2006) examination of the problem deals with political financing of party leaders for personal gain and reelection purposes. His research is not substantial on two grounds. First, the Bulgarian political scientist does not produce a systematic case selections analysis in reference to different political leaders’ corruption practices in financing of their campaigns during Bulgarian national parliamentary elections. Second, Ganev (2007)

inspection of political corruption does not cover cases of corruption in political financing, in terms of abuse of state resources. Consequently, the gaps in his analysis instigated my research on particular case studies from the professional practices of various Bulgarian political leaders in their misuse of public resources for personal enrichment.

Third publication refers to “Extricating the State: The Move to Competitive Capture in Post-Communist Bulgaria” (2007) by Andrew Barnes. The logic of his analysis can be summarized in the organized crime dimension of state capture applied in the Bulgarian context “the first electoral cycles in a new democracy they can bring to power new leaders who are not beholden to existing captors, but rather to other clients that would capture the state for their own interests.” (Barnes 2007, 71) This assumption refers to the initial stage of state capture in transition countries, which later on becomes “several competing groups fight with each other to raid it for their own benefits.” (Barnes 2007, 71)

Moreover, he introduced the concept of “partial reform equilibrium” in connection with the emergence of organized crime “in contrast to prevailing wisdom, it argued that the most significant opposition to market reforms would come not from the workers, retirees, and planners who stood to lose in the short run, but from the managers, bankers and corrupt officials who stood to gain from incomplete reforms.” (Barnes 2007, 74) Gradually, during next parliamentary elections, the power of this informal network evaded. (Barnes 2007, 74) The reasons behind this process were not enhanced legitimacy and transparency in Bulgarian economic legislation but rather “escaping the clutches of first-round winners can lead to a new kind of stasis.” (Barnes 2007, 74) Furthermore, Barnes (2007) describes this trend as “equilibrium of competitive capture”, which more precisely refers to “in the years after the fall of the old regime, successive elections open the possibility of dethroning first-round

winners by granting other economic groups access to state privilege. [...]Different groups fight with each other to raid it for their own benefits.” (Barnes 2007, 73)

However, according to my estimation, his research remains vague for two reasons. First, Barnes describes and analyzes organized crime in Bulgaria in its broad meaning as a detrimental process for the Bulgarian institution-building and economy. Second, the political scientist’s research mentioned some of the underground economic groupings in Bulgaria in the period of 1989-2007 but it did not focus on their illegal activities in particular cases. Both reasons justify the need for my research on particular case studies of Bulgarian high ranking magistrates’ corruption practices and their relation to organized crime.

Analyzing scholarly contributions in the existing anticorruption literature in Bulgaria is a very tough and unpromising task. For the time being, the publications are insufficient and they analyze corruption from a broader viewpoint. In my assessment, the two most important scholarly pieces, which deserve attention, are two sources by Ivan Krastev “How to Control Corruption in Southeastern Europe: The Case of Bulgaria” (2002) and “Methodology for Conducting Anti-corruption Audits in all Administrative Structures in the Executive Power and Judiciary” (2007) by Fred Shenkelaars. Below, I will analyze the two of them separately, pointing out the need for a further investigation in the Bulgarian combating corruption scholarly literature.

In “How to Control Corruption in Southeastern Europe: The Case of Bulgaria” (2002), Krastev refers to the concept of political corruption as “an overall crisis in the interaction between state and society, and between state and market.” (Krastev 2002, 120) His analysis on the problem of political corruption in Bulgaria stems from the presence of a weak state and non active engagement of the civil society in anti-corruption monitoring. Further on, Krastev (2007) questions the validity of Transparency International Perception Indices in

terms of their efficiency in measuring corruption “the second reason why corruption cannot be measured is that unlike other crimes, there are no “victims” of corruption and there is no one to report the crime.” (Krastev 2007, 122) The scholars’ research concludes with policy recommendations for improvement of the regulatory functions of the anticorruption institutions in Bulgaria “the strategy that I am proposing, which is based on new empirical data, calls for an awareness of corrupt governments, not of corrupt government ministers. This awareness will not be enough for the courts, but will be enough for the electorate.” (Krastev 2007, 125)

In my assessment, Krastev (2007) research is valuable on two grounds. First, he is a representative of one of the few political analysts in Bulgaria, who can give useful scholarly definition and diagnosis of the issue. Second, he stresses the importance of the engagement of the civil society in the fight against corruption “the new awareness produced by the anti-corruption lobby is also a new instrument of civic control that could be used effectively by the media, political parties and NGOs.” (Krastev 2007, 125) The need for an active Bulgarian watchdog organizations and media intervention in political corruption will be further investigated in my research on particular cases of corruption practices by high ranking politicians and magistrates.

As a matter of fact, Krastev (2007) inspection of the issue is weak, in terms of narrowing down the problem to in-depth examination of particular case studies of political corruption, in the sphere of political financing and misuse of state resources as well as defining particular anticorruption measures, which can be taken for their prevention. Consequently, the importance of my MA Thesis refers to the closer qualitative analysis of such practices and policy recommendations for filling the gaps in the present Bulgarian law system and anticorruption architecture monitoring at the Executive, Legislative and Judiciary.

“Methodology for Conducting Anti-corruption Audits in all Administrative Structures in the Executive Power and Judiciary” (2007) by Fred Shenkelaars represents the second most authoritative source in the present Bulgarian anti-corruption literature. In its essence, it is an integrity project, whose main functions are to define, analyze and provide policy recommendations for the present weaknesses in Bulgarian anticorruption institutions at the Executive, Legislative and Judiciary. The project was under the supervision of the Bulgarian Council of Ministers.

In my evaluation, Shenkelaars (2007) establishes a good initial basis for further investigation and tackling down the ineffective anticorruption governance in Bulgaria. On the one hand, this methodology is full of conceptual summaries and policy recommendations, which are useful for the initiation of my secondary analysis. On the other hand, the scope of the project is broad and it does not show how it can be applied to individual case studies. The latter provoked my ambition to begin in-depth qualitative analysis of particular case studies of corruption violations by Bulgarian high ranking politicians and magistrates.

1.6 Methodology

Answering my research questions as well as justifying my dependent variable demands collection and comprehensive examination of primary and secondary data, analysis of various theoretical approaches and analytical frameworks of institutionalization of legal economy in the Bulgarian case. The goal of my empirical justification to fill the lapses in the Bulgarian economic legislation, in terms of high ranking politicians and magistrates' corruption practices, will aim at providing policy recommendations for enhancing the monitoring functions of the present Bulgarian anticorruption bodies.

In this particular case of searching for behavioral interactions among different individuals and finding controlling mechanisms for violation of legal and institutional norms

necessary for a well-functioning democracy, the qualitative method of research is the best choice among all the other methods of investigation. George Boeree (1998) supports this viewpoint explaining “in the process of manipulating, measuring, and controlling variables, it is a matter of practicality to go down a level- of-analysis. Hence the predominance of physiological and information-processing explanations for human behavior.”(Boeree 1998, 5)

Furthermore, the literature review, in particular researchers on political corruption in Bulgarian political economy, will attempt to facilitate the process of my qualitative comprehensive evaluation. On the one hand, their concepts will help for defining and analyzing the problem of political corruption in my research. On the other hand, their interpretations of the problem will remain limited and incomplete in reference to country reports assessment of political corruption in Bulgaria conducted by Bulgarian and international watchdog organizations such as the Center for the Study of Democracy, Transparency International Bulgaria, Transparency International, Group of Countries Against Corruption (GRECO), Council of Europe, Vitosha Research which express the need for further investigation of the problem.

My empirical research will continue in library-based lines. Published sources indeed will be crucial for evaluation of the independent variables in the comparative case study. Examination of financial legislation in reference to anti-corruption policies as well as policy reports will be examined in on-line journals, newspapers, web sites of research groups and institutions in the selected country. My qualitative analysis will be mainly established on primary sources from research groups such as Center for the Study of Democracy, Freedom House, Transparency International Bulgaria, Vitosha Research, and Open Society.

Moreover, some violations of institutional and legal norms by officials and politicians from the media space as well as books and working papers will be included as secondary

sources in the present research. The fieldwork component of the research will be based on Open Society's, Transparency International Bulgaria, and Center for the Study of Democracy archives. My secondary sources will be primarily based on two influential Bulgarian journalist qualitative researches, respectively Kozhuharov (2007) and Zlatkov (2007) and authoritative national newspapers such as Kapital, Dnevnik and Standart.

1.7 General Structure of the MA Thesis

First Chapter, respectively Introduction, has a mapping function for the problem of political corruption in reference to high political and judicial officials. Justification for the high level of political corruption is found in Freedom House (2006a) and Transparency International (2007). The main terms, respectively political corruption, governance, political financing, state capture and organized crime are conceptualized. The benchmark framework, in particular, not functioning judiciary, governance (ineffective anticorruption institutionalization), problematic legal system, ineffective adjudication of laws by the judiciary, is settled. Conclusions are made for the non active Bulgarian civil society. The scholarly literature is reviewed, explaining the needs for more research in the issue.

Chapter II of the MA Thesis maps and differentiates main Bulgarian anticorruption bodies, GRECO (2005) framework for combating corruption in respect to its Theme I- Proceeds of Crime. The Chapter also adds my personal revision of gaps in the present Bulgarian legislation in terms of political financing, misuse of power, state capture and organized crime.

Chapter III of the MA Thesis defines and categorizes high ranking officials at political level. The chapter also analyses case studies of high political executives in reference to improper appropriation of public resources, illegal public procurement and tender procedure

contracts. Preliminary conclusions are drawn for the ineffective institutionalization in regulation of the cases under discussion and insufficient civil society engagement.

Chapter IV of the MA Thesis defines and categorizes high ranking magistrates. It provides an in-depth analysis of case studies from the judicial practice of high ranking magistrates on accusation of corruption in terms of hampering of the work of the prosecution in investigating criminals. The preliminary conclusions are in compliance with the conclusions established in the previous Chapter.

Chapter V of the MA Thesis proposes policy recommendations, in terms of filling gaps in the present legislation and improving transparency of the anticorruption bodies in the Executive, Legislative and Judiciary.

Chapter II Review and Organization of Bulgarian Anticorruption Model

My Introduction chapter targeted the problem of the high level of political corruption in Bulgaria, in particular high ranking politicians and magistrates and their connections with grey economic structures and organized crime. The chapter also provided evidence for the proliferation of political corruption in the country by evaluation reports provided by Freedom House (2006a) and Transparency International (2007). The scope of the corruption was established, only high ranking politicians and magistrates will be included in the research. The literature review was proposed and analyzed in terms of its insufficient development of political corruption and anticorruption studies in Bulgaria, which contributed to the need of an instigation of a new research in the field. The methodology was clarified as a qualitative research based on in-depth examination of reports of the main Bulgarian and international watchdog organizations, media coverage and publications.

Present chapter will define and categorize the responsibilities of the main anticorruption bodies in the Executive, Legislative and Judiciary in Bulgaria and Group of States against Corruption GRECO (2005) framework, in particular its Theme I-Proceeds of Crime. The chapter will also review and examine gaps in the present legislation in Bulgaria based on my analysis of laws on public procurement, internal audit for public expenditures, conflict of interest declarations of executives of high political and judicial levels.

2.1 Mapping of the Main Anticorruption Bodies in Bulgaria

My definitional framework and the classification of the anticorruption bodies will be based on the influential Shenkelaars (2007). This source represents a great authority in researching the current anticorruption architecture in Bulgaria because of the scarcity of the available scientific documentation in the field. Thereafter, my definitional framework and

classification of the main anticorruption bodies in Bulgaria will be primarily based on his report and GRECO (2005), the second most influential source analyzing the subject under discussion.

First of all, the National Strategy on Combating Corruption was adopted in 2001 by the Bulgarian government. (GRECO 2005, 9) Its directions of development include “introduction of anticorruption measures within the judicial system; improvement of tax and financial control, strengthening of anticorruption co-operation among the public institutions and of international cooperation.” (GRECO 2005, 9)

Further on, Fred Shenkelaars (2007) explains that an Action Plan was adopted for the monitoring of the proper implementation of the strategy. (Shenkelaars 2007, 15) Commission on Prevention and Countering Corruption (CPCC) was assigned to review and assess corruption measurement, risky areas and enforcement. (Shenkelaars 2007, 15) Decision No. 61, February, 2 2006 of the Council of Ministers made possible its formation. (Shenkelaars 2007, 15) The Action Plan was updated for the last time in 2006, while Commission on Prevention and Countering Corruption (CPCC) remains the main body responsible for good governance and prevention of corruption. (Shenkelaars 2007, 15)

Regulating anticorruption bodies in the Executive power are the Commission on Prevention and Counteracting Corruption (CPCC), General Inspectorate Directorate at the Council of Ministers (GIDCM), Inspectorates at ministries and Regional Anticorruption Public Councils (RAPC), respectively in the Judiciary they include Anticorruption Commission (ACC) at the Supreme Judicial Council and The Prosecutor General Office, while in legislative—the Combating Corruption Committee of the National Assembly (CCC). (Shenkelaars 2007, 15)

2.2 Conceptualization and Classification of the Anticorruption Bodies in Bulgarian Executive System

Commission on Prevention and Counteracting Corruption (CPCC) replaced the previous Commission for Coordinating the Activity for Combating Corruption (CCAC) in the period of 2006-2008. (Shenkelaars 2007, 15) Chairman of the Commission is the Minister of the Interior of Republic of Bulgaria. (Shenkelaars 2007, 15) Vice Chairmen are Bulgarian Minister of Justice and the Minister of State Administration. (Ministry of the Interior of the Republic of Bulgaria) Its members consist of the Minister of Finance, Minister of European Affairs, Deputy Minister of Education and Science, Deputy Minister of Health, Chairman of the National Audit Office, Director of the Public Internal Financial Control Agency to the Minister of Finance, Director of the Financial Intelligence Agency to the Minister of Finance, Executive Director of the National Revenue Agency, Director of Customs Agency to the Minister of Finance, Secretary of Security Council to the Council of Ministers, Director of Strategic Planning and Governance Directorate within the Council of Ministers administration, Director of Coordination on the Issues of the European Union and of the International Financial Institutions Directorate within Council of Ministers administration. (Shenkelaars 2007, 15)

The Commission's main priorities include a State Anticorruption Policy as well as control and coordination over the implementation of the strategy and a program for transparent governance for prevention and counteraction of corruption. (Shenkelaars 2007, 15) The implementation of the State Anticorruption Policy refers to the Commission's proposals for government activities on a yearly basis, selection of the most flexible instruments for the effective prevention of political corruption, international parties' relations. (Shenkelaars 2007, 15) The Commission simultaneously should review and monitor information about the measures against corruption and the effective combating of corruption

in developing a benchmarking system for the successful implementation of the anticorruption bodies by the anticorruption bodies. (Shenkelaars 2007, 15)

The Commission is also responsible for the preparation of a six months report as well as to be an advisor to the Prime Minister in monitoring the activities of the General Inspectorate Directorate at the Council of Ministers (GIDCM). (Shenkelaars 2007, 15) Last but not least in importance, the Commission should actively facilitate the work of different civil society agencies in their research on spread of political corruption and its relation to underground businesses. (Shenkelaars 2007: 15-16)

General Inspectorate Directorate at the Council of Ministers (GIDCM) is directly subordinated in its functions to Commission on Prevention and Counteracting Corruption (CPCC). (Shenkelaars 2007, 15) Its creation was possible because of Article 46a of the Public Administration Act last amendment in December 2006. (Shenkelaars 2007, 16) More about its function can be found in “section IIb, Article 92b of the Structural regulations of the CoM and its administration.” (Shenkelaars 2007, 16) It is also responsible for the technical assistance to the CPCC. (Shenkelaars 2007, 16) This function of the General Inspectorate Directorate at the Council of Ministers (GIDCM) can be checked in Decision No 61 from 2006 of the Council of Ministers, item 18. (Shenkelaars 2007, 16) This body is involved in the monitoring and assessment of the Anticorruption strategy enactment in risk detecting, audit implementation, proposing analysis and recommendations and measures varying from prevention to corruption measurement. (Shenkelaars 2007, 16)

The activities of the General Inspectorate at the Council of Ministers (GIDCM) are organized on a national level. It assists Commission on Prevention and Counteracting Corruption (CPCC) but also serves as an intermediary among the inspectorates in different ministries. Despite the importance and intensity of the activities which it has to cover, its staff is still comprised from six members. (Shenkelaars 2007, 16) It reviews information from

different in-line ministerial inspectorates and provides guidelines for a successful coordination among the inspectorates. (Shenkelaars 2007, 16) General Inspectorate at the Council of Ministers (GICM) and ministerial inspectorates meet on a regular basis to discuss, assess and eliminate current weak points in combating corruption. (Shenkelaars 2007, 16) After gathering all of the existing information from the in-line ministries, the General Inspectorate at the Council of Ministers (GICM) proposes to the Prime Minister to develop a coherent methodology and to make necessary investigations in fields prone to corruption. (Shenkelaars 2007, 16) However, although the General Inspectorate at the Council of Ministers (GICM) has the power to investigate political corruption of officials on highest governmental level, there are still not evident cases about that. (Shenkelaars 2007, 16)

Inspectorates in ministries are formed under Article 46 of the Public Administration Act.¹ (Public Administration Act, Article 46, APIS Law 2006) Heads of inspectorates are the ministers to the relevant ministries. (Shenkelaars 2007, 16) Inspectors' requirements can be found in Article 46b, defined as civil servants working in the Inspectorates. (Shenkelaars 2007, 16) The regulation of the activities of the Ministry of Health is produced in Article 17 of the Structural regulation of the Ministry of Health and the correspondent monitoring to the Ministry of Education and Science is given through Article 30 of the Structural regulations of the Ministry of Education and Science. (Shenkelaars 2007, 16) The inspectorates report to the corresponding minister, the General Inspectorate and the Council of Ministers. (Shenkelaars 2007, 16) Inspectorates are administrative units directly involved into the anticorruption activities and the relevant anticorruption bodies. (Shenkelaars 2007, 16) The inspectorates exercise control on a national level, they are mainly involved into the implementation of the Anticorruption strategy through audits and check-ups on signals on corruption. (Shenkelaars

¹ All of the references are taken from Laws, Acts and Regulations in the Bulgarian Legal System. <http://www.apis.bg/en/products/apis-law.html> (accessed May 1-May 30, 2008)

2007, 16) The inspectorates mainly report to the relevant ministers and to the General Inspectorate of the Council of Ministers. They do not have a direct connection with the Secretary General of the internal audit unit. (Shenkelaars 2007, 16)

2.3 Conceptualization and Classification of the Anticorruption Bodies in Bulgarian Judiciary System

Before I move to the next chapter, I would define and analyze the anticorruption bodies in the Bulgarian judiciary system and most of the necessary legal instruments already present in the Bulgarian legislation in reference to the evaluation of Council of Europe GRECO (2005).

The Anticorruption Commission (ACC) at the Supreme Judicial Court represents the chief anticorruption regulatory body in the judiciary system. Its formation was possible because of a Decision of the Supreme Judicial Council. (Shenkelaars 2007, 17) The Prosecutor General Office is the second main body in fight against corruption at a judicial level. It divides into two sections, respectively Supreme Prosecution of Cassation (SPC) and Supreme Administrative Prosecution (SAP). (Shenkelaars 2007, 18) Of our main concern is the latter, whose functions are in public prosecution in criminal investigations and court cases. (Shenkelaars 2007, 18)

The main unit in the Prosecutor General Office responsible for anticorruption monitoring is called “Counteracting Organized Crime and Corruption.” (Shenkelaars 2007, 18) Its scope of functions varies from repression to conducting of audits in the prosecution executed by the Inspectorate of the Supreme Prosecution Office of Cassation (SPC). According to Article 171 from the Law for Defense of the Judiciary Power:

The decisions of the Commission on Prevention and Countering Corruption (CPCC) containing evidence for corruption behavior from magistrates and administrative staff in the judicial bodies are directly reported to the Supreme Judicial Council and the relevant judicial sections for implementation of immediate disciplinary procedures.

(Bulgarian Supreme Judicial Council)

2.4 Conceptualization and Classification of the Anticorruption Bodies in Bulgarian Legislative System

It is interesting to note that in order to facilitate coordination and cohesion among the division of the three powers in Bulgaria, respectively Executive, Legislative, and Judiciary, there is an anticorruption body on a legislative level as well. As Shenkelaars (2007) outlines the Combating Corruption Committee of the National Assembly (CCC) was “established by a 2002 amendment in Article 17, para 2, sub para 21 of the Regulation on the Organization and Activities of the National Assembly.” (Shenkelaars 2007, 18) The functions of the Committee are to report to the Parliament under procedural rules in the same regulation. (Shenkelaars 2007, 18) The committee meets on a regular basis with Citizens’ Advisory Council, which is “established by a Decision No 10 from 24 Nov 2005 of the parliamentary CCC and its statute is available on the webpage of the parliamentary CCC.” (Shenkelaars 2007, 18)

The committee helps the National Assembly to prepare bills, draft resolutions, declarations and makes reports with recommendations for improvement of transparency in the vulnerable spots of political corruption in the country. (Shenkelaars 2007, 18) The Committee represents a good starting point for the enhanced relations between the civil society and the Legislative system in Bulgaria because on its meeting are invited “representatives of state, industrial or public organizations, scientists and experts.” (Shenkelaars 2007, 18)

The committee also establishes the link between members of the Parliament and the Judiciary. (Shenkelaars 2007, 18) In order to achieve better coordination and accountability first within the committee itself, “the National Assembly may alter the type, number and composition of the Combating Corruption Committee.” (Shenkelaars 2007, 18) Now, its composition is made under a proportional representation of different Parliamentary groups,

which could be a reason for the maintenance of close ties with officials at high governmental and judicial level. (Shenkelaars 2007, 18)

2.5 Mapping and analyzing GRECO (2005) Evaluation Report on Bulgaria, Second Round, Theme I—Proceeds of Crime.

First of all, I will introduce confiscation as a sanction for a deprivation of the instrumentalities of a corrupt crime. (GRECO 2005, 3) It is “provided as a mandatory sanction for aggravated cases of passive bribery” (GRECO 2005, 3) Forfeiture is “a deprivation measure applied notwithstanding penal responsibility.” (GRECO 2005, 3) It is important to note that “both confiscation and forfeiture are applicable only in respect with natural persons.” (GRECO 2005, 3) Furthermore, GRECO (2005) suggests that in order to improve transparency in money laundering related to political corruption and underground economy, amendments in both confiscation and forfeiture should be executed, whereas the new applications of Article 302b, Article 302a and Article 307a should include not only natural persons but also legal persons and governmental officials. (GRECO 2005, 8)

Moreover, Law on Citizens’ Property, which now reads for “property and expenses obviously exceed the legal income of the person concerned, are presumed illegal and are forfeited in favor of the State,” should also include legal persons in order for illegal exchanges of properties among political leaders to seize. (GRECO 2005, 4) The expert team of (GRECO 2005) concludes that for the time being:

No statistics exists on the number of cases in which confiscation and forfeiture have been adjudicated, including in corruption cases. Similarly there is no information on the number of corruption cases in which interim measures have been applied or on the value of property seized under ethical criminal or civil law procedures.

(GRECO 2005, 5)

In my assessment, this statistics shows only the inability of the anticorruption bodies and judicial system to adjudication of corruption cases of natural persons. Moreover, the

situation needs more attention in the sphere of political corruption of officials at high governmental level, where for the time being forfeiture, confiscation and Law on Citizens' Property could not be applied not only because high executive officials are not included in the current relevant articles from the Bulgarian penal codes but also because there is no definition of political corruption implemented in the present Bulgarian legislation.

2.6 Review and Evaluation of the Present Bulgarian Legal System

Next in my analysis of the present profitable environment for political corruption of high governmental officials in Bulgaria in reference to its present legal basis, comes the Public Procurement Act. First, I will provide Article 2 as an operational definition of the law and two of its main articles prone to political corruption practices, respectively Article 5 (1) and Article 9.(Public Procurement Act, APIS Law 2006) Afterwards in my next chapter I will examine its vague or absent implementation, respectively in the cases of Ivan Markov, CEO of "Mini Maritsa Iztok" LTD, a member of the Supreme Council of the Bulgarian Socialist Party (BSP) and a counselor of the former Bulgarian Minister of Economy and Energy, Rumen Ovcharov, Lyudmil Stojkov a manager of "Eurometal" Pernik, Sergei Stanishev, present Prime Minister of the Republic of Bulgaria, and Stajko Genov, a Chairman of the Bulgarian Socialist Party (BSP) Article 2 of the Public Procurement Act states:

(1) (Renumbered from Article 2, SG No. 43/2002) The purpose of this Act is to improve the efficiency in utilization of budget and public financial resources through:1. achieving transparency;2. exercising effective control over the spending of such resources;3. ensuring conditions for competition;

(Public Procurement Act, Article 2, APIS Law 2006)

Furthermore, Article 9 from the Public Procurement Act states:

Public procurements shall be awarded according to a procedure provided for in this Act in accordance with the following principles:1. guaranteed public openness of the award procedure and transparency;2. free and fair competition;3. affording equal opportunities for participation to all candidates and tenderers;

(Public Procurement Act, Article 9, APIS Law 2006)

In fact, the above-mentioned Articles from the Public Procurement Act reveal an already established legal basis through which violations in the public procurement area should be investigated by the prosecution. In addition to the already established Public Procurement Act, Transparency International Bulgaria (2006) gave a high award for the new amendments which were introduced in the law. (Transparency International Bulgaria 2006, 23) Moreover, Transparency International Bulgaria (2006) maintains that the law “surpasses the already found difficulties in the application of the law, encourages competition and efficiency and reduces the risk of corruption.” (Transparency International Bulgaria 2006, 23) The review continues in positive lines because of the introduced in the public procurement act “texts with anticorruption nature which help reducing the conditional regimes, the terms and procedures as well as the administrative proceeding are officially announced” (Transparency International Bulgaria 2006, 23)

Ruminating over the transparency in the procurement process in Bulgaria, we could not bypass Financial Audit in the Public Sector Act, State Inspection Act and National Audit Office Act. (Shenkelaars 2007, 18) At first glance, it again seems that the Bulgarian legislation has all the necessary tools to execute and control internal audits in the public sector. Moreover, Transparency International Bulgaria (2006) is enthusiastic about:

A law for amendment and application for the Law on state internal control is enacted with which Article 14, which stated 10% from the revealed and recovered amounts for detrimental causes, is removed from the Agency of State internal financial control. The function of the financial auditor is enacted, who realizes control in advance in regards to the legality of the responsibilities and the executed expenditures. There is a division of powers in the control, authorization, and accountancy of the undertaken responsibilities and executed expenditures.

(Transparency International Bulgaria 2006: 23-24)

However, examining my cases in reference to high ranking politicians' violations to public procurement and tender procedures, which are related to the names of Ivan Markov, CEO of "Mini Maritsa Iztok" LTD, a member of the Supreme Council of the Bulgarian Socialist Party (BSP) and a counselor of the former Bulgarian Minister of Economy and Energy, Rumen Ovcharov, Lyudmil Stojkov a manager of "Eurometal" Pernik, Sergei Stanishev, present Prime Minister of the Republic of Bulgaria, and Stajko Genov, a Chairman of the Bulgarian Socialist Party (BSP), will clearly show that the mentioned above acts from the Bulgarian legal system not work in practice on both implementation and monitoring levels. According to my evaluation, the review of the Public Internal Financial Control Act updated for the last time in 2006, especially Chapter II, Agency Structure, Article 1 and Article 8 is important in relation to amendments which should be made in the law in order to function effectively. For more clarity on the issue, Article 1 state:

(1) This Act shall define the scope and performance of public internal financial control as well as the organisation and the powers of the authorities, which exercise it.(2) Public internal financial control shall be managed and exercised by the Public Internal Financial Control Agency, hereinafter referred to as the "Agency".

(Public Internal Financial Control Act, Article 1, APIS Law 2006)

The function of introducing this Article is to explain the general structure and functions of the Agency for Financial Control represented in the Bulgarian legislation. The misunderstandings in the monitoring and controlling functions of the agency come from the next Article which I have chosen, more precisely, Article 8 explains the following:

(1) The Agency shall have the following functions:

1. It shall plan, manage and implement an integrated policy in public internal financial control and shall supervise the overall public internal financial control activity; 2. Define the functions of the internal auditors; 3. Provide instructions on the methodology of the exercise of public internal financial control and be responsible for their uniform implementation

(Public Internal Financial Control Act, Article 8, APIS Law 2006)

Various ambiguities can be seen in the above-mentioned Article. I will begin analyzing the “2. Define the functions of the internal auditors.” (Public Internal Financial Control Act, Article 8(2), APIS Law 2006) First of all, not only Public Internal Financial Control Act but also Public Sector Act, State Financial Inspection Act, and National Audit Act experience operational problems in defining the concept of “audit.” (APIS Law 2006) They simply do not have a clear definition of the term and this contributes to the malfunctioning of the whole Bulgarian Legislature in implementation and monitoring of internal audit. Consequently, the Public Internal Financial Control Agency could not “define the functions of the internal auditors” as well. (Public Internal Financial Control Act, Article 8 (2), APIS Law 2006)

In practice, this definitional deficit of audit could be seen as a precondition for a domino effect for the whole organization of Article 8 from the Public Internal Financial Control Act and respectively making impossible the Agency to provide methodology for the implementation of state financial control, make a risk assessment of weak spots in unjustified public expenditures, ensure repression and prevention measures in case of political corruption of officials at high political levels in reference to procurement and tender procedures and their close personal relations with CEOs and managers of underground structures. (Public Internal Financial Control Act, APIS Law 2006) My next chapter will examine the problems, which this definitional gap in the law instigates for the ineffective adjudication by the Agency for the Financial Control again in reference to Ivan Markov, CEO of “Mini Maritsa Iztok” LTD, a member of the Supreme Council of the Bulgarian Socialist Party (BSP) and a counselor of the former Bulgarian Minister of Economy and Energy, Rumen Ovcharov, Lyudmil Stojkov a manager of “Eurometal” Pernik, Sergei Stanishev, present Prime Minister of the Republic of Bulgaria, and Stajko Genov, a Chairman of the Bulgarian Socialist Party (BSP)

Examining internal financial audit control of public spending by officials at high political level, one could not omit the conflict of interest declarations which these executives have to fill out for ensuring transparency and accountancy in their relations with public procurement, tender procedures and the private sector as a whole. High ranking officials such as Secretary Generals and ministers should submit them every year until March, 31. (Shenkelaars 2007, 19) The declarations should be monitored by the inspectorates and Secretary Generals, which is clearly stated in Article 46a, para.2, subpara 3 and 5 of the Law for the Civil Servant “inspectorates and Secretary Generals examine received signals of conflict of interests and other violations of the official duties; examine received signals for corruption of bodies of the executive power and civil servants, holding managerial positions, implement inspections and shall inform the Prime Minister of the results.” (Article 46a, para 2, subpara 3 and 5 of the Law for the Civil Servant, APIS Law 2006)

However, in practice this monitoring by the Inspectorates and the Secretary General is not well-coordinated because there is no reciprocity and accountancy on their reporting function to the General Inspectorate. The latter could not review the declarations as a final authority and afterwards to submit them to the Prime Minister in order to make them public. The publicity in relation to conflict of interest declarations is also evident in Public Disclosure of Senior Public Officials’ Financial Interests Act, especially in Articles 1 and 2, which show the necessary legal basis for the creation of public register of high public officials and simultaneously reveals all the different types of high executive and judicial officials who are subject to this law. (Public Disclosure of Senior Public Officials’ Financial Interests Act, APIS Law 2006) For further clarity of the issue under investigation, this is Article 1:

The object of this Act is the creation of a public register for the disclosure of property, income and expenses of persons occupying high state positions in the Republic of Bulgaria.

(Public Disclosure of Senior Public Officials' Financial Interests Act, Article 1, APIS Law 2006)

Here, I include Article 2 from the same law as well:

(1) (Supplemented, SG 38/2004, amended, SG No. 73/2006) The following shall declare their property, income and expenses in the country and abroad: 1. the President and the Vice President; 2. the members of Parliament; 3. (amended, SG No. 73/2006) the Prime Minister, the deputy prime ministers, the ministers and the deputy ministers; 4. the Chairperson and the judges of the Constitutional Court; 5. the Chairpersons and the judges of the Supreme Court of Cassation and the Supreme Administrative Court; 6. the chief prosecutor and the prosecutors of the Supreme Cassation Prosecution and the Supreme Administrative Prosecution;

(Public Disclosure of Senior Public Officials' Financial Interests Act, Article 2, APIS Law 2006)

Moreover, high level officials at the executive are required to declare conflict of interest, if they are not able to avoid them in Code of Ethics of High Level Officials in the Executive, II, 8 as well. (Code of Ethics of High Level Officials in the Executive, II, 8, APIS Law 2006) However, although the present legal instruments include the creation of such a register, it is not effectively functioning. It seems on paper that Article 2 (4) from Public Disclosure of Senior Public Officials' Financial Interests Act is executed properly but my case study selections in my next chapter related to officials at high ranking politicians' violations related to public procurement, tender procedures, internal audit control, in particular Ivan Markov, CEO of "Mini Maritsa Iztok" LTD, a member of the Supreme Council of the Bulgarian Socialist Party (BSP) and a counselor of the former Bulgarian Minister of Economy and Energy, Rumen Ovcharov, Lyudmil Stojkov a manager of "Eurometal" Pernik, Sergei Stanishev, present Prime Minister of the Republic of Bulgaria, and Stajko Genov, a Chairman of the Bulgarian Socialist Party (BSP) will show the inability of the present public register in National Audit Office to cover extensively this issue. (Public Disclosure of Senior Public Officials' Financial Interests Act, Article 2(4) APIS Law 2006)

Furthermore, the public registry on the website of Bulgarian National Audit Office should be broadened with the names of the higher public officials' conflict of interests' declarations and violations in regards to these declarations. Afterwards, respective investigation should be executed by the prosecution if necessary. (Bulgarian National Audit Office) To sum up, although provided measures for avoidance of conflict of interest in the codes of ethics developed for the three groups in the Judiciary, respectively judges, prosecutors, investigators, monitoring on a permanent basis is not established.

Chapter III: Officials at High Executive Level and Grey Economy

Previous chapter reviewed and examined present Bulgarian anticorruption bodies and legal system in lines with a benchmarking framework proposed by GRECO (2005) as well as my personal investigation framework on Bulgarian laws on public procurement, internal audit for public expenditures, conflict of interest declarations of executives of high political and judicial levels.

The analysis concluded that although legal instruments necessary for fight against corruption of officials at high political and judicial level are already enacted in the Bulgarian legal system, their implementation is not adequate in terms of absent professional expertise in the Judiciary, lack of coordination and detailed specification of the responsibilities of the anticorruption bodies with serious conceptual deficits as well as the fact that the Bulgarian financial legislation is relatively new and not properly adjudicated in real case studies. As a result, the chapter ended with a final evaluation of the current anticorruption process in Bulgaria as ineffective.

Present chapter continues the inspection of current Bulgarian impotent anticorruption monitoring, providing cases of violations of officials at high executive level in relation to public procurement, internal audit for public expenditures, conflict of interest declarations and siphoning off state owned banks while financing certain private businesses. Further on, my examination of selected case studies will be backed up by the benchmarking framework of World Bank (2001), especially its second chapter Public Private Interface, Laws, Regulations and Administrative Procedures; Freedom House (2006), in particular Judicial Framework and Independence, National Governance and Corruption; GRECO (2005), respectively confiscation and forfeiture and my personal evaluation framework on Bulgarian financial legislation.

3.1 Definitional Framework

Assessment of empirical evidence from the Bulgarian context, in particular, case studies where there is an accusation or at least a doubt of political corruption in the realm of Bulgarian financial legislation should evolve only after a brief introduction of the main agents in the process, respectively officials at high executive level and the environment where the action takes place, namely the grey economy. Next two tables will clarify the definition of officials at high executive level according to their status as public officials and their appointment enacted in the current Bulgarian legislation.

High Ranking Officials	Definition/Scope
	<p>Prime Minister, Deputy Prime Ministers, ministers, Deputy ministers, Heads and Deputy and Deputy Heads of State Agencies, Regional Governors and Deputy Governors, Chiefs and Deputy Chiefs of institutions established by law or government decree, members of the Commission for Regulation of Communications, Directors and Deputy Directors of the security services and services for public order, Director and Deputy Directors of Customs Agency, Executive Director of National Revenue Agency, members of the executive and advisory board of the Agency for Privatization, members of the executive and advisory board of the Agency for Post-Privatization Control, Directors and Deputy Directors of regional services Police, Fire Safety and Protection of Population, Security in the Ministry of Interior, members of political cabinets, Secretary General of Cabinet and Secretary Generals in the Administration and the Executive, Mayors and Deputy Mayors.</p>

(Law on Publicity in the Property and Incomes of Persons occupying High State Position, APIS Law 2006)

Type of Official	Legal basis of appointment	Applicable Law
<u>Single person authorities</u> Prime Minister and (Deputy) Ministers, (Deputy) Executive Directors of Executive Agencies, Chiefs of State Agencies, (Deputy) Regional Governors, (Deputy) Mayors <u>Members of collective bodies</u> Members of political cabinets or counselors or experts attached to them with the exception of the head of the PR unit	Labor contract	Labor Code

(Labor Code, APIS Law 2006)

The tables above clearly represent officials at high executive level according to their status and appointment as different from civil servants with managerial and expert functions. The former group belongs to the category of public officials, while the latter to the civil servants. Consequently, their status, responsibilities and appointment is different. Officials at high executive level are defined and appointed according to the Law on Publicity in the Property and Incomes of Persons occupying High State Position and the Labor Code, while civil servants with managerial and expert functions by the Law for Public Administration and the Law for the Civil Servant. (APIS Law 2006) Since in the present legislative framework public officials are not included in the group of the Civil Servants, they are not subject to sanctions and possess great discretionary power. One of my policy recommendations in my last chapter will propose officials of high executive level to be considered as Civil Servants under the Law for the Civil Servant for a better monitoring and regulation of their professional responsibilities. The latter are often not harmonized with the Bulgarian financial legislation because of the existing profitable environment for personal enrichment. As a matter of fact, the environment describes the grey economy. (Coalition 2000 2005) describes it more precisely “is made up of activities which though not prohibited by the laws of the country are

not declared before the government in conformity with the official rules and/or institutional requirements (declaration, registration, licensing, etc.).” (Coalition 2000 2005, 75)

3.2 Assessment of Bulgarian Financial Legislation Violations by Officials at High Executive Level: Case Studies

My comprehensive research of violations in the Bulgarian financial legislation by high executives will examine three case studies organized in a chronological order in a time period of 1990—2006, which according to my evaluation represent the most blatant examples of political corruption. The purpose of this analysis is to reveal maintenance of a negative trend in the development and implementation of a normative legal framework in curbing grey economy contracts by the officials under consideration. It could be easily assumed that in 1990, Bulgaria’s first year in its transition to democracy, Bulgarian financial legislation was absent. Although in my other two cases, respectively in 2005 and 2006, Public Procurement Act, Financial Audit in the Public Sector Act, State Inspection Act, National Audit Office Act, Public Internal Financial Control Act , Law for the Civil Servant, Ethics of High Level Officials in the Executive, II, 8 and Public Disclosure of Senior Public Officials’ Financial Interests Act were already enacted in the Bulgarian legislative system, the cases will reveal that the prosecution did not investigate them. (APIS Law 2006) No official at high executive level was convicted in charge of political corruption in the sphere of Bulgarian financial legislation. (APIS Law 2006)

My findings on ineffective adjudication of the above mentioned laws in suspicions of political corruption of high executives will be further on justified by expert observations in reports of the World Bank (2001), especially its second chapter Public Private Interface, Laws, Regulations and Administrative Procedures; Freedom House (2006), in particular Judicial Framework and Independence, National Governance and Corruption; GRECO (2005), respectively confiscation and forfeiture, Center for the Study of Democracy (2002)

will further on support my findings of ineffective adjudication of the above-mentioned laws, when related to high executive officials.

3.2.1 1990-91—Dobromir Gushterov, CEO of “Expert Gushterov” State Owned Company. Defining and Evaluating the Creation of “Orel” LTD

My evaluation of case studies in reference to violations in the Bulgarian financial Legislation of high executives will begin with the establishment of the insurance company “Orel” LTD in 1990 and its main founders Dobromir Gushterov, a financial and insurance expert, a member of the Supreme Council of the Bulgarian Socialist Party (BSP) and a CEO of “Expert Gushterov” company and Lychezar Toshkov, a Chairman of the Bulgarian Industrial Association at that time. The ownership was divided in a ratio of 75% for Gushterov and 25% for Toshkov. (Kozhuharov 2007, 13) “Orel” LTD emerged because of the free of interest credit in an amount of 3 million BGN, which the Bulgarian Industrial Association gave to Gushterov. (Kozhuharov 2007, 16) Now, I will examine the original contract between Gushterov and Toshkov in order to reveal ambiguities in its formation and political corruption violations.

At first glance, the contract seems to be a regular document for signing up a contract between two parties, which aims at establishment of an insurance company. One of the parties, respectively the recipient is allowed to use free of interest credit provided by the Bulgarian Industrial Association, an institution responsible for the development of new businesses in Bulgaria. (Kozhuharov 2007, 26) The terms of reference are clearly set, even Article 40 of Industrial Contract Act is mentioned in case of possible forfeiture. (Kozhuharov 2007, 17) However, interviews of Kyncho Kozhuharov with the main parties in the contract, in particular Dobromir Gushterov, Lychezar Toshkov and the present Chairman of the Bulgarian Industrial Association as well as with a third non-party observer Georgi Shivarov, a Secretary General of the Bulgarian Industrial Association in 1990, contribute to a disclosure of a well-developed political corruption scheme by Dobromir Gushterov and Lychezar

Toshkov with the assistance of Andrej Lukanov, Prime Minister of Bulgaria in the time under discussion.

First discrepancy in relation to the contract between Gushterov and Toshkov is encountered during the interviews of Kyncho Kozhuharov (2007) with Gushterov, when the latter explains that the interest rate during the signing of the contract in 1990 was four percent, while in the same year the normal interest rates were in a range between one and a half and two and a half percents. (Kozhuharov 2007, 13) Article 3 of the contract clearly contradicts this assumption. It clearly maintains that the Bulgarian Industrial Association is responsible to “deliver 3 (three) million USD free of interest credit to the recipient, which can be used until 31.12.1991.” (Kozhuharov 2007, 16)

Article 5 (1) also expresses doubts about its validity. As Kozhuharov proposes “Could it be possible in the time of the signing up of the contract, in particular on May, 21 1990, that “Expert Gushterov” LTD had already had assets for 5, 000 000 BGN?” (Kozhuharov 2007, 18) In my opinion, the present contract is not accurate in its object and content structure. My understanding of making up a contract is for clarifying terms of reference for ensuring equal responsibilities for both parties, which is not the current case. Bulgarian Industrial Association’s requirements are explained only in Article 3 of the current contract, while Gushterov’s obligations are articulated in the rest eight articles. (Kozhuharov 2007: 16-17) In my consideration, this subtle technique in the formation of the contract was part of the grey market environment in which the contract was signed. The aim was to make the inexperienced observer believe in its accuracy and harmonization with the Bulgarian law system.

Further on, Kozhuharov’s second referee, Toshkov explained how the Bulgarian Industrial Association’s decision to provide a credit to Gushterov for the establishment of an insurance company was made by executive commission made up of experts and members of different departments of the Bulgarian Industrial Association. (Kozhuaharov 2007, 15)

However, Kozhuharov's third referee Shivarov, who was a Secretary General of the Bulgarian Industrial Association in the time period under discussion, confirmed that the decision was taken only and solely by Toshkov, (Kozhuharov 2007, 29)

Moreover, Shivarov announced the fact that in 1990, Bulgarian State Insurance Institute exercised monopoly over the creation of insurance companies by law and the law changed only after 1994. (Kozhuharov 2007, 25) Consequently, the creation and the registration of the insurance company were illegal in reference to the existing Bulgarian legal framework from 1990. It is interesting to note that because of all of the above peculiarities in the signing up of the contract, in 1991 the Board of the Directors of the Bulgarian Industrial Association made Toshkov to resign, while the accounts of Gushterov in the State Saving Bank were blocked. (Kozhuharov 2007, 31) However, Gushterov managed to pay back the credit to the Bulgarian Industrial Association. (Kozhuharov 2007, 3)

Finding out how Gushterov was able to return his debt to the Bulgarian Industrial Association, Kozhuharov offered the following chronologically ordered observations about the case under investigation: March, 15 1990, Andrei Lukanov, Prime Minister of Bulgaria at that time, appointed Lychezar Toshkov for a Chairman of the Bulgarian Industrial Association, while Dobromir Gushterov as a member of the Board of Directors of the Bulgarian Industrial Association; March, 21 1990, Lukanov announced a moratorium on the Bulgarian foreign debt. (Kozhuharov 2007, 31)

It is interesting to note that the moratorium did not figure out in the law registers of 1990s, especially in the editions for the relevant year of the Bulgarian State Newspaper, where usually all of the new laws, decrees or legal acts are published. (Bulgarian State Newspaper, APIS Law 2006) The moratorium represented the initial point, which contributed to the high inflation rates and the utmost collapse of the economy in Bulgaria. Conflict

Management Group and the Center for the Study of Democracy (2002), depicts quite accurately the overall 1990-1991 crisis in the country as:

In the mid-1990s, the center of gravity was displaced from political to socio-economic conflicts. Dramatic economic changes in Bulgaria – the loss of traditional markets, the liberalization of prices and devaluation of the lev, the “draining” of state enterprises, the collapse of the financial system, delayed and distorted privatization, the liquidation of agricultural cooperatives and restitution of private ownership of farm property – have had dramatic social consequences.

(Conflict Management Group and the Center for the Study of Democracy 2002)

Furthermore, on August 15, 1991, Gushterov paid his credit, when it was already 6.3. times devaluated from its initial amount. (Kozhuharov 2007, 31) A simple check on the USD/BGN currency rate in 1990 justifies the profitable incentives, which this contract proposed to its both parties. (Kozhuharov 2007, 31) As a matter of fact, my concluding remark in respect to the benefits received as an outcome from the whole corruption scheme reads for an increase in the amount of the received money but not the coverage of the credit. In the long run, Gushterov established “Orel” LTD, the first insurance company after the collapse of Communism in Bulgaria and now the company is a subsequent part of the European insurance multinational corporation “Generali.” (Kozhuharov 2007, 23)

Kozhuharov (2007) journalist research of the case under discussion, in reference to disclosure of the contract between Toshkov and Gushterov and his crucial interviews with the main parties, during the establishment of the first Bulgarian insurance company in the formative democratic years of the country, points out some serious violations in terms of non-compliance with the Bulgarian laws. The company was not legal in reference to the law in 1990, which stated that the Bulgarian Insurance Institute imposed monopoly over the creation of insurance companies. (Kozhuharov 2007, 25)

However, proper implementation and monitoring of Financial Audit in the Public Sector Act, State Inspection Act, National Audit Office Act, Public Internal Financial Control Act, Law for the Civil Servant, Ethics of High Level Officials in the Executive, II, 8 and

Public Disclosure of Senior Public Officials' Financial Interests Act could not be observed in the early stages of the transition period in Bulgaria because most of these laws were enacted after 2001. (APIS Law 2006) The same is equally relevant for the anticorruption architecture, which was absent in 1990-91. As a matter of fact, the anticorruption institution-building began not earlier than 2001, when the National Strategy on Combating Corruption was adopted by the Bulgarian government and reached its latest development in the formation of an Inspectorate within the Judiciary in the Supreme Judicial Council. (Shenkelaars 2007, 9:18)

Up to date neither Gushterov nor Toshkov have been investigated by the Bulgarian prosecution for an accusation of political corruption. Moreover, The Center for the Study of Democracy (2007) adds to the subject "In the first period of the transition, the law-enforcement agencies were practically paralyzed, including with respect to organized crime" (Center for the Study of Democracy 2007) Initiation of proceedings against the public figures under discussion is almost impossible because of the present conceptual definitional deficit of the term political corruption in the Bulgarian legislation, which consequently contributes to a deadlock situation in implementing sanctions towards unethical political behavior of high executives. Transparency International Bulgaria (2006) contributes to this subject "Of course, the counteraction of the political corruption is impossible without imposition of sanctions." (Transparency International 2006, 15)

Moreover, the investigation process is additionally impeded by absent documents necessary for the registration of Gushterov's insurance company. (Kozhuharov 2007, 29) If in 1990, Public Internal Financial Control Act was already enacted in the Bulgarian legislation, then the Public Internal Financial Control Agency was expected to inspect the case. If the audit concluded violations in illegal appropriation of public resources, in our case the free of interest credit, then proceedings against Gushterov and Toshkov had to evolve by the relevant

institutional bodies. (Public Internal Financial Control Act, APIS Law 2006) Simultaneously, if in 1990, Public Disclosure of Senior Public Officials' Financial Interests Act was part of the Bulgarian legal system, especially Article 1, which states "the object of this Act is the creation of a public register for the disclosure of property, income and expenses of persons occupying high state positions in the Republic of Bulgaria," then Gushterov and Toshkov should be prosecuted under an accusation of political corruption in reference to the above-mentioned law. (Public Disclosure of Senior Public Officials' Financial Interests Act, APIS Law 2006)

In the absence of the anticorruption institutionalization and financial laws in Bulgaria in 1990-91, Kozhuharov (2007) research remains of crucial importance on two grounds. First, he offers substantial interviews with the main parties responsible for the illegal establishment of the first private insurance company in Bulgaria's early post-Communist years. Second, the researcher provides a copy of the original legal document, respectively the contract for the siphoning off the state resources, in particular the free of interest credit given by the Bulgarian Industrial Association, on the behalf of Toshkov, to Gushterov using public resources from the Bulgarian National Bank, with the signatures of the two responsible parties for an agreement to form the company under specific conditions.

As a matter of fact, Kozhuharov (2007) presents evidence which could be hardly found in the Bulgarian media and legal space in the period under consideration. Although Freedom House (2006) expressed a positive trend in the efficiency and independent character of the Bulgarian media in a period of 1997-2006, my evaluation of the performance of the media in 1990-91 is that it was still state-owned and not entirely independent to publish documents and interviews, which Kozhuharov (2007) did almost 17 years later. (Freedom House 2006) The fact that in the time span of 1990-1996, there are no Freedom House country evaluation reports on Bulgaria, not only in reference to the media but in also in respect to governance and Judiciary, probably is due to insufficient assessment data.

In addition, it is a well known fact that Andrei Lukanov's decision for the Moratorium on the Bulgarian foreign debt was not included in the editions of the Bulgarian State Newspaper, where all of the new legislation is published in order to become public. (Bulgarian State Newspaper, APIS Law 2006) Consequently, on the basis of scarce media and legal sources from 1990-91, Kozhuharov (2007) investigation outlines important findings for initiating proceedings against officials at high executive level, in particular Gushterov and Toshkov. However, two conditions make his research weak. The first one reads for absent documentation for the registration and then the dissolution of the insurance company between Gushterov and Toshkov. As a matter of fact, the company never figured out in the public registry, which is obligatory under Civil Procedure Code, Article 492:

Registration of commercial companies is performed by a single judge who verifies the documents submitted and who decides to register or to refuse registration within a 30-day time limit. Both registers and files are generally accessible to the public, so anyone can make inquiries or request the issue of a document that has been entered in the register.

(GRECO 2005, 16)

The second stems from the present lack of coordination among the Bulgarian Judiciary and Legislative in the effective implementation of the Public Internal Financial Control Act, Law for the Civil Servant, Ethics of High Level Officials in the Executive, II, 8 and Public Disclosure of Senior Public Officials' Financial Interests as well as the evolvement of proceedings against high executive officials. (APIS Law 2006) Although the above-mentioned legislation was missing in 1990-91 and oligarchs were often involved in "essentially different kind of economic structures that obtained access to resources not by means of violence but through their access to the political elites" and siphoning off state-owned bank funds and even financing through the Bulgarian National Bank (BNB)," now the relevant legislation is enacted and the anticorruption bodies institutionalized. (Center for the

Study of Democracy 2002: 24-25) Unfortunately, there are no proceedings against Gushterov and Toshkov. (Kozhuharov 2007, 18)

The lapse of a watchdog monitoring of public institutions, especially in the Judiciary contributes to the discretionary power of many prosecutors, the ones who are responsible to initiate proceeding against officials at high executive level. There is a recent attempt to establish a new control commission and an Inspectorate for Judiciary in reference to Articles 46-58 from the Judicial Power Bill, whose scope of functions should supervise the work of the Supreme Judicial Council in terms of investigative and repressive policies. (Judicial Power Bill, APIS Law 2006) However, World Bank (2001) contributes to the point “SJC is seriously deficient in performing these functions, primarily because it does not have the administrative capacity to exercise its authority.” (World Bank 2001, 28) The absence of clear guidelines to employees in the Judiciary system as well as written standards of conduct for investigators additionally aggravate the inability of the relevant officials in the Judiciary to execute proceedings against high ranking officials. (World Bank 2001, 28)

3.2.2 2005—Ivan Markov, CEO of “Mini Maritsa Iztok” LTD. Defining and Evaluating Public Procurement Violations

My next case of political corruption in the Bulgarian financial legislation by officials at high executive level is of more recent origin. It refers to the management of the privatized in 2005, previously state-owned “Mini Maritsa Iztok” LTD, national energy company, by Ivan Markov. (Kozhuharov 2007, 68) The latter is a member of the Supreme Council of the Bulgarian Socialist Party (BSP) and a counselor of Rumen Ovcharov, the former Bulgarian minister of the Economy and Energy engaged in various corruption affairs in the Bulgarian energy sector, such as siphoning of state resources from two of the biggest national companies “National Electric Company” LTD and “Bulgarian Tobacco Company.” (Kozhuharov 2007, 68) Current Bulgarian Prime Minister Sergej Stanishev made Ovcharov resign and now his

possible draining off the public resources is inspected by the Public Internal Financial Control Agency and the Commission in the National Audit Office. (Standart [Sofia] , 10 May 2007)

This is confirmed by the Prime Minister in an interview in the Bulgarian newspaper Standart. (Standart [Sofia] , 10 May 2007)

Ivan Markov's name is related primarily to violations in the public procurement field. (Kozhuharov 2007, 68) The corruption scheme began in 1999-2000, when the internal railway transport in the mines of "Trojanovo" 1 and "Trojanovo" 2 was replaced by rubber railways. (Kozhuharov 2007, 69) The goal of this maneuver was to ensure that 320 km railways and wagons became useless. (Kozhuharov 2007, 69) Afterwards, the management of "Mini Maritsa Iztok" LTD began the organization of tender procedures for selling the useless scrap. (Kozhuharov 2007, 69) In a relatively short time, only certain companies began to win the tenders and to benefit from the illegal selling of the wagons. (Kozhuharov 2007, 70) Consequently, in my assessment, it is easy to find violations in reference to Article 2 (1) and (3), Article 5 (1) and Article 9 (3) of the Public Procurement Act:

(1)The purpose of this Act is to improve the efficiency in utilization of budget and public financial resources through:1. achieving transparency;3. ensuring conditions for competition;

(Public Procurement Act, Article 2 (1) (3), APIS Law 2006)

(1) (Amended and Amended, SG No. 43/2002) Any Bulgarian or foreign natural or juristic person registered as merchant under the Commerce Act or under the national legislation thereof, as well as any combination of such persons, may be a candidate or tenderer for performance of a public procurement contract.

(Public Procurement Act, Article 5 (1), APIS Law 2006)

3. affording equal opportunities for participation to all candidates and tenderers;

(Public Procurement Act, Article 9 (3), APIS Law 2006)

Immediately after Minister Miroslav Sevlievski appointed Stamen Vedrichkov as a manager of mine “Troyanovo Sever,” Boncho Balabanov, Chief Inspector in the Investigation Department in the same mine, began receiving complaints from workers in the mine for the illegal activities which they were obliged to do. (Kozhuharov 2007, 70) Later on, as a referee of Kozhuharov he confessed that he went at the mine and saw how workers were cutting the railways and putting them in wagons, which were secretly sold out in an amount of 450 thousands BGN. (Kozhuharov 2007, 70) As a result, The Chief Inspector sent signals respectively to the Financial Police and the Regional Anticorruption Council in Stara Zagora but the only effect was that he was fired. (Kozhuharov 2007, 70)

Making a parallel with the examination of my previous case, in particular, the illegal creation of the first insurance company in Bulgaria in its early transition years, the excuse for an ineffective proceedings against Gushterov and Toshkov was the absent legal basis and anticorruption institutionalization. In this case, Public Procurement Act, Financial Audit in the Public Sector Act, State Inspection Act, National Audit Office Act, Public Internal Financial Control Act, Law for the Civil Servant, Ethics of High Level Officials in the Executive, II, 8 and Public Disclosure of Senior Public Officials’ Financial Interests Act as well as the anticorruption bodies in the Executive, Legislative and Judiciary are already enacted in the Bulgarian legislation but the whistleblower complaint of Balabanov is not met by the relevant organs. (APIS Law 2006)

However, even if audit was produced by Public Internal Financial Control Agency as Public Internal Financial Control Act requires, the investigation was supposed to end in a deadlock situation because “in other words, “Mini Maritsa Iztok” LTD is an own unit of the company with their own law system and the revision of the thefts will be extremely impeded because of the perfect documentation which the company possesses.” (Kozhuharov 2007, 71)

As a matter of fact, in a second interview, Balabanov admitted that audit commission was sent not in the mine of “Troyanovo Sever” but in another one and that the only way in which the thefts could be justified was the GPS device which detected the missing railways. (Kozhuharov 2007, 72) Information about the deliberately made tenders with various annexes and the sale of spare parts, needed for assembling work, to certain output companies at lower than the market price can be found in “Mini Maritsa Iztok” LTD Yearly Report (2005). (Mini Maritsa Iztok 2005) For instance, a tender procedure for input of tires in the mines is divided into twelve tenders, which are not under the direct influence of the Public Procurement Act and can be offered to privileged companies. (Mini Maritsa Iztok 2005, 21) One privileged of winning tender procedures company was “Eurometal” Pernik, whose manager, Lyudmil Stojkov is a member of the Bulgarian Socialist Party (BSP). (Kozhuharov 2007, 95) As a matter of fact, after the purchasing of tones of scrap from “Mini Maritsa Iztok” LTD, “Eurometal” imposed monopoly over the purchasing of scrap. (Kozhuharov 2007, 95)

It is interesting to note that in the Bulgarian media space, the name of Lyudmil Stojkov is related only to frauds with SAPARD funds and not to the above-mentioned case. (Dnevnik [Sofia] , 10 May 2007 and BG News [Sofia] , 4 April 2008) In my estimation, Lyudmil Stojkov’s interference in the present case is not covered by the Bulgarian media because of his close relations with the current Bulgarian President Georgi Parvanov. Stojkov represents the main election campaign unit of the President. (Kozhuharov 2007, 96) Except from Kozhuharov (2007) research on the subject under investigation, there is only one article in the Bulgarian media space, which describes the illegal purchasing of scrap of Stojkov, in particular, the Bulgarian newspaper Dnevnik. (Dnevnik [Sofia] , 15 February 2007) Hereafter, Kozhuharov (2007)) investigation of the case is unique because of his significant findings in public procurement violations as well as his interviews with the Chief Inspector of the

Investigation Department in the company, Balabanov and the CEO of “Mini Maritsa Iztok” LTD Ivan Markov.

In practice, Kozhuharov (2007) efforts to substantiate with evidence misuses of Stojkov’s “Eurometal” company’s favoritism in winning tenders and establishing a national monopoly in the sale of scrap remain unsatisfied with the necessary prosecution’s investigation which was supposed to take place. By contrary, in the Bulgarian media space, the name of Ivan Markov is often associated with the opening of a new mine and the relative prosperity in the company. (Kapital [Sofia] , 28 March 2008)

In my assessment, the case for the time-being is in a deadlock situation on four grounds. First, the Bulgarian legislation still lacks definitional concepts of political corruption and audit and therefore there is no basis on which an inspection of Markov’s accountancy in “Mini Maritsa Iztok” should evolve. Second, Bulgarian financial legislation is relatively new (updated last in 2006) and the judicial officials are not accustomed with it. (APIS Law 2006) Third, the independence of the Judiciary is still not achieved which leads to the possession of discretionary power of its prosecutors and inspectors. One clear example was the audit commission which was sent not to the mine of “Trojanovo Sever,” where the actual misuse of public resources took place, but in a different mine, where of course the documentation was perfectly maintained. Forth, no sanctions can be imposed on high executives until they are not included in the Law for the Civil Servant. (Kozhuharov 2007, 70 and Law for the Civil Servant, APIS Law 2006)

Up to date, high ranking politicians are considered as public officials and they are subject to the Law on Publicity in the Property and Incomes of Persons occupying High State Position. (Law on Publicity in the Property and Incomes of Persons occupying High State

Position, APIS Law 2006) My analysis is additionally justified by Freedom House (2006), which concludes:

However, actual results in prosecuting and sentencing corrupt individuals, especially those at high levels of power, are modest. Bulgaria's corruption rating improves from 4.00 to 3.75 owing to improvement in the institutional environment and in the measurement of economic freedom and government pressure on economic activity. (Freedom House, 2006)

3.2.3 2006—Stajko Genov and Sergej Stanishev. Defining and Evaluating a Tender Procedure for an Exchange of a Real Estate in Chirpan

The perpetrators in my last case of political corruption in the Bulgarian financial legislation are also high ranking executives as the officials in my other two cases. The only differences is that the present case is of most recent origin, it take place in 2006 and one of the officials under examination possesses the highest possible rank in the Executive—the current Prime Minister of Bulgaria, Sergej Stanishev. This time violations of Article 2 (1) and (3), Article 5 (1) and Article 9 (3) of the Public Procurement Act could be observed in the opened in 2006 two tender procedures.(Public Procurement Act, APIS Law 2006) They refer to an illegal exchange of an apartment in a distant neighborhood, in a small Bulgarian town called Chirpan, for an apartment in the centre of the city, well equipped and in good living conditions, which was a party property used for the meetings of the Bulgarian Socialist Party (BSP) in the town, in favor of Stanishev, who at the long run became the owner of the apartment. (Kozhuharov 2007, 125-131)

The organizers of the illegal exchange of property were Stajko Genov, who was simultaneously Chairman of the local organization of the Bulgarian Socialist Party (BSP) in the city and a Chairman of Chirpan Municipality Commission for budget, finances, real estates, industrial and investment politics and the present Prime Minister of the Republic of Bulgaria, Sergej Stanishev, who is also a member of the Bulgarian Socialist party (BSP). (Kozhuharov 2007: 126-127) As a final result, the tender procedures ended with Stanishev's exchange of the apartment in the distant neighborhood for the previously state-owned

apartment in the center, with Stanishev as its owner. (Kozhuharov 2007, 129) The fraud began with a power of attorney, which the Prime Minister Stanishev signed for Stajko Genov in order to represent him in future real estate purchases. (Kozhuharov 2007, 126) As Kozhuharov (2007) points out in “doing this under power of attorney 6280/03.07.2006 Sergej Stanishev in practice declares that “Stajko Ivanov Genov from Chirpan—this is me.” (Kozhuharov 2007, 126)

Afterwards, Stajko Genov asked Stojanka Nikolova, an expert in real estates evaluations and having close relations with the Bulgarian Socialist Party (BSP), to make an evaluation of the apartment in the downtown of Chirpan, which was used for the operational meetings of the Bulgarian Socialist Party (BSP). (Kozhuharov 2007, 127) Nikolova had to make the lowest possible evaluation of the real estate in order to begin a tender procedure process for the sale of the apartment. (Kozhuharov 2007, 127) Here, I enclose an excerpt of the evaluation of the real estate expert, which I will examine afterwards:

Specifics of the Evaluation: Expert evaluation of a real estate property “Club,” situated at 26 Georgi Dimitrov Blvd in 119 Neighborhood, UPI 1 PUP, Chirpan
 Aim of the Estimation: Defining the justifiable evaluation of the real estate property for sale or exchange.
 Effective date of the evaluation: 3.11.2006
 Date for the termination of the report: 30.11.2006
 Term of validity of the estimation: six months after the termination of the report
 Preliminary Remarks for the final evaluation of the real estate property
 57000, 00 BGN

(Kozhuharov 2007, 127)

As a matter of fact, the offered price for the apartment was highly devaluated. (Kozhuharov 2007, 127) If the apartment was not offered for sale, in an official tender procedure its price could reach 300 000 BGN. (Kozhuharov 2007, 127) The expert deliberately lowered the market price of the apartment, including “technical devaluation and construction defects.” (Kozhuharov 2007, 127)

The second part of the fraud with the exchange of the apartment in the distinct neighborhood with real estate in the downtown of the small town of Chirpan continued on October 3, 2006, when Stanishev bought through Stajko Genov an apartment in a 25 year old block in a distant neighborhood of the town, more precisely in the very end of the town, where the rural part began. (Kozhuharov 2007, 128) The same expert on evaluations of real estate properties was asked by Stajko Genov to make evaluation of this real estate, too. The market price of the apartment was 11, 384 BGN, while Nikolova deliberately overestimated it to 30, 600 BGN. (Kozhuharov 2007, 128) According to Kozhuharov (2007), Nikolova overestimated the price of the real estate property in respect of “pavement-around the building” and “the good environment in which the apartment is situated.” (Kozhuharov 2007, 128) Here, I enclose an important according to my consideration excerpt of Nikolova’s second estimation for the apartment in the distinct neighborhood of Chirpan:

Specifics of the evaluation: Expert Evaluation of apartment 19, block 1, ent. A, 7 floor in Mladost neighborhood with a built-up area of 61 squared meters, a basement No 22 with built-up area 2.66 squared meters, a room in the attic with built-up area of 3.68 squared meters, 1.233 % ideal parts from the common parts of the building and 68.79 squared meters ideal parts from the permission of a building at the place.

Aim of the evaluation: Defining a justifiable market price of the real estate property for an exchange.

Conclusion

For the final evaluation of the apartment

30, 600 BGN

(Kozhuharov 2007, 129)

From the above mentioned document, it is evident that Nikolova’s aim was to show that the apartment was spacious and in good living conditions, in particular built-up area of 61 squared meters, attic with built-up area of 3.68 squared meters ideal parts. (Kozhuharov 2007, 128) Kozhuharov (2007) explains that Nikolova overestimated the price of the real estate property because of “pavement-around the building” and “the good environment in which the apartment is situated.” (Kozhuharov 2007, 128) As a result, although the market price of the

apartment was 11, 384 BGN, while Nikolova deliberately overestimated it to 30, 600 BGN. (Kozhuharov 2007, 128)

The case represents a clear example of violations not only in the public procurement sphere but also in terms of conflict of interest, especially in Article 2 (4) from Public Disclosure of Senior Public Officials' Financial Interests Act. (Public Disclosure of Senior Public Officials' Financial Interests Act, APIS 2006) Stajko Genov not only takes part on the behalf of the current Prime Minister Stanishev in the organized tender procedure for the previously party owned property apartment but also ensures personal enrichment to both of them after the termination of the tender procedure. In reference to this act, a public register is already available on the website of the Bulgarian National Audit Office. (Bulgarian National Audit Office) Unfortunately, the name of Stajko Genov is not included in the register. (Bulgarian National Audit Office) As a matter of fact, not only Stajko Genov is not included in the register but also present Bulgarian Prime Minister Stanishev. (Bulgarian National Audit Office) Therefore, the publicity in reference to conflict of interest declarations and Code of Ethics of High Level Officials in the Executive, II, 8, to both officials under discussion is not met. (APIS Law 2006)

Ruminating over the significance of publicity to effective anticorruption monitoring and civil society engagement in the process, Kozhuharov (2007) research is of crucial importance because of the documents and facts which he provides and the little coverage of the issue in the media space. As a matter of fact, the tender procedure was vaguely mentioned as an officially organized competition, in clear compliance with Article 2 (1) and 3, Article 5 (1) and Article 9 (3) of the Public Procurement Act, only in a small newspaper called Chirpan News. (Chirpan News [Chirpan] , 7 April 2007 and APIS Law 2006)

By contrast, the name of Stajko Genov in the Bulgarian media space is often associated with a suspicion of political corruption in buying electorate votes in November

2007 local elections ballot box in Chirpan. (Kapital [Sofia] , 12 December 2007) The research and documentation provided by Kozhuharov (2007) as well as the Administrative Court in Stara Zagora, which have started investigation on Genov's possible purchasing of electorate's votes, represent the initial basis through which the prosecution should commence proceedings against Genov and convict him for a crime of political corruption and incompliance with all of the laws discussed above. (Kapital [Sofia] , 12 December 2007)

Investigation of the case, based on the same accusation of political corruption with an exception of the purchasing of votes on local elections, should evolve for Sergei Stanishev as well. In fact, Stanishev bears the responsibility of becoming an owner of the previously state-owned apartment of the Bulgarian Socialist Party (BSP) and not declaring it in reference to Disclosure of Senior Public Officials' Financial Interests Act. (Disclosure of Senior Public Officials' Financial Interests Act, APIS Law 2006) Adding more to the subject, Sergei Stanishev is not a subject to confiscation and forfeiture, "both confiscation and forfeiture are applicable only in respect with natural persons." (GRECO 2005, 3) It is evident that this is a serious gap in the Bulgarian legislation because any proceedings against Stanishev based on confiscation and forfeiture of his illegally obtained real estate property could not initiate until officials at high executives are included in Article 307a from the Penal Code. (Penal Code, APIS Law 2006)

The aim of inclusion of the last case in my analysis is to make a parallel with the previous two cases, the first one as an example of a siphoning of the state resources in the early years of transition to democracy in Bulgaria and the second one as violations in the public procurement sphere for personal enrichment of officials at executive level. Obviously, the conclusion which should be made from the three cases is of a persistence of a negative trend in the fight against political corruption and weak implementation of the Bulgarian Legislature in the financial field.

In 1990, the excuse for ineffective regulation and monitoring of unethical behavior of officials at high executive level was the absence of an anticorruption framework and relevant laws adjudication by the Judiciary. By contrast, in 2005 and 2006 the anticorruption bodies as well as Public Procurement Act, Financial Audit in the Public Sector Act, State Inspection Act, National Audit Office Act, Public Internal Financial Control Act, Law for the Civil Servant, Ethics of High Level Officials in the Executive, II, 8 and Public Disclosure of Senior Public Officials' Financial Interests Act were already available in the Bulgarian legislation. (APIS Law 2006)

Nonetheless, the level of institutionalism and implementation is still insufficient to regulate effectively high executives' violations in reference to political corruption. Freedom House (2006), which is the last update of a country report on Bulgaria, rightly points out "Courts are slow, and the prosecution is ineffective, while the Supreme Judicial Council, the body of power in the judiciary, does not have the legal capacity to control and demand better performance from judges and prosecutors." (Freedom House 2006) Moreover, Freedom House (2006) analysis on the performance of the Judiciary in Bulgaria acknowledged that a positive development of its independence was achieved with the inclusion of the body of the national ombudsman in the Bulgarian institutional framework. (Freedom House 2006)

However, my personal evaluation of the independence of the Judiciary system in Bulgaria, based on my three chronologically ordered case studies research of corrupted high executives, continues to be negative in terms of the incumbent Judiciary regulation, inexperienced and not accustomed to the relatively new legislature officials at the Judiciary, which allows them a significant discretionary power, and lack of coordination and transparency in initiating investigations on accusations of political corruption of high governmental executives. Consequently, the following problems in the ineffective anticorruption monitoring arise: weak adjudication of the existing Bulgarian financial laws by

the Judiciary; not sufficient Bulgarian media coverage and therefore scarce documentation and findings on particular cases of political corruption violations, which once again makes the research of Kozhuharov (2007) highly valuable for further investigations and initiating of proceedings against the high executives mentioned in my case studies selection.

In reference to the media coverage, I should admit that research and publications are available by watchdog organizations such as Transparency International Bulgaria, Center for the Freedom of Democracy and Vitosha Research but they contextualize political corruption violations of high executives in a very broad and systematic way. It is difficult to find researches and publications on a particular case of political corruption violations in the Bulgarian financial legislation.

For instance, in the existing publications, only Transparency International Bulgaria (2004a) represents an attempt of a systemic research on different cases of public procurement misuses in Bulgaria. (Transparency International Bulgaria, 2004a) To sum up, in order to achieve transparency and effective anticorruption monitoring of both political corruption violations of officials at high governmental level and the performance of the Judiciary, watchdog organizations and investigative journalists should narrow the scope of their investigation to particular cases and produce in-depth micro-level analyses.

Chapter IV Officials at High Judicial Level and Organized Crime

My last chapter analyzed the preconditions for corruption of Bulgarian officials at high political level, in particular three case studies in a time span 1990—2006. The purpose of this comprehensive examination was to reveal ineffective anticorruption institutionalization and monitoring of political corruption violations as well as high level of discretionary power of high political executives. Certainly, it is a fact that financial laws and anticorruption architecture did not exist in Bulgarian legal and institutional frameworks prior to the year of 2001. However, this was not an excuse for the impotence of Judiciary and anticorruption bodies in three divisions of power, in particular Executive, Legislative and Judiciary to begin investigation and proceedings against the suspected of political corruption high executives.

Present chapter will define, categorize and discuss officials at high judicial level, in particular members of the prosecution office, and their connections based on personal ties with officials at high political level and organized crime. My evaluation of their contribution to the systemic impotence of the Judiciary and anticorruption systems will be based on examination of two influential and unique in their nature researches on corruption of high political and judicial officials, respectively Dimitar Zlatkov (2007) and Kyncho Kozhuravov (2007). Two case studies will be a subject of close examination—Edvin Sugarev's, a former Vice President of the United Democratic Forces (UDF) party, chronological investigation of the professional decision-making and judicial practice of Nikola Filchev, Bulgarian Prosecutor General in 2000-2003, on accusations of corruption and close relations with underground economic structures and 2005 case of a “missing murder” in respect to Kostadin Preshelkov, Razlog's District Prosecutor.

My analysis will be justified by the benchmarking proposed by Open Society (2002), especially its assessment part of the performance of the Bulgarian Judiciary, Freedom House (2006), in particular Judicial Framework and Independence, National Governance and Corruption, Coalition 2000 (2002), a prominent Bulgarian watchdog organization, in reference to media review of public officials in the Judiciary power, Shenkelaars (2007) audit assessment framework on anticorruption institutionalization in Bulgaria and my personal analysis of Bulgarian legislation in terms of high ranking officials in the Judiciary.

4.1 Definitional framework

Understanding and evaluating corruption violations of high magistrates in the Judiciary, in respect to organized crime and connections with high ranking politicians in the Bulgarian context could not develop if an operational frame of the main terms is not established first. The goal of this framing is to conceptualize the main phenomena under discussion because probably their general epistemological meaning is familiar to the experienced reader but they certainly have slight differences when applied in the Bulgarian environment. Next table will define and categorize officials at high judicial level according to their status and scope of responsibilities:

Type of official	Definition/scope
judges	President of and the judges of the Supreme Court of Cassation; President of and the judges of the Supreme Administrative Court
prosecutors	Prosecutor General and Prosecutors of Supreme Prosecution of Cassation; Prosecutors of Supreme Administrative Prosecution
investigators	Director of the National Investigation Service and deputies
others	Members of the Supreme Judicial Council

(Law on the Judicial Power, APIS Law 2006)

However, defining and categorizing of high judicial officials is not enough bases for an initiation of my assessment of particular case studies of corruption violations and close connections with high political executives. Consequently, examining the conditions under which organized crime has evolved in Bulgaria is crucial for tracing the impact of this environment for the corruption practices of high magistrates. Center for the Study of Democracy (2007) describes this interdependence “The collapse of the totalitarian state, whose immediate result was a burgeoning gray and black economy followed by a precarious combination of legal and shady businesses run by the post-communist elites, rather seamlessly propagated the emergence of organized crime.” (Center for the Study of Democracy 2007, 5) Now, after clearly establishing the link between the main concepts, the real assessment of particular cases from the Bulgarian judicial practice could initiate.

4.2 Assessment of Bulgarian Prosecution Practice in Reference to Officials at High Judicial Level: Case Studies

The purpose of presenting and evaluating my two case studies selections, respectively the chronologically ordered professional decision-making on certain prosecution cases and whistleblowers complaints of Nikola Filchev (Prosecutor General of the Republic of Bulgaria, 1999-2006) and the professional responsibilities of Kostantin Preshelkov (Prosecutor at the District Court of Razlog, 2005), is to reveal a keeping of a negative status quo in the development of anticorruption institutionalization in the divisions of governmental power, focusing on its Judiciary branch as well as to introduce the weakness of the present legal system, in particular the Law on Publicity in the Property and Incomes of the Persons Occupying High State Position, Law for the Civil Servant, Law on the Judicial Power, Public Disclosure of Senior Public Officials’ Financial Interest Act and Ethics of High Level Officials in the Executive, II, 8. (APIS Law 2006) In addition, the analysis of my case studies

will draw as a concluding remark that gaps in present Bulgarian Legislative system lead to ineffective adjudication and high discretionary power of high judicial officials.

4.2.1 Nikola Filchev, Prosecutor General of the Republic of Bulgaria, 1999-2006. Defining and Evaluating Case Studies from the Prosecutor General Judicial Practice

My investigation on cases from the Bulgarian prosecution practice subject to political corruption will begin with Nikola Filchev, Prosecutor General of the Republic of Bulgaria in 1999-2002, emphasizing on some of the most blatant examples in his professional career. In my evaluation, Filchev represents the most corrupted magistrate at high level in the Judiciary on suspicions of misuse of power in reference to close ties with high governmental executives and underground economic structures. Thereafter, analyzing cases from his prosecution practice in regards to the present malfunctioning Judiciary system, anticorruption architecture and weak legislation deserves substantial assessment in the body of this thesis. The analysis will evolve on the basis of Edvin Sugarev (2002), a Vice President of United Democratic Forces (UDF) party report on the judicial practice of Filchev in terms of violations of corruption and connections with high governmental officials, grey economic structures and impeding the prosecution to begin proceedings against officials at high judicial level. (Zlatkov 2007: 292-303)

My analysis will be grounded on three cases. The first one will examine Filchev on accusation of patronage of one of his close relatives, a member of an underground grouping as well as the Prosecutor General's interference in the professional responsibilities of the prosecution during the development of the case. Second case will focus on the high ranking magistrate's close relations with high executives and grey economic structures. Third case will evaluate his contribution to the prevention of the prosecution to start proceedings against high magistrates on whistleblowers' signals from other magistrates.

The first case which I am going to explore is in reference to Nikola Filchev's personal ties with his brother Angel Filchev, who is a part of one of the underground structures in Bulgaria, in particular in the smuggling of antiques. (Zlatkov 2007, 292) Zlatkov (2007) provides the following documentation for clarification of close relations of the Prosecutor General of Republic of Bulgaria at that time with underground agents: December, 22, 1997, the prosecution began proceedings against Angel Filchev in reference to 124A/97 prosecution case; May, 13 1998, Angel Filchev is arrested at Kalotina border post under accusation from 124A.97 prosecution case for smuggling of antiques to an international organized crime organization; May, 21, 1998, Kiril Ivanov, a Prosecutor at Border Police, cancelled the arrest of Angel Filchev without any substantial reasons for his action, while the defendant took back his international passport and left Bulgaria. (Zlatkov 2007, 291) Moreover, Kiril Ivanov received promotion for his job (Zlatkov 2007, 291)

Analyzing the case, the first evidence of corruption practices by the Prosecutor General, Nikola Filchev originates from a non-compliance with his professional responsibilities. Media Strategy of the Prosecutor's Office of the Republic of Bulgaria, justifies my point, explaining the main professional responsibilities which the Prosecutor General is obliged to follow "transparency and openness in the work of the Bulgarian Prosecutor's Office are important factors which strengthen the institution, provide guarantee for predictable criminal justice and contribute to the stability of the judicial branch." (Prosecutor General of the Republic of Bulgaria Office) Nikola Filchev's intervention in the work of the prosecutor Kiril Ivanov in the arrest of Angel Filchev on accusations of involvement in organized crime activities clearly does not lead to the transparency impact, which the Prosecutor General's Office should have in combating organized crime in Bulgaria. Thereafter, the institutionalization of the regulatory prosecution body under discussion was underdeveloped.

Furthermore, since the prosecution and Judiciary in Bulgaria operate under one framework, the above-mentioned case clearly represents a deviation from the regulatory functions of the Anticorruption Commission (ACC) at the Supreme Judicial Council to report on signals of corruption and to implement 2008 Bulgarian National Anticorruption Strategy. (Shenkelaars 2007, 18) In fact, the case gives an account for an ineffective anticorruption monitoring in all governmental divisions of power. If the Anticorruption Commission (ACC) at the Supreme Judicial Council does not follow properly its controlling responsibilities in the performance of officials at high judicial level, this respectively affects the ineffective functioning of the whole anticorruption system. To sum up, the case seriously challenges the institutionalization process in Bulgaria.

Moreover, it is interesting to point out the fact that “the Judiciary (judges, prosecutors, investigators, etc.) have no special preventive audit function but are predominantly involved in the counteracting of corruption.” (Shenkelaars 2007, 20) The same is relevant to the Legislative power, where main institutions responsible for monitoring and preventing of corruption are the National Audit Office and the Parliamentary Commission for the Fight against Corruption. (Shenkelaars 2007, 20) Certainly, the lapse of a regulatory audit body in the Legislative and Judiciary leads to the present deadlock situation in the case of the prosecutor Kiril Ivanov’s removal of his accusations against Angel Filchev.

Last but not least in assessing the gaps in the current Bulgarian legislation in the Judiciary, in respect to the relevant case and the public figure of the Prosecutor General, points out that the scope and classification of high ranking officials in the Judiciary is still a subject to the Law on Judicial Power. (Law on Judicial Power, APIS Law 2006) As a matter of fact, this seriously impedes an initiation of proceedings against high judicial officials because under the framework of the above-mentioned law, sanctions can not be applied as disciplinary measures against misuse of power by the Prosecutor General. Open Society

(2002) adds to this point “As with members of the Parliament, magistrates enjoy immunity from prosecution for all but serious crimes with more than a five year sentence. Magistrates may be stripped of their immunity only by the Supreme Judicial Council.” (Open Society 2002, 112) Open Society (2001) observes the same, explaining that the usual practice of the Supreme Judicial Court is not to lift immunities. (Open Society 2001, 103)

Second case in my evaluation of accusation of corruption, in reference to the Prosecutor General Nikola Filchev in the time under consideration, refers to his close ties with governmental officials and grey economic structures. The case initiates with Filchev’s blackmailing order to start proceedings against Plamen Simov, who is a Secretary General of the Bulgarian Sailors’ Union in 1999. (Zlatkov 2007, 293) Coalition 2000 (2002) outlines that the purpose of the investigation of Simov by the prosecution was to put a shadow over the name of Alexander Boshkov, former Vice Prime Minister in 1997 United Democratic Forces (UDF) government of Ivan Kostov and an influential public official in discussing Bulgaria’s EU accession’s priorities in the year of 1999. (Coalition 2000, 2002)

Moreover, the same Bulgarian watchdog organization explains that Simov was the main financing unit of the election campaign of Boshkov in 1997. (Coalition 2000, 2002) Zlatkov (2007) believes that Nikola Filchev’s blackmailing order against Simov and Boshkov was a pre-planned paid scheme organized by the Bulgarian Socialist Party (BSP), considered as the main oppositional rival of United Democratic Forces (UDF) in Bulgarian Parliamentary elections. (Zlatkov 2007, 293) As a result, Boshkov is removed from his position as a discussant of Bulgaria’s fulfillment of necessary criteria for joining the EU on accusation of corruption. (Zlatkov 2007, 293)

Furthermore, the Bulgarian national daily newspaper Monitor rightly observes that Plamen Simov is deliberately accused on siphoning of public resources from the state-owned company “Ocean Fishing,” which highly contradicts the real situation. (Monitor [Sofia] , 11

November 2002) In practice, the same newspaper reports that he sent 70 whistleblower's signals to the prosecution and a prosecution case was established by the prosecutor Nikolai Dzhambov who committed suicide later on. (Monitor [Sofia] , 11 November 2002) As a final result of all of the above-mentioned speculations organized by Filchev, in 2000 the case was terminated and the final decision of the proceedings was slowed more than two years. (Zlatkov 2007, 293)

First, when evaluating the above-mentioned case, it is evident that main units in the Prosecutor General Office responsible for anticorruption monitoring, respectively Counteracting Organized Crime and Corruption (CCC) and the Inspectorate of the Supreme Prosecution Office of Cassation do not implement properly their repression and conducting of audits functions in reference to regulation of corruption within the Judiciary. (Shenkelaars 2007, 18) According to Article 171 from the Law for Defense of the Judiciary Power "the decisions of the Commission on Prevention and Countering Corruption (CPCC) containing evidence for corruption behavior from magistrates and administrative staff in the judicial bodies are directly reported to the Supreme Judicial Council and the relevant judicial sections for implementation of immediate disciplinary procedures."(Bulgarian Supreme Judicial Council) Therefore, coordination and check-ups of violations related to political corruption at high judicial level could not be exercised effectively because of a lack of coordination and transparency. In this line of thought, European Commission (2007) challenges the current independence of the Judiciary in terms of assessment of the amendments in constitutional provisions:

Bulgaria has largely met this benchmark by adopting the Constitutional amendment. It will not be possible to assess the effectiveness of the amendment in removing ambiguity regarding the independence and accountability of the judicial system until the full adoption and implementation of the necessary implementing legislation providing for the establishment of the independent judicial inspectorate.

(European Commission 2007, 6)

Consequently, the present case again discloses a low institutionalization level of the present anticorruption bodies in Bulgaria in regulating the activities of high magistrates.

Assessing the case on the weakness of the present laws in the Judiciary, violations are easily found on three grounds. First reads for an absence of a law which could execute a preventive anticorruption function in the Judiciary. Second refers to the malfunctioning of the Commission under Article 46 of the Judicial Power Bill, which is established to assist the work of the Supreme Judicial Court in assuring effective balance between its check-ups and repressive responsibilities. (Judicial Power Bill, APIS Law 2006) Third explains the instability in the capacity of the Inspectorate for the Judiciary, established under Article 58 of the Judicial Power Bill to effectively exercise its regulatory functions in prevention of corruption within the Judiciary system. (Judicial Power Bill, APIS Law 2006) Moreover, same concern about the impotency of the present regulatory mechanisms in the work of the Judiciary is easily recognized in European Commission (2007) need for an adoption of a new Civil Code, new Judicial System Act and the new Judicial Inspectorate reform. (European Commission 2007: 9-10)

In my assessment, until the new amendments in the law system in the Judiciary are not implemented and adjudicated by the relevant bodies, focusing on the Supreme Judicial Council and the Inspectorate within its structure, the estimation for the Bulgarian Judiciary system's performance will preserve its current negative meaning in civil society polls. Open Society (2002) contributes to this point "According to surveys, the judiciary is perceived to be the fourth most corrupt institution in Bulgaria." (Open Society 2002, 114)

My last case under examination of the judicial practice of the Prosecutor General of the Republic of Bulgaria, Nikola Filchev in 1999-2002 will focus the interference of the high magistrate in the work of the prosecution in investigating whistleblower's complaints.

Moreover, the case will reveal that some of the whistleblower's complaints are falsified and initiated under the supervision of the Prosecutor General at that time.

The case evolves in January 2000, when the prosecutor from the Supreme Judicial Council, Nikolaj Kolev is sent to start proceeding against the prosecutor of the Varna Court of Appeal, Vasil Mikov. (Zlatkov 2007, 294) The latter represented the main opponent of Filchev, when Filchev was elected for Prosecutor General of the Republic of Bulgaria in 1999. (Zlatkov 2007, 294) According to Coalition 2000 (2002), Edvin Sugarev presented evidence about the various proceedings based on falsified whistleblower's complaints by other high ranking officials in the judiciary against Mikov, personally organized by Filchev. (Coalition 2000 2002)

Next phase in the development of the case refers to Mikov's sending of whistleblower's form to Blagovest Punev, a member of the Supreme Cassation Council for "being pressured by falsified whistleblowers' complaints." (Zlatkov 2007, 294) The event took place on February, 22, 2000. (Zlatkov 2007, 294) As a matter of fact, Edvin Sugarev further maintains that Mikov's whistleblower's complaints did not produce any results and respectively no investigation began against the invalidity of the whistleblowers' documents reported under the influence of Nikola Filchev. (Zlatkov 2007, 294) In the meantime, the Prosecutor General sent the falsified complaints to the Parliamentary Commission "Antimafia" and consequently made them public, involving the attention of the civil society in the case. (Standart [Sofia] , 23 February 2000)

However, the coverage of the issue in the Bulgarian media was not substantial because at that time Filchev's possible madness was on focus, while his misuse of power as a high ranking judicial official was neglected. (Coalition 2000 2002) In my assessment, not only the weak coverage of Filchev's corruption practices in terms of falsifying whistleblowers complaints but also the insufficient evaluation by watchdog organizations represents a gap in

establishing an active civil society in the fight against corruption of high magistrates. The only watchdog organization which provides partial information on the subject under discussion is Coalition 2000 (2002). Freedom House (2006) adds to the topic “Bulgaria’s civil society rating remains unchanged at 2.75” (Freedom House 2006) Actually, this evaluation not only confirms my expectation for the status quo in the disengagement of the civil society in assessment of corruption practices of officials at high judicial level but also describes the general trend of a negative fixity in the civil society response to corruption practices by public figures in the three divisions of power.

Since all of the above-mentioned violations during the examination of my previous two cases, associated with misuse of power of the Prosecutor General Filchev are also relevant to the last case of his judicial practice, which I am including in my analysis, I would not discuss them in reference to the present case. My evaluation of this particular prosecution case will focus on the low level of ineffective institutionalization monitoring, in reference to implementing the necessary regulations in violations of high ranking officials in the Judiciary system and the present lapse of protection of the whistleblowers in the Bulgarian law system.

First of all, the above-mentioned prosecution case clearly shows the malfunctioning of Anticorruption Commission (ACC) monitoring body at the Supreme Judicial Council, in particular its repressive function in cases of misuse of power by officials at high judicial level. (Shenkelaars 2007, 18) As a matter of fact, this again signals for the ineffective institutional environment in Bulgaria in implementation of its regulatory responsibilities. Until transparency and coordination within the anticorruption bodies not only in the Judiciary but also in the Executive and Legislative is not improved, the assertion of Open Society (2002) “the failure of the prosecution and court system to perform its role adequately (including by carrying through corruption cases) may be as much the result of pressure on judges as corruption” will stay in force. (Open Society 2002, 114)

Assessing violations in the present Bulgarian legislation concerning the professional ethics of high magistrates in the case under discussion, one could easily notice the absence of the reporting of the internal audit units at the Supreme Judicial Council to the Prosecutor General. (Internal Audit Act, APIS Law 2006) Moreover, Nikola Filchev's blackmailed Mikov by the instigation of falsified whistleblowers' documents against his ethical responsibilities as a high ranking official in the Varna Court of Appeal. (Zlatkov 2007, 294) Of course, in my estimation, internal audits at the Supreme Judicial Council were not allowed to report to the Prosecutor General at that time because he was the instigator of the proceedings against Mikov. By contrast, the professional goals of the Public Prosecutor's Office of achieving transparency in investigation of organized crime, already discussed in this chapter, are fully distorted by the Prosecutor General, Nikola Filchev in the relevant case. (Prosecutor General of the Republic of Bulgaria Office) Adding more to the subject, high ranking officials at the Judiciary are not subject to sanctions under the Law on the Judicial Power. (Law on the Judicial Power, APIS Law 2006) This finding reflects a serious obstacle in an initiation of proceedings against the Prosecutor General, Filchev.

Next phase in my evaluation of accusations of misuse of power of the Prosecutor General of the Republic of Bulgaria, Nikola Filchev (1999-2002) reads my questioning of the efficiency of the whistleblower's form available at the website of the Supreme Judicial Council. The basic content of this form refers to officials at the Judiciary system who could send whistleblowers' complaints against high magistrates. (Bulgarian Supreme Judicial Council) Below I will analyze the inadequacy in its technical implementation.

First of all, the whistleblower form against corruption of magistrates at high judicial level clearly reveals that the identity of the accuser of corruption should not be anonymous, a sign which should not be underestimated. (Bulgarian Supreme Judicial Council) In my assessment, on the one hand, identifying the identity of the whistleblower is accurate for

achieving more transparency in future investigation of the complaint, but on the other hand, this was certainly a problem to Mikov. The result was a deliberate neglect to his whistleblowers' reports on corruption against Filchev. (Zlatkov 2007, 294)

Furthermore, this particular case negatively impacts on the reporting and analyzing function of civil society. Whistleblowers feel insecure in reference to the preservation of their own lives. This fact should be seriously taken into consideration not only when officials at the Judiciary fill whistleblowers forms against corruption at highest governmental and judicial level but also when the general public is involved. The media coverage in reference to Mafia News adds to the subject the story of Georgi Stoev, a prominent Bulgarian journalist investigator who was recently murdered and the main suspects were members of the underground economy. (Mafia News [Sofia] , 13 April 2007) Stoev's books examine "mixed fact and fiction to reveal the secrets of some of the country's most notorious crimes were based on his own experiences in the formative years of the ruthless Bulgarian mafia in the 1990s." (Mafia News [Sofia] , 13 April 2007) Further on, Dimitar Zlatkov who was Stoev's publisher commented that "the interior ministry was a "moral killer" for failing to protect him." (Mafia News [Sofia] , 13 April 2007)

In my view, murdering investigative journalists by underground economic groups explains the inefficiency of the enforcing power of the rule of law and consequently the low institutional capacity of regulatory bodies within the Judiciary such as the Anticorruption Commission (ACC) at the Supreme Judicial Council. Moreover, although Stoev's research was not based on whistleblowers complaints, it is evident that people who report on corruption in Bulgaria are not protected by the law. GRECO (2005) confirms my concern:

At present, no whistleblower protection is afforded to public officials reporting on corruption, except for the public officials of law enforcement agencies. Thus within the Ministry of the Interior, protection measures have been introduced to guarantee the anonymity of officials providing information on cases of corruption. The director of the respective service normally signs such "signaling" documents.

(GRECO 2005, 13)

Consequently, this contributes to a non active civil society in filling e-whistleblower forms against political corruption at highest judicial level.

Edvin Sugarev (2002) research on Filchev's misuse of power is unique because of the absent documentation of the case by key watchdog Bulgarian organizations such as Center for the Study of Democracy, Transparency International Bulgaria, Coalition 2000, Vitosha Research and Open Society Bulgaria. The media coverage is also not substantial and often biased on personal journalistic opinion. (Coalition 2000 2002 and Coalition 2000 2003) Zlatkov (2007) published for the first time the full text of the report, which contributes to a successful filling of the gaps of the current unstudied examination of Filchev's unethical professional behavior.

On the other hand, Zlatkov (2007) crucial findings for an initiation of proceedings against Filchev have not produce any results on implementation level. According to the media coverage, in particular Bulgarian national daily newspaper Dnevnik, Filchev resigned in 2006 and "he flew away to Kazakhstan, where the ruling coalition and the President found him "a shelter" as an ambassador." (Dnevnik [Sofia] , 27 December 2006)

4.2.2 Kostadin Preshekov, Razlog's District Prosecutor. Defining and Evaluating 2005 Case of a "Missing Murder"

At first glance, reviewing and examining 2005 case of a "missing murder" in reference to Kostadin Preshekov, Razlog's District Prosecutor seems in contradiction with my evaluation of corruption cases of officials at high judicial level in the Bulgarian context on two grounds. First reads for the fact that Preshekov is not a high magistrate in the Bulgarian Judiciary system according to the Law on Judicial Power. (Law on the Judicial Power, APIS Law 2006) Second concerns my selection of chronological cases in a descending order, which do not correspond to the usual examination of cases in an ascending direction.

The purpose of my evaluation of the present case, in response to the first paradox, is to show how personal ties of Bulgarian prosecutors not only with high magistrates within the Judiciary but also with high executives at political level, lead again to low level of institutionalization and inefficient implementation of laws by the prosecution, which represents the first crucial regulatory body for the well functioning of the respective authorities within the Judiciary. In addition, the second paradox in my evaluation stems from my ambition to analyze prosecution cases from the practices of the two magistrates according to the importance of their status, scope of functions and impact on civil society.

Furthermore, my current case will serve as a benchmark for making a concluding assessment remark that although different in reference to their rank in the Judiciary, they are similar in their contribution to the proliferation of corruption, in terms of slow proceedings against criminals, enjoying the protection of high public officials in both Bulgarian Judiciary and Executive.

The case initiated on February, 16, 2005, when Asen Stambolijski was killed in a car crash by Georgi Kemalov, a CEO of the Union of the Bulgarian Automobile Owners. (Kozhuharov 2007, 52) It was assumed that Kostadin Preshelkov, as a prosecutor in Razlog's District Prosecution began his investigation work against Georgi Kemalov. (Kozhuharov 2007, 52) However, when later on, Miroslav Stambolijski, sent a request for a termination of the prosecution work in the required deadline, he was surprised to know that Preshelkov did not report for the case in both Razlog's District Prosecution and Blagoevgrad's Regional Prosecution. (Kozhuharov 2007, 52)

My evaluation of the case, according to its legal side, is that Kostadin Preshelkov's "hiding" of a murder is a violation of Article 288 from the Bulgarian Penal Code. (Penal Code, Article 288, APIS Law 2006) For additional clarification, I will present a brief review of the article. In general, it explains that if a prosecutor bypasses its professional

responsibilities to initiate proceedings against a criminal or impedes the prosecution of this person, he is a subject of a disciplinary measure for 6 years imprisonment. (Penal Code, Article 288, APIS Law 2006) By contrary, Kozhuharov (2007) points out that Preshelkov received promotion, becoming a prosecutor in Razlog's Regional Prosecution. (Kozhuharov 2007, 54)

Assessment of the failure not only of Preshelkov's implementation of his professional duties but also of Razlog's District Prosecution Office could be found of Kemalov's close connections with high executives at political level. (Kozhuharov 2007, 53) Georgi Lazarov, a prosecutor in the same prosecution office, in an interview with Kozhuharov observes that Kemalov is a very close friend of Kiril Prichkapov, a present mayor and a member of the Supreme Council of the Bulgarian Socialist Party (BSP). (Kozhuharov 2007, 53) Moreover, Ivanov as a referee in the same interview concludes that "the reasons for Kemalov's immunity from the rule of law stems from his friendship and hunting trips with the mayor of Blagoevgrad, Prichkapov." (Kozhuharov 2007, 54)

On an institutional level, the case again is an example of the ineffective functioning of the main regulatory bodies within the Legislative and Judiciary, respectively the Combating Corruption Committee (CCC), the Inspectorate at the Supreme Judicial Council and the Prosecutor General Office. (Shenkelaars 2007, 18) Moreover, the case clearly represents an absent coordination between check-ups and repressive measures against prosecution's violations, in terms of Preshelkov's "hiding" of a murder. To sum up, until the monitoring role of all of the above-mentioned bodies is not strengthened, then Open Society (2002) "the judiciary suffers most from an absence of political commitment to judicial independence, reflected in substantial executive interference in the operation of the Supreme Judicial Council" diagnosis will remain in line with my assessment of the present case. (Open Society 2002, 112)

My preliminary conclusions on the inspection of the prosecution practice of the Prosecutor General of the Republic of Bulgaria, Nikola Filchev (1999-2006) and 2005 case of the “missing” murder, a component of the prosecution practice of the prosecutor in Razlog District Prosecution Office, Kostadin Preshelkov, justified the ineffective regulation of violations of officials at high judicial level, in terms of anticorruption monitoring bodies, weak legislation within the Judiciary and close relations with high political executives.

Both Zlatkov (2007) and Kozhuharov (2007) researches remain crucial for a further inspection of the case studies under consideration because of the documentation and interviews which they provide, considering the fact that the topic is quite understudied. Main Bulgarian watchdog organizations such as Alfa Research, Center for the Study of Democracy and Vitosha Research do not provide any substantial reports on the issue. As a matter of fact, only Coalition 2000 (2002) and Transparency International Bulgaria (2004) examined the problem of ineffective prosecution in Bulgaria.

However, the scope of analysis of Transparency International Bulgaria (2004) was not narrowed to particular prosecution case studies, such as the case of the Prosecutor General, Nikola Filchev. On contrary, it defined, inspected and provided policy recommendations for stricter implementation of law regulations by the prosecution in general. Up to date, the main influential source for the corrupt practices of the high ranking magistrate under discussion remains Coalition 2000 (2002). However, in my assessment, the reporting of the media which this source offers on Filchev’s misuse of power is not substantial on two grounds. First, the focus is on the mental health of the high ranking magistrate. (Coalition 2000, 2002) Second, the information about his unethical behavior in impeding the work of the prosecution is reported in a partial and unjustified manner. (Coalition 2000, 2002)

Chapter V: Policy Recommendations and Conclusion

My MA Thesis is entitled “Political Corruption Practices in Bulgarian Post-Communist Institution-building: Case Study Analysis of Bulgaria,” with a subject of its research, political corruption in reference to high ranking officials at political and judicial level and their interactions with underground economy and organized crime.

On macro level, the purpose of this research was to analyze different cases of high ranking politicians’ and magistrates’ corruption practices and to provide recommendations for enhancement of the combating corruption tools in the Executive, Legislative and Judiciary as well as filling the gaps of the present Bulgarian legislative system in the financial laws and the Judiciary system. On micro level, the goal of this investigation was divided on two parts.

The first part inspected chronologically ordered corruption violations of high executives at political level in the sphere of siphoning of public resources, illegal public procurement and tender procedures for an exchange of a real estate property, concluding that there is a preservation of the status quo in terms of low institutionalization, weak adjudication of laws by the Judiciary and ineffective anticorruption monitoring.

The second part analyzed cases from the judicial practice of high ranking magistrates in the sphere of ineffective prosecution, emphasizing on impediment of initiation of proceedings based on whistleblowers’ complaints because of criminals protection by both high ranking politicians and high magistrates. The conclusion was again maintenance of the low institutionalization, weak adjudication of laws by the judiciary and ineffective anticorruption monitoring.

Both macro and micro level research aimed at answering the following questions:

3. Why there is a high level of political corruption in Bulgaria?
4. What amendments should be implemented in the present Bulgarian anticorruption architecture and Legislative system to enhance its efficiency?

After the problem was defined, assessed and justified using evidence from various case studies from the judicial and political professional careers of high ranking public officials, the last chapter will present policy recommendations for an effective resolution of the target, respectively in answering my two research questions. My suggestions are based on three criteria, which respectively are: inclusion of conceptual definitions of the terms “political corruption” and “audit” in the Bulgarian legislation; filling institutional and legal gaps in the Executive, Legislative and Judiciary; and amendment of the present laws of confiscation and forfeiture, which now include only natural persons in their scope, as well as adding high ranking magistrates and politicians to GRECO (2005) policy recommendation of inclusion of legal persons in the relevant laws. (GRECO 2005: 3-8) The focus on the chapter will be a comprehensive presentation of my policy recommendations.

In resolving my first research question, I found that the level of political corruption in Bulgaria remains high because of improper and often absent implementation of Bulgarian financial legislation by the Judiciary in order to curb corruption practices by high ranking magistrates and politicians. Moreover, the lapse of a definitional framework of the terms “political corruption” and “audit” additionally weighs the work of the prosecution to begin proceedings against corrupt officials at high political and judicial level.

5.1 Policy Recommendations at Conceptual Level

Introducing policy recommendations for improvement of the current anticorruption monitoring bodies and implementation of the anticorruption measures begins with filling up the deficiencies in the operational level of the concepts in the Bulgarian legislation. Subsequently, the lack of a definition of political corruption in the Bulgarian legislature is a serious problem for the effective functioning of the whole anticorruption process.

Various Bulgarian policymakers and public figures offer a vast range of definitions of political corruption. In my evaluation, one of the two definitions offered by Konstantin Palikarski in Transparency International Bulgaria (2006) and Cvetko Cvetkov in Kyncho Kozhuharov's (2007) should be enacted in the Bulgarian law system in order to implement an effective conviction in regards to political corruption violations of high executive officials.

Palikarski's operational definition of the issue under discussion states "political corruption" is "corruption for the realization of which is needed something more than the breaching of a normative or individual administrative act—usually political influence is needed related most of the time with the specific status of a "politician." (Transparency International Bulgaria 2006, 16) This definition is more formal than Cvetkov's suggestion and therefore more appropriate to be included in the Bulgarian legal system.

Cvetko Cvetkov defines the phenomenon in reference to an official at high executive level "a person who uses his governmental power for creating and selling opportunities." (Kozhuharov 2007, 38) However, according to my evaluation, Cvetkov's term more effectively describes the term political corruption, when applied to the Bulgarian context because it highlights its behavioral meaning, which is crucial for assessment of the individual performance of high public officials on both political and judicial level.

Since the definitional framework of the topic under discussion is quite understudied, my contribution to the research is adding my own definition to the problem, which can be summed in a word “Bajganiovshchina”. Baj Ganio is a famous Bulgarian literary hero. The formation of my concept is influenced by Roumen Daskalov (2001) who introduced Bai Ganio as “a Bulgarian itinerant trader of rose oil, a traditional Bulgarian export, who travels through Europe selling his product (although he actually only gets as far as Austria.)” (Daskalov 2001, 531) Baj Ganio becomes became ruthless and corrupted and soon gained profit from the ruling political party of the country, which he quitted when it was no longer in power and turned to the next one, which turned out to form the new government. (Daskalov 2001, 531)

This image of this literary character was created in the beginning of 19 Century but it is still present in contemporary Bulgarian political environment. My understanding of it refers to officials at high governmental level selling public resources to their “own” people for personal enrichment of both parties.

After a definition of political corruption is enacted in the Bulgarian law system, a conceptual definition of the term audit should also be enacted in the Bulgarian Legal system because without it the already present Financial Audit in the Public Sector Act, State Inspection Act, National Audit Office Act and Public Internal Financial Control Act could not be implemented and monitored accurately by the respective bodies. (APIS Law 2006) HM Treasury and Audit Policy (2001) HM Treasury Audit Policy provides a useful definition of the concept which could be applied in the Bulgarian legislation. It states:

Internal audit primarily provides an independent and objective opinion to the Accounting Officer on risk management, control and governance, by measuring and evaluating their effectiveness in achieving the organisation’s agreed objectives. In addition, internal audit’s findings and recommendations are beneficial to line management in the audited areas. Risk management, control and governance comprise the policies, procedures and operations established to ensure the achievement of objectives, the appropriate assessment of risk, the reliability of internal and external reporting and accountability processes, compliance with applicable laws and

regulations, and compliance with the behavioural and ethical standards set for the organisation.

(HM Treasury Audit Policy 2001, 2)

In answering my second research question, I observed that the present anticorruption architecture do not function efficiently in terms of weak coordination and transparency among its bodies at the Executive, Legislative and Judiciary branches of power as well as legal gaps, which give a significant discretionary power to high ranking politicians and magistrates. Below, I will outline my policy recommendations for the improvement of the anticorruption monitoring at all branches of power.

5.2 Policy Recommendations at Executive Level

- Recommendations for enhancement of the current anticorruption monitoring should begin with a clear anticorruption policy definition in the Council of Ministers, ministries, state agencies, state commissions and executive commissions;

- Effective audit should be accomplished only in contact with Inspectorates reviews and monitoring of corruption practices, especially on high political level. By contrary, now Inspectorates mainly report to the relevant ministers and to the General Inspectorate of the Council of Ministers. They do not have a direct connection with the Secretary General of the internal audit unit; (Shenkelaars 2007, 16)

- The coordination and communication should be enhanced when representatives responsible for the general audit meet on a regular basis, discuss and give policy recommendations for future decrease of political corruption at high governmental level;

- Moreover, inspectorates have their own internal audit rules, which also should be coordinated not only with the General Inspectorate at the Council of Ministers but also with the Secretary General of the relevant ministry;

- Coordination should be further elaborated in all units responsible for audit in order of the main anticorruption bodies to function effectively. The more coordination, the more transparency in the process should be achieved;

- Legal amendments should be executed to Article 19 from the Law for Public Administration; (Law for Public Administration, APIS Law 2006)

- Information asymmetry and publicity should be improved in the interested groups of businesses, NGOs, media and the public;

- Individual policies should be commented and applied by the relevant anticorruption bodies;

- Planning and reviewing cycle should be implemented both on legal and practice level by monitoring the anticorruption process institutions;

- The scope of the anticorruption monitoring should harmonize with GRECO (2005), in particular forfeiture, confiscation and the Law on Citizens' Property and some parts of Theme II: Public Administration and Corruption such as Conflict of Interest and Codes of Conduct/Ethics, the latter in terms of creating an effective monitoring of a public register of conflict of interests declarations of officials at high political level;

- Anticorruption watchdog institutions should prepare audits and risk assessment for assuring transparency in conflicts of interests of executives at high political positions. Moreover, my last suggestion is supported by National Anticorruption Strategy (2008) offered in the website of the Bulgarian Ministry of the Interior, the amendments should be done in the State Financial Control Act as well as:

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.

(Ministry of the Interior of the Republic of Bulgaria 2008)

5.3 Policy Recommendations at Legislative Level

- Ensuring effectiveness of the anticorruption monitoring in reference to political corruption of high executive officials needs further elaboration and amendments in the following laws: Public Procurement Act, Financial Audit in the Public Sector Act, State Inspection Act and the National Audit Office Act., Public Internal Financial Control Act, Law for the Civil Servant, Ethics of High Level Officials in the Executive, II, 8 and Public Disclosure of Senior Public Officials' Financial Interests Act. (APIS Law 2006)

5.4 Policy Recommendations for Sanctions, Reporting Obligations and Protection of Whistleblowers

- In present Bulgarian legal framework, sanctions are included as non-compliance with the rules of the Code of Conduct of the Civil Servant. (Article 89, para. 2., subpara.5 of the Law on the Civil Servant, APIS Law 2006) This should be applied also to officials at high political level because for the time being there are not included in the category of civil servants;

- Amendments should be done in both codes of conduct and reporting obligations against political corruption of high ranking officials. By contrast, now reporting obligations to the public prosecutor are part of the professional responsibilities of the internal audit units. (Internal Audit Act, Article 30, APIS Law 2006) Then the audit reports should be sent to the public prosecution office. (National Audit Office Act, Article 52, APIS Law 2006) In present legislation reporting obligations are not included in the Code of Conduct of Civil Servants and the Code of Conduct of the High Ranking Officials; (APIS Law 2006)

- A law for the whistleblowers' protection should be enacted in order of the civil society to get more actively involved in reporting political corruption violations; GRECO

(2007) expresses the same concern in current Bulgarian legislation's disability to protect whistleblowers:

It also welcomes the introduction of the possibility to impose sanctions in case of non-reporting and the provision stipulating that no one may be prosecuted or mistreated for reporting suspicions of corruption. It considers however that the introduction of such a provision falls short of the establishment of an actual whistleblower protection system, as required by the recommendation.

(GRECO 2007, 8)

5.5 Policy Recommendations at Judiciary Level

- Positive development of the anticorruption process could be achieved in respect to improving the coordination among the different bodies within the Judiciary;

- The Supreme Judicial Council under the Law for Judicial Power should apply conceptual and organizational frameworks for an anticorruption policy; (Law for Judicial Power, APIS Law 2006)

- A new control commission, established by Article 46 of the Judicial Power Bill should support the work of the Supreme Judicial Council in reviewing check-ups and preventive procedures; (Judicial Power Bill, APIS Law 2006)

- An Inspectorate for Judiciary has to be formed as proposed by Article 58 of the Judicial Power Bill; (Judicial Power Bill, APIS Law 2006)

- Audits and risk assessment in terms of conflict of interest declarations of officials at high judicial positions should also be public in order to ensure transparency in the judicial system.

5.6 Policy Recommendations at GRECO (2005)

Last but not least in importance of my recommendations is related to confiscation and forfeiture of illegally possessed property and incomes under the Bulgarian legislation. Under present Bulgarian law system "both confiscation and forfeiture are applicable only in respect

with natural persons.” (GRECO 2005, 3) Moreover, GRECO (2005) recommends that legal persons should be included. (GRECO 2005, 8) My suggestion is the inclusion of high ranking public officials at both political and judicial level in the for assuring more transparency in regulation in terms of illegal exchange of properties, privatization, public procurement contracts and siphoning of state resources for private enrichment.

5.7 Contribution to the Research and Finale

Since the topic of my research is understudied, my contribution was to fill gaps in the present political corruption and anticorruption studies, in reference to watchdog organizations and media coverage as well as providing policy recommendations in the legislative system and anticorruption monitoring and an attempt to create my own definition of political corruption, which could be the basis for further researches on the subject.

The findings from my MA Thesis could open new possibilities for a research based on two grounds. The first one reads for Bulgarian watchdog organizations’ initiation of both qualitative and quantitative researches in narrowing down the topic of political corruption to cases of certain high ranking public officials at the judiciary and the executive. The second explains the need for further development in the theoretical framework of political corruption and anticorruption theories.

As a concluding remark, the policy recommendations and my examination of the case studies of high ranking politicians and magistrates can serve as an initial basis for more active engagement of the Bulgarian civil society in analyzing particular cases of misuse of power of public officials.

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