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## A Study of Corruption in the Bulgarian Legal System

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A STUDY OF CORRUPTION IN THE BULGARIAN LEGAL SYSTEM

by

Stephanie A. Littlehale

A Thesis Submitted in Partial Fulfillment  
of the Requirements for a Degree with Honors  
(International Affairs/ Political Science)

The Honors College

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## **Abstract**

In modern Bulgaria corruption is one of the significant concerns plaguing the current legal system. With historical roots in the Ottoman Empire and the Communist regime, Bulgaria faces challenges in sustaining a strong judicial system that holds its members accountable. Since the transition from communism to democracy in 1989, Bulgaria's biggest challenge has been reforming its judicial system to combat corruption. Despite the number of reforms to the system, the Bulgarian legal system is perceived to be among the most corrupt in the world. Addressing the issue of corruption in Bulgaria's legal system is only possible through reforms centered around creating an environment where corruption cannot be easily practiced. These reforms must specifically attend to matters of judicial independence, accountability and discretion in the judicial system. The objective of this thesis is to answer three questions: what are the most significant faults of the Bulgarian judicial system that contribute to corruption? Where did these errors come from? How can they be resolved?

## Table of Contents

<b>Introduction</b> .....	1
<b>Part 1: Defining Corruption</b> .....	3
What is corruption? .....	3
What acts can be considered corrupt? .....	4
Who participates in corruption; the Power of Public Officials? .....	6
Why do actors turn to corruption?.....	7
<b>Part 2: Corruption in Legal Systems</b> .....	10
What makes a healthy Judicial System? .....	10
Judicial Independence; limiting monopoly of power. ....	12
Structure and Efficiency; Limiting Discretion .....	14
Maximizing Accountability .....	15
Achieving Transparency .....	16
Code of Ethics .....	17
<b>Part 3: Bulgaria- A History of Corruption</b> .....	19
The Ottoman Millet System .....	19
The Failures of the Constitutional Monarchy .....	21
Bulgaria’s Communist Legal System .....	23
<b>Part 4. Bulgaria’s Current Legal System</b> .....	26
The Judiciary .....	28
Administration.....	29
Court System.....	31
Public Prosecution and Investigations .....	36
<b>Part 5: Corruption in Bulgaria’s Legal System</b> .....	39
Low Public Perceptions .....	39
Institutional Independence .....	43
Decisional Independence .....	45
Efficiency and Structure of the Bulgarian Legal System .....	47
Accountability .....	50
<b>Final Conclusions</b> .....	61
<b>Works Cited</b> .....	63
<b>Author Biography</b> .....	66

## **Introduction:**

Bulgaria could certainly be considered the hidden gem of Europe. Located at the heart of the Balkan Peninsula, it provides tourists with extravagant hikes, wonderful landscapes, and incredible food. Operating in its own currency, travel is cheap and the people are kind. However, as a former communist nation, one might not consider traveling to this rather remote country. With the democratization of the nation in 1991 and its entry into the European Union in 2007, Bulgaria has opened itself up to the world. At the same time, as Bulgaria has rapidly emerged from its years of communist rule, its not-so-pretty corrupt legal system had been able to surface. Is Bulgaria's legal system indeed corrupt? If so, how did it become so? Is it possible to fix Bulgaria's legal system?

It is an indisputable fact that Bulgaria's legal system is, to some extent corrupt. Part 1 of this analytical study concentrates on an explanation of the intricate concept of corruption. Obtaining knowledge of the concepts and facilitators of corruption on a broader level is an important first step to take before delving into the complexities of the Bulgarian legal system. In addition to this theoretical research, Part 2 looks at corruption as it is manifested in legal systems on a very broad sense.

If Bulgaria is in fact corrupt, the question emerges, how did it become so? Corruption does not emerge in a nation overnight. Part 3 expounds on the complicated history of Bulgaria. Ruled by some of the most notoriously corrupt regimes in modern history, Bulgaria's corruption is rooted in its backstory. The Ottomans and Communists helped to create the corrupt legal system Bulgaria has today.

The inner workings of the current legal system in Bulgaria are depicted in Part 4. As a parliamentary republic, Bulgaria adopted a judicial system with specified court,

prosecution, and administrative institutions. Given the structure of the system, and the historical roots of Bulgaria, Part 5 identifies the main problem areas that have taken hold of the Bulgarian legal system. Pervasively negative public perceptions, lack of institutional and decisional independence, inefficiencies and structural problems, and lack of accountability have created an environment in the legal system where corruption can easily take place.

The final question we must ask ourselves is, how can Bulgaria rid itself of this corruption? The last section of this thesis discusses possible solutions for Bulgaria's problems with corruption in its legal system. Challenging perceptions, strengthening judicial independence, supporting a more efficient legal system, and changing levels of accountability will help to resolve Bulgaria's corruption problems.

This thesis does not argue, ultimately, that corruption can be completely eliminated from Bulgaria or any other system. In fact, it is logical to assume that where there are people with power, there will most certainly be misuse of that power to a greater or lesser degree. The objective is to alter the environment around that power to make it difficult for abuses to take place.

## **Part 1: Defining Corruption**

There are many questions to be asked when exploring the theory of corruption and the framework surrounding it. A strong theoretical knowledge of corruption is essential to understanding the fundamental details of Bulgaria's corrupt judicial system. What is corruption? Who participates in it? What acts can be considered corrupt? Why do actors resort to such behaviors? Attempting to answer these questions will not be easy. Chapter One is an effort to establish a scholarly framework and definition of corruption in a broad sense.

### What is corruption?

Corruption has been defined in various ways in the academic community. The most widely accepted version of the definition of corruption is, "the abuse (or misuse) of power for private benefit". (Doh, Rodriguez, Uhlenbruck, 2003 p. 114). Transparency International defines corruption in similar terms, offering that corruption is "the abuse of entrusted power for private gain". (Transparency International, 2011) Leslie Holmes, author of "*Rotten States*" argues that these types of definitions offered by the academic community are far too vague and do not address the specifics of corruption. Instead, she suggests that "attempts to analyze corruption in a systematic and scholarly manner should be abandoned". (Holmes 2010, p 43) Holmes' main argument is rooted in the idea that corruption is perceived by societies differently. Despite Holmes' argument, the academic community has clung to these definitions and, for the purpose of this study, so will we.<sup>1</sup>

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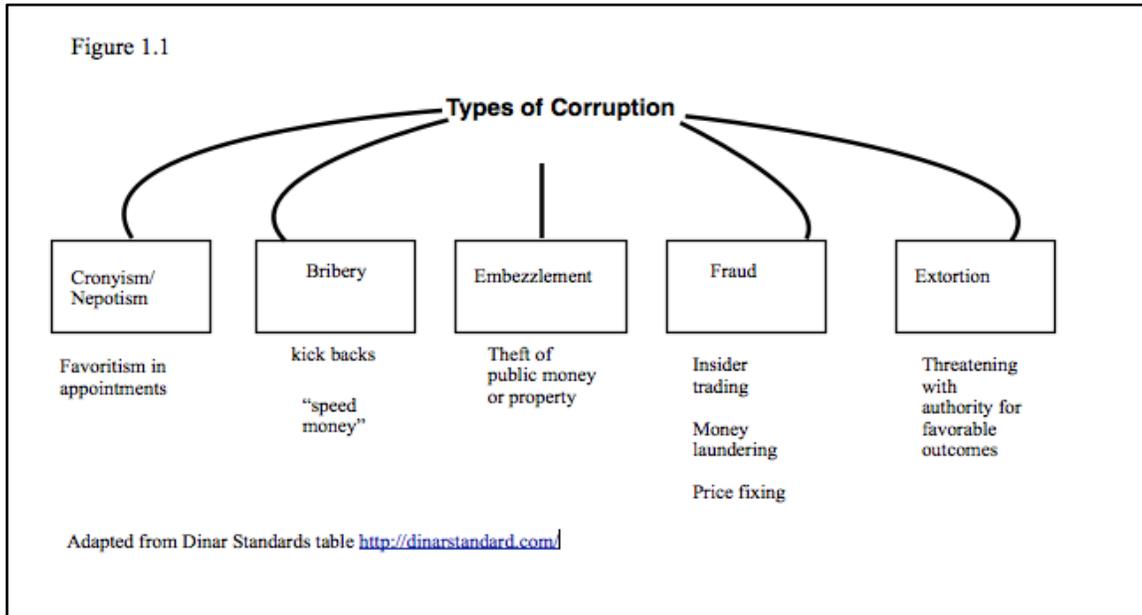
<sup>1</sup> Holmes' argument that corruption cannot be defined is not only an unworkable approach, it's unrealistic. Cultural differences between nations certainly alter the use of the definition of corruption, but these differences are not so substantial that a general definition cannot be accepted. Holmes' argument is, at least, a reminder to consider cultural perceptions of corruption in the application of a general definition.

Corruption can be defined on a broad level as being the misuse of public power for private gain. In understanding the definition of corruption, it is first necessary to determine what actions can be considered corrupt. Once these actions have been determined, it is helpful to understand who participates in these actions and why.

What acts can be considered corrupt?

The framework of corruption is a complicated one. Establishing the power of individuals in the public sector is only one piece of the puzzle. It is important to identify the boundaries of the term “abuse” in Transparency International’s definition. Employees in the public sector are given a lot of power. What behavior can be taken to constitute an act of corruption? It is important to first consider the intentions of the participant. The intentions of the facilitator are just as important as the act itself in determining corruption. A person must knowingly be involved in a corrupt act in order for it to constitute corruption. In addition this person or group must be seeking personal gain from this action. If this gain is known by the actor, corruption is evident. Generally, one might associate the term corruption with bribery. Corruption is not solely defined by bribery, however. Deliberate acts in which officials abuse their power for private gain can be manifested in a variety of venues. Figure 1.1 shows an example of some corrupt acts.

Corruption has many forms. Those listed in Figure 1.1 provide only a general view of the many ways a person can abuse their power. Holmes admits to identifying a “twenty-type classification” of corruption in post-communist nations. (Holmes, 2006 p. 31) With only a quarter of them listed, Figure 1.1 should not be considered a comprehensive list, but a broad understanding of the more common types of corruption that grow in the judicial system. It is most important to consider the context of the act and the intentions



of the actors. If there is any personal gain made by an action that takes abuse of power, it is considered a corrupt act.

These forms of corruption are often difficult to measure because each act is subjective to individual and cultural biases. Holmes' argues that in order for corruption to take place the society must perceive the particular act corrupt. (Holmes, 2006 p. 5) In China, for example, it is often customary to give gifts for tasks, friendships, and hospitality. In other nations, these acts might be considered bribery. It is important when studying corruption to consider cultural norms and values. At times these shared values are undocumented and are simply accepted nation-wide. In other instances public perceptions can be found in polls and legal documents. Regardless, perception of corruption plays a very big part in understanding the concept on a local level.

## Who participates in corruption; the Power of Public Officials

The general definition offered by both Transparency International and Doh, on the surface, may seem as though it allows corruption to fit into even the most familiar aspects of human culture. The idea of “entrusted” power can certainly be interpreted in a number of ways. In any act of corruption someone with power must use his or her leverage in order to achieve a personal gain. Since power is manifested in relationships between people beyond political boundaries the application of the definition of corruption to the private sector of life is possible. Parenting, for example, is often practiced with a considerable amount of what might be considered to be corruption. A parent, a person who holds power over his or her child, could abuse this power bribe their children to act in ways they may not have, resulting in personal gain for parents. An employer might swing a deal for his buddy, allowing him to be hired over a more qualified candidate. Comparably however, a person in the judicial system has a greater amount of power than the parent. What makes judicial powers so different?

The fact here is that these judges are “public officials” who hold public power. Parents simply do not have public power entrusted to them. Corruption exists in the public sector and is most important to examine because it ultimately culminates in an exploitation of the sacred social contract between a people and its nation. Following Lockean ideology<sup>2</sup>, citizens of a nation agree to a formation of government, as outlined in a constitution, in which they all agree to give up a portion of their freedoms in return for the benefits of living in society. The public sector has a tremendous amount of power because it holds the moral responsibility of implementing the logistics of the contract.

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<sup>2</sup> As found in John Locke’s “Second Treatise of Government” (1689). Similar philosophies are held by Jean Jacques Rousseau in “The Social Contract” (1762) These philosophers believed that the Constitution of a nation is a contract between the people and their government.

Magistrates, judges, and prosecutors even take oaths, promising to uphold the best interests of the people.

The core of the public sector is outlined in constitutions and are given explicit powers in society. In addition, the Organization for Economic Cooperation and Development (OECD) suggests a “who pays” criteria for deciphering what parts of the work force are considered a part of the public sector and are therefore subject to corruption scrutiny. There is certainly a fine line between public and private corporation corruption. Whatever the line, judges are clearly on the public side since the powers of the judicial system are distinctly outlined in the constitution. The legal system is therefore a part of the public sector and is subject to corruption scrutiny.

#### Why do actors turn to corruption?

When an act of corruption takes place, it is the prerogative of those who hold public power to choose to participate in corruption or to act honorably. Public officials have a tremendous amount of responsibility to uphold the social contract. Both personal and environmental or structural motives often encourage a public official to act corruptly.

Personal motives of public officials exist around personal situational issues. A judge who is in dire need of money due to family issues may be more inclined to accept a bribe than his co-worker who isn't having family issues. In addition, it is logical to assume that personal character and experiences can have an impact on a public official's choice to participate, or not partake in corruption. Regardless of personal motives, the environment in which corruption takes place is of the utmost importance.

Virtually all nations in the world have their share of corruption. But what makes some systems more corrupt than others? According Robert Klitgaard, corrupt environments can be summed up in an equation:

$$C = M + D - A.$$

Corruption equals monopoly *plus* discretion *minus* accountability. (Klitgaard 1998) Klitgaard states that corruption takes place, “when an organization or person has monopoly power over a good or service, has the discretion to decide who will receive it and how much that person will get, and is not accountable”. (Klitgaard 1998, p. 4) To summarize, corruption exists when an environment is framed to allow power to be allocated inappropriately to actors who are given too much discretion and not enough accountability. Following this equation, corrupt systems exist when monopolies are high, official discretion is high, and accountability is low.

Globally, systems often vary in their levels of corruption because of their diverse abilities to address the issues represented in this formula: monopoly, discretion and accountability. If there is a deficiency in the factors of the formula, an environment is created where actors can easily get away with corruption. It is impractical to suggest all corruption can be weeded out of any system completely. However, as we shall discover below, cultivating an environment that contains and limits levels of corruption should be the ultimate goal.

### Conclusions:

Because of the ambiguous nature of corruption, defining it is certainly not an easy feat. Perhaps this is why Holmes suggests that it cannot be successfully done. Despite Holmes argument, a clear and concise definition of corruption is vital to this study of the

Bulgarian legal system. Corruption can be clearly defined as a misuse of public power for personal gain. This limits the actors of corruption to those who hold public power.

Establishing a framework in which to study corruption in a particular area of society is indubitably feasible with the use of this approach. The framework established in the first chapter is essential in investigating corruption in Bulgaria's judicial system.

## **Part 2: Corruption in Legal Systems**

### Why study corruption in Judicial Systems?

It is the job of legal systems to resolve disputes between both private and public individuals, states and organizations. They work to promote an environment where justice can be served for a nation's citizens. Since the judicial systems in all governments have a significant responsibility to the people, they are a vital part of the public sector, and have a tremendous amount of power. In addition, most judicial systems are established in a constitution, and are given enumerated powers. It is the judges' job to protect the law as outlined in the social contracts between a people and their nation. It is exceptionally important that legal systems are not corrupted because of the tremendous amount of power they are given.

The Law Library, an online network that provides materials for legal education, suggests that, "there is not any real use in having a law if the people trusted with the responsibility of defending it are corrupt themselves; they must lead by example if they need others to respect the law." (Law Library, 2011) Judicial systems that tolerate corruption make it nearly impossible for corruption to be fought in other parts of society. In order to fight corruption in a society as a whole, it is most important to ensure the purity of judicial systems.

### What makes a healthy Judicial System?

No legal system is perfect, but some seem to have a better way of combating corruption than others. Establishing a legal system that evades corruption completely is impossible. However, as we learned in the first part of this chapter with Klitgaard's formula, corruption needs a particular framework in order for it to take place. The

environment must include people who are willing to abuse their power for personal gain, and they must have the ability to do so in an environment in which accountability is absent or minimal. Montesquieu once offered that, “Every man invested with power is apt to abuse it.” With the amount powerful actors in any given judicial system, there is bound to be some misuse of it. Since it is impossible to completely control individual behavior, it is necessary to construct systems that have the ability to both prevent and attend to cases of corruption effectively on a systemic level.

In order for corruption to be addressed, it is most important to understand the fact that although human beings will be enticed by corruption, it is possible to fashion an environment or system where it is difficult for them to act on these seductions. Robert Klitgaard’s formula works well in creating a system that, on the whole, avoids corruption or at least minimizes its occurrence. He claims that monopoly and discretion must be kept in check and accountability must be relatively high. Consider the variables in Klitgaard’s formula in relation to judicial systems. ( $C=M+D-A$ )

There are three important factors that contribute to the minimization of corruption in a given legal system: 1) judicial independence, 2) structure and efficiency, and 3) transparency. Achieving judicial independence helps to keep the monopoly (M) variable at low levels. Discretion (D) can be kept in check using the proper structure and having an overall efficient system. Lastly, accountability (A), arguably the most crucial part of the equation, can be kept at high levels through transparency of the entire system. It is important to understand that these variables correlating to Klitgaard’s formula are intertwined and affect one another greatly. It is also important to bear in mind that these qualities exist in certain degrees naturally in any system. However, the goal of any legal

system should be to maximize these qualities while minimizing their corresponding vices, resulting in the reduced likelihood and actual incidence of corruption.

1) Judicial Independence; limiting monopoly of power.

In order for judicial systems to combat corruption they must be completely independent of parties, politics, and private organizations to prevent inappropriate monopolies. In this context “monopoly” refers to the power of outside sources to infiltrate the judicial branch and affect the decisions of individual judges. Judicial branches and judges must operate, on the whole, independently and without political and/or ideological influences. No system is perfect; disparate ideologies and politics inevitably find themselves entangled in the judicial system to some degree. However, in order for corruption to be addressed and hopefully minimized, the environment must be altered to create a system that makes it difficult for external sources to become too powerful within the judicial system. The concept of judicial independence can be broken down into two very important prongs. In order to prevent the misallocation of power and the creation of monopoly in judicial systems there needs to be both institutional and decisional independence.

Institutional or branch independence is an age-old concept held by great philosophers like John Locke and Baron de Montesquieu. Locke suggested in his *Second Treatise of Civil Government* (1689) a theory of separation of branch powers. Locke argued that in order for the liberty of the people to be protected, a government must be structured in a way that power would not be given to one individual or a single body of individuals. However these powers must be kept separate. The American Bar Association suggests that institutional independence can be achieved through practicing judicial

review of legislation. (ABA 2006) Furthermore judicial oversight of administrative practices in the judicial system, judicial jurisdiction over civil liberties, and clear enforcement of laws will contribute to strong institutional judicial independence. In Bulgaria's case, as addressed below, the judicial branch was not able to act independently because of the Communist regime which successfully infiltrated the judicial system; unfortunately similar behavior persists to this day.

Decisional, judicial independence refers to the personal decisions of judges in the court system. The only thing that should hold "monopoly" over a court room is the law. Judges need to be making decisions based on facts and the law, free from political and popular pressures. If judges are intimidated by such influences or by financial coercion, their verdicts will not likely be an accurate reflection of the law. In addition to institutional safeguards, decisional independence must be implemented so that judges can make these decisions freely, without be persecuted for them. Guaranteeing tenure and immunity for their decisions, when they fall within the guidelines of the law, allows judges to formulate rulings without agonizing over their jobs or even their lives.

It is important to understand that these measures are not intended to give judges and judicial systems free reign in their court rooms. Tenure, immunity, and institutional independence are essential in creating a group of independent judges that aren't affected by external sources. The point of these protections is to ensure that judges aren't forced into making decisions by anything other than the law. However, it is important to keep judges in check through limiting their discretion and holding them accountable.

One could make the argument that giving independence to the judicial branch in general, and judges in particular, creates a monopoly in the system; after all, judges hold

all the power. Yet this is where matters become theoretically complex. Decisional independence places great responsibility on magistrates in their court rooms. Ultimately the decision to make an unbiased choice, based on fact and the law, is in their own hands. Decisional independence is to create a system that does not force judges into making decisions. However, if they are given too much discretion and independently choose to act in a biased, self-serving, illegal manner, the system should hold them accountable. This is where the variables correlating to Klitgaard's formula are interdependent.

Judicial independence is important to combating corruption because it places the focus on carrying out the law and not on outside or self-serving influences. Since institutions and individuals can both be easily influenced by outside sources, it is important to secure both institutional and decisional independence.

## 2) Structure and Efficiency; Limiting Discretion

Allowing judges too much discretion creates a perfect environment for corruption to grow. Judicial independence is important in making sure that judges can decide on matters of the law freely. This freedom gives judges more room in their decisions but in no means does this give them full discretion. Legal systems are structured to prevent judges from acting solely on personal inclinations. This can be easily done by implementing a properly enforced system of appeals. It is also important to note the importance of the efficiency of this structure and its impact on the overall efficiency of the system.

Most systems are constructed in a hierarchal manner, supporting a process of appeals where judges, in effect, check one another's decisions. This process of appeals is an example of how the structure of the legal system helps to combat corruption. Judges

have been given the responsibility of ruling on matters of the law. If by chance these judges veer from this responsibility, the structure of the system should catch these mistakes. It is therefore extremely important for a judicial system to adopt a working appeals process to act as a check on judges. Magistrates must also be subordinate to this system; it must be taken seriously. Those who do not follow these processes should be held accountable.

It is vital that judicial systems adopt an efficient way of filing paperwork and getting cases from court room to court room. Structural mechanisms in the legal system are useless if they aren't practiced efficiently. If an appeal is made in the system the paper work and filing systems must have the ability to send cases to the next court room without too much delay. The everyday activities of the system should be carefully watched; consistency is of the utmost importance. The structure and efficiency of the legal system is vital to insuring a healthy rule of law. When a dispute needs to be settled in court, it is the judiciary's responsibility to ensure that it *can* be settled in a system that is structured and efficient. Ultimately, a legal system might look great on paper, but it must be able to execute the policies and structural safeguards efficiently for them to work.

### 3) Maximizing Accountability

Accountability is an important aspect of any legal system. Judicial independence protects them from being forced into making decisions that aren't based on law. Judges, inspectors, and investigators are given a grave responsibility to uphold the principles of administering justice, and thus presumably the implicit will of the people. The system protects the employees, but what protects the systems from them? Corruption is

manifested in individual acts. It is important to support an environment of accountability where individual acts of corruption are less likely to place. There are two ways of promoting accountability in judicial systems. The first is to promote high levels of transparency. The second is to hold judges accountable through a code of ethics that the system must adopt as a whole.

### Achieving Transparency

The most effective way of assuring accountability in a legal system is through transparency. Transparency is defined by TI as “a principle that allows those affected by administrative decisions, business transactions or charitable work to know not only the basic facts and figures but also the mechanisms and processes.” (Transparency International, 2011) LexisNexis, an online law database, suggests that, “Rule of Law cannot exist without a transparent legal system.” (*Rule of Law*, 2010) The inner structure of the judiciary isn’t enough to prevent systematic corruption within the system. It is important that legal systems act with as much transparency as possible. Having a large number of people and institutions involved with the oversight of the system will secure the integrity of it. Judiciaries that practice transparency can see increases of legitimacy. Additionally such policies foster better relations between the judiciary and other public institutions and ultimately the citizens as a whole. A system that operates without transparency operates “behind closed doors,” making it difficult to pinpoint corrupt links. Higher transparency contributes to high levels of accountability within the system.

USAID, in its report “Guidance for Promoting Judicial independence and Impartiality”, suggests a number ways to strengthen transparency in judicial systems. (US AID, 2002) They claim that transparency of court operations, publishing judicial

decisions, scrutiny of the courts by civil society, and disclosure of judges' incomes and assets are all helpful in creating a system that is transparent. Transparency International defines transparency as:

a principle that allows those affected by administrative decisions, business transactions or charitable work to know not only the basic facts and figures but also the mechanisms and processes. It is the duty of civil servants, managers and trustees to act visibly, predictably and understandably. (Transparency International, 2012)

Each of these measures contributes to higher accountability in the system and to lower levels of corruption. In general, people are much less likely to participate in a corrupt act if they know they will be caught. For example, having court decisions released and available to the public holds judges and the legal system accountable to their decisions. Following these procedures to achieve transparency ultimately results in higher levels of accountability of the system and of its employees.

### Code of Ethics

It is important for there to be a mechanism for addressing outright misconduct in the system. Judges should be ruled by a code of ethics with a genuinely independent board or committee to enforce these ethics. Having these types of structural safeguards protects the legal system from falling apart from within. These safety nets are instrumental in holding judges accountable, and are therefore very important in tackling corruption in judicial systems. Proper administrative institutions should be in place to ensure that magistrates are adhering to the law, the processes of the system, and the code of ethics.

## Conclusion

In order for a legal system to work without corruption it must work to both prevent and address any misuse of power. Healthy judicial systems are able to combat corruption by supporting an independent judiciary, maintaining a transparent system, and keeping personal discretionary levels as low as possible. Despite these measures, it is important to keep in mind that a fool-proof system cannot exist. Nonetheless, Robert Klitgaard's formula ( $\text{Corruption} = \text{Monopoly} + \text{Discretion} - \text{Accountability}$ ) provides scholars with a workable framework in order to create best-case scenarios in legal systems.

It is important to consider these variables in relation with one another. Equalizing the formula requires the interplaying of all these variables. For example, low levels discretion can be attained through levels of transparency. At the same time, as transparency rises accountability levels are raised as well. Understanding the interplay of these very important concepts in the legal system will help scholars to create workable systems.

### **Part 3: Bulgaria- A History of Corruption**

Bulgaria, located at the heart of the Balkan Peninsula, shares a border with Serbia and Macedonia to the west, Greece and Turkey to the south, the Black Sea to the east and Romania to the north. Historically, the Balkan Peninsula has a very interesting and unique history. The story of Bulgaria starts in about 500 BC with the Thracian empire and its occupation of the Balkan region. The first Bulgarian state was established in 681 AD. (Crampton, 1997) Since its creation, the Bulgarian state has been influenced by some of the most notoriously corrupt empires in history; the Romans, Ottoman Turks, and more recently, the Soviet Union. The faulty legal systems that these empires supported set the stage for corruption in Bulgaria's current legal system.

Of all the hurdles Bulgaria must face in reforming their current corrupt judicial system, addressing these historical roots are the most challenging. The concept of historical causation refers to the ability of specific events and experiences to affect the flow of history. Just as humans, nations are affected greatly by their past experiences. Bulgaria's exposure to corruption throughout its history has certainly helped to create the corrupt nation that exists today.<sup>3</sup>

#### **The Ottoman Millet System**

The Ottoman Turks ruled over the state of Bulgaria uncontestedly for over five centuries from the 1300s to the late 1870s.<sup>4</sup> It is estimated by scholars that the Turkish conquest of Bulgaria resulted in the massacring, enslavement, or deportation of almost half of Bulgaria's population. With the majority of the Ottoman Empire being Muslim,

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<sup>3</sup> See for example Paul Pierson's *Politics in Time: History, Institutions, and Social Analysis* (Princeton University Press, 2004) for an excellent exploration of this topic in depth.

<sup>4</sup> For a more detailed history of Ottoman Rule in Eastern Europe refer to Inalcık, Halil. *The Ottoman Empire, The Classical Age 1300-1600*. London: Phoenix, 2000

the region was ruled by the *sharia*, the Holy Law of Islam. In *sharia* Islamic law, the Ottomans gave different rights to religious groups. The vastness of the Ottoman empire contributed to the coexistence of multi-ethnic and religious peoples in communities called “millets”. The sultan of the Empires assigned each *millet* a leader, giving them each of them full jurisdiction over their people. These semi-autonomous populations were established within the Ottoman Empire to practice tolerance of religions – in theory, at least. The idea was that, as long as each *millet* paid its taxes, they could practice whatever religion they wished. In reality however, this system contributed to deprivation of universal rights under the law. It also effectively relegated those within the various millets to second-class status, at best. (Crampton 1997)

Van Meurs and Mungiu-Pippidi, authors of *Ottomans into Europeans*, argue that the millet system resulted in system where the rule of law was “based on one’s religion” (Meurs and Pippidi, p 156). Despite the separation between the religions under the law, these *millets* still had to coexist. Although each *millet* could take charge of its own law, any dispute involving a Muslim had to be tried under Muslim law. Ultimately, the legal system catered to the needs of the powerful Muslim class. For example, Ottoman law prohibited Jews and Christians from buying land, carrying swords, and holding authority positions over Muslims (Chua, p 171). Bulgarians were Orthodox Christians for the most part and had to work their way around the pro-Muslim legal system in order to survive. Some found that the only way they could be given any rights was to convert to Islam.

Corruption is manifested in situations where power is being abused for personal gain. During the Ottoman Empire one religious group, the Muslims, were abusing their power over the Empire for personal benefits. The system was clearly corrupt, in the

following ways. Ottoman rule over Bulgaria severely affected perceptions of Rule of Law in the region. Bulgarians became skeptical of legal systems because of their Ottoman experience. After centuries of oppression, who could blame them? Meurs and Pippidi suggest that Ottoman Rule in Eastern Europe, “compromised the development of the ethical political understanding of the Rule of Law, and restricted its meaning within rather narrow limits.” (Meurs & Pippidi, p 177) Bulgarians were trying to acquire justice in a system which was not built to cater to their needs or even recognize their rights, as understood in the modern world. It was a system that, as noted above, demoted them to second-class status within the larger Muslim-dominant society. It is logical then to assume that Bulgarians would turn to alternative measures to gain justice.

With the help of the Russians during the Russian-Turkish war of 1877-78, Bulgaria was able to gain independence from the Ottomans. The Bulgarians declared themselves independent. With hundreds of years of exposure to these corrupt legal practices, Bulgaria was left to create its own system. It is important to note that at the time of Bulgaria’s independence from the Ottoman Turkish Empire, few if any international pressures or influences were in place – such as the OSCE or the Council of Europe in post-WWII Europe – to help foster an accountable, politically independent judiciary.

#### The Failures of the Constitutional Monarchy

Following independence Bulgaria’s new constitution, called the Turnovo Constitution, was promulgated and declared the country a constitutional monarchy in 1879. For the first time since before Ottoman rule, the people of Bulgaria were considered equal under the constitution. Frederick B. Chary, author of *The History of*

*Bulgaria*, suggests that the constitution gave the monarch too much power. (Chary 2011, p. 37) For example, the constitution allowed the prime minister and cabinet positions in Bulgaria to be chosen exclusively by the monarch. With this power, Chary posits that “rulers were able to bend the law to their whims.” This corrupt behavior contributed to political unrest and instability and of course did nothing to help build an accountable judiciary.

In addition to the problems with abuse of power in the monarch, Bulgaria was entangled in the Balkan Wars of 1912 and 1914 over territories in the Balkans. It was in the chaotic mess of the two Balkan wars and the World Wars that the Soviet Union and Bulgaria started to become particularly close. The roots of this closeness go farther back, however. Russian backing of the Bulgarians in the war of independence of the 1870s and their help during the Wars contributed to creating a long lasting friendship between the two countries. The Russian connection did little, however, to help establish an independent judiciary and genuinely law-based social system.

During World War II Bulgaria’s monarch, Boris II, aligned himself with the Germans and the Axis Powers. The political climate in Bulgaria could not have been more volatile. By 1944 the most powerful political parties, with the Bulgarian Communist Party in the lead, created the Fatherland Front coalition in opposition to fascism. According to CIA documents from 1945, the Fatherland Front was said to have been working with the Soviets to overtake the “fascist” regime in Bulgaria. When the Red Army invaded Bulgaria, the Fatherland Front simultaneously staged a coup d’etat. Thus began the Bulgarian Communist Party’s corrupt 45 year reign.

## Bulgaria's Communist Legal System

A new constitution, the Dimitrov Constitution, was established and the monarchy was abolished. Between the years of 1944 and 1990 pro-Soviet leaders like Georgi Dimitrov, Vulko Chervenkov, and Todor Zhivkov took charge of Bulgaria. Richard Felix Staar, author of *Communist Regimes in Eastern Europe*, points out that “the new basic law [established in the Dimitrov Constitution] closely resembled the 1936 ‘Stalin Constitution’ of the USSR”. (Staar, 36) According to the Stalinist approach, in order to create a state-less, class-less society the government must become all-powerful to combat rebellion against the ultimate goal of revolution. Stalinism, in principle, creates systems that are susceptible to corruption by creating an environment where one group of people has access to a tremendous amount of uncontested power. Given this trait of Stalinist rule, it is hardly surprising that the regimes engendered by Stalinism have been characterized, without exception, by acute and pervasive corruption.

The Bulgarian Communist Party exercised complete control between 1946 and 1989, abusing their power to support their own interests. As a part of Bulgaria's newly established Communist power, all opposing parties were purged from the government, effectively creating a single-party state. Moreover, the government took over the economy, nationalizing private enterprises, and placing it in the hands of the elite to control and redistribute “evenly” among the classes. The American Bar Association reports that upon the Communists' establishment of power, the Bulgarian Judicial System suffered severely.

Many non-communist judges, prosecutors, investigators, and law professors were purged or killed. The judicial council, which had advised the MOJ [Ministry of Justice] on personnel issues, was abolished; the concept of an independent judiciary was rejected; and the Communist Party took control of judicial appointments. The courts were seen as part of the larger effort to consolidate and support a socialist system. (ABA Judicial Reform Index, 2006)

In addition, before the Communist Party took power, the Grand National Assembly convened to alter the constitution. The BCP banned these proceedings to prevent changes.

In the 1940s the Communist Party took over in Bulgaria and implemented an extremely corrupt regime. In Chapter 1 we learned that establishing an independent judiciary, limiting discretion, and raising accountability are important aspects of a non-corrupt state. The Communist regime gave Bulgaria the perfect environment for corruption to take place: they exercised complete control, had unlimited discretion, and held no one accountable.

### Conclusions

Historically, Bulgaria's government has allowed power to be manifested in inappropriate ways to actors who are given too much discretion and not enough accountability. In the Ottoman Empire religion dictated the Rule of Law in Bulgaria, making an independent, unbiased judiciary impossible. Under the constitutional monarchy established after the fall of the Ottoman Empire, the monarch had full discretion and control of the government, with no effective judicial checks. Lastly, in the communist era the Bulgarian Communist Party took control of the judicial system as well as all other domains of public authority.

Of all the hurdles Bulgaria must face, combating its historical roots is by far the most challenging. After the fall of Communism in 1989 Bulgarian officials couldn't just expect to write a new constitution, snap their fingers, and a democratic state with an accountable, independent judiciary would appear. Social and economic practices do not change overnight. Many of the problems we will study in the follow chapters can be directly attributed to the historical roots of Bulgaria.

#### **Part 4. Bulgaria's Current Legal System**

The Soviet Union contributed greatly to the shaping of the modern framework and institutions in current Bulgaria. After the Iron Curtain fell, many of the nations the Soviet Union was aligned with were left to their own devices. With such great ties to the Soviets, what would Bulgaria do now that their big brother was out of commission? Bulgaria, and many other ex-communist nations, was left to decide what to do with their nation. Latvia for example, chose to reintroduce a previous constitution in order to establish a working government amid the chaos.

Bulgaria, and most other Eastern European states, was forced to adopt a new constitution in their transition from communism to democracy. It wasn't until 1991, two years after the Berlin Wall fell, that Bulgaria adopted a new constitution to create a system drastically different than those from Ottoman and Communist regimes. This system introduced new democratic reforms that worked to protect the rights of the people as whole, a concept former regimes had lacked. The Bulgarian government is structured similarly to most western countries. It is a parliamentary system with a three branch system designed to support the theory of "separation of powers" for the first time in Bulgarian history.

The Legislative Branch, established by Chapter 3 of the Bulgarian Constitution, is simply a unicameral National Assembly, known in Bulgaria as the Narodno Sabranie. With 240 members from all around the nation, the National Assembly is responsible for passing laws, budgets, and tax rates. Each member is elected by local constituents for a four year term. Article 66 of the Constitution states that, "The legitimacy of an election may be contested before the Constitutional Court by a procedure established by law."

The Executive Branch is made up of a head of state (the President), a head of government (the Prime Minister), and a cabinet (the Council of Ministers). The President of Bulgaria is popularly elected every 5 years. Any natural-born Bulgarian citizen over 40 years of age can run for president. The president has the ability to appoint chairmen of the Supreme Court of Cassation and the Supreme Administrative Court. The Prime Minister acts as chief of the Council of Ministers. According to Article 99 of the Bulgarian Constitution, the “the President shall appoint Prime Minister candidate nominated by the party holding the highest number of seats in the National Assembly to form a government.” Lastly for the executive branch, the Council of Ministers is nominated by the prime minister and elected by the National Assembly. This group is in charge of drawing up a state budget and executing the state’s foreign policy. Among many other duties, it is also the Council of Minister’s job to advise the state administration and armed forces.

Chapter 9 of the Bulgarian Constitution establishes a Grand National Assembly, which is to address constitutional amendments. This group of nearly 400 members is only convened when there are constitutional issues. The Assembly has the ability to adopt a new constitution, resolve on any changes in the territory, and make changes to the structure of government. When three quarters of the National Assembly and the President agree to make a constitutional amendment or change this goes directly to the Grand National Assembly.

The Constitutional Court is a mechanism established in the Constitution for judicial review. With 12 members, one-third of whom are elected by the National Assembly, one-third of whom are appointed by the President, and one-third whom are

elected by a joint meeting of the judges of the Supreme Court of Cassation and the Supreme Administrative Court. This court handles matters of constitutionality. Interestingly enough, unlike the United States Supreme Court, only a few people can bring a case to the Constitutional Court. An issue can be brought to the Constitutional Court by the Prosecutor General, the SCC, or the SAC. This court is separate from the judiciary, but acts as a good mechanism for judicial review, interpreting laws and international treaties regularly.

Most important to this study is the structure of the Bulgarian Judicial Branch. The modern judicial branch in Bulgaria was established by the 1991 Bulgarian Constitution, and was reformed by the Judiciary System Act in 1994. Steven Otfinoski, author of *Nations in Transition; Bulgaria*, suggests that, “The judicial branch in many ways has undergone the least changes since 1991.” (Otfinoski, 46) The branch includes many actors including judges, court assessors (jurors), prosecutors, and investigating magistrates working within specific frameworks.

### The Judiciary

A Wikileaks uncovered a letter written by US Ambassador to Bulgaria Nancy McEldowney stating that, “on paper, Bulgaria's judiciary system meets most international and EU standards. But in practice, it is in shambles.” (Wikileaks, 2009) Before delving into the corrupt practices of the judicial system, it is first essential to understand, at the very least, how the system is supposed to work. The main goal of the judiciary is to provide a mechanism for applying and interpreting laws set by the government. It is vital that the framework and processes of the system are working efficiently. This section

investigates how the system should work based on the Constitution and the Judiciary Systems Act of 1994.

The legal system in Bulgaria is based on the civil law system, common to most continental European countries, in which legislative and constitutional documents are the only binding source of law in the system. These sources of law are published in the State Gazette, which is regrettably available exclusively in Bulgarian. Other sources of law are not formally considered sources, but have persuasive authority<sup>5</sup>. Case law, for example is often taken into account in a judge's decision.

Additionally, especially when addressing international issues, European law is considered in Bulgaria to be of great importance. As a recent member of the European Union, Bulgaria must submit to European laws. In addition, the EU places directives on member states. EU directives lay down specific goals that must be achieved by every Member State.<sup>6</sup> These laws take binding precedence over all national laws. The European Commission publishes annual and interim reports critiquing Bulgaria's ability to support EU laws and to support its own rule of law. These reports are addressed below.

Structurally the judiciary is broken up into three sections. In the judiciary there is an administrative system that takes responsibility of the entire system, a system of courts, and system of public prosecution.

### Administration

It is exceptionally important for judiciary systems to adopt a mechanism to hold their employees accountable and to keep the system working properly. The Ministry of

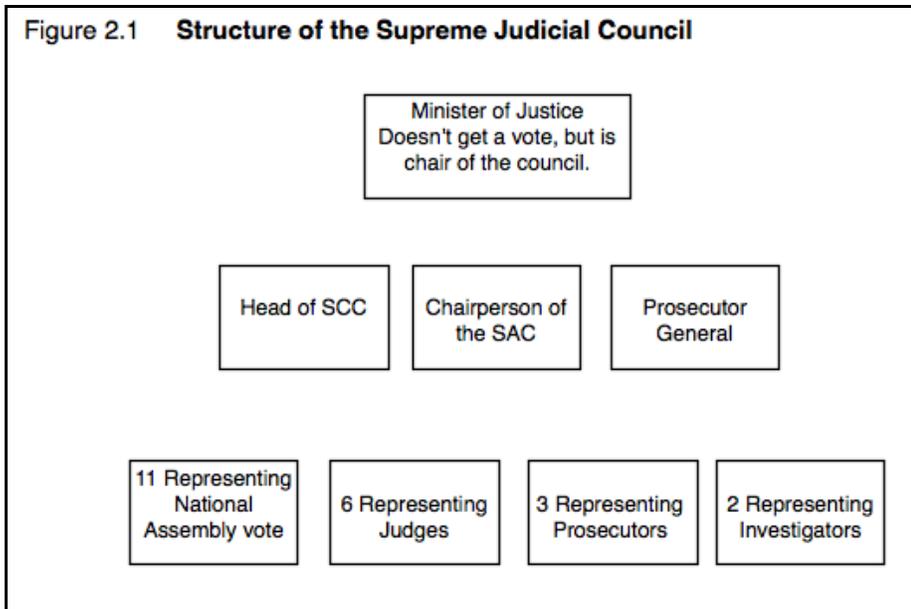
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<sup>5</sup> Persuasive authority refers to the use of sources of law that aren't required by the system, but act as an influence on the judge's decision.

<sup>6</sup> According to the EU cite, Bulgaria and Romania were added as the most recent member states in 2007. (Europa 2011)

Justice (MOJ) and the Supreme Judicial Council (SJC) oversee the entire judicial system. The MOJ contributes mostly to budgetary decisions but entertain a little oversight, and some administrative decisions, while SJC acts as the main overseer of the judicial system. The Constitution gives this council its power in Article 129, stating that “judges, public prosecutors and investigating magistrates are appointed, promoted, reduced in rank, moved and discharged from office by the Supreme Judicial Council.”

The SJC is made up of 25 legal experts with high professional with at least 15 years of experience and having established moral qualities. Figure 2.1 shows the structure of the SJC. Three positions are required by law to be given to the head of the Supreme Court of Cassation (SCC), the chairperson of the Supreme Administration Court (SAC) and the Prosecutor General, all of which are appointed by the President. The Minister of Justice is head of the council, acting as both a member of government and the head of the SJC chair. However, this Minister of Justice does not get the right to vote on the SJC. Eleven of the remaining seats are filled by candidates elected by the National Assembly. Additionally the last eleven of the SJC are elected by the magistrates. Judges in the system vote on with six positions, prosecutors contribute to three, and two are chosen by investigators. Elected members of the SJC have a limit of 5 years in office and they cannot be reelected for two consecutive terms.



It's the SJC's job to ensure the judicial system is working properly. In meetings that take place once a week, the SJC can change the number and geographic jurisdiction of courts and the number of magistrates in each court. Additionally, they can determine the pay of judges and approve appointments, promotions, dismissals and demotions. The SJC is also in charge of creating a code of ethics for judges to follow. This institution is the most important in combating corruption in Bulgaria's legal system. It is therefore crucial that the SJC is not corrupt itself. Corruption at this level would cause a ripple affect throughout the entire system.

### Court System

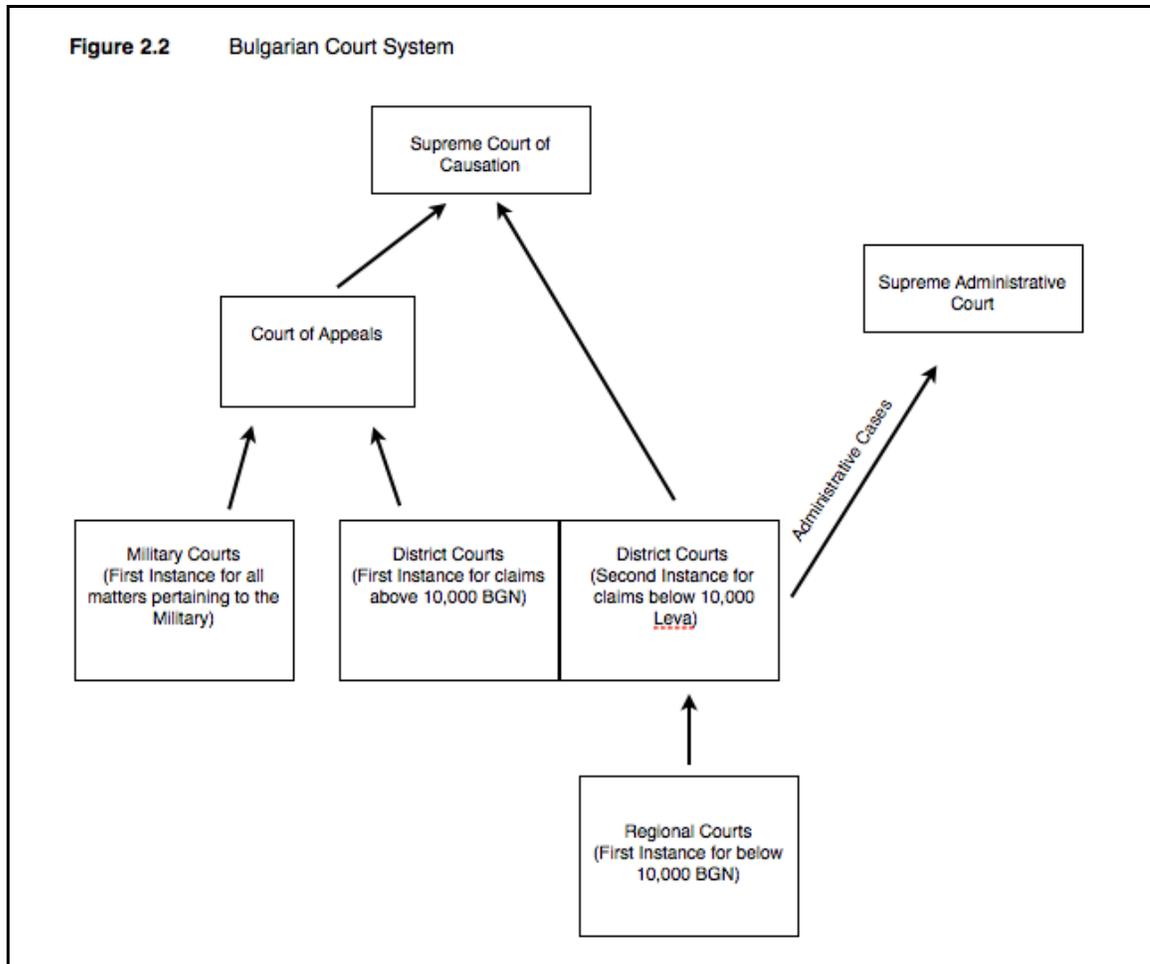
The judiciary of the Republic of Bulgaria is founded upon the framework established in Chapter 6 of the Constitution. With a total of twenty articles in Chapter 6, the Constitution attempts to create a system which adheres to democratic values. The efficiency, and strict use of the court system in Bulgaria is important to keeping corruption in check.

The structure of the Bulgarian court system is three tiered. Figure 2.2 is a basic view of the working of the judicial system. Each court has separate sections and panels for civil, criminal and administrative court proceedings. Each section is governed by codes. For example, the criminal sections of these courts are governed by the Criminal Code of Procedures.

Starting with the lowest of courts, the regional courts are the lowest level of trial courts. As of 2010 Bulgaria had 113 Regional Courts across the nation. Bulgarians use these courts as first instance for disputes under 10,000 Bulgarian Leva.<sup>7</sup> Generally regional courts handle family disputes, labor cases, and less costly civil and commercial disputes. This is the first impression a citizen has of their judicial system. It is pertinent that this level of court works effectively and is accessible to the people to ensure the public use of the courts.

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<sup>7</sup> 10,000 Bulgarian Leva is equivalent to about 6,700 USD and about 5,000 EUR.



As illustrated in figure 2.1, the District Courts of Bulgaria act as both first and second instance courts. These courts act as first instance courts for civil, criminal, commercial, and administrative disputes for claims exceeding 10,000 Leva. Additionally, the district courts act as an appellate court for cases that start in regional courts. Cases which start in the regional court are handed down from district courts to the Supreme Court of Cassation (SCC). Alternatively, cases that start in District Court are handed down to the Court of Appeals and are then sent to the Supreme Court of Cassation.

There are five established appellate courts across Bulgaria in Bourgas, Plovdiv, Sofia, Varna, and Verliko Turnovo. These courts are the second instance for cases that start Bulgaria’s district Courts, but they do not hear cases from the regional courts, or

administrative cases. The courts of appeals is structured through the use of three-judge panels. These panels work out of different chambers. For example a civil case that came to the court of appeals would be tried under a panel of judges from the civil chambers.

Military courts were established to have the same power as district courts. They hear cases involving military personnel. With only 41 judges, these courts are the smallest and the most difficult to find information on because of their nature. Military courts often hear cases that may jeopardize national security if released. Cases heard by military courts that request appeals go to the courts of appeals and then on to the SCC. The Judiciary Systems Act mandates the military court to examine all cases on a panel containing one judge and a court of assessors, who are often officers in the military.

The Supreme Administrative Court is established by Article 125 of the Constitution. The text of the Constitution states that SAC is responsible for hearing appeals of administrative acts.

- (1) The Supreme Administrative Court shall exercise supreme judicial oversight as to the precise and equal application of the law in administrative justice.
- (2) The Supreme Administrative Court shall rule on all challenges to the legality of acts of the Council of Ministers and the ministers, and any other acts envisaged by the law. (Chapter 6, Article 125)

The SAC derives its power from the Constitution directly and in charge of all administrative issues. From time to time acts are questioned and brought to SAC directly. On this occasion, cases are heard by a three-judge and then a five-judge panel. Alternatively, cases can reach SAC with prior verdicts and are therefore sent directly to a five-judge panel. SAC can hear cases from even the lowest local levels of government and have the last word in their final decisions.

According to the Bulgarian Constitution, the Supreme Court of Cassation acts as the “supreme judicial instance in criminal and civil cases”. (Chapter 6 Article 108(1)) The head of this court is nominated by the SJC and voted into a seven year term by the President. The Judiciary Act calls for the SCC to be broken up into three sections to address criminal, civil, and commercial issues. (Chapter 8 Article 108(1)) The judges serve on three-panel committees. With no other option for appeal, the decisions of these judges are final. This court cannot address issues regarding conflicts with current sources of law like legislation and the constitution. Instead, those cases are forwarded to the Constitutional Court to be reviewed.

Judges have very powerful positions in the court system of Bulgaria. The natural authority given to such a position must be kept in check in the system. Bulgaria, on paper, has provided the system with these checks. In order for a person to become a judge, they are required by the Judicial Systems Act of 1994 to be a Bulgarian citizen who has obtained a law degree and legal competency. Training of these judges is regulated by the National Institute of Justice (NIJ)<sup>8</sup>. Judges are required to comply with rules of professional ethics for members of the judiciary by the NIJ. In addition, a person cannot become a judge if they have been sentenced to prison or has a mental illness.

Every judge, upon entering office, must take an oath to uphold the will of the people:

"I swear by the name of the people that I shall accurately apply the Constitution and the laws of the Republic of Bulgaria, discharging the duties incumbent on me guided by my conscience and inner convictions, being impartial, objective and equitable, contributing to heightening the prestige of the profession, keeping the secret of deliberations, never forgetting that for all things I do I shall be answerable to the law. I have been sworn!"

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<sup>8</sup> The NIJ is an institution that takes responsibility for learning opportunities in the legal system. They provide the system with initial training, continuing training of magistrates, and training of court administration. More information can be found at <http://www.nij.bg/Articles/Articles.aspx?lang=en-US&pageid=498>.

Judges make up a very important part of the judiciary. Their jobs must both protected and kept in check in order for this system to run efficiently. The SJC has the ability to exercise authority over judges in order to keep the system working.

Jurors, or court assessors, are also a large part of Bulgaria's court system and process. Juries are used in Regional, District and Military Courts. The Constitution does not provide details for court assessors, leaving the Judicial System Act to hash out their responsibilities. Section II, Article 67, of the Act explains that a court assessor must be between the ages of 21 and 70, in healthy mental condition, with a sound reputation in society. They cannot have been convicted of a crime. Assessors are chosen by municipal councils for 5 year terms in the judicial area for the courts they will be serving in. Military court assessors are a little different. They are chosen by proposal of their commanding officers of the respective military unit.

The court system in Bulgaria is not particularly difficult to understand. Cases make their way through Regional, District, Appellate and Supreme courts which are ruled by judges and assisted by court assessors. Courts are run in a specific manner, and are kept in check by inspectors from the Supreme Judicial Council.

#### Public Prosecution and Investigations

The public prosecution is set up to work alongside the court system. In summary, these are a group of lawyers who are responsible for convicting criminals. The system is comparable to the District Attorney's offices in the United States. In 2007 the American Bar Association stated that there are approximately 1120 prosecutors working in the country. Each level of court has a prosecution office. Offices in lower courts are subservient to higher ones.

At the top of the hierarchy is the prosecutor general, who is nominated by the SJC and appointed by the president. As head of public prosecution, it is the prosecutor general's job to make sure prosecutors are adhering to law. The prosecutor general is essentially the chief prosecutor and he may revoke decisions of his subordinate prosecutors. The prosecutor general also contributes to the administrative aspect of the judicial system as a part of the SJC. (Prosecutor's office of Bulgaria, 2012)

The rest of the public prosecution is made up of offices in each of the courts. The service itself is made up of "the Supreme Prosecutor's Office of Cassation, the Supreme Administrative Prosecutor's Office, five Appellate Prosecutors' Offices, the Military Appellation Prosecutor's Office, 28 District Prosecutors' Offices, five Military Offices, and 112 regional Prosecutors' Offices". Regardless of position in the hierarchy, all prosecutors are subject to removal by the SJC based on behavior.

In order for the prosecution office to work effectively it must be able to utilize the investigatorial employees employed by the Bulgarian Investigative Service. This service is in charge of providing the court with evidence for serious cases. The Judicial System Act, promulgated in 1994, states that the Bulgarian Investigative Service is responsible for conducting "investigations of cases with a particular factual or legal complexity, crimes committed abroad, requests under legal assistance treaties, as well as other cases provided for by the law". (Article 122.3) Deputy directors are appointed by the SJC and beneath them there are various district investigative offices. Unlike policemen, who are in charge of executing the law, these investigators' sole job is to find evidence to support criminal cases in the system.

Like judges, prosecutors and investigators have a tremendous amount of power in the Bulgarian judicial system. Prosecutors and investigators must also take an oath to uphold the will of the people. Their actions often control the final outcome of a case and they are therefore extremely susceptible to corruption because of this power.

### Conclusions

The Bulgarian legal system is replete with powerful positions. Judges, directors, prosecutors, assessors and investigators are located within an overall system that may look fairly competent on paper. The concepts presented in this chapter have provided us with a basic understanding of how the system is supposed to work under the Constitution and in the Judiciary System Act of 1994. With this knowledge, we can now begin to look into what is *actually* happening in Bulgaria.

## **Part 5: Corruption in Bulgaria's Legal System**

Transparency International (TI)<sup>9</sup> is an excellent and well-respected resource for researching corruption. The organization was established in 1993 to combat global corruption. Each year TI issues a report on corruption in nations all over the world. The reports score researched nations on a scale of one to ten; ten being the least corrupt and one being the most corrupt. In 2011 globally Bulgaria placed 86th in 182 tested countries with corruption index score of 3.3<sup>10</sup>. Comparatively, the United States scored a 7.1, placing 24th internationally. (Transparency International, 2011)

The following chapter addresses some specific institutions in the Bulgarian legal system. First, with its unique history Bulgaria is affected by historical and cultural issues surrounding the concept of corruption. As outlined above, there are three important factors that contribute to a corruption-free legal system; 1) judicial independence, 2) structure and efficiency, and 3) transparency. Corruption exists in the legal system in Bulgaria because of inefficiencies in these three factors. This chapter addresses some very important problems that must be changed in order for the legal system to address corruption. Low public perceptions, low levels of independence in the judiciary, inefficient structure, and lack of accountability are the major indicators in the legal system that creates a corrupt legal system in Bulgaria.

### **Low Public Perceptions**

Bulgaria has been combating corruption throughout its entire existence. We also learned that the judicial system, because it is a part of a government, is intrinsically a part

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<sup>9</sup> More information on this Non-governmental organization can be found at [www.transparency.org](http://www.transparency.org).

<sup>10</sup> TI clearly states that there is a sliding scale on all of its Corruption Indexes. This number could feasibly be off two tenths of a point.

of the social contract.<sup>11</sup> In Bulgaria, the oppressive regimes of the Ottoman Empire and the confining policies enforced by Communist leaders persistently violated the social contract, marring public perception of their government. It might be said that the actual behavior of these regimes gave rise to an understandably alienated and distrustful public perception of how ‘justice’ was actually administered. Of all the hurdles Bulgaria must face in reforming their current corrupt judicial system, repairing public trust is almost certainly the most prominent problem in Bulgaria today.

Statistics prove that Bulgarian citizens simply do not trust their system. Figure 5.1 shows the results of two polls released in a study released by Center for the Study of Democracy, of the Vitosha Research Center in 2005 and 2007. Between 2005 and 2007 the perception of corruption rose in all occupations, with employees of the judicial system being at the top of the list. In addition to these statistics, the Agency for Social Analysis in Bulgaria (ASA Bulgaria) announced in 2011 that 85% of Bulgarians believe that the Courts protect the rich and the powerful as opposed to protecting the everyday citizen.<sup>12</sup> (Novinite, 2011)

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<sup>11</sup> Refer to Part 3

<sup>12</sup>The ASA in Bulgaria released this information in 2011. However, due to lack of resources available in English by the ASA, this information was retrieved from a popular Bulgarian media source, Novinite. [http://www.novinite.com/view\\_news.php?id=134476](http://www.novinite.com/view_news.php?id=134476)

**Figure 5.1**

**Public Perceptions of the Spread of Corruption Among  
the Various Occupational Groups**

Occupation	November 2005	January 2007
Customs officers	71.8	78.0
Judges	59.3	67.5
Prosecutors	57.1	66.9
Police Officers	56.1	65.4
Lawyers	54.7	64.5
Doctors	54.5	64.1

Source: Vitosha Research/CSD % = all those who responded "nearly all" or "most" involved in corruption.

Bulgarians aren't the only ones who feel their system is corrupt. According to TI's data, Bulgaria is perceived to have one of the most corrupt judicial system in the world. In addition to their Corruption Perception Index Report, TI issues a Global Corruption Barometer Report to assess global attitudes toward corruption in various institutions and nations. Responders must rate institutions in individual nations on a scale of 1 to 5. 1 being not at all corrupt, 5 being extremely corrupt. In 2010 Bulgaria's score was 4.3. Only Peru and the Ukraine, with a score of 4.4, scored higher than Bulgaria.

The statistics prove that the public perceptions of the corruption in Bulgaria, regardless of all of the attempts to reform the judicial system, are not good, and certainly aren't getting better. The negative public perception of the Bulgarian legal system has extreme consequences for the propensity of corruption. Most importantly, if the citizens of Bulgaria do not trust their institutions, it is logical to assume they are not likely to use them in a proper manner. Bulgarians who don't believe they can use their system to gain justice will turn to alternative measures to get what they need. The Bulgarian Center for the Study of Democracy released a study claiming that corruption is "further sustained by

the public's low trust in state authorities and poor opinion of their effectiveness.” (CSD Anti-Corruption Reforms in Bulgaria, 2010 p. 6) Since the majority of the population assumes that the system is corrupt, they will likely see corruption as the only way to navigate through the system.

Eventually a pattern begins to develop over the years. If a system is corrupt and citizens must resort to corruption to survive in it, the system becomes even more corrupt. Finally, this results in further negative perceptions. *Breaking this cycle is essential to combating corruption in Bulgaria: as things stand now, a self-reinforcing cycle exists.* The final chapter of this study suggests solutions and tools to rise above this pattern. For now, however we will move to examine other features of the Bulgarian legal system that contribute to the corrupt climate.

#### Institutional and Decisional Independence in Bulgaria

An important step to combating corruption in Bulgaria is addressing the judicial system's ability to be completely independent of parties, politics, and private organizations to prevent inappropriate monopolies. As we learned in Part 2, “monopoly,” in this context, refers to the power of outside sources to infiltrate the judicial branch and affect the decisions of individual judges. Judicial branches and judges must operate, on the whole, independently without ideological or other extra-judicial influences. They must not be forced into making decisions by parties, religious groups, or organizations. Bulgaria has been struggling with this concept for hundreds of years. However, the system has made quite a few improvements to support an independent judiciary.

## Institutional Independence

During the reign of the Ottoman Empire religious ideology pervaded the judicial system. The result of this was a system that catered to the needs of the Muslim majority. Similarly, in the Communist regime, a particularly dogmatic form of Marxist-Leninist political ideology took hold of the nation. The Bulgarian Communist Party exercised unabridged control between 1946 and 1989, abusing their power to support their own interests. Currently, perhaps because of the legacy of Communist policies and practices, some parts of the Bulgarian judicial system are still affected by a culture of self-serving operation, at the expense of the public good.

The three branches of the Bulgarian government are said to have been set up in a way that the judicial branch could hold independent status in government. In order for institutional independence to be achieved, the judicial branch should be given powers of judicial review. In addition, the branch should practice clear enforcement of laws. Fortunately, most of the changes in the structure of the system have resulted in marginal branch independence, at least in comparison to the Communist era. The Constitutional Court of Bulgaria provides the proper mechanism for judicial review of legislation, at least from a purely structural perspective. Even though the Constitutional Court is not technically a part of the judicial system, its enforcement of the law helps to protect the legal system from infiltration of the system by overbearing political policies.

Parties and organizations do, however, make their way into the judicial branch. The European Commission announced in its 2012 report on Bulgaria's cooperation process:

Appointing and promoting competent magistrates of high integrity is an important part of judicial reform. Since last summer, several senior judicial appointments made by the Supreme Judicial Council and by Parliament have raised concerns regarding their objectivity, transparency and the thoroughness of the evaluation of the candidates' merit and integrity.

(European Commission, 2012)

The European Commission is referring perhaps to the wave of appointments in the judiciary in the Summer and Fall of 2011. Widely publicized in Bulgaria is the case of Vladimira Yaneva. Yaneva was appointed as Chair of the Sofia City Courts, the biggest district in Bulgaria, despite only eight years of experience, four of which were filled with maternity leave. Yaneva won the appointment over Velichka Tsanova, a judge who had more experience, as Deputy Chair and temporarily in charge of the same court. The appointment was said to be an infiltration of the executive into the judiciary. Yaneva has admitted to a close relationship with the Minister of Interior, has no experience in criminal judicial proceedings, and has consistently ruled in manners benefiting the police force in Bulgaria. Despite the allegations that these appointments were clear signs of nepotistic corruption, the Supreme Administrative Court ruled that Yaneva's appointment was within the law, and is therefore justified. As a statement of complete disapproval, two members of the Supreme Judicial Council resigned and criticized the appointment decisions sanctioned by the council.

Appointments based on politics and outside relationships have consistently been a point of criticism from the European Commission. The European Commission directly cited Yaneva's appointment in one of its publications:

[T]he subsequent mobilization of professional associations of magistrates and civil society calling for reform of the Supreme Judicial Council sends an important signal of support for judicial reform [and] suggests that Bulgaria must focus on its appointment process to ensure that the system is not being affected by outside interests. (European Commission 2012)

The European Commission has made it clear that conflicts of interests like Yaneva's cannot be overlooked. Many current members of the system also agree. The Yaneva scandal in the judiciary prompted 1,000 judges to sign a declaration opposing the "unconvincing personnel choices" of the Supreme Judicial Council. (Steidl, 2011, p. 1)

Structurally, the Supreme Judicial Council is made up of a large number of politicians, with the Minister of Justice being at the head of the Council. Mandated by the Bulgarian Constitution, eleven members of the National Assembly made their way into the Supreme Judicial Council. These members have jobs in the parliament. In addition they must help to both create and maintain the healthy judicial system. These MPs bring their own interests to the table when they go to the Supreme Judicial Council; after all, they've been elected based on their interests. There is a serious concern here that the parliamentary seats in the SJC endanger judicial independence by bringing in party and lobby influences. The reach that the other branches have into the Supreme Judicial Council is immense and constitutes a clear violation of the separation of powers.

#### Decisional Independence

Judges, prosecutors, and investigators within the Bulgarian judicial system must make decisions based solely on the law and the facts. The perception in Bulgaria is that the public officials in the court system are being influenced by outside sources, reflecting a seriously corrupted system. This grave misuse of power by political officials should be kept in check. The only thing that should hold "monopoly" over a court room is the law. As noted in Part 2, giving these officials immunity and tenure helps to create an environment where public officials within the judicial system are free to make their own decisions without improper influences. The current structure of the system itself lends to

an environment where judges, prosecutors and investigators are easily influenced by one another. While the current system has successfully established tenure and immunity for judges, prosecutors, and investigators, it is evident that the structure of the system leaves open too many possibilities to sabotage these safeguards. The compromised culture regarding rule-of-law further compounds the problem, of course.

The Supreme Judicial Council, which oversees the entire judicial system, is comprised of judges, prosecutors, and investigators from the system itself. As these employees work every day, they are clearly aware that their decisions are being watched by their co-workers, who could one day have a say in their promotion, demotion, or removal. The ABA reports that, “a judge ruling for the defendant in a criminal case does so knowing that the prosecutor who just lost the case may someday be in position to influence the judge’s career advancement, and almost certainly reports directly or indirectly to another prosecutor who will”. (American Bar Association, 2006) This structure has not surprisingly contributed to strong friendships being made between prosecutors, lawyers and judges. This unhealthy system seems to have been placed with the intention of creating an environment where everyone works together as a team. The power of these relationships is supposed to be used for good -- instead, it is abused. Unfortunately, the result is a faulty system where judges often fear that their jobs might be at stake when they are making their decisions. The 2012 European Commission report has made it clear that there is a need for reform in the manner of selecting Supreme Judicial Council members in order to increase its transparency and objectivity.

## Efficiency and Structure of the Bulgarian Legal System

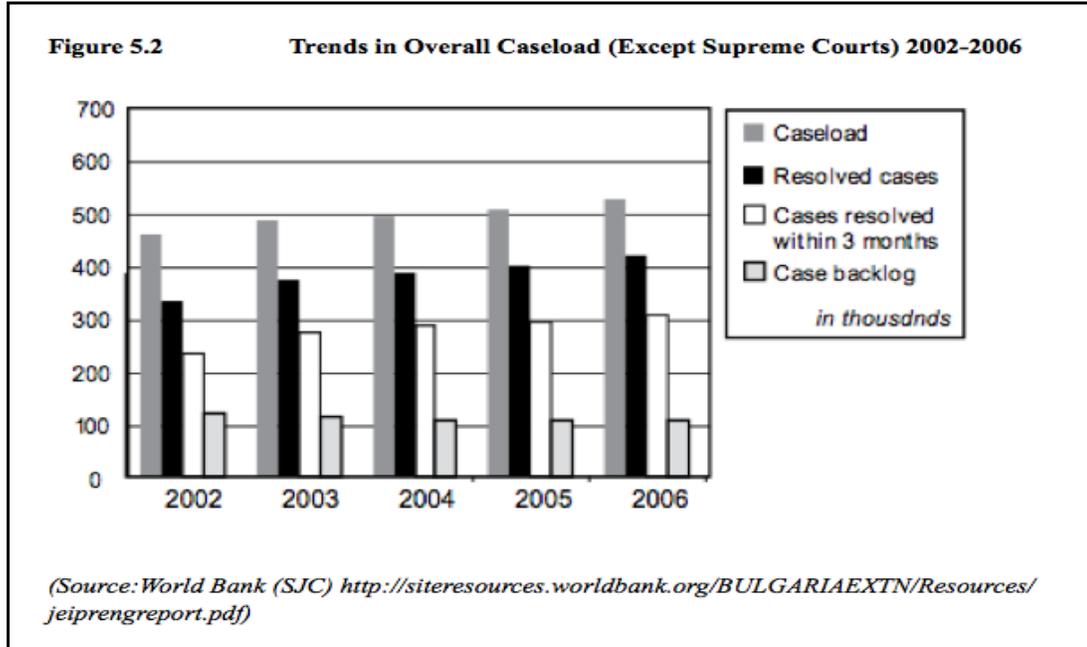
Legal systems should be intrinsically organized to both serve the needs of the magistrates and the needs of the public. Efficiency of this structure is vital in attempts to keep judges in check, and to deter corrupt practices. Structurally, legal systems must adopt an efficient appeals process to correct mistakes made by previous judges, prosecutors and investigators. If the process is not working properly, justice simply will not be carried out. Overall the Bulgarian court system is disorganized and inefficient. The biggest problem contributing to this inefficiency in Bulgaria is the pervasive lack of assistants in courtrooms to aid judges, resulting in a back up of an already large number of case loads per judge. In addition, the lack of training for members of the legal system contributes to a less modern system.

According to the ABA's study on Bulgaria, in 2006 lower courts simply did not have assistants. Therefore, judges had to spend their own time doing menial tasks like filing cases and legal research. Judges should not be spending their valuable time filing paper work; they have been trained to hear cases and deliver decisions. Any extra work can take away from a judge's ability to work through his/her caseload. A popular Bulgarian news source, Novinite, ran a story in February of 2012 revealing that the Supreme Judicial Council uncovered cases filed in 2004-2006 for crimes committed in 1995-1997 that are still dragging on and clogging the Sofia City Court. (Novinite, 2012) This dead weight on the judicial system costs time, money, and ultimately results in a lag in the judicial system; yet when one considers that this 'dead weight' contributes to the difficulty of carrying out much-needed reforms, it is easy to see how corrupted officials

would be slow to try to cast off the weight. It is also easy to see how this pattern contributes to the negative perceptions of the entire system by the general public.

The delays in administering judgments, which are sometimes intentional, leave many judicial decisions nearly meaningless. Of course, problems with case delays can be attributed to other factors. For example, a shortage of courtrooms for hearings to take place might contribute to case delays. Additionally, difficulties arise when trying to coincide the appearances of parties and witnesses at court proceedings. With its three-instance court system, the appellate review process is already in place, at least structurally. Unfortunately, due to lack of proper help in the court rooms, case load levels are growing higher and higher. Figure 5.2 shows the rise in caseload in the court system between 2002 and 2006.

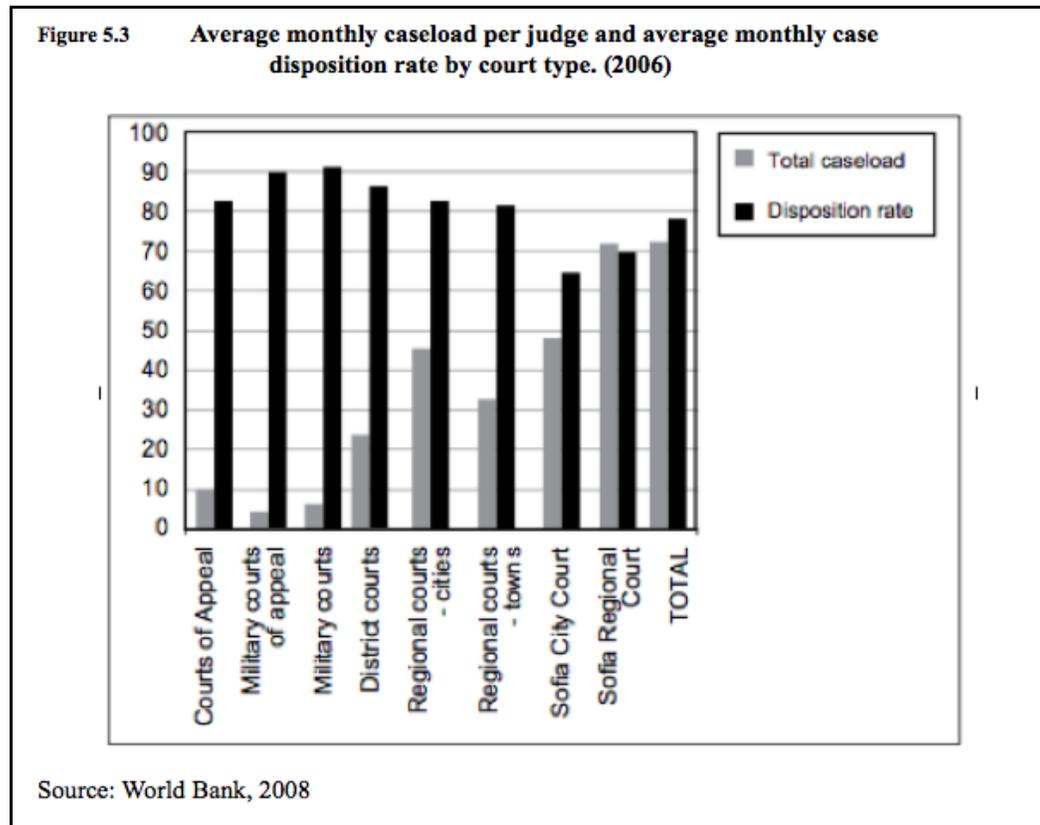
With larger case loads, the appellate process is severely constricted. The trends offered by this table suggest that caseloads continue to rise. Unfortunately, more recent statistics are not available in English to compare in this study. However, the European Commission stated in its 2012 interim report that a new important study to rationalize the workload of magistrates has been launched by the National Institute for Justice; the problem certainly hasn't diminished.



On a different but related note, comparatively the caseloads per each court district are not equally dispersed. Figure 5.3, taken from the World Bank’s Report on Bulgaria in 2008 shows how unevenly dispersed cases are in the Bulgarian court system. This variance suggests that the court system is not working efficiently enough. As one might expect, the less amount of work load the average judge has, the higher the disposition rate. Ultimately, somehow, there needs to be a way to even the caseload across the nation.

Education is also another important part of creating an efficient judicial system. As with any workplace environment, processes run much more smoothly when all the employees know their jobs. The ABA suggested that in spite of newly established training mechanisms supported by the National Institute of Justice, judges are often appointed to their positions without the use of training programs and orientation

processes. (American Bar Association, 2006 p. 2) These appointments of incompetent people are simply unacceptable. Unskilled judges not only are unable to handle casework, but they seriously undermine the quality of decisions in the legal system.



The Bulgarian legal system is not efficient enough to successfully serve the needs of both magistrates and the public. The consequences of backed-up court systems are acute, grave, and mutually compounding. Backups in the system make it nearly impossible for the court system to do its job. Most important, however, if the judicial system appears to be too cumbersome, some citizens will likely decide that paying a bribe is much easier, and less time consuming.

### Accountability

According to *Anti-corruption Reforms in Bulgaria: Key Results and Risks*, a 2006 report by the Centre for the Study of Democracy, Bulgarians believe that corruption is

one of the most serious problems in the country. Citizens want to be able to hold public officials accountable for their corrupt acts. According to Klitgaard's formula<sup>13</sup>, keeping accountability high is the best way to keep corruption under control in any environment. The higher the accountability in the system, the less likelihood of corruption spreading. The key to addressing this issue of accountability is supporting overall transparency in the system and a upholding code of ethics that holds magistrates accountable.

Transparency can be achieved in a legal system through processes that open up the judicial system to the public. In a completely transparent system corruption can be more easily detected. In recent reforms headed by USAID, Bulgaria's judicial system has become far more transparent by providing the courts with the technological advances needed to publish decisions. Before USAID came in, cases were published in summaries as opposed to the word-for-word system we have here in the United States. Most Bulgarian courts now have access to the technology to record and publish their cases. At all levels of the court system, at least some cases can be found online in modern Bulgarian.

Despite these new technologies, according to the EC, court final decisions are not yet systematically published and guidelines for publication have not been established. (European Commission, 2011) In addition to these measures, Bulgaria has developed a strong media that regularly publishes articles following the decisions made in the legal system. All court hearings and proceedings are open to the public unless it is prohibited by law.<sup>14</sup>

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<sup>13</sup> Refer to page 11.

<sup>14</sup> For example, cases involving minors are not allowed to be covered by the media and are considered closed trials.

In order for a legal system to work efficiently without corruption, a code of ethics should be adopted and protected by the administrations. Judges should be held accountable by an ethics committee and their administrators. In Bulgaria, all magistrates are held accountable by the Supreme Judicial Council. It is the Supreme Judicial Council's job to ensure that the prosecutors, judges, and investigators are acting within the law. The Supreme Judicial Council has the ability to promote, demote, or remove a judge, investigator, or prosecutor from office. In addition, the Supreme Judicial Council has recently created an ethics committee.

The Supreme Judicial Council has a tremendous amount of power in the judicial system; any misuse of this power is a serious issue of high level corruption. The council's appointment of Vladimira Yaneva is most concerning. In spite of her lack of experience and apparent conflicts of interest, Yaneva was able to coast through the system and is now the sitting judge in Sofia's Court. Novinite reported on February 2 of 2012 that the Supreme Judicial Council had to issue a reprimand to Yaneva for creating 2 to 3 month delays in 31 of her cases. For this, she was docked 10% of her pay. With such controversy in the appointment, and Yaneva's poor performance, it's hard not to wonder why the Supreme Judicial Council continues supporting this judge. Corruption has not been proven yet, but the circumstances certainly are suspicious.

More recently the Council attempted to create an ethics committee in an attempt to curb corruption in the legal system. A new ethics code offered jointly by judges, inspectors, and prosecutors was accepted by the Supreme Judicial Council. The ethics commission was created to support these codes. In its 2012 Interim publication the European Commission stated that, "The ethics commission of the Supreme Judicial

Council and the newly established local ethics commissions have not yet been able to deliver proper integrity screening in the context of recent appointments and appraisals.” According to the ABA the Code of Ethics for each discipline are not widely accepted or followed. (American Bar Association, 2006)

It is the Supreme Judicial Council’s job to hold judges, magistrates, and prosecutors to a code of ethics, and they simply aren’t succeeding in doing this. One could argue that the structure of the Council is a great hindrance on its ability to provide for the legal system. The final chapter of this study puts forth ideas for restructuring the Supreme Judicial Council effectively.

### Conclusions

Corruption, like a temperamental plant, needs a particular environment to flourish. Bulgaria, while not completely a lost cause, provides a perfect example of an environment where corruption can grow. With the large amount of extra-judicial sources affecting the legal system, Bulgaria must work hard to establish a more independent judiciary. Additionally, the system is severely affected by the lack of accountability and efficiency. Bulgaria has numerous hurdles to overcome in order to combat these serious problems. Perhaps the biggest obstacle Bulgaria must overcome is the dreadfully low and negative public perception of the judicial system.

## **Part 6: Solutions for Bulgaria's Corrupt Legal System**

Bulgaria has made a lot of changes since those Ottoman days. However, the nation has much to do in order to cultivate a legal establishment where corruption is less likely to sprout. As noted in Part 5, Bulgaria has particular problems with low public perceptions, keeping its judiciary independent, sustaining an efficient structure, and holding judges, prosecutors and investigators accountable for their actions. This final chapter is devoting to finding solutions for these problems in order to create a healthier judiciary in Bulgaria.

### **Changing Perceptions**

The local and global perceptions of corruption in the Bulgarian legal system are extremely negative and, as we learned in the previous chapter, have even resulted in further corruption. Changing popular culture and its perceptions is certainly not an easy feat, but it is crucial for the system to gain public trust in order to work efficiently. Since many of these negative feelings towards the judicial institutions are based on historical experiences, they are deeply rooted and thus are not likely to be overcome easily or soon. Time and education are the only complete answers in changing perceptions in Bulgaria.

Education is an extremely important tool that can be used to combat false perceptions of the system. Perceptions are not always reality. Ignorance of current changes in the system will create a false view of what is actually going on. In reality, there may be some remarkable things occurring in the system. Education starts in the schools, with the young. In addition, as things change through reforms, the older population can be educated through media. The more accurately the media is able to share sources with the public, the more educated they will be. Assuming that the judicial

system continues to move toward non-corrupt policies, over time more education will change the public perception of the Bulgarian legal system. Thus patience, persistence, and determined leadership are key factors in any successful long-term change.

Ultimately, in order for the public to begin thinking more highly of their judicial institutions, the institutions must begin working with lower levels of corruption. The public will slowly learn about reforms and trust can be regained between the people and the system.

### Judicial Independence

In order for Bulgaria to be able to overcome corruption it must continue to uphold a strong judicial branch. The current judicial system is managed by one institution, the Supreme Judicial Council, partially comprised of members of Parliament and partially comprised of active members of the judiciary. It is thus a structure of inherently compromised judicial independence. This system clearly endangers the independence of the judiciary and must be reformed.

There are a couple of ways the Supreme Judicial Council could be reformed to protect the judicial system from outside influences. The first option is to lower the number of seats reserved for the National Assembly. Doing this would give judicial members the ability to outvote members of parliament if party politics became an issue. This option simply does not resolve the greater issue. The Lockean argument for a non-corrupt nation suggests that, in order for the liberty of the people to be protected, a government must be structured in a way that powers are completely separate. The only way to secure judicial independence in Bulgaria is to have an administrative body made up only of acting magistrates; the elimination of parliament seats is absolutely necessary.

With a system entirely made up of magistrates who are elected from within the judiciary, the remaining seats should be allocated evenly among prosecutors, judges, and investigators.

Currently the MOJ works on the budget and sends along funding to the SJC to disburse in the legal system. The World Bank strongly opposes this practice.

It would be desirable for the SJC and MOJ to formalize a collaborative model through which they jointly prepare the judiciary's budget. There is significant room for a collaborative agreement to improve the system as it currently exists, starting with basic documents and processes. A more strategic set of budget preparation guidelines – jointly issued by the SJC and MOJ – is urgently required and could act as a crucial coordination mechanism. Improved guidelines will also allow more constructive budget negotiations. A more strategic approach to budget preparation can improve budget quality – enhancing the judiciary's ability to advocate for resources. (World Bank, 2008 p. 7)

As the World Bank so aptly phrased, it is essential to Bulgaria's institutional judicial independence that the SJC has a larger role in setting the budget for the legal system.

The judicial seats in the Supreme Judicial Council are held by judges, prosecutors, and investigators from the system itself. With their futures in mind, judges, prosecutors, and investigators have been said to have adopted unhealthy relationships resulting in nepotism. The Bulgarian Ministry of Justice suggested that the best strategy to deal with this issue is to create a separation of judges within the SJC when “personnel issues are made: appointment, appraisal, disciplinary proceedings, in order to take into account the specifics of the status of judges and prosecutors.” (Ministry of Justice, 2009 p. 19)

Separating the SJC into commissions when personal issues come up is an ideal way to handle this situation. This way, judges will not be enticed to have corrupt relationships with prosecutors. Nepotism will less likely be used in order to avoid problems in years to come.

Upholding a strong independent judicial branch and independent judges is exceptionally important in creating a system where corruption can be limited. It is evident in the research here that Bulgaria's judicial branch and employees simply aren't working independently. In order to change this Bulgaria must face serious reforms in its administrative structure in order curb these outside influences.

### Efficiency of the Court Systems

It is extremely important that court systems in a legal system are able to run efficiently. Even the most minor hiccups in these procedures could potentially result in a miscarriage of justice. The Bulgarian court system is clearly under a lot of strain and must undergo some drastic reforms in order to run efficiently.

First, it is necessary to address the workload of judges in the system. It is important that judges focus on hearing and delivering decisions on cases. Adding menial paperwork and filing only contributes to their stress. In order to lift weight off these judges, each court in the nation should be scrutinized in the way it is run. The amount of employees on location, and the resources they have, should be altered to take the weight off of judges. Taking the menial responsibilities of the judges off their shoulders will undoubtedly decrease the number of backlogged cases.

The disparity in the distribution of cases across the nation is a problem that should be seriously considered and addressed. According to the chart from the World Bank (See figure 5.3 in Part 5) the courts in Sofia receive the highest caseload per judge and provide the lowest disposition rates. Ideally, the chart would even out, giving most judges the same amount of cases regardless of location. The courts are in severe need of restructuring; common sense would say that overworked judges are less likely to make

proper decisions. The answer to this problem is a complete overhaul of the current court system and a restructure to utilize every court equally.

In addition, it is also necessary to ensure that each employee of the judicial system is properly trained and educated. The National Institute for Justice (NIJ), a Bulgarian judicial training institute, has only recently begun to propose stringent rules on training of judicial employees. In 2010 the NIJ published an eager strategy they created in collaboration with the Ministry of Justice,<sup>15</sup> which outlined some reforms they were working on in educating the public employees of the legal system. As a part of these reforms the NIJ and MOJ wanted to increase the amount of education drastically, addressing issues of entry-level positions and continuing education for current members of the judiciary. The fourteen page document contains numerous well conceived ideas for changing the duration of training for entry level employees from six to nine months. (MOJ, 2010 p. 4) These ideas represent an excellent start. The EC commended Bulgaria on making these first steps in its interim report. (European Commission, 2012)

### Accountability

Accountability of individual members of the judicial system is most important to create an environment where corruption is less likely to grow. As noted in Part 2, there are two ways of promoting accountability in judicial systems. The first is to promote high levels of transparency. Second, it is important to hold judges accountable through a code of ethics that the system must adopt as a whole.

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<sup>15</sup> The strategy is called the “Strategy for continuation of the reform of the judicial system in Bulgaria under the country’s full membership to the European Union within the period 2011-2012”. It was developed by the Ministry of Justice and adopted through a Decision number 441 of the Council of Ministers of Bulgaria of June 28th 2010. (, 2010)

In Bulgaria, the transparency of the legal process has not increased to acceptable levels, particularly when it comes to the appointment process. The SJC should begin to become more transparent in their actions. Cases like Yaneva's simply cannot be permitted. Available positions in the Council should be announced publicly to encourage competition in elections. It would also be quite practical to make records of meetings and transcripts of decisions made on matters within the council available to the public. Such transparency will not only increase the public trust, but create a system that can be more easily monitored, thus reducing the likelihood of corruption and thus contributing to an even greater augmentation of a positive perceptions by the public. In this way, the presently self-reinforcing negative perceptions may be transformed into a self-reinforcing positive dynamic.

Transparency in the system overall can also be heightened to newer levels. Updating technologies in the system has allowed for the Bulgarian legal system to begin working a little more openly. However, the consistent use of these technologies should be increased and monitored. In response to this problem, a board should be created within the SJC to monitor the transparency of each and every court. The board could oversee the use of these technologies to publicize court proceedings, their judges' assets, the proceedings in the courts, and other important information the public has a right to know.

The prevailing culture surrounding the current Code of Ethics in Bulgaria also needs to be changed. How can the general public take a document like the Code of Ethics seriously when the judicial practitioners themselves so pervasively fail to do so? The best solution would be to create a rewards system. Those who follow the codes consistently

should be given a raise; those who don't should be punished. The ethics committee needs to be strong in enforcing these rewards. The restructuring of the SJC, where the ethics committee is derived from, will also help to create a more effective ethics committee.

### Conclusions

With extremely low public perceptions, low levels of independence in the judiciary, inefficient structure, and lack of accountability in the legal system, Bulgaria has a lot to work on. Most important however is the grooming of the administration. The Supreme Judicial Council, as the head administrative body, needs to be restructured completely to stop outside sources from infiltrating the legal system. This institution is at the top of the pyramid, corruption in higher levels will undoubtedly trickle down and affect the rest of the system. It is therefore of the utmost importance to reform the SJC first to secure judicial independence. Other reforms should be taken seriously as well. The adoption of, and adherence to, a well-respected code of ethics in the legal system among judges, prosecutors and investigators is essential in creating an accountable system.

## **Final Conclusions**

Bulgaria's story is certainly a very interesting one. Bulgarians have successfully fought off the oppressive Islamic regime of the Ottoman Empire and the tyrannical Communist regime to reach democracy. Even with all their struggles, Bulgaria still must face more. In 2009 the Pew Research Center released a poll of Bulgarian public opinion two decades after the fall of the Berlin Wall. As a part of this poll, Bulgarians were asked if they were satisfied with democracy. Surprisingly only 21% answered that they were satisfied. In addition, only 11% of those polled felt as though the fall of communism benefited the locals and a whopping 62% stated that Bulgaria is worse off now without communism. These striking numbers shed light on how truly serious the problems in Bulgaria are. The majority of Bulgarians identify the judicial system as the most important element of public authority that needs to be reformed in order to make the entire political system work better.

This study has revealed that healthy judicial systems are able to combat corruption by supporting an independent judiciary, maintaining a transparent system, and keeping personal discretionary levels as low as possible. Regardless, despite all these measures, it is important to keep in mind that a fool-proof system simply cannot exist. However, following these steps helps create an environment where corrupt acts are brought to account and hopefully over time are thereby reduced in number and seriousness.

Bulgaria has clearly struggled with maintaining these safeguards since its adoption of democracy in 1991. Bulgaria is in dire need of limiting corruption in the legal system. With extremely low public perceptions, low levels of independence in the

judiciary, inefficient structure, and lack of accountability in the legal system, Bulgaria has a lot to work on. Solutions to these problems must be sought quickly before the currently prevailing patterns in the Bulgarian legal system become even more deeply entrenched and thus even less amenable to resolution.

Reforming the entire judicial system is needed. The Supreme Judicial Council, as the head administrative body, is in dire need of restructuring in order to secure, strong judicial independence. The court systems need to become more efficient and its members must be educated, trained properly, and held accountable. Once Bulgaria starts to make these improvements, public perception should begin get better. One can only hope that with these changes, the Pew Research Center might be able to report better poll results in its next study.

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