

# Law Program

In the year 2002 the main objective of the Law Program was to contribute to the development of democratic institutional and legal environment in Bulgaria. The efforts focused primarily on promoting the introduction of the Ombudsman institution on both national and local levels and facilitating judicial reform through the modernization of the registration system in the country.

## 2002 Highlights

- The Law Program experts who initiated the process of introducing the Ombudsman institution in Bulgaria by developing a Concept Paper and a Draft Law on the Civic Defender and the Local Civic Mediators continued to further assist the policy makers in the process of developing the legal framework for the Ombudsman institution. Members of the Law Program Task Force actively participated in all stages of the legislative procedure at the National Assembly providing numerous comments and recommendations on the Draft Law on the Ombudsman developed by the Parliamentary Committee on Human Rights and Religions. In this respect, among the most significant achievements of the Law Program was the involvement of foreign Ombudsmen's expertise to assist the elaboration of the Draft.
- Parallel to the drafting process the Law Program focused on raising public awareness of the necessity of introducing Ombudsman institution on both national and local level. A wide public awareness campaign for promoting the Ombudsman institution was launched, featuring a series of awareness events carried out throughout the country. The campaign used a combination of various means including the organization of seminars and workshops, publication of leaflets and brochures, participation in radio and TV broadcasts, etc.
- In compliance with the priorities laid down in the Program for Judicial Reform developed within the framework of *Judicial Reform Initiative* the Law Program continued its efforts towards the introduction of modern registration system in Bulgaria. The Task Force of experts set up with the Law Program developed a feasibility study of the opportunities for reforming the system of official registers in the country, based on comprehensive research and analysis of the situation in Bulgaria and the best practices implemented in other countries. The document outlines the necessary steps for the reform of the registration system. It is aimed at encouraging a wide public and expert debate in order to develop an overall concept of the registration reform in Bulgaria.
- Benefiting from the established cooperation with the Ministry of Justice the CSD Law Program initiated the elaboration of Judicial Anti-Corruption Program to serve as a consensus document regarding actions that have to be undertaken to encourage and develop an anti-corruption judicial reform.
- The Law Program specialists who developed the Law on Electronic Document and Electronic Signature continued to provide expert assistance in the process of elaborating the secondary legislation on the implementation of the Law. The work was successfully completed in the beginning of 2002 when the three ordinances were adopted by the Council of Ministers and entered into force. Thus the legal framework for the use of electronic documents and electronic signatures, whose development was initiated and assisted by the CSD Law Program, is already in place.

## I. Legislative Reform

### 1. Introducing Ombudsman Institution in Bulgaria

Since early 1998 the CSD Law Program has been actively involved in the process of establishing an Ombudsman-type institution in Bulgaria. As a result of the CSD-led efforts the need of such an institution in the country gradually gained the support of MPs, representatives of the Judiciary and the Executive, the local authorities, NGOs and the general public. In 2002 the activities of the CSD Law Program in support of the establishment of the Ombudsman institution continued in two main directions – further contribution to the process of developing a legal framework for the introduction of the Ombudsman in Bulgaria, and raising public awareness about the institution on both central and local level.

#### *Draft Law Development Process*

On June 5, 2002, the National Assembly adopted on first reading the three Draft Laws on the Ombudsman, submitted to the Parliament in 2001 and the beginning of 2002. In compliance with the legislative procedure the Parliamentary Committee on Human Rights and Religions was assigned with the task to consolidate the three drafts adopted on first reading into a single Draft Law. On November 14, 2002, the Parliamentary Committee approved the prepared unified Draft to be submitted to the National Assembly for adoption on second reading in plenary session.

The CSD Law Program specialists continued to actively participate in the development of the consolidated Draft Law by providing expert assistance at the different stages of the legislative procedure.

- CSD Law Program experts participated in the sessions of the Legislative Council to the National Assembly, which was assigned with the task to deliver a statement on the three drafts submitted to the National Assembly.
- Subsequently, CSD Law Program experts were actively involved in the work of the joint working group set up by the Parliamentary Committee on Human Rights and Religions to elaborate an initial version of the consolidated Draft Law.
- After the elaboration of the consolidated version by the joint working group CSD Law Program experts continued to provide assistance during the series of discussions on the draft held by the Parliamentary Committee on Human Rights and Religions, and made numerous proposals, some of which were incorporated in the final version of the draft.

In order to contribute to the adoption of modern and effective Ombudsman legislation based on established European standards and the best practices implemented in this area, the CSD Law Program focused its efforts on engaging foreign expertise to assist the Parliamentary Committee in the process of preparing the consolidated Draft Law. The comments and recommendations of the Parliamentary Ombudsman of Sweden Ms. Kerstin Andre, the Federal Ombudsmen of Belgium Dr. Herman Wuyts and Mr. Pierre-Yves Monette, and the Ombudsman of Greece Professor

Nikiforos Diamandouros were presented to the members of the Parliamentary Committee on Human Rights and Religions.

*Public Policy and Awareness Activities for Promoting the National Ombudsman Institution*

The series of public policy events and awareness activities carried out aimed to popularize the role of the Ombudsman institution on both central and local level as a new human rights protection mechanism, and to make both the policy makers' community and the general public aware of the advantages of such an institution.

- **A Round Table on Establishing Ombudsman Institution in Bulgaria** (February 28 – March 3, 2002) brought together experts, judges, lawyers and representatives of NGOs actively involved in the establishment of the Ombudsman institution in Bulgaria. The participants analyzed the three Draft Laws introduced to the National Assembly and the improved Draft Law on the Civic Defender and the Local Civic Mediators developed by the CSD Task Force, and got acquainted with the experience of local ombudsmen operating under different projects.
- As a follow up to the Round Table discussion a **Workshop on the Establishment of Ombudsman Institution in Bulgaria** (March 19, 2002) was held to strengthen the public-private partnership for adopting the most appropriate solution regarding the establishment of the Ombudsman institution in Bulgaria. The workshop was attended by MPs from the Parliamentary Committees on Legal Issues, and on Human Rights and Religions, the Sofia Municipality Civic Mediator,

members of the CSD Task Force, NGOs' representatives.

- The three Draft Laws on the Ombudsman submitted to the National Assembly were further considered at a **Public Discussion on the Ombudsman Institution in Bulgaria** (April 9, 2002), organized jointly by the CSD Law Program, the Union of Bulgarian Jurists, the Parliamentary Information Center and the American Bar Association – Central European and Eurasian Law Initiative (ABA/CEELI). The event took place at the National Assembly and was attended by representatives of the Legislature, the Executive and the Judiciary, local mediators, NGOs, and the media. The discussion aimed to facilitate the reaching of consensus among the parliamentary forces for the development of a joint platform on the establishment and legislative regulation of the Ombudsman institution in Bulgaria. The need of a broad consensus in support of the Ombudsman institution was underlined by the Minister of Justice Mr. Anton Stankov. The three Draft Laws on the Ombudsman were presented by the MPs Mr. Ljuben Kornezov, Ms. Ekaterina Mihailova and Mr. Emil Koshlukov. The CSD Task Force members Mr. Borislav Belazelkov, Justice at the Supreme Court of Cassation, and Dr. Silvy Chernev, Chair of the Court of Arbitration with the Bulgarian Chamber of Commerce and Industry explained the main conclusions and recommendations incorporated in the Concept Paper developed by the CSD Law Program experts. Students from the Parliamentary Internship Program also contributed to the discussion by presenting a comparative review of the foreign and international Ombudsman-related legislation.

- The major event in the series of public policy activities in 2002 was the **International Conference on European Standards and Ombudsman Institutions in Southeast Europe** (June 6-8, 2002). The event was held jointly with the Friedrich Ebert Foundation and aimed at assessing the successes and failures of Ombudsman institutions in the region, strengthening European standards in their performance and establishing a network among them in order to exchange information and experience. Among the distinguished speakers at the conference were: the Parliamentary Ombudsman of Sweden Ms. Kerstin Andre, the Ombudsman of Greece Professor Nikiforos Diamandouros, the Federal Ombudsmen of Belgium Dr. Herman Wuyts and Mr. Pierre-Yves Monette, as well as Ombudsmen or their representatives from SEE countries

(Macedonia, Albania, Bosnia and Herzegovina, Slovenia, Croatia, Serbia, Montenegro and Kosovo). Bulgarian and foreign experts and representatives of all relevant institutions and organizations contributing to the development of the Bulgarian legal framework and its implementation also attended the conference and took part in the discussions. The speakers presented the role of the Ombudsman institution in overseeing public administration and protecting civil rights, as well as its potential to exercise out-of-court control in a democratic society. The conference focused on the national dimensions of the Ombudsman institution in European countries, the cooperation among them (both regional and international) and the possibilities to establish the institution in Bulgaria.



*Participants at the International Conference "European Standards and Ombudsman Institutions in Southeast Europe"*

*"We have gathered here to explain to the general public in Bulgaria that the Ombudsman will be a real defender of human rights, a mediator between the state and the society, and a guarantee for observing the laws. There are hardly any traditions related to the Ombudsman institution in Bulgaria so the responsibility for raising the awareness of what this institution is and how it will operate lays on us as representatives of state institutions, on the non-governmental organizations and the international community."*

Mr. Anton Stankov, Minister of Justice, in his opening address at the International Conference "European Standards and Ombudsman Institutions in Southeast Europe"

### *Local Awareness Events*

In the beginning of September 2002 the CSD Law Program launched a series of Information Days for promoting the Ombudsman institution on local level – an ambitious campaign for raising public awareness of the Ombudsman institution as a mechanism for human rights protection both on national and local level. The Information Days were organized with the assistance of local authorities and NGOs, and were held both in municipalities where civic mediators already operate (the cities of Razgrad and Veliko Turnovo) and in towns where such institutions do not exist (the cities of Plovdiv, Varna, Smolyan, Lovech and Troyan). The campaign focused on presenting the experience of already existing local mediators, and providing a forum for discussion on the necessity of transparency in the work of the local administration. The events were attended by representatives of local

authorities, magistrates, non-governmental organizations, experts, journalists and citizens.

In order to further popularize the Ombudsman institution and to facilitate the Information Days campaign the CSD Law Program published and distributed leaflets on the Ombudsman institution describing the nature and types of Ombudsman institutions, the fundamental principles in their operation, the avenues to approach the office of the Ombudsman, the powers and the scope of activity of the institution.

The Information Days campaign had a large impact on the local media – radio and TV cable broadcasts, and the press. Journalists from the local media attended the events and participated in the discussion. As a result information about the events was published in local newspapers and interviews were broadcasted by local radio and TV stations.

- The opportunities for introducing local ombudsman institutions in Bulgaria were discussed at a **Workshop on Establishment of Ombudsman Type Institution on Local Level in Bulgaria: Practice and Prospectives** (November 20, 2002). The event was organized jointly with the Friedrich Ebert Foundation and the National Association of Municipalities in the Republic of Bulgaria, and was attended by local mediators operating on municipal level, representatives of local authorities, non-governmental organizations, jurists, university lecturers and experts. Local mediators from various Bulgarian municipalities presented the experience gained in the course of their operation. The participants agreed that the future Law on the Ombudsman should include special provisions regulating the election of local mediators. In his



statement Mr. Venelin Uzunov, Chairman of the National Association of Municipalities in the Republic of Bulgaria, confirmed the support of the Association and its members for the establishment of public mediators on municipal level. The participants endorsed a Declaration supporting the legal regulation of the Ombudsman institution in Bulgaria and its establishment on municipal level, which was sent to the President of the Republic of Bulgaria, the Chair of the National Assembly and the Chairs of the Parliamentary Committees on Legal Issues, on Human Rights and Religions, on Complaints and Petitions of the Citizens, on Civil Society Issues, and on Local Self-Government.

*“We clearly understand the significant role of the Ombudsman institution as an additional mechanism for solving problems related to the lawful operation of the administration. The power of the Ombudsman to monitor the activities of the administration would have a strong impact on the transparency in its work, the prevention and combating of corruption and the education of the administration. Many years ago a former Deputy Minister of Justice said that the best school for the administration was the practice of the administrative courts. I believe that soon this will refer to the activities of the Bulgarian Ombudsman as well.”*

Mr. Vladislav Slavov, Chairman of the Supreme Administrative Court and the Union of Bulgarian Jurists in his opening address at the workshop “Establishment of Ombudsman Type Institution on Local Level in Bulgaria. Practice and Prospectives”

*“Having in mind the long-established public model of relations between citizens and institutions in the European countries;*

*Recognizing the civil society's role and significance for the development of the democratic processes;*

*Determined to establish democratic relations and active dialogue on all levels of government: central authorities – local self-government – citizens;*  
*State their will and ambition to seek and apply different forms for implementing democratic government, requiring active civic participation;*

*Support:*

- *The speeding up of the legislative process and the adoption of a Law on the Civic Mediator (Ombudsman), regulating the statute, general principles, powers, term of office, procedure and organization of its activity;*
- *The legal introduction of the Civic Mediator (Ombudsman) institution on central and local level by assuring the necessary financial resources through corresponding budgets.*

Declaration by the Local Authorities' representatives – participants at the workshop “Establishment of Ombudsman Type Institutions on Local Level in Bulgaria. Practice and Prospectives”

- The debate on establishing local ombudsman institutions in Bulgaria continued at a **Workshop on the Local Ombudsman** (December 14-15, 2002) in Sofia. The event was organized jointly by the CSD Law Program, the British Council in Bulgaria and the Sofia Municipality Civic Mediator, and focused primarily on the mechanisms for establishing Ombuds-

man institutions on local level, the activities of and the difficulties met by the local ombudsmen operating in different municipalities, and the opportunities for developing their mutual cooperation. The workshop brought together representatives of local Ombudsman-type institutions from the whole country as well as lawyers, experts, representatives of local authorities, non-governmental organizations, etc. Guest speaker at the workshop was Mr. Peter McMahon, Deputy Ombudsman of London, who presented the legal framework of the different Ombudsman-type institutions (specialized and local) in the UK and the activity of the office of the London Ombudsman. In the course of the discussions the representatives of local ombudsman institutions decided to establish a National Association of Local Ombudsmen in Bulgaria in order to institutionalize the established cooperation between them and to further promote the introduction of local ombudsman institutions in Bulgaria.

### Publications

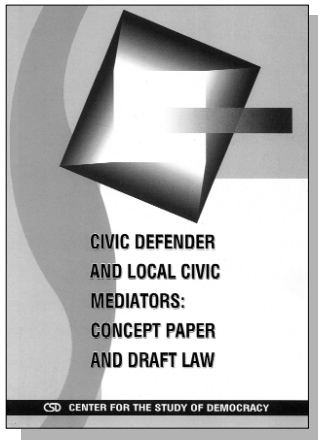
In 2002 the CSD Law Program brought out two more publications related to the introduction of Ombudsman institution in Bulgaria.

- The brochure *Civic Defender and Local Civic Mediators: Concept Paper and Draft Law* (April 2002) consists of both a Concept Paper and a proposal for a Draft Law for the establishment of the institutions of the Civic Defender and Local Civic Mediator in Bulgaria. It is the result of the extended research carried out by the CSD Law Program during the period 1998 – 2002. The Concept Paper and Draft Law reflect the opinions and recommendations of Bulgarian and foreign experts, politicians and representatives of state institutions and non-governmental organizations provided at numerous public discussions, meetings and consultations during this time.
- The brochure *European Standards and Ombudsman Institutions in Southeast Europe* (November 2002) presents a summary of the discussion at the International Conference “European Standards and Ombudsman Institutions in Southeast Europe” held in Sofia on June 6-8, 2002.

The brochures were published in both English and Bulgarian, and were widely distributed among state institutions, non-governmental organizations, experts, journalists, citizens, foreign ombudsmen



*At the Workshop on the Local Ombudsman (from left to right): Dr. Maria Yordanova, Director of CSD Law Program, Mr. Ian Stewart, Director, British Council in Bulgaria, Ms. Antoaneta Tsoneva, Sofia Municipality Civic Mediator, Ms. Lisa McManus, Deputy Director, British Council in Bulgaria, Mr. Peter MacMahon, Deputy Ombudsman of London*



and representatives of foreign and international organizations with the objective to further popularize the Ombudsman institution and to contribute to the process of its introduction in Bulgaria.

### *Ombudsman Information Network*

Globalization and rapid technological development are affecting many aspects of the lives of the individuals, their families and communities. Understanding the effect of these changes requires human-rights-sensitive knowledge and information that enhance policy making and stakeholder action.

Having in mind the great impact of information technologies in society the CSD Law Program started to develop a web-based *Ombudsman Information Network* ([www.anticorruption.bg/ombudsman](http://www.anticorruption.bg/ombudsman)) to serve as a permanent and dynamic virtual workshop producing, exchanging, managing and disseminating knowledge, data and experience on different issues and trends related to the Ombudsman institution. The network aims at facilitating awareness, advocacy, training and education in the field of human rights protection; collecting relevant information; and disseminating information and knowledge to citizens, public administration and relevant organizations.





## 2. Developing the Legal Framework for Electronic Documents and Electronic Signatures

During the last few years Bulgaria made considerable progress towards the creation of a favorable legal environment for the use of electronic documents and electronic signatures. The process was initiated in early 1999 by the CSD Law Program whose experts developed a Draft Law on Electronic Document and Electronic Signature. The Law was adopted by the National Assembly in March 2001 and entered into force on October 7, 2001.

Following the adoption of the Law the CSD Law Program experts were involved in a series of training activities aimed to raise awareness of the newly adopted legislation. The members of the CSD Task Force participated in a number of seminars, workshops and public discussions, and presented the Law before magistrates, representatives of state institutions, the legal community, commercial entities and other experts. Parallel to the training activities the CSD Law Program experts provided assistance with the implementation of the new Law by advising institutions and other organizations on different issues concerning the application of the newly adopted provisions.

### *Drafting Secondary Legislation*

A necessary prerequisite for the effective application of the Law on Electronic Document and Electronic Signature was the adoption of the secondary legislation for its implementation. The process started in 2001 and was assigned to the State Telecommunications Commission (transformed later, in February 2002, into Communications Regulation Commission). The CSD Law Program experts who developed the Law on Electronic Document and Electronic Signature

actively participated in all stages of the drafting process, providing expert assistance to the State Telecommunications Commission Working Groups charged with the task to elaborate the secondary legislation. As a result of the combined efforts a set of three ordinances was adopted by Council of Ministers' Decree No. 17 of January 31, 2002 (promulgated in the State Gazette No. 15 of February 8, 2002) and entered into force on February 8, 2002:

- **The Ordinance on the Requirements to the Algorithms of Advanced Electronic Signature** lays down the algorithm requirements through which the data for advanced electronic signature creation are generated (the cryptographic key pairs), and the algorithms through which the actual electronic signature is created (the hash messages, the private key and hashed message combinations, etc). The requirements should be observed by every person performing the activities of generating data for advanced electronic signature creation, and/or verifying an advanced electronic signature. The algorithms should be secure in the practice and incorporated in documents in force (standards, technical specifications, recommendations, guides and reports). The Communications Regulation Commission is responsible for the publication and maintenance of a list of documents in force, containing the technical requirements to the algorithms.
- **After the Ordinance on the Procedure for Registration of Certification-Service-Providers** the Communications Regulation Commission is the body charged with the registration of the Certification-Service-Providers, which issue universal electronic signature certificates. The CRC supports a public register of persons registered

and collects fees for the registration services, determined in the Tariff on Fees, adopted pursuant to a Council of Ministers' Decree. The ordinance includes provisions on the necessary stages of registration procedure, as well as amendments and deletion of the registration.

- The **Ordinance on the Activities of the Certification-Service-Providers, the Terms and Procedures of Termination Thereof, and the Requirements for Provision of Certification Services** includes provisions on the general, personnel and technical requirements as well as the available funds the CSPs have to answer to provide for certification services. It regulates the requirements regarding the format of the certificates issued and the storage of information about the services provided. The Regulation charges the Certification-Service-Provider with the obligation to keep an Electronic Directory containing the certificates of X.500 or LDAP based access issued by it, as well as the certificate of the Provider's electronic signature, and information under article 28, paragraph 3 of the Law on Electronic Document and Electronic Signature relating to the security procedures, the way of using, storing and issuing the advanced electronic signatures, the price for the services provided, the liability of the CSP, etc.

### *Preparing Comments on the Law*

The CSD Law Program experts continued their work on preparing Comments on the Law on Electronic Document and Electronic Signature, which will also include an enlarged survey on the recent legislative developments in the field of e-commerce as well as a collection of foreign and international acts, including some of the newly adopted instruments.

The work on preparing Comments on the Law on Electronic Document and Electronic Signature started in 2001 including the CSD Task Force members Dr. Maria Yordanova, Director of CSD Law Program, Dr. Angel Kalaidzhiev, Associate Professor, Sofia University Law Faculty, Dr. Vessela Stancheva, Attorney at Law, Justice Borislav Belazelkov, Supreme Court of Cassation, as well as Mr. Georgi Dimitrov, Attorney at Law, Dr. Alexander Katzarski, Associate Professor, Sofia University Law Faculty, and Mr. Dimitar Markov, Project Coordinator at CSD Law Program. In the course of the work the CSD Law Program experts decided to broaden the scope of issues to be reviewed in the edition and to include more topics related to the legal regulation of information technologies such as the criminal aspects of computer crimes and the issues of international taxation of e-commerce.

During the year 2002 a series of working meetings of the CSD Law Program experts were held to discuss and share comments and recommendations on the materials prepared. As a result a draft version of the comments was elaborated and circulated among the experts for additional notes and remarks.

### **3. Continuing Legislative Reform Activities**

In 2002 the CSD Law Program continued its efforts towards promoting the principle of public-private partnership in the process of developing new legislation. The initiative aimed to improve the quality of the newly developed laws and regulations, and to increase the transparency of the legislative process. As a result, a series of public discussions on proposed new draft laws were organized, which brought together policy makers, state

officials, experts, representatives of NGOs and the business community.

- **A Public Discussion on the Draft Law on Measures against Financing of Terrorism** (May 14, 2002) brought together MPs, representatives of the Executive, magistrates, experts, representatives of banking and financial institutions, foreign diplomatic missions, foreign and international organizations, non-governmental organizations, and the media. The event was organized jointly by the CSD Law Program and the Atlantic Club of Bulgaria. The Draft Law, developed by a Working Group with the Ministry of Interior and the Ministry of Justice, was presented by the Minister of Interior Professor Georgi Petkanov and the Deputy Minister of Justice Ms. Miglena Tacheva. Mr. Ian Soutar, United Kingdom's Ambassador to Bulgaria, Mr. Vladislav Slavov, Chairman of the Supreme Administrative Court, Mr. Boyko Kotsev, Deputy Minister of Interior, Dr. Vassil Kirov, Director of Financial Intelligence Bureau, Mr. Oleg Nedialkov, CED of Bulgaria Invest Bank and Mr. Svilen Mechev, Head of the Department for Combating Money Laundering at Municipality Bank made valuable comments on the Draft.
- **A Round Table Discussion on the Draft Law on Forfeiture to the State of Any Property Acquired by Criminal Activity** (September 10, 2002) provided government officials, MPs, magistrates, diplomats and journalists with the opportunity to discuss the legal regulation of forfeiture in Bulgaria. The Draft Law was presented by the Minister of Interior Professor Georgi Petkanov. Ms. Karen Kramer, Resident Legal Advisor at the U.S. Embassy, made a review of the U.S. legislation on civil and criminal forfeiture and expressed her support to the Draft Law proposed by the Ministry of Interior. In their statements Mr. Bozhidar Bozhinov, Chairman of the Bulgarian Chamber of Commerce and Industry, Mr. Vassil



*Discussion on the Draft Law on Measures against Financing of Terrorism (from left to right): Ms. Miglena Tacheva, Deputy Minister of Justice, Dr. Maria Yordanova, Director of Law Program, CSD, Professor Ljubomir Ivanov, Chair of the Board of the Atlantic Club, Professor Georgi Petkanov, Minister of Interior*

Kirov, Director of Financial Intelligence Bureau, Mr. Rumen Georgiev, Deputy Director of the National Investigation Service, and Mr. Gati Al-Dzheburi, First Deputy Minister of Finance made some critical remarks and provided numerous recommendations to the Draft.

- Due to the continued public debate on in the issue of forfeiture a second **Round Table Discussion on the Draft Law** (October 1, 2002) was held featuring a special presentation by Ms. Susan Smith, Senior Trial Attorney at the Asset Forfeiture and Money Laundering Section in the Criminal Division of the U.S. Department of Justice. Ms. Smith made a review of the history and development of asset forfeiture in the United States and described the rather complex legislation in this area.
- Aimed at facilitating the ongoing process of improving the legal framework for political parties in Bulgaria the CSD Law Program jointly with the National Democratic Institute and the American Bar Association – Central European and Eurasian Law Initiative (ABA/CEELI) organized a **Public Discussion on Political Parties Financing**. The event brought together MPs, experts, representatives of non-governmental organizations, foreign and international institutions and journalists. The MPs from Coalition for Bulgaria Mr. Boyko Radoev and Mr. Nikolay Kamov presented the Draft Law on Political Parties submitted by them to the National Assembly. Mr. Emil Koshlukov, MP from the National Movement Simeon II, outlined the main principles of the Draft Law on Political Parties which is currently being developed by MPs from the ruling majority. Mr. Michael Farnworth, Resident Director of the National Democratic Institute, briefed

the participants on the Canadian experience with political parties' financing and outlined some of the best practices implemented in Canada, which could be successfully introduced in Bulgaria as well. In the course of the discussion the participants agreed on the necessity of increasing the control over political parties' financing by both the state and the society. Among the other issues discussed special attention was paid to the necessity of banning anonymous donations and donations by state or municipality-owned legal entities to political parties, permitting the parties to perform commercial activities in certain cases specified by the law, and improving the mechanism for determining the amount of state subsidies for political parties.

## II. Judicial Reform

During 2002 judicial reform remained an issue of utmost importance. As a Secretariat of the *Judicial Reform Initiative (JRI)* – a joint initiative of leading Bulgarian NGOs and representatives of the Legislature, the Executive and the Judiciary ([www.csd.bg/jri](http://www.csd.bg/jri)) – the CSD Law Program focused its efforts on facilitating the implementation of the priorities laid down in the Strategy in order to Reform the Judiciary in Bulgaria. The Strategy, adopted by the Government in October 2001, incorporated and further improved many of the recommendations formulated by the *Program for Judicial Reform (PJR)* developed within the framework of JRI and endorsed by a Policy Forum in May 2000.

### 1. Reforming the Legal Basis of the Judiciary

**A Public Discussion on the Draft Law on Amendments to the Law on the**

**Judiciary** (January 31, 2002) was held jointly by the CSD Law Program and the American Bar Association – Central European and Eurasian Law Initiative (ABA/CEELI). The draft amendments to the Law on the Judiciary elaborated by a Task Force with the Ministry of Justice were presented by the Deputy Minister of Justice Mr. Sevdalin Bozhikov. In the course of the discussion Ms. Nelly Koutzkova, Chair of the Sofia District Court and Member of the Supreme Judicial Council, and Ms. Kapka Kostova, Chair of the Sofia Regional Court and the Association of Judges in Bulgaria, expressed their opinion on the draft amendments. Ms. Kostova presented the official statement of the Association of Judges in Bulgaria, which incorporated concrete suggestions and recommendations. Mr. Roumen Georgiev, Deputy Director of the National Investigation Service, introduced the position of the Chamber of Investigators. Dr. Maria Yordanova, Director of the CSD Law Program and JRI Coordinator, underlined the important role of the JRI for the development of judicial reform in Bulgaria. In the course of the discussion MPs, magistrates and law professors expressed their opinions and made various recommendations on the Draft.

## **2. Registration System Reform**

In the beginning of 2002 the CSD Law Program started exploring the opportunities for reforming the system of official registries in Bulgaria. The shortcomings of the present registration system have often been pointed out by the business community as an obstacle to the growth of business and a source of corruption. The reform of the registration system would increase its efficiency and would minimize the unregulated practices accompanying registration and obtaining information. The overcoming of the dismal state of

official registers in Bulgaria is also believed to have far-reaching anti-corruption effects.

In April 2002 the CSD Law Program launched a project with the objective to develop a feasibility study of the opportunities for reforming the registration system in Bulgaria. A Task Force was formed consisting of lawyers experienced in commercial law, and in the field of information technologies and their legal regulation who analyzed the existing situation in Bulgaria and the international experience in the field of development and operation of modern centralized electronic registration systems. The project was implemented in close cooperation with the Minister of Justice who expressed his support to the initiative.

- A Bulgarian delegation made a study visit to Norway (August 4-8, 2002) with the purpose to examine the Norwegian experience with the development of modern registration systems. Members of the delegation were the Minister of Justice Mr. Anton Stankov and the CSD Task Force members Dr. Maria Yordanova, Director of the CSD Law Program, Dr. Silvy Chernev, Chair of the Court of Arbitration with the Bulgarian Chamber of Commerce and Industry, Mr. Borislav Belazelkov, Justice at the Supreme Court of Cassation, and Mr. Dimitar Markov, Project Coordinator of the CSD Law Program. The members of the delegation visited Norway Registers Development (NRD) and were provided with information on the legal basis for registers of legal entities, the NRD's approach to building a register, and the content and possible usage of application framework. The delegation also visited the Bronnoysund Register Centre (BRC) where the participants got acquainted with the



operation of the different registers maintained by the BRC and had useful meetings with BRC senior officers.

On the basis of comprehensive research the CSD Task Force prepared a feasibility study entitled **Opportunities for Development of Central Register of Legal Entities and an Electronic Registries Center in Bulgaria**. The study examines the current situation with official regist-

ries in Bulgaria and analyzes the possibilities for reforming the existing registration system in the country outlining the necessary steps to be undertaken for the introduction of a modern registration system. The recommendations incorporated in the document are in conformity with the Bulgarian legal reality and the needs of the economic and social life. The study aims to stimulate a wide expert and public



*During the meeting at NRD (from left to right): (sitting) Mr. Ulf Ertzaas, Senior Legal Advisor, NRD, Mr. Borislav Belazelkov, Justice, Supreme Court of Cassation, Dr. Maria Yordanova, Director, CSD Law Program, Mr. Anton Stankov, Minister of Justice, Mr. Jon Schjelderup Olaisen, Managing Director, NRD, (standing) Dr. Silvy Chernev, Chair of the Court of Arbitration with the Bulgarian Chamber of Commerce and Industry and Mr. Jon Birger Fjalestad, Director, NRD*



*At the BRC (from left to right): Mr. Ulf Ertzaas, NRD Senior Legal Advisor; Mr. Borislav Belazelkov, Justice in the Supreme Court of Cassation; Mr. Silvy Chernev, Chair of the Court of Arbitration with the Bulgarian Chamber of Commerce and Industry; Mr. Anton Stankov, Minister of Justice; Mr. Dimitar Markov, Project Coordinator, CSD Law Program; Mr. Eric Fossum, Director General of Bronnoysund Register Centre and Dr. Maria Yordanova, Director of CSD Law Program*

discussion, which would result in the development of an overall concept for the reform in the registration system.

The full text of the feasibility study developed by the CSD Task Force together with a selection of materials on the registration systems in other European countries collected in the course of the research work were published in a brochure entitled **Reforming Judiciary in Bulgaria: Towards the Introduction of Modern Registration System**. The brochure was put together with the objective to provide useful information in the process of designing the legal basis for the reform and was disseminated among the stakeholders and other interested organizations and experts.

- The conclusions and recommendations of the CSD Task Force were discussed at a **Workshop on Reforming Judiciary in Bulgaria: Towards the Introduction of Modern Registration System**. The feasibility study developed by the CSD Law Program experts was presented by Mr. Borislav

Belazelkov, Justice at the Supreme Court of Cassation. The Norwegian experts Mr. Erik Fossum, Director General of the Bronnoysund Register Centre, and Mr. Ulf Ertzaas, Senior Legal Advisor at Norway Registers Development, presented the Norwegian experience in the field of development, implementation and operation of electronic registers and made a short overview of the legal basis for registers of legal entities in Norway. The event was attended by representatives of the Judiciary and the Executive, NGOs, the business community and media. Ms. Elena Petkova, Director of the Central Pledges Register, expressed support to the registration reform, pointing out the successful operation of the Central Pledges Register – the only centralized electronic register in Bulgaria - created in 1997. Mr. Tsvetan Simeonov, Vice Chairman of the Bulgarian Chamber of Commerce and Industry presented the electronic register of commercial legal entities, kept by the Bulgarian Chamber of Commerce and Industry.



*At the Workshop Reforming Judiciary in Bulgaria: Towards the Introduction of Modern Registration System (from left to right): Mr. Borislav Belazelkov, Justice, Supreme Court of Cassation, Mr. Erik Fossum, Director General, Bronnoysund Register Centre, Dr. Maria Yordanova, Director of CSD Law Program and Mr. Ulf Ertzaas, Senior Legal Advisor, Norway Registers Development*

### 3. Developing Judicial Anti-Corruption Program

Based on the experience accumulated in the process of implementing the *Program for Judicial Reform* and the established public-private partnership with the Ministry of Justice, in November 2002, the CSD Law Program as a JRI Secretariat initiated the elaboration of a *Judicial Anti-Corruption Program (JACP)*. The main objective of the JACP is to identify the most important reform areas and to formulate a set of recommendations and mechanisms for achieving legal stability and confidence in the Judiciary.

The process started with a series of preliminary consultations aimed at setting up the Task Forces to elaborate the *Judicial Anti-Corruption Program*. As a result, five Task Forces were formed consisting of experts involved in the PJR development, distinguished lawyers, judges, and civil society representatives. Each of the Task Forces focuses on separate action lines of the reform:

- Constitutional reform
- Improving the legal basis for the anti-corruption actions:
  - Penal Law and Penal Procedure Law
  - Administrative Law and Administrative Procedure Law
  - Civil Law (incl. Commercial Law) and Civil Procedure Law
- Court Administration Reform
- Education and Training of Magistrates
- Awareness and Confidence Building Measures

### III. Other Activities

In the year 2002 the CSD Law Program members participated in a number of international forums, presenting the

activities and achievements of the Program and benefiting from the exchange of experience with experts and representatives of numerous foreign and international organizations. Among the most important international events attended by CSD Law Program members are:

- **Human Dimension Seminar on Judicial Systems and Human Rights**, hosted by the Organization for Security and Cooperation in Europe (OSCE) in Warsaw (April 23-25, 2002). The seminar was attended by more than 55 delegations of the participating states, by delegations from states-partners for cooperation, representatives of international and non-governmental organizations and of the OSCE institutions.
- **EU Candidate Countries Conference on Drugs** in Madrid (June 11-12, 2002). The conference addressed the issues of developing national drug strategies by candidate countries and the necessary infrastructures to meet the drug-related elements of the Community acquis, including tackling corruption and strengthening the law enforcement.
- **68<sup>th</sup> Wilton Park Conference The Justice and Home Affairs Agenda for the South East Europe**, held at Wiston House, Steyning (July 22-26, 2002). The key issues on the JHA agenda in SEE are legal and judicial reforms, measures against organized crime incl. money laundering, drugs trafficking, EU policy towards SEE, etc.
- **The Changes of 1989 and the Process of Transformations in Bulgaria Conference**, organized by the Bulgarian Study Institute in Vienna and the Austrian SEE Institute (October 10-11, 2002).

- 
- **Access to Information and Media Legislation Project Conference** held by the Belgrade Human Rights Center and ACCESS – Sofia Foundation in Belgrade (October 29-31, 2002).
  - **UniDem Seminar on Standards of Public Life including Means to Avoid Corruption** in Trieste (November 25-29, 2002). The seminar is part of the UniDem Campus Program set up by the European Commission for Democracy through Law, better known as the Venice Commission – a consultative body of the Council of Europe composed of independent experts in constitutional law. The program aims to provide legal training in, primarily, efficient administration and good governance.
  - **Workshop on Tackling Corruption in South Eastern Europe and the Baltics: Cases of Bulgaria, Romania and Latvia** held by the Latvian Institute of International Affairs in Riga (November 29-30, 2002). The workshop aimed to exchange knowledge on corruption and experience of anti-corruption policies in the three countries, and to outline activities that could be developed in the future between the three countries.