



**The British Bulgarian Chamber of Commerce,
Dentons Europe, KPMG Bulgaria and Penkov, Markov & Partners
held a CONFERENCE on
“Anti-Bribery and Corruption: Bulgaria on the Global Stage”
with Opening Keynote Speech by
the British Ambassador, His Excellency Jonathan Allen**

Date: Tuesday, 21st May, 2013

Time: 16.00 – 20.30

Venue: Hilton Sofia

Principal Speakers & Conference Programme

Opening Session

- Welcome from the Chair and Overview of Conference and Key Goals, *Bill Drysdale, BBCC Chairman*
- Keynote Address: Bulgaria’s Reputation at Stake, *HE Jonathan Allen, British Ambassador to Bulgaria*
- Effective Public-private Partnerships and Monitoring Mechanisms for Countering Corruption in Bulgaria, *Dr. Maria Yordanova, Director, Law Program, Center for the Study of Democracy*
- Bulgaria and the 2012 Corruption Perception Index, *Kalin Slavov, Executive Director, Transparency International – Bulgaria*

Working Session 1 on the UK Bribery Act and its Implications, with Experts:

- The UK Bribery Act and the US Foreign Corrupt Practices Act: Relevance to Bulgaria and the Key Provisions, *Howard Cohen and Zarko Iankov, Partners in Dentons' London office*
- Bulgarian Anti-Corruption Legislation, *Svetoslav Dimitrov, Partner at Penkov, Markov & Partners*

Working Session 2 on the UK Bribery Act and its Implications, with Experts:

- A Practical Guide to Getting it Right: Part I - Policies and Procedures and Implementation, *Howard Cohen and Zarko Iankov, Partners in Dentons' London office*
- A Practical Guide to Getting it Right: Part II - Financial Books and Records Offences and the Need for Appropriate Financial Controls, *Jimmy Helm, Partner, Forensic for KPMG Central and Eastern Europe*
- A Practical Guide to Getting it Right: Part III – Practical Recommendations from Bulgarian Law Point of View, *Svetoslav Dimitrov, Partner at Penkov, Markov & Partners*

Panel Session and Q & A

All Speakers, moderated by Bill Drysdale

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Keynote Address: “Bulgaria’s Reputation at Stake”, *HE Jonathan Allen, British Ambassador to Bulgaria*

In his keynote address, Ambassador Allen noted that corruption is a complex social, political and economic phenomenon that affects all countries. The British Ambassador emphasized that in today’s interconnected and globalised world, corruption is certainly no longer confined by national boundaries, if indeed it ever was. Therefore, achieving transparency and integrity is a constant challenge in both the UK and Bulgaria.

Ambassador Allen highlighted the fact that companies’ increasing international presence and activity bring with them additional challenges and perhaps also temptations in jurisdictions that may not be as well regulated as those in the UK. The Ambassador also made a point that bribery and corruption must be recognised as not only serious moral concerns, but also as a threat to good governance and sustainable economic development, as well to fair competition.

His Excellency Mr Allen was proud to note that he had recently given a speech about why to be an optimist in Bulgaria and that he wanted to show that this is the case with Business too. The Ambassador gave a couple of examples, including the fact that perceptions of business corruption are at their lowest for the last 12 years. He also emphasised that British investors almost invariably report that they are not asked to pay bribes, although some say they were in the past. Last but not least, as more parts of the economy are linked by internet to the National Revenue Agency, blatant tax evasion becomes harder.

Ambassador Allen described the present moment as the perfect time for a new Government to draw a line under the past and encourage business practices that lead to sustainable growth. The first step is acknowledging that bribery is a serious offense. This requires the Government to make a stand.

The British Ambassador noted that the UK has already done this by the introduction of the Bribery Act 2010 that modernises the law on Bribery. Bribery is defined as “giving someone a financial, or other, advantage to encourage that person to perform their functions or activities improperly or to reward that person for having done so already.” It is worth noting that this is not about theft, fraud, money laundering or other criminal activities – it is only about Bribery.

Why? The World Bank estimates that \$1 trillion is paid in bribes every year, representing 3% of the world’s gross domestic product. For business, bribery is a threat that needs to be actively managed, like fraud or embezzlement. Corruption adds up to 10% to the total cost of doing business globally, and up to 25% of the cost of procurement contracts in developing countries. Doing business in corrupt markets has been found to add costs equivalent to a 20% tax on business. In 2010 and 2008, roughly a fifth of surveyed executives reported that they had been asked to pay a bribe, with a similar proportion reporting that they had lost business to a competitor who paid bribes. Social costs invariably come hand in hand with costs to business – detrimental effects to employment, health, education and a wasteful depletion of natural resources.

Ambassador Allen highlighted that the UK is not immune. For example, in the construction industry surveys show that approx 41% have been offered a bribe at least once and 51% think that corruption is common in the sector.

The Ambassador drew attention to fact that in Bulgaria the situation is changing but still worrying. According to the Business Environment and Enterprise Performance Survey (BEEPS), conducted jointly with the World Bank and the European Bank for Reconstruction and Development, more than 70% of SMEs

perceive corruption as an obstacle to their business operations. This is vitally important in countries like Bulgaria, which are dependent on small business.

His Excellency Mr Allen expressed concerns that in Bulgaria there is a general lack of awareness of the risks of bribery. As a result, very low priority is given to the prevention, detection, investigation and prosecution of this crime. This needs to change. Every business in Bulgaria should have a no-bribe ideal in the corporation's culture, starting with a corporate code for managers and employees, affiliates and potential business partners. Robust action against bribery strengthens free market forces. It fuels competition and ensures consumers and the public get a fairer, better deal. Prices come down, services improve and business grows. But most of all a tough stance against bribery attracts business and investment rather than deters it.

“Effective Public-Private Partnerships and Monitoring Mechanisms for Countering Corruption in Bulgaria”

presented by Dr Maria Yordanova, Director, Law Programme, Center for the Study of Democracy

Dr Yordanova greeted the organisers of the conference intended to show how to improve Bulgaria's credibility and image in the EU and around the world insofar as corruption is concerned. She noted that corruption has become the most debated issue and is among the major challenges, which Bulgaria has faced during the last 15 years. Even after EU accession Bulgaria remains among the high-corruption risk countries in Europe.

In 1998 CSD pioneered a public-private coalition of fellow non-governmental organisations and reform-minded politicians, who prepared the first anti-corruption programme “Clean Future: the Anti-Corruption Action Plan for Bulgaria”. The coalition developed the instruments called Corruption Monitoring System (CMS) and Corruption Assessment Report (CAR) to assess annually corruption risks and anti-corruption progress in the country. The CMS was included in the UN Anti-Corruption Toolkit as a best practice national system for monitoring corruption. Currently, CSD is supporting the EC in preparing the first EU Anti-Corruption Report, which is due in mid 2014.

Dr Yordanova briefly outlined the findings on the main shortcomings in countering corruption in Bulgaria and on the necessary mechanisms for overcoming them.

According to the Corruption Monitoring System implemented by the CSD since 1998 Bulgaria made considerable progress in reducing administrative corruption affecting the Bulgarian citizens and businesses. The number of businesses victimised by corruption has fallen twice since the country's accession to the European Union. However, this improvement has come at the expense of mounting evidence of increasing political corruption, which has become more and more evident to the public, and which has alas remained largely unpunished so far. In some of the cases foreign companies have played along.

Dr Yordanova listed the following main deficits of the state and dynamic of corruption in Bulgaria, as well as of the anticorruption policies and measures implemented so far:

- Although Bulgaria has achieved formal legal convergence in the area of anticorruption, real convergence remains weak. Bulgaria has ratified all international anticorruption conventions and has adopted all legislative and institutional changes resulting both from them and from its commitments as EU Member State. However, significant problems persist, especially with regard to the effective practical implementation of the already adopted legal framework and institutional enforcement. Political pressure continues to influence the institutional environment, which is especially problematic with regard to the work of the judicial system and the national anti-corruption mechanisms. In addition, the latter often lack the necessary administrative capacity, experience and the required leadership for undertaking decisive initiatives. Combined, the lack of political will to pursue corruption and the limited institutional independence and capacity result in slow implementation of anti-corruption policies.

- Another notable shortcoming of the anticorruption efforts of the authorities in the country has been their sporadic nature. Anticorruption measures are typically stepped up under conditions of internal and external pressure. If pressures subside, anticorruption efforts slacken as well.
- One of the key challenge before the country is the absence of effective and adequate sanctions against corruption crimes, particularly as regards political corruption resulting in de facto impunity of high-level corruption.
- Bulgaria is seriously affected by political corruption which is currently expressed in high degree of illegitimate interconnectedness between country's politics and economy, lack of political morality and political responsibility, tolerance of oligarchic organised crime, use of public resources for the benefit of political parties or individuals etc.
- Public procurement, concession and land/forest swaps remain main channels for corrupt interactions between business and politics. To this is added an alarming new trend – civil society capture, executed through setting up quasi-NGOs and co-opting the existing ones in order to suppress criticism.
- The level of public trust in state institutions and in the specialised anticorruption bodies in particular is extremely low. Of all the EU Member States, Bulgaria is the country whose citizens are the least satisfied with the performance of the main governmental institutions including criminal justice system. The high level of corruption in these institutions very often accounts for the low public trust. Conversely, Bulgarian citizens are the ones having highest trust in the European Commission, respectively international bodies to tackle corruption in the country.

Dr Yordanova emphasized the need for a new level of interaction, public private partnerships and involvement of civic organisations at all stages of the implementation of anticorruption reforms as well as effective Monitoring Mechanisms for Countering Corruption.

1.) The “traditional” public private partnership model needs to be further developed in order to become a sustainable mechanism for strengthening existing and creating new partnerships that deliver results. It is imperative to make full use of the “triangular mechanism” in some sectors, which can unite the efforts to uphold transparency and integrity on the part of civil society, international partners, and reformist-minded government and administration officials. The idea for triangulation of anticorruption reform efforts also rely on a most active and consistent involvement of Bulgarian business and professional associations through enhancing fair competition, transparency and accountability, putting pressure on business engaged in corrupt or illicit practices, further promoting business integrity and responsible corporate culture etc.

2.) Effective corruption monitoring and assessment mechanisms have to be put in a regular and systematic use. They can provide a reliable picture of corruption pressure and victimisation among business and the population in the country, and thereby to serve as adequate diagnostic tools to establish the underlying reasons for corrupt practices.

It is also imperative that the European Commission and the Member States agree on a common anti-corruption policy, which should include a corruption benchmarking methodology and baseline to be implemented in EU policies and decisions.

Dr Yordanova concluded by emphasising that in a period of global economic uncertainty and with growing public distrust in governments and the private sector, it is a matter of urgency to achieve advances in national, regional and global action to curb corruption, using proven effective national mechanisms and international instruments as well as best foreign practices.

Dr Yordanova expressed confidence that this conference will contribute to the fight and prevention of corruption by providing with useful incentives the key stakeholders – Bulgarian authorities, local civil society, local and foreign business organisations as well as international organisations supporting the fight against corruption.

**“The UK Bribery Act and the US Foreign Corrupt Practices Act:
Relevance to Bulgaria and the Key Provisions”**

presented by Howard Cohen and Zarko Iankov, Partners in Dentons' London office

Howard Cohen and Zarko Iankov focused on the relevance of the UK Bribery Act and the US Foreign Corrupt Practices Act for Bulgarian business in today's international environment: attracting inward investment; debt: Banks and Financial Institutions; Mergers and Acquisitions; Joint ventures; Supply Agreements; Exports; Agents and other third party intermediaries; The need for anti-bribery and corruption protocols, policies and procedures.

The presentation provided valuable insights on many topics, including the global trend toward anti-bribery and corruption enforcement, companies' concerns with the risk, Bribery Act 2010 and FCPA and the main differences between the two.

“Bulgarian Anti-Corruption Legislation”

presented by Svetoslav Dimitrov, Partner at Penkov, Markov & Partners

Svetoslav Dimitrov presented Anticorruption legislation in Bulgaria, while focusing on the main characteristics of corruption, competent authorities (Commission for Prevention and Countering Corruption), Key corruption risks (Active and passive bribery, facilitation payments, interactions with government officials and lobbying, giving and receiving of advantages, political donations, charitable donations and sponsorship), Penalties, Conflict of Interest, Legislation and Purposes, Competent authorities (Commission for Prevention and Ascertainment of Conflict of Interest) and actions taken by the Commission.

“A Practical Guide to Getting it Right: Part I - Policies and Procedures and Implementation”

presented by Howard Cohen and Zarko Iankov, Partners in Dentons' London office

During the second session, Howard Cohen and Zarko Iankov presented the key areas of investment risk for organization subject to the anti-bribery legislation. They also provided useful tips on how to position a company to minimise any concerns: senior management buy-in, risk assessment, policies and procedures, implementing, and timing: “Bribery is a key investment risk and will be a priority for due diligence on a target organisation: don't wait until it's too late!”

“A Practical Guide to Getting it Right: Part II - Financial Books and Records Offences and the Need for Appropriate Financial Controls”,

presented by Jimmy Helm, Partner, Forensic for KPMG Central and Eastern Europe

Jimmy Helm's presentation on Financial Books and Records Offences and the Need for Appropriate Financial Controls included valuable insights into the enforcement actions, “books and records” enforcement, available financial controls, risk and mitigation, process-specific financial controls, pro-active payment analysis and substantive testing, supporting documentation review.

The working sessions were followed by a lively Q&A session.

Bill Drysdale, Chairman of the BBCC, thanked the speakers and the Embassy and also the participants, and invited everyone to join for a networking cocktail!