



FREEDOM HOUSE

NATIONS IN TRANSIT - Bulgaria (2003)

NIT Ratings	1997	1998	1999	2001	2002	2003
Electoral Process	3.25	2.75	2.25	2.00	2.00	2.00
Civil Society	4.00	3.75	3.75	3.50	3.25	3.25
Independent Media	3.75	3.50	3.50	3.25	3.25	3.50
Governance	4.25	4.00	3.75	3.50	3.50	3.75
National Democratic Governance	N/A	N/A	N/A	N/A	N/A	N/A
Local Democratic Governance	N/A	N/A	N/A	N/A	N/A	N/A
Judicial Framework and Independence	4.25	3.75	3.50	3.50	3.50	3.50
Corruption	N/A	N/A	4.75	4.75	4.50	4.25

Capital:Sofia

Population:7,800,000

Scores:

Electoral Process Rating: 2.00

Civil Society Rating: 3.25

Independent Media Rating: 3.50

Governance Rating: 3.75

Constitutional, Legislative, and Judicial Framework Rating: 3.50

Corruption Rating: 4.25

Polity: Parliamentary democracy

Economy: Mixed capitalist

Status: Free

PPP: \$5,710

Private Sector as % of GDP: 70%

Life Expectancy: 72

Religious Groups: Bulgarian Orthodox (83.8 percent), Muslim (12.1 percent), other (4.1 percent)

Ethnic Groups: Bulgarian (83.6 percent), Turk (9.5 percent), Roma [Gypsy] (4.6 per-cent), other (2.3 percent)

Introduction

From a foreign policy perspective, the year 2002 proved to be one of the most significant in Bulgaria's post-Communist history. Late in the year, at summits held in Prague and Copenhagen, the community of Western nations recognized Bulgaria's progress to date in establishing democracy and a market-oriented economy by inviting the country to join NATO and setting a target date for its accession to the European Union. Despite their historic significance, though, these accomplishments had little influence during the year on Bulgaria's domestic political scene. Rather, one year after the landslide electoral victory of former king Simeon Saxe-Coburg-Gotha (or Simeon II) and his National Movement Simeon II (NMSS), the expected political miracle associated with Simeon II's return had not materialized. Indeed, domestic political processes actually appeared to have slowed. As a result, the events of 2002 failed to remove three worrisome trends that, while failing to signal an immediate threat of violent breakdown in the country, do suggest the potential for the slow erosion of Bulgaria's democratic institutions.

The first area of concern is the growing gap between popular expectations of the democratic system and the political elite's own agenda.

With the introduction of democracy, for example, the Bulgarian public had anticipated rapid economic improvements, including an increase in living standards, reductions in unemployment, and improvements in social security. However, external factors such as International Monetary Fund (IMF) and European Union (EU) conditionality often have prevented the government from meeting the public's expectations quickly enough. Although the problem has daunted the country's political elite as a whole, the NMSS has come under particular criticism for campaigning on a populist platform that promised drastic changes in the quality of life but then, once in power, sustained painful and unpopular economic reforms.

The second alarming trend is the growth of antiparty sentiments among the Bulgarian electorate. Currently, only 20 percent of Bulgarians claim to trust political parties and to consider them real instruments of change. During the last legislative elections, for example, the NMSS achieved an impressive win as an outsider only three months after its formation. Although veteran parties interpreted the NMSS's rapid rise as a threat to the party system's integrity and cohesiveness, the populace responded overwhelmingly to Simeon II's message. In short time, though, the nature of politics forced the NMSS to compromise and work with the other parties to achieve common goals. As a result, the NMSS lost nearly two-thirds of its popular support over the course of the year. In the long run, the public's growing lack of confidence in political parties could threaten the stability of Bulgaria's democratic system.

The third disconcerting trend is the overall decline of public confidence in Bulgaria's democratic institutions. Although the country's democratic system stands on a solid foundation and has functioned relatively well during the transition period, the public's trust in its efficiency has decreased significantly. Weak governance in particular has caused a substantial, and increasing, number of people to lose interest in solving their problems via the state or civil society. This trend serves only to weaken Bulgaria's democratic institutions and renders national policy making less meaningful. It also makes anticorruption initiatives nearly impossible to implement.

These three worrisome trends aside, Bulgaria's political system does have its strengths, including a stable parliamentary system that adheres to democratic practice. For more than a decade, Bulgaria has conducted elections that are free, fair, and orderly and adhere to the rule of law. Likewise, power has changed hands peacefully between parties and individuals that represent both the Left and the Right, and there is a stable tradition in place that strictly follows the rules of order. The president, for his part, has tried consistently to present himself as a nonpartisan representative of the entire nation. Although the judiciary remains the least reformed branch of power, the Constitutional Court has repeatedly declared laws unconstitutional, and Parliament has revoked them. Print media are free of state control, and electronic media are gaining in independence as private companies successfully set up radio and television stations. Nongovernmental organizations (NGOs) are active in all walks of public life.

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Democratization

Electoral Process

Electoral Process Rating: 2.00

After 13 years of transition, Bulgaria has produced a stable political system and an effective electoral process. During this time, the country has conducted several presidential, legislative, and municipal elections, all of which were free, fair, orderly, and respectful of the rule of law. After each election, power has changed hands peacefully between parties. However, the most recent legislative and presidential elections exhibited the public's growing antiparty sentiment and its disappointment with democratic institutions and procedures as a whole. In response to this alarming trend, the country's political elite have begun to discuss changes to the Law on Elections that would encourage public participation in the political process and restore legitimacy to elections as an important part of a democratic system. Bulgaria's Law on Elections has experienced only minor changes since its adoption in 1991.

Bulgaria has a multiparty political system based on proportional voting. Although the president is elected directly, his power is limited. Parliament is the chief rule-making body. Political parties, rather than candidates, are the major subjects of attention during legislative elections. The parties also nominate candidates for municipal and presidential elections. Opposition parties have the opportunity to take power and are assured participation in the government through a number of parliamentary mechanisms. Fifty-four political parties and coalitions were registered to participate in the last parliamentary elections; 96 parties were eligible in the last local elections. The legal threshold for gaining representation in the legislature is 4 percent.

At the beginning of 2002, a team of experts began drafting a new electoral code. By midyear, the Union of Democratic Force (UDF), a center-right party, had presented a proposal for a constitutional amendment that would cut the size of Parliament in half and introduce some elements of direct, majority voting for legislative elections. The purpose of these proposed changes is to improve public attitudes toward the political elite, increase voter participation in the nomination and election of members of Parliament, and, overall, expand public participation in the political process. Though the amendment had not been passed by year's end, it should be in place by the next parliamentary elections.

Prior to the 2001 parliamentary elections, two parties dominated Bulgarian politics: the Bulgarian Socialist Party (BSP) and the UDF. The Movement for Rights and Freedoms (MRF), the party of ethnic Turks, always enjoyed representation in Parliament as well. However, the entry into politics of Simeon II and his NMSS marked the end of the dominant two-party model. If the NMSS strengthens its position and survives until the next legislative elections, a coalition party model will likely emerge.

Bulgaria's political parties currently suffer from a deep loss of public confidence in them. Public approval for the major parties stood at only 20 percent in 2002. Although the BSP and the UDF both changed their leaderships during the year, putting a young and relatively popular generation of politicians in command, they still will have difficulty overcoming 13 years of unmet public expectations for rapid improvements in their economic standing and quality of life.

The process for registering political parties and organizations in Bulgaria is relatively liberal, and today there are more than 200 parties in the country. However, only a small percentage of them actually function. There is no reliable data on the proportion of the population that belongs to political parties, but that figure is likely no more than 1 percent.

When the last legislative elections took place on June 17, 2001, they marked the first completion of a full four-year mandate by a government since 1989. According to both domestic and international observers, the elections were free and fair. Simeon Saxe-Coburg-Gotha, the country's king in exile, and his NMSS proved victorious only three months after

the party's founding, with 43 percent of the vote and 120 out of Parliament's 240 seats. Other parties passing the 4 percent threshold were the BSP, the UDF, and the MRF. Voter turnout was 67 percent.

Following several rounds of negotiations, the NMSS and the MRF signed an agreement to govern the country together. Simeon II also managed to appease the BSP--potentially the most outspoken enemy of the coalition--by inviting two prominent mayors with BSP connections to take key positions in his cabinet. The UDF did not accept the NMSS's invitation to participate in the government and became the only political force clearly in opposition. However, in November 2002 BSP member Kostadin Paskalev resigned from his cabinet post as deputy prime minister and minister of regional development over a disagreement with the draft budget. The move will allow the BSP to strengthen its criticism of Simeon's government.

Georgi Parvanov, the leader of the former Communists, emerged as the winner in Bulgaria's last presidential election, which took place on November 11 and 18, 2001. Former president Petar Stoyanov was generally considered a good leader, and polling data suggested that Parvanov had no chance of winning. Parvanov's surprise victory clearly illustrated the public's growing impatience with the political establishment and its desire to punish the parties in power. All observers pronounced the elections free and fair. Voter turnout was 41.76 percent in the first round and 55.09 percent in the second.

According to the Constitution, the president must be a Bulgarian citizen by birth, at least 40 years of age, and a resident of the country for at least five years prior to an election. Registered political parties and coalitions, as well as a committee collecting a minimum of 15,000 signatures, may nominate presidential candidates. Each body nominating a presidential candidate must deposit 5,000 Bulgarian lev (BGN) (US\$2,500) in the national bank. The money is refunded to candidates who receive at least 1 percent of the vote.

Bulgarian women are active voters. In some elections, especially for the president and mayors, the number of women voters is typically higher than that of men. The NMSS met one of its platform objectives for the 2001 parliamentary elections when it included an unprecedented number of women in top positions on electoral lists. As a result, women now make up 25.4 percent of all members of Parliament, compared to 7.5 percent in the previous assembly. There are also two female ministers in the government, one of whom is a deputy prime minister.

The Constitution bans the formation of parties on the basis of ethnicity, religion, or race. However, although the statutes of the MRF state that members are welcome regardless of their ethnicity or religion, the party is for all intents and purposes an ethnic one representing the interests of Bulgarian Turks. When Simeon II became prime minister, he proceeded to make more political history by appointing two ethnic Turks and members of the MRF to his government. For the first time since gaining its independence from the Ottoman Empire in 1878, Bulgaria has ethnic Turks in the government. Unlike the Turkish minority, however, Roma are still poorly represented in government structures. They enjoy some representation at the municipal level, but none at the national level. The claim that the political system discriminates against the Roma minority and impedes their political expression is only a partial explanation. The Roma also have not succeeded in consolidating their political interests around a particular party or political grouping.

Civil Society

Civil Society Rating: 3.25

According to data published in 2002 by the National Statistics Institute, there are 14,779 registered nonprofit organizations in the country. Of these, 2,881 are foundations, 11,888 are

associations, and 10 are foreign nonprofit organizations. Although there is no current data on the number of organizations that are actually active, the Information Center of the Open Society Fund of Sofia indicated that in 1998 over 1,000 nonprofit organizations were functioning in more than 50 towns. NGOs in Bulgaria focus their work in several areas, including human rights, minority issues, health care, education, women's issues, charity work, public policy, the environment, culture, science, social services, information technology, religion, sports, and business development. It remains unclear how many people are currently engaged in private voluntary activity.

There are two major women's groups in Bulgaria. All ethnic groups, including Turks, Roma, Bulgarian Muslims, Armenians, and Jews, have their own NGOs that are engaged in a variety of civic activities. Roma are especially interesting in this respect. Although they are not represented in the government, some of their NGOs function as political discussion clubs and protoparties. There are around 150 functioning Roma NGOs throughout the country, and the number of registered Roma groups is at least three times that figure.

Churches also engage in charitable activities by distributing aid and creating local networks that assist the elderly and children. The Muslim, Catholic, and Protestant communities are among the most dynamic religious organizations in the country. Their main activities include charitable work and the coordination of community events. Although the Orthodox Church remains the most influential religious group in Bulgaria, only a small percentage of the population actually attends its services regularly.

The Non-Economic Purpose Legal Persons Act, Bulgaria's NGO law, has been in force since January 2001. NGOs helped draft the law and lobbied for it in the assembly. Although it contains no explicit bans on the registration of anti-liberal nongovernmental institutions, Article 44 of the Constitution states that "no organization shall act to the detriment of the country's sovereignty and national integrity, or the unity of the nation, nor shall it incite racial, national, ethnic, or religious enmity or an encroachment on the rights and freedoms of citizens; no organization shall establish clandestine or paramilitary structures or shall seek to attain its aims through violence." In accordance with this provision, no anti-liberal groups have been registered during the past 13 years. Several informal organizations are considered anti-liberal, but their influence on public life is weak and confined mainly to the production of Web pages or the writing of racial and anti-Semitic graffiti.

The requirements for registering an NGO are reasonable, and the process typically runs smoothly. Registration is not costly and takes approximately one month to complete. All registered groups are entered into a transparent public register. While there are some tax incentives in the Corporate Taxation Act of 1997, they have not succeeded in encouraging businesses to give money to nonprofit organizations. Instead, more than 80 percent of all funding for the NGO sector comes from foreign sources. The government does not tax NGOs. Groups may carry out for-profit activities, provided the work does not clash with their aims and is registered separately. However, they must pay normal taxes on all for-profit work and invest all net profits into their main activities.

NGOs have proved to be an important and necessary part of Bulgarian society. The government's attitude toward NGOs has improved over time, and parliamentary committees often recruit NGO experts as advisers when they organize public hearings on issues of national importance. In 2001, Parliament established a permanent committee to address the needs of civil society and serve as a bridge between civil society and the legislative body. The committee's public council includes 21 members, representing 28 NGOs, who will be able to take part in the legislative process by proposing ideas that might become the basis of future bills. Some of the most important bills to emerge from the committee have addressed the registration and activities of lobbyists and proposals for a new electoral code.

There are three major independent trade unions in Bulgaria. The successor of the main

Communist-era union is the Confederation of Independent Trade Unions in Bulgaria. Podkrepa (Support) was established in 1989 as part of the political opposition, and Promyana (Change) emerged during the civil unrest of 1997 with the support of the UDF. Together these trade unions represent around two million workers.

Although the overall influence of trade unions has increased in recent years, there is an opposite trend in actual membership. Trade unions take part in the so-called tripartite commission for negotiations with the government on wages, management policies, and the privatization of enterprises. Workers' rights to engage in collective bargaining and to strike are protected by law. There are growing numbers of farmers groups and small-business associations.

The participation of interest groups in politics remains largely unregulated. Think tanks have repeatedly urged the National Assembly to legalize and regulate lobbying, feeling sure that this will result in better transparency and deal a blow to clientelism. As a result of this, the parliamentary Committee on the Problems of Civil Society introduced a bill in 2002 on the registration and activities of lobbyists. The aim of the bill is to improve the environment for the work of interest groups and to increase the opportunities for civil society to affect the political process. The bill remained under consideration in Parliament at year's end.

Bulgaria's education system is sufficiently free of political influence and propaganda. The most serious problems facing Bulgarian students are the continuous revisions of educational requirements imposed by the Ministry of Education. These changes result mainly from frequent alternations of the persons holding ministerial positions. According to the National Statistics Institute, there are 6,852 educational institutions in the country, including 2,965 child care centers, 3,796 primary and secondary schools, and 91 colleges and universities.

Independent Media

Independent Media Rating: 3.50

Article 40 of the Constitution enshrines the right to information and freedom of the press. There is free competition among media outlets, which offer multiple points of view. Although the media in Bulgaria are generally independent of the state, it is uncertain that they are truly free from the influence of political and economic power groupings and guided by the public interest.

With the exception a few local newspapers, all print media in Bulgaria are privately owned. At the end of 2002, the nation's largest private, national newspapers enjoyed the following levels of circulation: Troud, 180,000; 24 Chasa, 120,000; Standart, 30,000; Monitor, 50,000; Sega, 17,000; Novinar, 20,000; Douma, 15,000; Dnevnik, 6,000; and Kapital (weekly), 34,000. Overall, there are 247 newspapers and magazines, including 10 large weekly magazines, 26 monthly magazines, and 53 large regional dailies.

Although print media have worked diligently and successfully since 1989 to emancipate themselves from governmental control, electronic media are still not fully free from state influence and interference. Bulgarian National Radio and TV, which is still state owned and remains among the most influential broadcasters in the country, cannot be pronounced politically independent of the government. In particular, it lacks full financial independence since the passage of its budget is dependent on Parliament. Nevertheless, the radio and television businesses in Bulgaria have experienced radical changes. Out of 11 radio stations with national coverage, only 1 is state owned. There are also 98 local radio stations. As for television, there are 63 stations in the country, 10 of which reach national audiences and only 1 of which is state owned. The rest are regional cable networks.

With the exception of party-run newspapers and publications that defend the economic

interests of their owners, newspapers in Bulgaria are mainly independent. The same applies to radio stations. However, it is a fact that many Bulgarian media outlets have biases or special interests that often override professional journalistic concerns. This is particularly true when the interests of a media outlet's owners are at stake. The government has also tried to use its power to grant broadcast licenses as a lure to influence the electronic media, but its efforts have produced few results. Ultimately, the sheer variety of media in the country ensures that no single interest dominates the stream of information or public opinion.

In 2002, two scandals concerning press freedom erupted. The first was related to the head of the state Bulgarian News Agency (BTA), who was dismissed by the parliamentary majority for "lack of political confidence." The parliamentary majority took advantage of the fact that there is no legislation governing the BTA and made this change exclusively for political reasons. The second scandal erupted when the parliamentary Committee on the Media introduced a new media bill less than year after the Law on Electronic Media was amended. Both events contributed to the public perception that the ruling majority is trying to subject the media to its narrow political interests. In addition, communication between the government and the media has deteriorated since the present cabinet came to power in 2001.

With the exception of *Troud* and *24 Chasa*, Bulgaria's large, national, privately owned dailies and weeklies are printed in the state-owned print house IPK Rodina. Although this has contributed to some cases of government interference, there have been no such incidents in recent years. All print distribution networks are privately owned.

In general, the record of Bulgarian courts on matters pertaining to freedom of speech meets international standards. When criticizing governmental officials, though, journalists can be accused of libel. Under the penal code, which was amended in March 2000, both prosecutors and individual citizens can bring charges against a person for libel, the penalty for which is no longer imprisonment but, rather, a monetary fine. Since the penal code was amended, 97 cases of libel have been filed against journalists, and 1 has led to a conviction.

Among Bulgaria's most important journalistic associations are the Media Coalition and the Free Speech Civil Forum Association. The Bulgarian Journalists' Union, a holdover from the Communist period, is trying to reform its image. More than 50 percent of all journalists in Bulgaria are women.

According to Alpha Research, a Bulgarian marketing and social research agency, there was nearly a 100 percent increase in the number of Internet users in Bulgaria between August 2001 (7.8 percent of the population) and January 2002 (14 percent). Internet access is free of regulation, and there are no restrictions for private citizens. Freedom House's annual *Survey of Press Freedom* has rated Bulgaria "Free" since 1990.

Governance

Governance Rating: 3.75

Since 1989, Bulgaria has enjoyed a stable democratic system of government. The main factors of stability are the balance of the power between the central government and local governments; the system of checks and balances among the legislative, executive, and judicial branches of government; and the legal assurances of public participation in the political process. Bulgaria's political system has remained stable despite changes of power.

These positive trends aside, some significant concerns have emerged in the area of effective governance. For many years, successive governments developed policies that respond to external actors such as the EU and the IMF but fail to meet the expectations of Bulgarian society, particularly in the economic arena. As a result, political elites have grown weary trying to balance these competing interests, and the public has lost confidence in the

country's democratic system of governance.

Fearing that both of these factors--coupled with a weak judicial system--could lead to instability, a wide public discussion began in 2002 on constitutional changes that would transfer more power to local governments, reform the judicial system, and ultimately restore legitimacy to Bulgaria's system of democratic governance. According to the 1991 Constitution, Bulgaria is a parliamentary democracy in which supreme power resides with the legislative branch. The parliamentary majority appoints the executive. However, there are adequate provisions for minority rule should the majority fail to form a government that is acceptable to the full National Assembly. In times of crisis within the cabinet, the president can appoint a provisional government to prepare for general elections. Throughout the last decade, Bulgaria's system of democratic government has been tested heavily and repeatedly and has never failed. All changes of government have followed legal and constitutional procedures.

The president of Bulgaria, who enjoys very few executive powers, represents the country abroad and is considered nonpartisan. However, since the president is elected directly by the people, the officeholder enjoys the same level of legitimacy as members of the National Assembly. The president cannot translate this legitimacy into executive decision-making power but can wield substantial influence. This has helped during several crises in which the president has served as an effective facilitator in tough political negotiations.

The Constitutional Court decides whether the National Assembly and other major institutions are operating according to the Constitution. In its 11-year history, the Court has repealed many unconstitutional proposals. The Supreme Court has the right to declare unlawful decisions of the Council of Ministers null and void, and it has exercised this discretion repeatedly. The country's system of checks and balances has been sufficiently effective thus far.

Under the Constitution, the Bulgarian National Assembly is the only body that can formulate rules with the force of law. Other bodies--mainly the executive branch--may adopt normative acts, but their legal force is lower than that of laws. The legislature adopts laws with a simple majority.

It also makes changes to the Constitution, approves the national budget, elects and dismisses the Council of Ministers, and decides on issues of war and peace, troop deployment, and ratification of international agreements. Although the president may veto laws, Parliament may override vetoes with a simple majority. Committee hearings and legislative sessions are open to the public and the media. Most bills can be found on the Bulgarian National Assembly's Internet site, and some sessions of the National Assembly are broadcast live on television. The work of the Council of Ministers is observable only through the regular press conferences of its members and through a daily bulletin published on the Bulgarian government's Internet site. A particularly positive development was the final adoption of the Law on Access to Public Information in July 2000.

Most changes in local government in Bulgaria date to 1991 with the adoption of the new Constitution and the Law on Local Self-Government and Local Administration. The Constitution divides the national territory of Bulgaria into municipalities and regions. The basic territorial and administrative unit in the country is the municipality. Regional divisions only facilitate coordination between the national government and the municipalities. Municipalities have the right to own property and maintain independent budgets.

They also have the authority to address all issues of local importance, including the management of public property, development policies, education, health care, culture, social aid, and environment protection. The central government determines local budgets. The Council of Ministers appoints regional governors. Municipal councils and mayors are

elected. Between 1989 and 2002, every municipality in Bulgaria held elections for councils and mayors at least twice. All elections have been free and fair, with changes in the parties in power occurring frequently.

Municipal governments have two sources of revenue: central budget subsidies and taxes. Since the Constitution requires the National Assembly to approve all tax rates, local and property tax rates are defined by each municipality and then adopted en bloc by the Parliament. Once the municipalities receive their budget subsidies from the central government, they have complete control over their use. The only exception applies to moneys received from the central budget for specific and targeted national programs.

At the local level, government administrators have proved that they are capable of selecting good local leaders and civil servants. Local civil servants are employees of the municipalities, not of the central government. Still, partisanship and central interference have some direct effects on appointments and policy making.

Reform of Bulgaria's civil service began with the adoption of the 1998 Law on Administration and the 1999 Law on Civil Service. Although a new Law on Civil Service was adopted in 2000, its implementation has been somewhat problematic. The main problem concerns Article 20, which requires civil servants to resolve without delay a citizen's request. In practice, there is still considerable lag time before citizens receive the decision of the state administration. The minister of state administration has stated that the Law on Civil Service will be changed, but he has not elaborated any specific ideas or plans.

Rule of Law

Constitutional, Legislative, and Judicial Framework

Constitutional, Legislative, and Judicial Framework Rating: 3.50

The Constitution provides for an effective separation of powers among the legislative, executive, and judicial branches of government. The effective rule-making body in Bulgaria is the National Assembly, whose legislative acts and decisions are constrained only by the Constitution. This supremacy is undisputed and is enforced in practice. Although some important areas of regulation have traditionally been left to the discretion of the executive branch, this practice has diminished as economic reform has proceeded along with the adoption and implementation of laws that meet EU standards.

Bulgaria's Constitution has been in force since July 1991. Its text has remained unchanged since then, despite several pronouncements by different political forces that they would seek amendments. In the summer of 2002, the UDF, the second largest party in the National Assembly, announced 24 concrete proposals for changes to the Constitution and opened formal talks with state organs and other parties. The proposed changes concern all three branches of power, the competencies of local administrations, the rights of citizens, and issues related specifically to EU integration. At year's end, the UDF's ideas still had not become formal legislative proposals. Debate had been suspended pending a Constitutional Court decision on whether the proposed amendments would require the decision of a Grand National Assembly (the only body authorized to change the Constitution in its more fundamental aspects, such as the form of government) or just an ordinary National Assembly.

During its 11 years of existence, the Court has established itself firmly as the only legitimate interpreter and enforcer of the Constitution. Relevant recent examples include Constitutional Court Decision Numbers 6 and 9 in 2002, which confirmed the unconstitutionality legislation that would have imposed a financial burden other than taxes on sports clubs and shortened appeals procedures in arbitration cases. Possibly the most significant check on the legislature

in 2002 was Constitutional Court Decision Number 13, which struck down 44 provisions contained in amendments to the Law on the Judicial System that would have affected judicial power. A recent example of a check by the Constitutional Court on the executive was Decision Number 18 in 2001, through which the Court prevented two of the members of the newly elected Council of Ministers from simultaneously retaining their mayoral positions in two major cities by taking a "leave of absence." Both ministers resigned their positions as mayors, and elections were held in 2002 to fill their posts.

The National Assembly adopted several important changes to the penal code in September 2002. The amendments were driven by three main goals: implementing the government's anticorruption program, addressing new realities following the September 11, 2001, terrorist attacks on the United States, and continuing progress on the EU integration process. The penalties for taking a bribe were increased, child pornography was criminalized, and the punishment for raping a woman between the ages of 16 and 18 was significantly toughened. The penal code also contains a new section on human trafficking and introduces punishments for various computer crimes. Probation as a form of punishment was also introduced.

Although only judges can authorize searches and arrests, an exception can be made when an arrest is necessary to stop an imminent criminal act. In such a case, a judge must confirm the arrest within 24 hours. Reports by the International Helsinki Federation, Amnesty International, the Bulgarian Helsinki Committee, the U.S. State Department, and other observers of human rights in Bulgaria indicate that police beatings and violence do take place, albeit rarely, and are most common at the moment of arrest. The criminal justice system in Bulgaria continues to function very slowly.

There are adequate provisions for the protection of human rights in Bulgaria. The Constitution contains numerous protections, including explicit provisions on business and property rights. The expropriation of property is allowed only under special circumstances and in exchange for fair compensation. Article 19 of the Constitution enshrines the freedom of economic initiative and enterprise and includes a ban on the abuse of monopoly power.

Article 6 of the Constitution bans discrimination based on race, nationality, ethnic identity, sex, and religion, and Bulgaria has ratified most human rights, minority, and social conventions. Despite the presence of these provisions, Bulgaria is often charged with their violation, especially with respect to race-based discrimination and abuses within the law enforcement system. Human rights observers particularly highlight discrimination against Roma.

Bulgaria's judicial system is independent from political and other influences. Members of the judiciary are immune from prosecution except in the case of serious crimes. The supreme governing body of the judiciary is the Supreme Judicial Council (SJC), whose members are elected by judges, prosecutors, investigators, and others in the legal profession. Although the SJC is entitled to submit its own budget to the government, the government has typically sent a budget to Parliament that is significantly lower than the original request. Courts in Bulgaria do not function efficiently. They are slow, and their practice is inconsistent.

The right to a fair trial is guaranteed in Bulgaria, and as a rule, court hearings are open to the public. The defense receives a full opportunity to examine evidence, develop and defend a case, and appeal decisions if necessary. The Supreme Court of Cassation and the Supreme Administrative Court ultimately oversee the application of the law, and on numerous occasions these two courts have demonstrated their independence from the executive branch. In November 2002, for example, the Supreme Administrative Court overturned a decision by the Privatization Agency to award a high-profile purchase in the tobacco industry to a specific company. The minister of justice is not linked with courts and has the right only to chair sessions of the Supreme Judicial Council and make proposals, particularly

on administrative punishments for members of the judiciary. The minister of justice does not have the right to vote on the council.

The state is not obliged to provide public defenders, except under certain conditions, including criminal cases carrying severe punishments (a minimum of 10 years' imprisonment) and cases in which the defendant is a minor. The authority of the courts is recognized, and once made, judicial decisions are enforced effectively. However, the process of enforcement is considered slow and allows obligated parties to avoid resolution for significant periods of time, especially with respect to civil law decisions.

Judicial reform has emerged as a priority in Bulgaria, particularly with regard to meeting the requirements for membership in the EU. The problem can be divided into three parts. First is the public's image of the judiciary as corrupt and failing to dispense justice fairly and in a timely manner. The public is also suspicious of efforts to reform the judiciary, because it feels that the authors of such proposals put their personal interests above those of society. Second, the judiciary does not have sufficient resources to carry out its duties. Despite claims on the part of the legislature and the executive that the judicial system is a priority, its budget has been stagnant in recent years, and requests for additional funding have been routinely ignored. As a result, the judiciary and courts in particular are understaffed and overburdened with mundane tasks that could be handled easily with new information and communication technologies. Staff are also underpaid and courtrooms in short supply.

Perhaps the most important problem facing the judiciary is the absence of sufficient independence and accountability within the system. Although courts and the investigative and prosecutorial arms of the judicial system function independently, there is a fundamental constitutional question about whether the latter two should be part of the judiciary at all. With regard to accountability, only the SJC can make appointments when constitutionally set mandates expire, but it cannot hold any of the separate bodies responsible for their actions.

A stark example of this can be seen in the relationship between the prosecutor-general and the SJC. In December 2002, after two hearings, the SJC agreed that there was enough evidence to conclude that the prosecutor-general had abused his office by introducing a heavy-handed style of decision making. However, the SJC had no authority to hold the prosecutor-general accountable for his actions. Its only recourse was to make a public appeal for the prosecutor-general to resign. In 2002, Parliament amended the Judicial System Act to increase the power of the SJC in situations like these, but Constitutional Court Decision Number 13 pronounced the amendments unconstitutional.

Corruption

Corruption Rating: 4.25

In force since 2000, Bulgaria's Law on Civil Service limits the ability of the average civil servant to engage in private economic activities. However, there are no such legal requirements for individuals at the highest levels of government. Specific codes of conduct for civil servants and policy makers are under development but won't be in place for some time.

During the period covered by this report, several instances of direct links between members of the executive branch and specific businesses came to light. First, when the new government began actively managing the Bulgarian foreign debt, its policy included the issuance of new euro-denominated bonds and the swap of Bulgarian Brady bonds for newly issued bonds denominated in euros and dollars. After the transactions were concluded, it was revealed that the brother of the minister of finance and the wife of the deputy minister of finance responsible for the whole operation were on the payroll of the international investment banks selected to handle the deal. Second, the deputy prime minister and

minister of labor and social policy declared ownership of shares in a quartz sand factory and in a financial brokerage firm. Third, a deputy minister of trade and communications left his position and was hired by the largest Bulgarian mobile phone provider only weeks after he had supported the company's demand to pay lower fees for additional frequencies. Whether these examples of potential conflicts of interest actually led to abuses of power is unknown. It also cannot be claimed that these cases represent an increase in such ties over previous governments; instead it may suggest that such ties were simply better concealed in the past.

The adoption in 2000 of the Law on Publicity of Personal Property of High Government Officials in the Republic of Bulgaria led to the creation of a public register within the state National Audit Office of property held by a broad range of high officials. The media, and thereby the public, are guaranteed access to the register. To date, the law has been enforced, and most public officials have submitted the required declarations in a timely manner. In 2002, though, several prominent cases of nonsubmission by members of Parliament (who cannot be prosecuted) continued.

Other legislative acts aimed at increasing the level of accountability of public officials are the 2001 Law on State Internal Financial Control, the 2000 Law on Access to Public Information, and the 1999 Law on Public Procurement. Racketeering is against the law, and the spread and significance of the phenomenon have decreased in recent years. Recent changes to the penal code include harsher punishments for corrupt acts, a broader pool of public servants who are covered by anticorruption provisions, and the criminalization of bribery in the private sector. The National Audit Office monitors all government institutions controlling budgetary resources and has the right to investigate anyone working for these bodies.

The government adopted a national strategy for combating corruption in 2001 and an action plan for its implementation in 2002. The most significant innovation in the action plan was the creation of a commission that will coordinate anticorruption efforts, collect information on alleged corruption, and take cases to appropriate judicial bodies when it finds that there is sufficient evidence to prosecute. The commission is headed by the minister of justice. Pursuant to the action plan, Parliament adopted a new Law on Privatization and amended the Law on Public Procurement in 2002 with the explicit aim of improving transparency and accountability.

Civil society organizations have become more active in the fight against corruption as well. In 2002, for example, NGOs established a new civic organization called the Agency for Combating Corruption whose purpose is to collect, investigate, publicize, and eventually help prosecute corruption cases. Another project run by NGOs aims to investigate, publicize, and pursue in court corruption cases that have been in the public eye for several years. At this time, it is too early to assess the impact of these efforts.

The potential for economic corruption remains high in Bulgaria. Although efforts have been made to decrease state intervention in economic and market activities, it will take time for new policies to produce substantial improvements. In September 2002, for example, the government announced its intention to abolish or loosen one-third of the licensing and permission regimes for businesses.

As of September 2002, the average monthly salary in the state government sector was BGN 368 (approximately US\$185). Although this marks a significant increase from BGN 330 in September 2001 and BGN 290 in September 2000, it is still low relative to the cost of living and fails to provide a sufficient disincentive for engaging in corrupt practices. Even though public perceptions of the levels of corruption and the need to pay bribes are slowly improving, customs and police officers, health care workers, tax administrators, members of Parliament, ministry officials, and local government officials are still perceived as corrupt. Bribes are not an absolute necessity in these sectors, but they are a reality and continue to distort the normal conduct of policy and business.

Two organizations periodically perform and publish measures of corruption in Bulgaria. The first is the local branch of Transparency International (TI), called Transparency Without Borders, which compiles a Corruption Perceptions Index (CPI) annually. On a scale of 1 (most corrupt) to 10 (least corrupt), the index for Bulgaria has improved every year, from 2.9 in 1998 (the first measurement for Bulgaria) to 4 in 2002. Overall, Bulgaria ranked 45th out of 102 countries surveyed in 2002, up from 66 th out of 85 countries in 1998. The table indicates a declining level of perceived corruption since 1998. Among the 10 former socialist states aspiring for EU membership, Bulgaria is the only country to record improvements in the index for every one of the last four years. The Transparency International measurements are regularly and widely publicized in the country, and Transparency Without Borders has been active in raising public awareness about the problem.

The second organization dealing with the issues of corruption in Bulgaria is a broad alliance of NGOs called Coalition 2000. The group uses sociological surveys to measure several aspects of corruption on a scale from 10 (most corrupt) to 0 (least corrupt). Coalition 2000 asks respondents about three aspects of their experience with corruption: their general attitudes and tolerance for corruption, their personal engagement in corrupt practices, and their perceptions of the level of corruption in the country. The results indicate that most measurements have improved between the first survey in June 1998 and the last one in October 2002.

Transparency International Corruption Perceptions Index, 1998-2002

YEAR	TI CPI for BULGARIA	TI RANK for BULGARIA
1998	2.9	66th out of 85
1999	3.3	66th out of 99
2000	3.5	52nd out of 90
2001	3.9	47th out of 91
2002	4.0	45th out of 102

Coalition 2000's Index of Corruption Pressure--a measure of demands by public officials for bribes--fell from 2.1 in 1998 to 1 in mid-2002. The organization's surveys do not indicate any area in public life in which bribes are indispensable. However, the customs office, tax administration, the police, and the judiciary are still identified as problem areas. The privatization of state enterprise is another area of concern.

Economic Liberalization

NA

Social Sector Indicators

NA