

Economic Activities in Sofia

Monitoring the Economic Activities of Sofia Municipal Council as of June 2004

(Report of ACCESS-Sofia Foundation expert group)

Introduction

The report of ACCESS-Sofia Foundation on the municipal concessions on cleaning services in Sofia, published in the autumn of 2003, and its public response provoked even more serious public interest in the economic activity issues in Sofia Municipality. In the working process on the concession contracts on sanitation in Sofia, a team of experts was set up, who summarized the basic problems, concerning the economic policy and municipal property.

In the course of work, the expert team singled out a series of topical spheres. Some of them are traditionally a subject of broad, however, superficial and incidental, public and media interest: public transport, street lighting, water supply, central heating. Other topics, like the Municipal Bank, municipal companies, “Sofiyski Imoti” attracted the attention of investigative journalism in the second half of 2003 and in 2004, as a result, the rising public interest itself has called for a debate in the Sofia Municipal Council (SMC), and suggestions for solutions have been made. Still other topics, like procedural rules, access to information about previous decisions and the organization of municipal property management, stand out of public attention and have never been subject to steady interest. A fourth group of topics, like the concessions on cleaning services, have undergone considerable development, a development with a logic and consequences of their own, which deserve special attention in terms of approach, proposed solutions and implementation.

The project team faced difficulties with setting up the monitoring priorities, following not only the public interest logic, but also the principle not to duplicate efforts in fields where sufficient results from other observations are available, e.g. media analyses and investigations. We can give as an example of such efforts the report, published in the *Anticorruption* website of Coalition 2000, *The Scandal with Sofiyski Imoti: The Media as a Corrective of Municipal Power*.

After a series of discussions about the scope and thematic content of the monitoring of the economic policy of Sofia Municipal Council, the project team outlined a couple of directions to focus its efforts on. These directions are considered below.

General Context of the Monitoring

For the purposes of this text, it is essential to explain in advance several important elements of the monitoring on the economic activities of Sofia Municipality, Sofia Municipal Council, and its commissions, as well as of the Mayor of Sofia.

1.

Above all, monitoring of this kind has the potential to provoke political conclusions, that is, can serve political purposes. But what is more important is that some aspects of the economic activities of Sofia Municipality form a controversial political “corner” or are directly used in different public conflicts. This happens especially when there is a lack of sufficiently objective, public-wide and essential information. A typical example is the Prosecutor’s inquest, of end of April 2004, into the activities of Sofia Mayor of sale and restitution of state estates and terrains.

According to Nikolaj Markov, spokesperson for the Supreme Cassation Court (SCC), the latter has initiated proceedings referring to a statement made by District Governor of Sofia, Rossen Vladimirov, before the media. The Supreme Cassation Court has the right to do so, but the media and the public see the cause-and-effect connection between the SCC rulings and the accusations, made by the Mayor of Sofia addressed to Mr. Vladimirov, immediately before that (that he, Vladimirov, had sold illegally and “unscrupulously” a municipal plot in the vicinity of the Monument of the Soviet Army as well as the building standing opposite the Youth Theatre). Sofianski appealed to the Government to replace the District Governor. Vladimirov replied that the attack was not personal, but directed against the Movement for Rights and Freedoms (MRF). Then Vladimirov, in his turn, accused Sofianski of selling state estates and restituting state-owned plots. The media did not fail to mention that Sofianski’s statements about Vladimirov did not trigger an investigation. Recounting the events, however, does not get us any nearer to explaining them. Quite the contrary: the appeal for Vladimirov’s replacement; the involvement of MRF in the argument concerning real-estate management; the fact that Sofianski is also the leader of a political party, and such details actually turn the settlement of the argument in itself into a challenge for objective interpretation. This renders the politization harmful - it obscures the facts, produces pseudo-realities, and, in the long run, transforms the public space from transparent plane, on which everything is visible for everyone, into a jungle of contradictory theses, statements and speculations.

2.

In the second place, the media coverage of these issues definitely stands to serious criticism - in terms of impartiality and objectivity. The problem is fundamental as far as media are among the basic sources of information shaping the public opinion. Some of the reasons for the inadequate coverage of

the economic activities of Sofia Municipality are related to the above-mentioned political element. There are also other opinions, according to which the obvious faults of the media coverage are part of well-premeditated strategy. Whatever the truth is, the fact is that the media interpret arbitrarily some essential aspects of the economic activities of Sofia Municipality, the benefits and damages proceeding from the decisions taken, the decisions of Sofia Municipal Council and its committees, as well as the general context of the economic policy of the local government.

Furthermore, the media themselves are proficient and active conductors of “the political beginnings”, of “politization”, thought of as a general interpretative prism of everything that happens in the “municipal” life, including economic decisions. There are good reasons for that, but the fact is that the coverage of the events - documents, amounts of money, clauses, persons involved, interests, etc., often gives way to interpretations or repeating over and over again of these (e.g. “the Cassation Office as a repressive machine”, “struggle between the left and the right wings”, etc.). It is also a fact that there is a shift of weight in cause-and effect relations: for example, the problem of the proper or improper (legal/illegal) management of municipal property is left behind at the expense of explanations of the kind “A unification of the right-wing space is certainly not to MRF interest”. No matter if the interpretations are well-grounded or not, the coalition union of right-wing parties proves to be a far more attractive topic to the media than some details about municipal property management. This situation - probably natural from the media point of view, firmly curbs the opportunities of using the media as a means of public control.

3.

Third, the monitoring reveals a serious lack of public awareness of the problems of the economic policy of Sofia Municipality. Procedures and regulations, rights and responsibilities, prerogatives and violations –all these are easily put aside before a much easier, and much faster, fault-seeking (and finding). But assuming guilt can lead to a distortion of the objectiveness of the monitoring, especially when the interpretations are focused on finding a conflict angle. All this means that the interpretations of the monitoring should be within an adequate legal, organizational, administrative, informational, procedural framework.

A concrete example of such an interpretation is the media coverage and public interpretations of the above-mentioned case of the Cassation Office inquest into Sofianski’s activities, following the accusations of District Governor Vladimirov. According to Vladimirov, who has been cited in the media, Mayor Sofianski alone permitted restitutions into state estates, and illegal sales were carried out “by Sofianski”. This could be proved by “dozens of documents”, Vladimirov assured. Thus formulated, accusations can be launched into the public space, as they look “self-contained”. A very small part of the media public can realize that the Mayor is not eligible to sell estates without a prior

permission of Sofia Municipal Council. Still fewer readers are able to understand how the control mechanism, which reverses responsibilities and turns Vladimirov's own charges into "discrediting facts", functions. If it were true that certain crimes, law violations and omissions had been noticed, then these could have been prevented by Vladimirov himself, since all documents go by way of the local government. These decisions not only could have been but **should** have been stopped, that is, by virtue of his official obligations, Vladimirov should have reacted immediately, instead of piling "dozens of documents", ready to use against Sofianski. Most probably the matter concerns the kind of property (municipal or state) of a particular estate, and the hypothesis is that one and the same estate was sold twice to different persons: once as a municipal property, and a second time as a state one. This hypothesis, or such like, is of interest to the monitoring. Working on such hypotheses can lead to suggestions on who has violated the law. In most cases, the "information" about who has committed a crime comes earlier than the explanations of the objective circumstances. Explaining the objective circumstances (if these become facts) should come after public attitudes are shaped, not the other way round.

I. Database

As it becomes clear from above, expertise on the issues of the economic policy and the municipal property, is urgently necessary. Paradoxically, such expertise requires access to database (on the municipal property and its management, on project discussions, on decisions, and on those who have submitted decision proposals), which is actually unavailable. This database includes descriptions of municipal estates and municipal property, decisions on their management, expert estimations (accounting, financial, economic, etc.), and enclosed documents, minutes of municipal committees' and SMC's sessions, documentation of contracts and leasing relations, data about purchase and sale, regulation plans, file record.

We can illustrate the importance of this database with the following example. In regard to the charges of SCC against Sofianski, who had concluded the unprofitable transaction of Sofia estate "Hali", the left-wing municipal councilors required that SMC should vote for Sofianski's suspension from post. Sofianski refused to withdraw voluntarily. Before the councilors he declared that he was "*proud of "Hali" transaction. He also added that he was very surprised that the councilors of Bulgarian Socialist Party were not proud too, since the shorthand record of the voting showed that none left-wing municipal councilors had voted against, nor had abstained from voting. Micho Rajkovsky from BSP, who had been a municipal councilor at that time, opposed by asserting he remembered that there had been three "abstained" and one "against"*".

One of the biggest problems in the economic policy of the capital city is the distribution of responsibility in decision-making. Even without this remark, it is clear to the reader that in the above case voting on a problematic transaction of six years before must have been of great importance. However, in public space, instead of inspection of the respective minutes concerning the voting, we are given only the dim memories of two participants in the events of six years ago. In the court of public opinion, “the story” comes “as a retelling of the fact” not “as a fact”: this substitution is possible only when there is a lack of possibilities for efficient inspection and public announcement of the archive documents.

The database issue may seem negligible, a bookwormishly small administrative-bureaucratic detail. The real fact is that the intention of implementing a systematic monitoring on the issue “Economic Policy and Municipal Property” faced an enormous “wall”. Let us give as an example the interim report of Provisional Commission at SMC on the cleaning concessions. Among the first conclusions we read: “*we recognize as inaccurate the activities of some departments at Sofia Municipality, which are responsible for keeping available the archives of the cleaning concessions’ contracts. With regard to this, we recommend that the respective administrative structure should immediately find and provide the Provisional Commission with the complete documentation on the cleaning concessions, including the candidates’ offers*”.

Let us explain what this is all about: two months after the Provisional Commission started working, one of SMC departments, set up with a particular purpose, could not find main documents in its own archives. This department initiated “an inquiry” of documents - such an order is possible only if the location or even the existence of such documents is not clear. (Where these documents are - Deputy Mayor Milor Mihajlov does not know, neither do former Deputy Mayors Boris Spirov or Erhard Mateevich...). The question is not about just *some* documentation, it is about candidates’ offers presented at the competition - the main source of suspicions and interpretations of malfeasance. If municipal councilors themselves are to search the documents in such a way, then what about media and NGOs, investigative journalism, and civil control?

Besides, the example given refers to documents belonging to the Municipality itself, i.e. they belong to the institution of municipal self-government. Then what can we say about estimations and investigations of physical and legal entities not directly involved in the municipal economic policy. It is obvious that the intriguing task assigned to the provisional commission (“*We will investigate the financial flows and the credit policies of the concessioners*”) is overambitious and doomed from its very start. Having in mind the current condition of the existing database, *no one* is capable of investigating the concessioners’ financial flows and credit policies.

Examples like the above-mentioned are numerous. We are not trying to make a list of those, but to explain why in the process of monitoring it became necessary to revise some priorities. At a session of the team experts in February 2004, the conclusion was drawn that most of the preliminarily outlined monitoring tasks and intentions concerning the management of municipal resources, the economic activity of Sofia Municipality, the lawfulness and adequacy of the economic decisions are “naturally” blocked by a preceding problem. This problem is the absence of precise, complete, properly arranged, easy to be used and accessible database.

The absence of such database is often an insuperable impediment. Providing such database is not a tactical goal. The implementation of this goal should be divided into separate, more easily achieved segments of a narrower scope – in terms of time, amount of information, financing, and human resources. Furthermore, the implementation should be set in the time - as a strategy, and it should be synchronized to other efforts and activities (for example, those of Sofia Municipality), and respectively coordinated with the regulation base (Law on Access to Public Information, Law on Protection of Personal Data). The elaboration of even separate segments of this strategy demands serious effort. That is why the expert team decided to focus on one or two particular directions, in order to avoid wasting energy and financial resources.

Because of the above motives, a team of experts was set up to assess the documentation of Sofia Municipal Council. The experts arrived at the following conclusions:

1. Top priority in this sphere is the elaboration of Electronic Database of Regulatory Municipal Property Transactions in the Sofia Municipality. It is to include database on activities related to the municipal property combined with statistical and reference instruments. The importance of such electronic database as a source of information and instrument for control, reference, assessment, analyses, etc. does not need further motivation. For the purposes of this text, we will only point out that revealing to the public some details about the municipal property management will contribute to the elaboration of correctives for avoiding corruption practices. If such database is available, municipal property transactions of the type “we buy at 690,000 euro, we sell at 3,000,000 euro” could hardly be concluded. In the media, these transactions will be covered in the section “News”, not in the “Scandals” column.

2. Previous decisions of SMC are not widely accessible to the public. Open to the public are only the more recent decisions, published on the webpage of Sofia Municipality. These decisions are crucial for the formation of competent public opinion. Let us illustrate this with an example: in the debate on the sanitation of Sofia and the cleaning services concessions, the standpoint of the parties involved was contained in the conclusion that the companies-

concessioners had fulfilled their obligations with precision. Those who share that viewpoint most probably are not aware, or have forgotten (most even have no way of finding out), that, for example, on the 20th January 2000, SMC demanded that the Mayor of Sofia Municipality fine the concessioners for delays in sanitation for January 2000 as follows: *Wolf* Ltd. – by 150,000 BGN, *Ditz* Ltd. – by 120,000 BGN, *Chistota* Ltd. – by 80,000 BGN...

To cut the long story short, when in 2003 the debate on the activities of a couple of years before began, fiction overwhelmed facts again, as far as this issue went. The assessments, calculations and expertise turned out to be an arduous research, which could not even rely on existing formal decisions.

3. Some of the available documents lead to the formation of important conclusions concerning the technique of managerial decision-making. Close scrutiny of the minutes of SMC allows for drawing the specific characteristics of the operative organization: for example, a session with an agenda of numerous points, ... one of which concerns the setting up a joint-venture. It is true that no one can prove that a specific point is deliberately included in an overloaded agenda with a view to assuring its passing. Yet readers of at least some administrative experience would easily see through that move. The haste of decision voting can easily be combined with the obscure memories of municipal councilors as to what they have voted on, with the essentially different significance of each decision included in the agenda (from trifling to strategic ones), even with laws formulated by Parkinson in his work on collective institutions and high finances.

Here we do not claim that there were deliberate efforts made to “pass” particular points in the agenda (there is no evidence of that). But the documents will help us recover the situation and the atmosphere in which a particular decision was taken. And this was a decision on passing a joint-stock agreement, with the statutes of this future joint stockholding company, the necessity for reliable assessment of serious finance commitments, with the prospects of managing large municipal real estates with serious consequences to public life.

If an investigative journalist tried to follow the traces of unprofitable transaction, which has started by decision, taken in such circumstances, the witnesses - participants (the municipal councilors) would have the right to claim they do not remember anything about the decision. Let alone their discussions.

4. The so-far mentioned (points 1-3) means that the whole system of preparing, maintaining, and using the database needs serious revision. Like the expert team concluded, there is universal practical solution for the already mentioned small and bigger problems concerning the database of SMC. And it is in improving the public access to this documentation.

Such a conclusion may sound naïve and elementary to a country, which has adopted modern European standards of access to publicly significant information. That is why, we are going to give an example to illustrate the importance of the above-mentioned conclusion. According to Protocol №8 from 14th March 2000 (Resolution № 7), Sofia Municipal Council decides: (sec.1) it sells to a physical entity municipal real estate which is duly accounted plot in Borissov Garden; (sec.2) issues a permit for purchase of ideally-owned parts of real estate; (sec.3) requires that sale should be done at market prices.

But in the original of the recounted Resolution, however, sec.2 literary runs as follows: “{SMC} grants a permission for purchase of ? ideally-owned parts of real estate building №2, situated in the estate, as written in sec.1.” Section 3 runs as follows: “The sale should be effected at market prices in accordance with the estimate of chartered expert-appraisers and the selling price is to be reduced by the worth of a construction permit on the site adjacent to building №1, on ? from the site adjacent to building №2”

At first sight, the reader might have some problems in realizing what is wrong with these cites. Let us be more specific: the question marks are given in the original, they are not print errors. Usually such marks are used in a draft - when someone prepares a text on resolutions, in which some specific data and details are liable to further checks, have to be added afterwards. But the Protocol is not a draft - it was signed by the chairman of SMC, Mr. Antoan Nikolov, and it bears the SMC seal. So this is the official document on a voted decision. Like this document reads, the municipal councilors have given their agreement for the purchase of exactly “? ideally-owned parts” of a real estate property.

This example serves as an illustration of the essence of the recommendation for publicity, which was formulated above. There are blunders all over the world and print errors happen with any organizational work. Especially if the procedure of approving a protocol, from a previous hearing by the collective body itself has not been adopted. In brief, such mistakes are part from the organizational life (in the text of the cited resolution, the name of the physical entity, to whom the municipality sells the real estate, is written in two different ways). But public access to this resolution would correct the mistake - moreover, here we talk about a resolution concerning real estate management. The problem is that at the moment, four years later, it is thoroughly unclear what stays behind the question mark, and whether the protocol has been corrected afterwards (the document is needed for further management procedures), and if it has - when and by whom.

5. The principles of municipal estate management presuppose and provide collective participation when taking such decisions. This means that there is no possibility for anyone (mayor, person entitled by the mayor, a department of municipal administration, or group of councilors) to sell or rent without informing and providing the permission of the Municipal Council.

A close inspection of SMC decisions, however, enables us to see a “loophole” in this management scheme. For example, at a session, SMC discusses the announcing of a competition for sale of a real estate property. There is a decision, respectively, for announcing a competition for the sale of a real estate property with certain characteristics. Unfortunately, there is no special procedure and practice of assessing competition results. This means that the municipal councilors – empower with the management – were informed about the competition, and only about it. They only knew that there was a decision on a competition for the sale (since they had voted on it). But they knew nothing in particular about the results, the aspects of the transaction (including the financial ones), some contingent additional obligations of the parties involved. The natural- and procedural-logic approach could be that SMC should approve by decision not only the announcement of a competition for the sale of a real estate municipal property, but also the draft of the sale contract. This, however, did not happen.

The difference can be illustrated by the legislative system - court with jurors, in which the jurors decide only whether the accused is guilty or not. The rest (in the case of found guilty – the punishment) is not to their terms of reference. Logically, with such powers, it is not necessary at all for the jurors to have special law qualification. Following the same logical scheme, the municipal councilors approve only the decision on the competition; few of them know the details, as the procedure does not involve it. (Everything beyond the decision “for-against” is not to their terms of reference).

6. The legal expert team under the project perused the amendments in the Amendment to the Law on Municipal Property, which were discussed by members of Parliament. Accepting unconditionally the motivation for the amendments (providing proper conditions for civil control on and counteraction to malfeasance in the management of municipal real estate property) the expert team formulated a text proposal for Article 66A, which would allow the proposed four public registers to be combined in one.

The proposal was sent (on 4th May 2004) to the amendment promoters with the confidence that thus some serious problems would be solved at a national level, as far as

1. Such a register should be elaborated for each municipality;

2. Such a register would cover all municipal estates (the estates which have been municipal property, but are expropriated and/or appropriated as well as the estates which have changed their status as public or private municipal property).

3. The register includes an archive in which copies of regulations for the management of municipal real estate property are kept.

4. The register and the respective archive will be open to the public, without service fees.

Adopting these proposals and the creation of such a register would solve most of the problems, here described as problems concerning the “Database”.

II. Public Corrective

The manner in which the Municipality reacts to signals, remarks and justified criticism is of utmost importance to the monitoring of the economic activities of Sofia Municipality. The inspection of “the reaction mechanism” of SMC is possible only on the grounds of a specific set of issues, and in case there is commensurate expertise available. The example cited below concerns the reactions of Sofia Municipal Council to critical expert and media assessments of sanitation concession contracts in Sofia.

In September 2003, ACCESS-Sofia Foundation published an assessment of all concession contracts and practices concerning the sanitation of Sofia Municipality. This report drew conclusions about the lack of legitimacy, as well as economic logic, about poor control on municipal expenditures, and about existing only too favourable conditions for corruption and misappropriation. By a decision of SMC of 11th November 2003, a Provisional Commission was set up to analyze and check all sanitation concession contracts; this commission drew up two reports: 1) an interim one (for the period 11th November 2003 – 18th January 2004); 2) final report (for the period 19th January 2004 – 26th March 2004) (Appendix 1 and Appendix 2). These reports reveal both the general approach and the working principles of the Provisional Commission.

1. As the meeting of ACCESS Foundation representatives with the Provisional Commission made clear, the report on the municipal concession contracts on sanitation services had been closely inspected by the PC. The main issue of the report “Why do sanitation taxes increase every year, while at the same time the capital city stays dirty?” was reviewed in the two reports of the Provisional Commission as “The public expects a clear answer to the question of why

sanitation taxes increase and the capital stays dirty.” The problem was clearly outlined.

It is of even greater importance that the Provisional Commission (which had access to municipal documents, and had inspected and analyzed them) practically confirmed the findings of the report.

What was confirmed:

- “the expediency of Sofia Municipal Council’s decision concerning the inspection of concession contracts”;
- “lack of transparency in organizing competitions and drawing up the contracts”;
- “the need of profound revision of a number of clauses in the concession contracts”.

- It was confirmed that “investment plan of the concessioners is missing and also there was no clarity concerning the necessary and expedient investments for the implementation of the activities put down in the contracts. What was more, regular reports concerning concession investments in equipment and facilities were also missing”.

- It was confirmed that “the decision for granting the sanitation services was not based on arguments and documents that could prove the need for and the expediency of the concessions, as well as the mechanisms giving legitimate guarantees for the protection of the interests of Sofia citizens”.

- It was confirmed, that “the relation between the level of prices and the quality of the services is not to the benefit of Sofia citizens”.

- that “the sanctions stipulated in the contracts in case of contract breach were insufficient, as well as ineffective; this being the reason why they can not play their intended role of incentive for the concessioners”.

-...that “there were serious problems concerning the accountability and control on the proper implementation of the sanitation contracts”.

The final conclusion of the Provisional Commission recommended particular measures. The most radical of which was: “*further operation of concession contracts under discussion is unbeneficial for Sofia Municipality citizens, so a procedure for their termination has to be started*”. If the forthcoming renegotiations do not lead to changes to the benefit of the citizens...

The legal-administrative analysis, however, shows that the emphatic conclusions, mentioned above are only one step in the right direction.

Above all, the final conclusion of the Provisional Commission is only a “stand”. It should be “translated” into practical activities in time - otherwise everything stays the same. But the practical activities are another matter.

The Provisional Commission report recommends renegotiating of the concession contracts clauses with a view to improvement in many directions. Even the rough outlining this set of issues takes more than one page of the Final Financial report of the Provisional Commission. We will not go into the details and specific figures (people, documentation, mechanisms of control, financial details). Within what terms these changes will take place is a question to which the Provisional Commission does not give an answer.

The project team made an expert assessment of the procedures of SCM and the administrative capacity of Sofia Municipal Council. All provided details have been taken into account, including the fact that the Provisional Commission decision contains recommendations, which practically will impede efficient activities. A team at Sofia Municipality is to work out “new, much more rational and effective distribution of responsibilities for cleaning and maintaining among the different companies-concessioners...” This team is also to “analyze all other companies, apart from the concessioners, which perform cleaning activities within the Municipality; to set clear regulations for their activities, including, waste transportation, as well as to make a review of the permit-granting system of waste collection...” The tasks are unclearly formulated (to analyze “all other companies, apart from the concessioners”; to set “clear regulations”; to make “a review of the permit-granting system of waste collection”. In their essence, they give room for dragging on. While all this, in accordance with project logic, should precede renegotiating. As far as the renegotiating is concerned, keeping in mind the numerous parameters, it is impossible to be efficiently finalized. Only after this preceding stage - and in case renegotiating faces some impediments – a procedure of contracts termination can be started. Unfortunately, this procedure might drag on, taking into account that such activities are new for Sofia Municipality, as well as the serious legal powers of the companies-concessioners.

Members of the Provisional Commission have already accepted the “proposal of the managers of the companies-concessioners to carry out an experiment: cleaning a particular region, with a view to preparation of new model of maintaining.” The parameters of this experiment are not clear either. Neither is the procedure of the experimental performance, nor the way the results will be analyzed.

The expert team under the project discussed the Final Financial report of the Provisional Commission, released at the beginning of April 2004, and arrived at the conclusion that according to the political will of SMC, the administrative capacity, the co-operation of the companies-concessioners, and the feasibility of the tasks, the recommended steps could be fulfilled in three scenarios. They

are: 1) optimistic (4-6 months); 2) realistic (8-12 months); 3) pessimistic (termless). In the opinion of the expert group, the Provisional Commission has fulfilled its job with precision. But the experts worry about the deadlines for the provided measures. Besides, the experts remained under the impression that the Commission deviates towards a set of issues that impedes efficient activities: it recommends elaboration of strategies and highlights the problems concerning the so-called “big contaminators” and the construction of new garbage landfills.

The project team experts are of the opinion that the problem concerning cleaning concessions can easily drop out of the Municipal Council agenda by some offshoot problems. As a result, on 12th April 2004, the expert team recommended that ACCESS-Sofia Foundation should prepare an anticipating reaction by sending a text, and if possible, it is to be an open letter to the Municipality. The recommendation was that the text should be of public nature, in order bring to commitment not only the municipality but also the public opinion – as to exert pressure in case of deliberate delay. The experts also recommended that the Provisional Commission be given high estimation for its work, so far as its conclusions admit the existing corrupt practices and demonstrate conscientious efforts in clarifying the objective truth in the cleaning concessions case.

As a result, a text was prepared and published in *Dnevnik* daily. It openly expressed the main concerns of the experts and followed the logic of the Provisional Commission assumptions. It is logical Sofia Municipal Council “to proceed to elaborating an overall strategy and plan” of “the all activities concerning sanitation in Sofia”, etc. Only that the answer to the question “why do sanitation taxes increase every year while at the same time the capital stays dirty? is not: “there is no strategy”, “no experiment has been made”, “the permit granting system has not been revised...”, “the capacity of garbage landfills is exhausted”. Each statement is true. But it is not an answer to the question.

There are reasons to believe that the text - open letter has played a considerable role in the formulations of Resolution No. 31 of Sofia Municipal Council of 22nd April 2004 for the adoption of Final Report (Appendix 3) – particularly concerning the deadlines for making and implementing the decisions. (Negotiations for amendments to the concessioners’ contracts to extend “not later than the end of June 2004”)

As a result, we can point out the significantly transformed environment of discussion and action on the issues of city sanitation as a whole. Practically, public opinion has already changed, as well as the opinion of Sofia Municipal Council. Everyone is convinced that the concession contracts have been signed to the detriment of Sofia citizens. The transformation contains some basically positive elements, since it activates new attitude towards the expenditure of

Municipal resources; new attitude towards civil criticism; readiness for revision and real change; different attitude towards the municipal budget as a whole.

Another indicative example is the activity of the interim mayor, Mr. Minko Gerdjikov. On 14th May 2004, despite the force-majeure circumstances (temporary suspension of Mayor Sofianski), Gerdjikov announced that he had prepared the decree for the appointment of special commission, which would be in charge of conducting negotiations with three companies-concessioners. He confirmed the one-month term for contract updating and *“assured that afterwards the municipality will pay far less to the private companies for the sanitation of the city.”*

To cut the long story short, the role of the foundation as a public corrective has been successfully performed. It is true that our efforts have not been estimated unanimously. (The report *“showed up mysteriously just before the elections, at the most improper moment, and is still considered by the previous municipal councilors as a political assignment”*.) Nevertheless, the expert team believes that the publicity is one of the few effective instruments for curbing corrupt practices. In this case it is not a question of theoretical formulation. The report on cleaning concessions looked a *“political assignment”* until the media confirmed all its conclusions. Despite the conclusions and their argumentation, the report remained a *“political assignment”*, until the media arrived at the conclusion that *“money for sanitation can be given even if the concessioner does not move a finger”*, that *“The municipality has the right to only one thing – pay”* ...

It is more important, however, is to point out the differences between the initial and the final period of the team’s activities. In the autumn of 2003, when the report on the cleaning concessions was published, the parties involved made an effort to characterize the parameters of the concession contracts as justified. At the same time, Mayor Sofianski refused to read the report. In May 2004, the interested parties already agreed on the statement that the contracts are not to the benefit of Sofia citizens and that their clauses should be renegotiated. Interim mayor, Mr. Gerdjikov, assured that after the updating the contracts *“the municipality will reduce the expenditures on the sanitation of the city”*.

(Of course, it is also necessary to monitor the abidance of the deadlines of renegotiating on the contracts, set in the resolution of SMC. The project team intends to do so. At least, in order to prevent the risky scenario, described in the above-cited text from the daily *“24 Chasa”*: *“To use some “make-up” on the concession contracts is the most probable outcome... After that everything will go on as before”*.)

III. Ongoing monitoring

The project team has decided to keep on the monitoring on Sofia Municipality cleaning concessions. The reasons for that come down to the following.

After the Provisional Commission at Sofia Municipal Council has finished its inspection on the concessions, the significant contradictions in the figures and data about the activities of the companies-concessioners have not been straightened. As it seems, however, few institutions are interested in this straightening. The work of the Provisional Commission seems to have been exhausted by the formulation of conclusions and recommendations. The Municipal Council obviously considers the problem solved by appointing the commission and approving its assessments. Because of his temporary suspension, Mayor Sofianski is not committed to the case anymore. His deputy will face difficulties in following the renegotiating on the concessions, taking into account the overloaded agenda of Sofia Municipality and the municipal real estates issues, that have started coming into sight in the public space one after another. Clarifying the facts and explaining the details is not to the interest of the companies-concessioners. (All the more that detailed and relevant explanations of expenditures, budgets, quotas, etc. just raise more and more questions about expenditures on sanitation in Sofia).

On the other hand, the Provisional Commission report¹² does not review the sanitation expenditures year by year, neither does the numbers, nor the conclusions referring to the investments reported by the companies-concessioners. Probably such a review is not possible at all. If an expert commission of SMC is not able to do it, then no one is.

In brief, the existing contradictions seem doomed to remain in history. The expenditures – justified (and duly forgotten), the gaps - belong “to the archive”. The project team has tried to – through additional monitoring and conclusions - to make the access to the archives a bit harder. Because it is a question about the expenditures on sanitation, which is among the heaviest items in the municipal budget, and about practices, which deserve the attention of Sofia citizens.

First, we will point out that after the Provisional Commission finished its work, the conditions that prompted its establishment have not changed essentially. In particular:

1. Reliable evidence for discrepancy in numbers and results can be found only in the financial documentation of the companies-concessioners.
2. Control on the discrepancies practically cannot be exercised in the terms of accounting-financial supervision - even the Provisional Commission, which could have done it, did not manage.

3. Yet no municipal body has come up with a comment on contradicting figures of incurred expenditures amounting to the total of 19,222,747 levs for replacement and maintenance of the garbage bins and containers in the territory of Sofia Municipality (according to the companies–concessioners’ report), and on the other hand, the estimated by the experts of the foundation real investments (about 8 258 109 levs).
4. For the years before 2004 – for lack of possibility or will to inspect – the municipal authorities are forced take on trust the data provided by the concessioners themselves. We are not going to discuss this logic, it still seems irresponsible and careless in regard to expenditure of public resources.

Whatever changes in these aspects are to be expected only in the distant future. The summarized data approved by the Sofia Municipality concerns only the past time: *“After granting the concessions on sanitation to private companies, the companies-concesioners have invested approximately 50 million levs. The companies **Wolf 96 Ltd. and Ditz Ltd.** have purchased about 150 new and recycled garbage-collecting trucks working in the territory of Sofia Municipality. Containers for solid domestic waste have been 100% replaced by the companies-concessioners.”*

Here we will not comment the conspicuous differences between the three or four times replaced solid domestic waste containers (reported by the companies) and the replaced “by almost 100% solid domestic waste containers” (as in the Sofia Municipality letter). For the purposes of this text, we accept the assertion that the solid domestic waste containers have been replaced by 100% by March 2002 (the time of the letter). We will try to prove that even this is not feasible. We have all reasons to presume that, in the capital city, not even one complete replacement of the old bins and containers has been done since the contracts were signed (let alone three or four times). Although there has been much more intensive concentration of new containers in different districts of the city.

The expert team again had the opportunity for an indirect check, and this poses a specific problem concerning the control activities. As it became clear, the municipal officials have been approving unquestionably the financial reports of the concessioners; it also became clear that practically this source of information is the only one available. In this situation, the only thing experts can do is to try to prove that the reported results are absurd, and to prove it in a self-sufficient and comprehensive manner. For example, by explaining to the citizens of Sofia that (according to the “reported” data) the garbage containers in Sofia must have been completely replaced several times in the past five years. The transformation of the absurdity into evidence turns out to be the only instrument for the conclusions’ justification: “if we accept what is claimed, it turns out that...”

Taking into account the picture described above, the expert team tried to check only the assertion of the 100% replaced garbage containers. (Not the concessioners conclusion that within three years the garbage containers in whole districts have been replaced *several times*.) In March and April 2004, the team experts carried out partial inspection on the current condition of the garbage bins and containers, particularly those of the so-called “bobar” type (these are the main garbage containers used in front of blocks and administrative buildings) in several districts in Sofia – *Nadezhda* (2,3,4,5); *Mladost* (2,3,4), *Obelia-2* and in two central regions - the region from *Orlov Most* to *Geo Milev* and the square between Maria Luisa Blvd., Dondukov Blvd., Rakovsky Str. and Slivnica Blvd.

The inspection proved that, as a whole, the garbage containers in the capital city are in good condition. Here and there, still there are some heavily amortized or partly damaged bins, but actually these are only isolated cases. Most often, for example in *Obelia-2*, compared to the comparatively good condition of the garbage containers, the plastic lids are missing. Usually this happens as a result of the burning their contents; even brand-new containers are without lids.

Despite this comparatively good impression, however, the monitoring confirmed the already expressed doubts as to the reported, by the concessioners, replacement of the stock. What has been observed comes to confirm that in Sofia, since the enforcement of the concession contracts, there has not been a single “100%” replacement of the old stock by brand-new one.

Let us emphasize once again: the stock is in comparatively good condition. But the reason for this good condition is not its frequent replacement. Practically, to the present moment such an activity has not been carried out at all.

The partial check of the team experts in these regions revealed the following:

In *Nadezhda-2, 3, 4, 5*, the condition of the garbage containers is about the best. This confirms the results of the field monitoring (made a year ago) that there was actual replacement.

A large number of “bobar” bins obviously are new and well - maintained. The old bins there are also in good condition.

In *Obelia-2* the situation is similar. The garbage bins are in comparatively good condition although they are not new. Only the absence of the plastic lids can be considered as some kind of irregularity.

In the district *Mladost- 2, 3, 4* and in part of the central area, the condition of the garbage containers is good.

However, there are some surprising details.

The expert team, responsible for the monitoring, came upon garbage containers manufactured in Germany at the time of Chancellor Wili Brandt. Production, dated the 70s of last century – as Sofia citizens may see, in good working condition, corresponding to the idea of “German quality production”.

The report on the cleaning concessions of 2003¹ has already faced the problem of proving its conclusions. It also faced the fact that the replacement of the garbage containers cannot be dated – it is entirely within the competence of the companies-concessioners. Practically no controlling institution is able to check whether in 2002 fifty bins on street “A” were replaced twice, twenty, or two hundred times, or whether they were replaced at all. (SMC is forced to rely on the data reported by the concessioners, and they report large numbers of replaced containers). Keeping in mind the problem of proving the conclusions, the team decided to document their observations. The following conclusions are documented in the photo-archive of the team working on the monitoring. This explanation is important, having in mind that some of the following lines can provoke laughter (as fiction) or sympathy (to tax payers who live under the impression that they have their garbage bins replaced every couple of years).

The team of experts has come upon a large number of bins of the type “Bobar”, made in different cities of former West Germany. The variety of old German garbage bins is big enough, and can easily be noticed in *Mladost-2, 3, 4*, in the square between Maria Luisa Blvd, Dondukov Blvd, Rakovski Blvd, and Slivnica Blvd, as well as in the district from *Orlov most* to *Geo Milev*. To be more precise we will say that by big variety we mean bins of the “Bobar” type. They differ only in origin. On the bins one can find detailed information about cities in Germany, manufacturers, dates, instructions for use. In most cases, there are manufacture numbers, year of production (Herstellungsjahr), useful advice to Sofia citizens as to their proper use. This advice enriches the language skills of the citizens of Sofia, since, of course, they are written in German. And, like in the recycled buses of public transport, where the citizens are asked politely to keep their dogs on leashes (“Hunde bitte anleinen”), thus on their “new” garbage bins they are warned not to throw construction waste (Keinen Bauschutt einfullen) and hot materials (Bitte Keine heisse Ashe einfullen). Sofia citizens know very well that the buses, with which public transport was rehabilitated, are not new. What they have to know is that their garbage bins are not new either.

In *Mladost-2, 3, 4*, the monitoring revealed that by April 2004, the ratio between these “historical” bins and the rest is approximately 1:6. In other words, the old bins make up about 10-15% of the total number of garbage bins in the district. The concentration is more noticeable in the spaces between blocks, whereas around markets, along streets, and boulevards they cannot be found.

In the central area between Maria Luiza, Dondukov, Rakovski and Slivnica boulevards, the number of bins of this type is about 90%. In fact, only on the main streets, which outline this area, there are comparatively new bins, whereas along the lanes the old German bins definitely prevail.

By April, the concentration of this type of bins is high in the district between *Orlov Most* and *Geo Milev*. There the ratio between old and German bins is approximately 3:1. (In this case, dating is essential, since the prevailing number of bins from “Stadt Hannover and Stadt Neu Mannheim in the district of *Reduta*, for the period March – April, started to be replaced with new ones in May.)

The origin of the German bins is different. There are bins originating from Mannheim; Hannover; Schweinfurt, etc. Some details written on the bins are obscured but there is no doubt about their origin – they are made in former West Germany. More often the production dates vary from the beginning to the end of the 70s – 1970, 1971, 1972 and so on. There are also bins, which are part of the more recent history of German garbage processing (for example, from 1980, 1985...). But there are some bins at a record age – on the corner between Hemus Str. and Letostrui Str., one can see unique bins from 1967.

Such old bins can be found in the areas which are under the responsibilities of the three companies-concessioners – *Chistota-Sofia*, *Wolf 96*, *Ditz*. In most of the cases *Chistota*, *Wolf*, *Ditz* are written directly upon the “new” German bins, no doubt to mark the “property transfer”. This probably is to symbolize that the companies-concessioners have replaced the old bins by new ones, following the logic of justifying resources “invested” in the sanitation of Sofia. How “new” is a bin dating from 1967 or 1972 is a question to a humorist. We are concerned only about the results.

The first conclusion refers to the bins quality. Not intending to advertise German quality, we can certainly claim that most of the German bins are in good condition – no matter how they look (their look shows an intense and long exploitation). The most important fact is that they are suitable for use; often they can be opened or closed more easily than the new ones, made of lighter metal bearing no “insignia”. (After thirty years of experience, the German bins are well “worked up”. There are no indicators of “recycling” or replacing of old elements by new ones). That is to say that the experts do not question the concessioners capability of waste-collecting by means of this necessary equipment.

The second conclusion concerns coherence of assessments. We shall remind that according to Mr. Pavel Barakov, Chairman of the Board of Directors *Chistota –Sofia*, “*A bin in Germany, where the exploitation is far more civilized and genteel, is suitable for use 3-4 years. Here a bin lives shorter. The rough*

use demands their frequent replacement.”¹⁸ The wide use of thirty-year-old German bins in Sofia questions this statement. When it is claimed that, here, in Sofia the life of a bin is “much shorter” (than that of a bin in Germany), this means that citizens should get used to the idea of constant replacing – let us say every year. (At least as far as documents go...)

Conclusion number three, drawn from the partial check of the garbage bins, is more about the already expressed mistrust in the figures reported by the concessioners.

The availability of so many old German bins (which can be checked by any citizen of Sofia) can have two explanations. One of them is that until now, March - May 2004, the concessioners have not done 100% replacement of all garbage bins of the type “Bobar” (replacement, which was reported long time ago). The other explanation is that if such replacement has been done anyway – it was not only with “new” bins but also with old ones (second-hand bins alongside with new ones, which clearly stand out).

In both cases, the conclusions are immediate and in both cases they are unbeneficial to the taxpayer.

If we decide to follow the first reasoning, it means that in Sofia a complete 100% replacement of “Bobar” bins has not been carried out at all. This means that Sofia Municipality has approved the reported expenditures without their being made; the figures declared by the concessioners in their reports were taken on trust (in this case the discrepancies between the reported and actually made expenditures would be reckoned by seven-digit figures). The “victim” is Sofia taxpayer, from whom were “drained off” fictitiously reported amounts of money. Sofia Municipality is not able to check the real expenditures and does not have the slightest intention to do so. The only condition for the successful implementation of this scheme is that no one should ever mention any particular data - number of bins, only general figures of expenditures and percentages. And the companies-concessioners are again the benefactors to the Sofia Municipality – *“According to the contract, our obligation was to replace the garbage containers annually by 20%. We are replacing much more than that”*.

If we follow the second line of logic, all (?) old inherited “Bobar” type bins have been replaced, but they have been replaced not only with new ones but also with second-hand ones. Unfortunately, the replacement of old bins with bins manufactured in the 70s is not, and cannot, be considered “replacement of old bins with new ones”. At least, these are two different financial operations. Otherwise, we have to agree that at the market a bin from 1967 can be purchased at the price of a bin manufactured in 2003. Now it becomes clear why neither the Municipality, nor Mr. Brankov, claim that the old bins have been replaced with new ones and say only that they “have been replaced”.

The linguistic nuances are substantial, for the Municipality can only refer to data produced by the concessioners, since the municipality has no other way of obtaining the data in question. The data is given following a general pattern, which makes any check pointless: a) no concrete figures; b) no distribution per years; c) the new and the old garbage bins are accounted for without discrimination.

In order to check whether we have not worked out the pattern in a biased way, we will compare it with the way of accounting for purchased vehicles. What we find out is that it follows precisely the pattern of accounting for the garbage bins - a) no concrete figures; b) no distribution per years; c) the new and the not so new vehicles are accounted for without discrimination. If the Municipality quotes the concessioners, and it has no other choice, it will explain the verbal structure which qualifies the “almost 150” vehicles purchased by *Wolf* and *Ditz* concessioners – these are “new and recycled” vehicles. The accounting for the expenses on “new and recycled” vehicles, all as one item, is a very lucrative strategy, since no one can possibly find out how many the recycled ones are. Let us take a fictitious example: if a new unit costs, say, 80,000 levs and a recycled one costs 50,000 levs, and 100,000 units have been purchased, then the difference of 30,000 levs multiplied by 100 makes 3,000,000 levs - a sum which entirely justifies the linguistic effort for the legitimizing the phrase: “there are new and recycled ones, and, in a word, all kinds”. The approach is very lucrative and is still in use. According to Mr. Barakov, since the beginning of the concession period, *Chistota* has purchased over 120 vehicles. The answer to the question about the price of a single vehicle is: “*It depends. If it is brand-new, and we also have such, it is approximately 100,000 euro*”. This answer is the right one. The only thing that Sofia citizens have to know is that among the “*over 120 purchased vehicles*”, there are some new ones.

Let us apply this experiment to the already reported expenses for garbage bins. According to the quoted letter, the containers for solid domestic waste have been replaced almost 100%. Yes, probably. But no one knows what they have been replaced with. Common logic suggests that the old bins have been replaced with new ones. Above we tried to explain that this did not happen at all. Two years (!) after the “*almost 100%*” replacement of the garbage bins (the letter from the Municipality is of March 2002), in Sofia there started to appear 25-30 year-old garbage bins. This fact, unlike all accounts and figures of the concessioners, is easy to check by all Sofia citizens. Moreover, no one knows whether the repaired garbage bins have been reported as new or old (only *Chistota* has a whole workshop for damaged containers.) In short, following this second line of logic, the containers for solid domestic waste have been 100% replaced with some, say, thirty-year-old, containers. How many in number, in which year and at what price, are all questions to which we can give no answer, merely because we already pointed the institutions which could ask that question, and came to the conclusion that they would hardly ask it. Let us

give an example: if a new garbage bin costs 500 leva and a used one 100 leva, and if 10,000 new purchased garbage bins have been accounted for, than the difference of 400 leva, multiplied by 10,000, makes 4,000,000 leva – an operation which entered the report as “garbage bin replacement”. The funds have been received, the garbage bins are available, the “replacement” has been carried out.

To sum up: in both cases it becomes clear that the expenses given in the accounts of the concessioners, for garbage bins replacement, cannot possibly be true. Except if the truth has not been formulated by the concessioners. Then everything is even. Sofia citizens are even indebted to the concessioners.

What has been stated above is to question the authenticity of the reports as a whole. The pattern of padded expenditures gives room for favouring in general – if some padded expenditures for purchase and replacement of garbage containers are available, then it comes natural that padded expenditures are available also in the other aspects of the investments made. And why not? For example the expenses for new equipment. The unwillingness of the companies-concessioners to provide data on any parameters of their investments; of the available equipment (e.g. year of purchase, year of manufacture, etc.), justifies the reasons for such suspicions.

Let us repeat: the findings of the check do not speculate about the quality of the equipment and the facilities. Purchasing old German bins or old recycled equipment, manufactured 10-15 years ago, could have been logical, reasonable, and probably, even more economically effective solution. (Probably the quality of old German equipment, as vehicles for garbage collection, washing vehicles, trucks and so on, is hardly worse than the quality of the old German garbage bins). The findings do not question the advisability of the activities, and, respectively, the expenditures made by the companies-concessioners. The use of facilities and equipment could be justified.

The unclear accounting does not concern advisability, it concerns the taxpayer. We shall remind the “budget problem” of the Municipality. The problem, according to the concessioners’ formulations, is that the money which Municipality annually pays them is insufficient. Let us say again: according to the concession-contracts signed in 1999, the Municipality is obliged to increase gradually the price of the cleaning services, so that by 2003 it reaches its full amount of BGN 70 mil (this is the sum which is to cover the expenses on sanitation) – having in mind that at the time of concluding the concession contracts to the total amount of BGN 70 mil, the municipal budget for 1999 was only BGN 26 mil. As Sofia Municipality could not provide the necessary funds, annexes to the contracts were signed, according to which the volume of activities during the years to 2003 (when the full amount of the concession

price is to be reached), is reduced according to the actually received concession price.

In this situation the expenditure of such substantial amounts of money, following such uncontrolled schemes, is intolerable. It is also intolerable that the expenditures cannot be checked. It is intolerable because over the past 4 or 5 years, Sofia has become one of the dirtiest cities in the country and one of the dirtiest capitals in Europe.

It is also inadmissible to the companies - concessioners to justify their expenditures openly by the argument that the sanitation of the city is very cheap to its citizens. We will dwell upon this argumentation for a while for it is quite indicative of the attitude of the concessioner towards the world of the taxpayers. According to P.Barakov, *“BGN-72 mil., divided by 1,5 mil people, makes 48 leva annually per capita, and 13 stotinki per day per capita. The public can estimate whether this is much, keeping in mind that each of us pays 100 leva for his mobile phone, 100 for electricity and 150 for heating. We all get used to pay for cable TV, Internet; now we have to learn that sanitation also costs money.*

No doubt this logic could fit the Minister of Finances in the parliamentary debates on the state budget. Sofia citizens are paying a lot for so many things, so what is 13 stotinki per day? But this logic does not fit a concessioner because:

- If we follow it literally, the Municipal budget for sanitation should be conceived not according to the real price of the service but according to the prices of district heating, electricity, and telephone.
- In fact the public can judge whether all 1,5 mil Sofia citizens pay 100 leva for mobile phones, and whether “all” of them are so well used to paying taxes for television and Internet.
- Giving examples of expenditures (for electricity, heating, television, Internet, etc.) does not mean that citizens should pay whatever they are asked to for sanitation. At least, there are expenses, which are eligible to the citizens – but for sanitation they do not have any choice. And they will not have it if next year Sofia Municipal Council and the concessioners come to an agreement to double the price for sanitation activities.
- The argument “daily expenses for sanitation per capita” is a real treasure. Yes, 13 stotinki per day is a negligible sum, indeed. Let us follow this logic: the sum of 14 stotinki for example is equally negligible. (13 or 14 stotinki virtually make no difference...) But if we inscribe the sum of 14 stotinki in the calculation scheme of Mr. Barakov, the total amount should run to BGN 76.65 (formula runs as follows: 0.14 leva multiplied by 365 days multiplied by 1.5 mil Sofia citizens). Simply because one stotinka daily from one citizen makes 5

mil levs per year. For the concessioner, this makes 5 mil more per year and for the Sofia citizens – daily expenses are risen only by 1stotinka...

In short, the concessioner is interested not in justifying the expenses but in convincing the citizens that they are not paying much (only 13 stotinki per day...). That is why the concessioner's logic runs as follows: "*We do not agree on collecting less money for sanitation*" (a stance disclosed in the title of the cited interview with Mr. Barakov, head of *Chistota-Sofia*). According to this logic: "*the conclusions drawn by ACCESS-Sofia Foundation aim at arousing commotion*" (this is the presumption of Jordan Iliev, manager of the companies *Wolf* and *Ditz*). No one expects any other logic. But those, who pay the money, have other interests and respectively different logic – they would like the concessioner to be convincing in justifying their expenditures. And as year by year, the Municipality has been taking on trust the accounted expenses, now, in 2004, in the genre "municipal budget" a real tragic conflict arises: "how to piece together the budget without knowing what the actual expenses are?"

The concessioner claims that the funds granted for the sanitation activities are insufficient, whereas the Municipal Council already claims just the opposite. Whatever the solution of the problem is, there is one clear fact. If the municipal officials let the prices of sanitation to be set by the concessioners in the pattern described above, we can only wonder why the municipal budget for sanitation should be only 72 mil when it could be for example 142 mil. (Why not, this means only 26 stotinki daily per capita?)

The check made by the expert team reveals data, which gives room for assumptions involving discrepancy between the expenses reported by the concessioners and the actually spent ones. The verifying of this hypothesis concerns everyone, who tries to explain the situation of cleanness of the city in the terms of insufficient money. In this situation, the formulation of some recommendations to Sofia Municipal Council seems pointless. If Sofia Municipality management does not control strictly the expenditures of the concessioners, then no representative of SMC has the right to report to the citizens using the explanations of the companies-concessioners.

Probably for the purposes of stricter control on expenditures "the arousing of commotion" is an acceptable price. After the aroused "commotion", "National Audit Office is also eager to survey the offers (for sanitation)"; SMC sets up Provisional Commission; the interim mayor of Sofia undertakes the renegotiating of concession-contracts, in order to reduce the price of city's sanitation as to relief the burden of Sofia citizens.

Moreover, it is impossible to arouse commotion without publicity, i.e. without media assistance. Media, however, are to arouse commotion in order to curb the continuing and so-far tolerated practice of minimum services at high prices. So that the media can announce that a team of representatives of the municipal

administration “*has to reach an agreement (not later than 30th June 2004) with the companies-concessioners, according to which the commitments will be increased and remuneration will stay the same.*” All this cannot happen if serious “commotion” is not aroused.

“The arousing of commotion” can also encourage positive changes in other branches of the municipal economic policy. For example: the conditions in other concession contracts (like these concerning the water in the capital city); The municipal companies’ activities; the municipal property management; profit and losses; the municipal budget...

IV. The economic management of the city: models and schemes

In the last 6-8 months, a series of information, findings, stories about practices, accusations, estimations and analyses, concerning the economic management of Sofia, have appeared in the public space. The great number articles in the media explicitly contrasts with the sporadic mention of such issues in the media in the period before 2003. The reason for the deluge of media interest deserves special attention (this issue will be considered below). The systematization of publications of similar nature – accusations, findings, pseudo-findings, personal opinions, etc. – is quite a difficult job, as it is a question of an enormous number of materials, some of which are comprehensive and bulky. It is practically possible to divide the media publications into separate directions according to their topics, like *Municipal Bank*, *Municipal Real Estate Property*, *Hali*, etc. A big part of the articles are a mixture of economic and political arguments; political interpretations replace objective data; the explanations of schemes involve political parties of almost the whole political spectrum; prosecution and court are described as “weapons of retribution”, etc.

It seems logical to try to draw some conclusions out of this flow of information. This text does not aim at checking separate publications, all the more that part of the media articles are speculative, seeking sensation, or premising. We will only try to systematize the basic conclusions of the information, analyses, and estimations concerning municipal property management – with a view to formulating the main “topical fields”, which have attracted such mass interest and contradictory interpretations.

1.

The economic policy of the city is no doubt problematic as a whole. Here it is a question of principles of economic management of Sofia, economic priorities, their announcement and the understanding of the citizens of Sofia. The citizens of Sofia are left under the impression that there are too many concealed elements in the economic policy of the city. This has been fed not only by the media interpretation of information and concrete figures in the form of

findings, sensation. In the last months, the number of findings about the economic management of the municipality in many different spheres, has increased abruptly. Besides, the impression of shrouding in mysteriousness has been confirmed with the development of the concrete cases. Taking for example the *Hali* case, Mayor Stefan Sofianski, for many days, gave vague answers to many concrete questions about the ownership of the building and plot. (Readers and viewers cannot understand how a transaction, concluded six years ago, is said not to have been finalized, and who to turn to find details.)

It is also a fact that public control on the municipal economic policy is very difficult. So far experience shows that efforts in this direction (only in the sphere of sanitation concession contracts) take long months, data is difficult to obtain, and even the Provisional Commission at Sofia Municipal Council has problems with their access to documents. As a result, the public has to put up with blundered out phrases, sporadic estimations, made by the District Governor, by the prosecution, or by political centrals. It is important to mention that public interest has risen considerably – if we take for example the above case, the citizens of the city look unfavourably on the fact that as an answer to the question who the owner of *Hali* is, the mayor answers with a counter-question to the TV presenter (Milen Tzvetkov, in a *Nova Televizia* programme in May 2004) “Are you a citizen of Sofia?”

It is also a fact that the element, called by some people “accountability on municipal management”, is altogether missing. Neither Sofia Municipal Council (for example, at the end of its mandate), nor Mayor Sofianski (on any occasion) has made a systematic report before the citizen of Sofia on the priorities, strategies of management, the implementation of these priorities. It is true that there have been lengthy interviews, concrete answers concerning concrete streets, boulevards, activities, and problems. Yet there has not been a summarizing report. In his election campaign, Sofianski did not offer any report (he left the citizens of Sofia to decide for themselves what he had accomplished, and this strategy proved successful). However, in the months following the elections, the citizens of the city have started to feel the absence of such a report. A problematic, or vague, transaction with municipal property (even four or five) is something normal for a city like Sofia. Yet with the avalanche of disclosures, and particularly with the results of the audit report of the Public Internal Financial Control Agency on *Sofijski imoti*, the citizens of the city have started to feel that there has been something radically wrong, that on their behalf, and with their votes some vague things have been done with municipal (i.e. their) property.

It is also a fact that the change in the economic management of the capital city after the local elections has not been particularly tangible – the change can be measured only by the increasing number of scandalous disclosures. Months after the elections, for example, a municipal councilor (Lyuben Dilov, Jr.) could afford to declare at a session of the Municipal Council that “*nothing has*

changed in the management of Sofia, and none of the principles of transparency and control has been implemented”, that “Sofia has no economic policy, but only a fight has been going on for preserving the economic positions of the old municipal administration”. As there are always concrete reasons for such estimations, the citizens of Sofia have become increasingly convinced that there are problems in the economic policy of the city, as well as that the problems continue (supported with further disclosures), and become acuter (the mayor himself has been temporarily suspended, which is a precedent by itself).

The above elements, in combination with the fact that a lot of construction works, repair works, property contribution, purchase, sales have been going on – have provoked the public identification of a scheme of economic management, which has been given the name “Sofianski scheme”.

To avoid wrong interpretations, we will explicitly specify that these and the below estimations do not aim at restricting the rights of the mayor, and do not lead to conclusions to this effect. The estimations take into account the presence of serious risks and challenges to the municipal management and self-government. What is more, our text accepts in principle the need to expand municipal self-government. We do not question the freedom of municipal institutions, either. We agree that the high level of operative independence (conceived as “an opportunity to choose the means and ways of acting”) of the municipal authorities is a good solution for the development of municipalities.

2.

“Sofianski scheme” is interpreted as a knack to form coalitions, share resources in the name of one’s own private plans, manage by means of decisions through which everybody wins. It is also interpreted as incorporating political parties in the management of the capital city through distribution of zones of influence, like achieving “a balance in the distribution of power and economic resources among the key players in Sofia”.

As we see, part of the description of the scheme has internal managerial logic of its own. To a certain extent, building up coalitions and achieving balance of interests are indispensable elements of the management of a city like Sofia. (These are elements not only of Don Corleone’s management, described by Mario Puzzo, but also of any management, including that of the country.) What makes the scheme repulsive is the infringed public interest. The accumulating critical results combine the building up of coalitions and the balance of interests with draining off public resource, illegal favouring, economic damages for the municipality, a lack of publicity, building up clientelist networks, suspicions of links with the criminal world, unsatisfactory and expensive services, etc. Besides, this scheme allows “packing” economic, political, and criminal interests in a way, which can only be condemned – no matter whether it is related to direct violation of the law.

Here we are not going to consider the problem whether such a scheme has really existed as a conceived goal, whether it has been correctly described in the media, or whether it deserves to bear the name of the mayor of the capital city. We should point out, however, that almost all disclosures of the economic activities in the city for the last years, including what is brought out in this text, can be explained quite well with the above-mentioned principles. Activities, like those of *Sofijski imoti*, are only outrageous illustrations of the practices of such a scheme. Some of its parameters have been known for long – long before the term got its name. As early as September 2003, for example, several basic principles were proved to have been in operation for long years (principles of what is nowadays known as “Sofianski scheme”). Let us remember:

“The decisions to the detriment of municipal interests and the interests of the citizens have been made (...) with no attempt of a group of municipal councilors, or a single councilor, to distance themselves from the corrupt practices, to protest, to appeal to the citizens, to the media, to the prosecution. (...) To call for a press-conference, to provoke a public debate, a scandal, or something like that – things which happen on far minor occasions, and are fully within the capacities of an opposition group in the Municipal Council, or even of a single municipal councilor. In the framework of the collective body itself, a debate could have been provoked, or demanding, seeking responsibility, collecting expert information, etc. Nothing like this has happened. Quite the opposite: Sofia Municipality has often been given as an example of good collective work of the councilors despite their political differences (...) There is an outward contradiction, which cannot be explained with a lack of competence, nor with gaps in the normative basis, nor with deficit of expert knowledge. There is a paradoxical situation of collectively-made decisions by the municipal councilors – to the detriment of municipal interests; ignoring control on the activities of the concessioners – to the detriment of municipal interests; (...) continuous tolerating inadequate quantity and quality of services – to the detriment of municipal interests (...) There have been a number of indirect indications of existing deals, agreements outside the parameters of the officially documented ones in contracts, protocols and reports. These indications point to occurrence of corrupt practices, to an extent, to which only the concrete agents and the concrete size of the corruption benefit are unknown.”

The applicability of the scheme, as a universal explanatory mechanism of the economic policy of the city, is the topic of a series of media publications with a varying degree of reliability and bias. Here it is worth pointing out certain peculiarities, which will help us answer the question, asked by many citizens of Sofia: how come suddenly “Sofianski scheme” has turned into an explanation of all problems – after so many years of smooth, even “excellent” management? The question is important; it is worth seeking an answer, all the more that there is no such answer in the media.

To begin with, “Sofianski scheme” is completely in accordance with ideas of publicity. Not with publicity proper, but with the ideas of publicity – there is a significant difference. The mayor himself has insisted very much on publicity, being thoroughly aware of the fact that it is an indispensable element of the image of modern management, of the modern mayor, and of the modern political leader. So, there has been publicity. It can be characterized with two elements, which have to be understood by those who cannot make out how it is possible for the series of scandals to come out “only now”. Here lies the explanation why the scandals burst out “all of a sudden” on such a large scale.

The first element is related to the fact that for many years, Sofianski, next to being the mayor, was practically functioning also as the sole spokesperson for the municipality. For years, all major economic activities of the municipality have been announced and explained by Sofianski personally. Few can bring to mind instances of a deputy mayor, a chairperson of a municipal committee, or a municipal councilor having spoken publicly on such questions. Not to criticize, but simply explain. Not even people with proven knowledge and indisputable competence, like Assen Dyulgerov. The municipal councilors themselves do not speak at all, let alone criticize (there could be a lot of hypotheses about the reasons). All this has allowed the mayor to work out his own PR, following his own advertising strategy – PR not only to his benefit, but also as the only competent person.

A heavy consequence of this practice of many years is that the city’s public is prepared to easily substitute facts for trust. A minimum of expert knowledge is needed to interpret facts, nothing is needed for the trust. To the question: whose property is *Hali*, the public “is ready to answer” with the answer to another question: do you have confidence in Sofianski. (And the answer is: we want our mayor). The questions, however, are different. True, the first one is more complicated. The very legal case is more complicated. Yet, if the citizens of the capital city put aside confidence, and use only logic, they could put forward their own questions – even if they have only elementary knowledge about joint-stock ventures. For instance: if Sofianski’s great merit was that he had preserved 100% municipal property on *Hali*, with the existing joint-stock company (like he claims), how come that this very Sofianski, in 2003, proposed to the Municipal Council to sell the municipal share of 25% in the joint-stock company? (The municipal councilors, however, did not agree – if they had, Ashtrom would have long ago bought out the shares of the municipality.)

The second element concerns the fact that the “report” on what has been accomplished during Sofianski mandate, has always been a report on what has been done, without a report on the real costs. (Figures – yes, but not accompanied by an assessment of the economic advisability of the figures) The second could indeed seem of minor importance, especially at the background of

the first. For example, with *Hali*, the citizens of Sofia indeed have got a working object in the centre of the capital city. (This is also the main argument in defense of the transaction before the public – before those who do not know what property contribution means, for example.) Nobody counters this argument – there is a working object, it is nice to have it. The detail here is that, alongside with the satisfaction with the accomplished work, it is absolutely possible to report an object at the price of 30 million leva, and nobody is asking whether it does not cost 10 million leva... For example, repair works on a street are reported to have cost 300 thousand leva. Nobody is asking whether the repair works actually cost 100 thousand leva... In the case of the sanitation concession contracts: Sofia's sanitation costs 70 million leva (that much it has been decided to cost, that much it “should cost”). Nobody is asking whether sanitation actually costs 40 million leva... A municipal real estate property, estimated at 10 thousand leva, has been contributed to a joint-stock venture. Nobody is asking whether the actual price is 80 thousand leva, etc.

If we carefully read the written above, we can understand better “why only now” certain scandalous particulars of the economic management of the capital city have come to light. In both above-mentioned elements (as facts) very quick and considerable changes have occurred. The managerial and political talent of Sofianski is the same – even improved, in comparison with former years. However, since the end of 2003, the idea of publicity has started to evolve quickly. The mayor is not anymore the only spokesperson – too many groups have appeared at Sofia Municipal Council, whose interests could not come to agreement successfully and smoothly. Persons, who know enough, and can speak, and would not let only the mayor speak, joined the “speaking”. Sofianski's “reporting” PR strategy within his election campaign envisaged, by presumption, that nobody else had the right to speak on the question. (To be precise, one could speak, but should not be listened to, if the mayor claimed something contrary). This strategy was so successful that anybody, who questioned the mayor's statements, should be, by presumption, considered of BSP. This has already completely changed – a lot more people talk about the question; and it is BSP municipal councilors, who are among the most silent ones (why is this, is also a matter of several hypotheses).

Besides, the questions, mentioned above as unasked by anybody, started arising. Questions about what costs how much, and whether these are the real costs have come to be asked by non-governmental organizations, the media, municipal councilors, the prosecution. If in September 2003 anybody asking questions could easily be branded author of political discrediting, in May 2004, this was no longer possible. And the increased number of people asking questions brings forth a natural result – answers have started to arrive. (In May 2004, at the background of the problems with *Hali* and *Sofijski imoti*, the “scandalous” report on the concession contracts of September 2003 was only innocent arithmetic with the suggestion to check accounts of municipal expenditures, which somehow did not come out right.) Prosecution, the District

Governor (in this order, not the reverse), municipal councilors – institutions and persons who “have the right”, have started to receive questions. If the problem concerned only the interest of the media or a certain non-governmental organization, things would look different. As the media have provided the mayor with enviable comfort for years, and the non-governmental organization was only one.

Thus the foundations of the described scheme have started quickly to dilapidate, and with this, what has been build over them. The fact that the personal PR of the mayor has started to give in as a strategy, is not a sign of “turning the institutions of jurisprudence into a political weapon for doing away with the consolidator of the right-wing space”. It is rather a symptom of the contrary – that these institutions are trying to do their job. Above, we explicitly pointed out that the asking ones should be arranged in a special order: prosecution, the District Governor. If the order was different, the cause-effect relations would lead to the idea that the District Governor was at the bottom of all. It may seem like this, however, the District Governor simply cannot stand behind all disclosures concerning the economic policy of the city. (Though, if he initiated an inquest, it would be part of his job.) As far as prosecution is concerned, Sofia City Prosecutor’s Office had referred to the report on the municipal sanitation concessions long before the series of “scandals” flooded the media. (We owe this admission, as the foundation’s experts have often criticized the prosecution of refusing to refer to certain cases.)

The fact that the municipal councilors keep quarreling, and that SMC has been a constant source of scandals, instead of being a quiet and peaceful voting body, is also a logical consequence. The balance in sharing resources and influence has failed. And, maybe, like a municipal councilor suggested, “*for the first time during the mandate of the mayor, he has been forced to take into account the demand of the municipal councilors to exercise stricter control.*”

“Sofianski scheme” may be preserved through some of its details; some details and documents may never come to light, such a scheme may be reproduced elsewhere in larger scale. Yet it cannot be concealed – and “secrecy” is its basic feature.

3.

The municipal companies, or at least part of them, are already objects of lasting interest, being sources of constant scandalous disclosures. This fact alone already makes up a separate problem. It is inadmissible and thoroughly negative for the economic policy of the municipality that companies like *Sofijski imoti* for months, almost every week has been in the eye of the news, and the definition “scandalous” has been given the company as lasting media

characteristics. The “scandalous” has spread over other companies as well, for example, *Sportna Sofia*.

From the economic point of view (as well as from the point of view of the municipal budget), there is phenomenon, which is not easy to describe. There is a group of “rich” municipal companies, with assets of millions of leva, at the background of a relatively poor municipality, which for years on end has not been able to provide money for the normal sanitation of the city. This disproportion in itself is alarming, yet there is something, which is even more alarming. Figures show that in 2003 the municipal expenditures for these companies were 8.2 million leva, whereas the dividends received by the companies amounted to only 3.5 million leva⁵. This practically means that the “poor” Sofia Municipality maintains, finances the “rich” companies. The construction seems absurd, as from the point of view of economic logic the setting up of municipal companies should be based on the principle that these companies generate profit for the municipal budget, and not the vice versa.

In addition, according to the audit report on the municipal company *Sofijski imoti*, done by Public Internal Financial Control Agency, quoted in the media, the municipal budget has lost “no less than 33 million leva” from the participation of the municipality in joint-stock ventures. “For comparison, this is about 10% of the annual budget of the capital city, which is 386 million leva for this year.” These big figures are difficult to fit in daily concepts, therefore it is worth specifying: if only one municipal company could inflict such losses to the municipal budget, maybe it makes no sense to protest that the costs of sanitation in Sofia are estimated at 70 million leva a year. Maybe we should feel happy that these costs are only 70 million, and not 100 or 120 million leva. What is the point in trying to analyze the municipal budget? What does distribution matter: 8 million for maintaining streets, and 2.8 million for gardening? Is 8 million leva for the municipal security company *Egida* much or little? It may be little – only 8 million leva...

Management logic will seek the reason for the above-formulated paradox first in the municipal companies’ management. Their management, however, is a separate problem. We cannot claim that there is something illegal in it. However, the public has no idea how these companies are managed, how the members of the managerial bodies of these companies are elected, according to what criteria and skills. If there are such procedures, they are not public, and the visible “rules” look vague and confusing to the average citizen of Sofia. (And not only to the citizen of Sofia.)

Let us take as an example the “publicly known” – what the public can learn: “Today the Chairperson of SMC declared that on 25th May a new executive director of the company will be elected. In his words, the Chairman’s Council of Sofia Municipality united around the idea the Board of Directors of *Sofijski imoti* to consist of five members, which is the decision of SMC. On 25th May

there will be another councilor will be nominated to the Board. So far nominations have been made by UDF, UFD, BSP, and Gergyovden; the latter, strongly defending the municipal company in the last few months, insists on having a second representative on the Board.”

The confusion on reading the above text would be natural. This confusion is not caused by low quality journalism, on the contrary – the account is accurate and correct. Yet what could the citizens of Sofia learn from this text? That the number of members of the Board of Directors of the municipal company is determined not according to existing regulations, but according to the opinion of the Chairman’s Council of Sofia Municipality. As well as that was after a decision of SMC. That is, the question, decided by SMC was approved by the Chairman’s Council of Sofia Municipality. Then – that nominations were expected for a member of the Board of Directors, and that this had already been done by four groups. That is, nomination is done along the principle of political representation. One of those groups, however, insisted on having a second representative in the Board. That is, in principle, proves not impossible – it seems regulations allow it. (The reader would expect a certain document to regulate all this: who determines, who decides, how exactly... For example, a decree of SMC. However, it is either that there is no such decree, or that an existing one is formulated in such a way that it allows enough freedom of interpretation). Next to this, the reader learns what has long stopped being news – that the political groups in Sofia Municipality are divided into supporters and opponents of the company...

Could the readers alone clear up the ambiguities? Learn something more about the procedures and established practices, if they go over the dailies in the next few days? Certainly not! If the readers go over the dailies, looking for further information on *Sofijski imoti*, they could learn, for example, that “*the representative of Gergyovden did not sign the minutes of the Chairman’s Council meeting[?!]*” That “*...Sofianski decided he could not wait any longer for the Chairman’s Council taking time, and announced that the Board of Directors will consist of four members.[?!]* At first BSP announced that they had nothing to do with Simeon Simeonov, their former municipal councilor, who is at present still on the Board of the company. Later, however, the “red” party re-nominated him to the Board.[?!] The Mayor then announced he would not appoint Simeonov a member[?!]...” Well, is it clear now who decides, who determines, who exercises what prerogatives? How is *Sofijski imoti* managed?

What is disagreeable is not that the above texts create the idea of chaos. What is bad is that the news brings forward more and more mutually complementing evidence to the same effect, that is, the chaos really exists. There is only one step to the conclusion that this chaos has been deliberately kept, and the clear regulations are delayed because of economic interests in the absence of such regulations.

4.

Joint-stock ventures with municipal shares. With some of them, it is a matter of enormous financial parameters (for example, Sofia City Joint-Stock Venture covers an area of 54 decarees in South Park). This is not, however, what makes the topic scandalous. The numerous assessments and analyses on companies like Sofia City Company, the Central Bus Station, etc. reveal a high risk of hidden privatization. The alarm of the citizens of Sofia is not about the municipal shares (the advisability of which is difficult to assess), as much as about the suspicions that the mechanism leads to a change of ownership. There is enough evidence to talk about a model – the auditing report of the Public Internal Financial Control Agency (PIFCA) only confirmed the suspicious repetition of practices.

In fact, the risks concern the advisability, as well as the prospects of hidden privatization. It is these risks that are at the basis of all critical assessments of the model: joint-stock companies with private shares for the construction of objects, in which the municipality offers terrains as property contribution. The model looks justifiable for a “poor” municipality: in the long run, through property contribution of terrains, the municipality does not participate with a free financial resource (the contributed property installment is a non-financial one). It is clear that for most of these objects the municipality could not provide independent funding. Such a pattern can easily be defended as “advisable”, even as the only possible way for the development of the municipality. And there is a lot of municipal property...

Problems arise from this point on – for example, the practice of the municipality to sell its shares to the other shareholders after the construction of the objects. (So, no more municipal property.) The following practice is also suspicious: no more than three founders, or partners, for the construction of objects are allowed, the expansion of partnership is not free – it can be done on the consensus of all partners. The rules, criteria, and procedures for the selection of this close circle of persons are not clear (the municipality has contributed property, so the selection criteria for its private partners should be clear). Besides, partnership cannot be extended to third persons, i.e. a closed circle of persons is formed, which the municipality cannot control. Let us repeat: these persons are not selected by means of auction or competition; the citizens of Sofia have no clue to how the partners, one of which is the municipality, “got to like each other”.

The above description of the situation is enough to provoke suspicions. And if the municipality sells its shares to the other shareholders after the construction of the objects, this is an actual privatization – only there has been no auction, no competition, no publicity. And in this case, it is a question of attractive municipal property.

For the sake of justice, we need to explain that the above-described model does not formally violate the law. Given the restrictions in the financial-economic situation in the country for the past years, it could be understandable if the municipal authorities, the mayor, resort to non-standard, even risky, options. The citizens of the capital city could probably even understand the explanation that the final result is actually the priority, and the ways to it are... only ways.

All this, however, does not call off, and cannot be the only answer to the suspicions.

First, it is a question of defending municipal interests – the interests of the citizens of Sofia. In normal conditions, the citizens of Sofia must be sure that whatever is done with the municipal property (when it is used as contributed property or even sold), it is to the common interest. The conditions, however, are not normal (which is revealed in PIFCA auditing report on *Sofijski imoti*). Maybe the interest of the municipal councilors, or that of the mayor, has been observed – a certain private interest has been observed anyway. However, the easily accessible by the media facts reveal that the interest of the citizen of Sofia is a different story.

Second, the model has been only too “well-practised” to be recognized as generally dangerous: it has spread also onto state property. For precisely these reasons, in May, *Novoto vreme* (The New Time) Parliamentary Group demanded the setting up of an inquiry commission to check the state property management (within the Ministry of Culture and the Ministry of Youth and Sports). According to the Deputy Chair of *Novoto vreme* PG, Ms Roumyana Georgieva, “*What can be seen in both ministries is only the beginning, it is a regular practice in the other ministries, as well. (...) Contributing state property into new companies is a new pattern of robbing state property.*” This deviation to state property is not out of context. It shows that it is a question of a pattern widely recognized as a potential source of malfeasance with property, of “robbing” property.

Third, this type of transactions can logically be equaled to hidden privatization. With no auction, no competition, no indispensable publicity. Like mentioned above, this practice can be defended with arguments of advisability. Yet precisely with a view to advisability, however, we cannot ignore the side effects. The mass practice of contributing property to joint-stock companies is actually anti-market, as much as it effectively blocks competition in the real estate market in the capital city. If three big investors started bidding for the purchase of a plot, the profit would probably be greater than after contributing this property to a joint-stock company, with the municipality as a shareholder, and later selling its shares. We have no grounds to compare the profits from these two mechanisms. What is more, if a public debate had been organized, the citizens of Sofia may have proved to be against the sale of a plot to a

private company. However, with the practiced pattern, property changes hands with nobody taking the trouble to ask the citizens of Sofia about their opinion. What we can definitely claim is that a sale after bidding is a market, open, and competitive mechanism, and property contribution, followed by selling the municipal shares, is non-market, hidden, with elements of negotiations within a close circle. Beyond doubt, the second one creates a more fertile environment for corruption practices. Suffice to say that PIFCA audit has revealed one and the same violations in all joint-stock companies of *Sofijski imoti*.

The least that can be said about the joint-stock companies, as a type of transactions with municipal property, is that they are far beyond public control. The public has no idea even about the basic parameters of the transaction, let alone making up a competent opinion. In the case of *Hali*, for example, even the question of the ownership is not clear. Let us recall the story. On 19th May 2004, Deputy Mayor of Sofia, Ivan Gechev, and former Secretary of Sofia Municipality, Assen Dyulgerov, were questioned in connection with the proceedings against Sofia Mayor Sofianski in *Hali* case. (Both of them were in the Mayor's team when the deal with the Israeli company Ashtrom was concluded.) Before reporters, Gechev "*refused to answer the question whose property Hali was, and advised the answer to this question be sought with the lawyers*". [It was precisely the same approach Sofianski opted for – thus the public was compelled to presume that only lawyers could answer whose property Hali was.] According to Dyulgerov, however, he had claimed "in most general terms" before the examining magistrates that *Hali* was 100 percent property of the municipality. Well, if these were the answers of two members of the Mayor's team at the time of concluding the deal with Ashtrom, what about the people who were not in this team, and what about their "competent opinion"?

This is the least one can say. PIFCA audit report says a lot more. (For instance, the recurring conclusion that *Sofijski imoti* did not receive profits from dividends or other economic benefits with its partnership...) There are also things, which we have to guess. For instance, exactly how a joint-stock company is made – who requires, who offers, who decides. If the publications in the media on the audit report are to be trusted, the partners may "get to like each other" in the following way:

A leaseholder of a property turns to the Executive Director of *Sofijski imoti* (Georgi Iliev to Toshko Dobrev). In a letter, the leaseholder explains that he has made considerable improvements to the property, and intends to make additional investments. "*After which the boss of VIS-2 turns directly to Toshko Dobrev for advice: 'I would like to ask for your competent opinion on the question how to proceed, and what move to make, so as to obtain the legal right to act as real owners of the property? Is there a possibility to purchase it, or is there another way of accomplishing our noble intention'*". Obviously there was no "possibility to purchase". Yet there proved to be "another way" – it also

includes the summer theatre in Borissov Park. “*A filial of Angel Ltd. Group has obtained the summer theatre together with Maria Luisa Swimming Complex. They have been transferred into the capital of the newly-established joint-stock venture Maria Luisa Park, in which Sofijski imoti has shares amounting to 41.96%.*”

5.

The *Hali* case is a variation of what has been described in other chapters of this text, yet we pay it special attention only because its consequences are considerable – the temporary suspension of the mayor. The lengthy conclusions of the project’s legal experts could not be completely correct, as they are not based on the original documents. (Although a number of first-hand documents and figures were published in the dailies *Dnevnik* and *Monitor*, and in the weekly *168 Chasa*.) Besides, it is possible that later on some more documents surface. That is why, no matter how intriguing some of the hypotheses of the team’s legal experts are, here we are going to focus on the part of the conclusions which is relevant to the question of losses and damages, as well as with a view to the mechanisms the municipal authorities are involved in. From this point of view, the case can serve as an illustration of many of the conclusions in this text.

The basic parameters of the case are familiar, and here we are not going to repeat them – they have received abundant comment in the media. First that has to be pointed out is the necessity to rearrange priorities: what is more important is not the accusation against Sofianski, but the lack of clarity on the basic question – whose property is *Hali*. The legal explanations on the case – as the property contribution has not been under attack, whether it has produced a property-transferring effect, can hardly interest even a competent reader. The reader, however, knows the basic parameters of the transaction, as well as the reactions of the interested parties. (To be precise, the change in the reactions of Mayor Sofianski from “the question is complicated” to “*Hali* is 100 percent municipal property”.) Whatever the interpretation of the case, it is not the reduced price, but the question of principle, that the citizens of Sofia are actually concerned about.

The conclusion of the assessment of the published documents is that *Hali* is owned by a joint-stock venture of which Sofia Municipality has 25% in shares. The transaction has been finalized – it has been certified at the notary’s office, it has been registered, and a notarial act has been issued. The latter was issued a year later in the proper manner, all the needed documents provided, including a decree of Mayor Sofianski to write off the property from the registers of municipal property, accompanied with the respective certificate that this had been done. If these are the only documents on the case, the conclusion should be drawn that the statement of the Executive Director of Ashtrom, Joseph Golan, (the *Hali* building is certainly a contributed property to the company) is validated enough. As we know, Sofianski has declared that the supermarket

and the underlying area are owned by the municipality, that the transaction has not been finalized, and that the property has not been contributed to the joint-stock company.

Like we mentioned above, so far we are not interested in the facts whether the property contribution was at reduced prices or not, whether Ashtrom Group has been in a favoured position or not; why the municipality has accepted all obligations concerning the construction of the infrastructure and putting it into operation; whether the investments of Ashtrom are actually a loan, etc.

The main question the experts are interested in is what objective circumstances have allowed such a scheme to be legitimized before the public in the following extreme interpretations: a) *Hali* is 100% municipal property, and b) *Hali* is 75% property of Ashtrom. As long as these two claims exist simultaneously, the public has to put up with the vague construction, taken from the headline in *Dnevnik* daily, which describes the situation most precisely: “*Hali* Doesn’t Seem To Be Municipal Property”. However attractive the legal case in itself might seem, our main efforts should be aimed at finding what the truth is and what only “seems” to be the truth.

So, is there a chance that, given the available documents (like an issued notarial act, a decree for writing off the property from the municipal property registers, etc.), *Hali* was not a property of the company? Yes – if there are reasons to break the constitutive contract. In the constitutive contract of the joint-stock venture, there is a clause to this effect – breaking the contract in case the property has not been contributed within three months of signing the contract. We may not count on this hypothesis, as a year later the notarial act was issued.

However, even a finalized transaction can be broken, if there are unavoidable violations when striking it. Such a violation is, for example, (if the statement proves true) that at the court registration no expert evaluation of the contributed property was submitted. If this stipulation of the law is not observed, the contribution of property can be claimed to have been performed illegally. This omission then is the court’s fault. In such circumstances, it can be claimed that through the court’s fault, a considerable violation of the law has occurred which legal consequences are breaking the transaction.

There is a possibility to consider the unimplemented decree of PIFCA following the 2001 audit, a violation of the law. The decree concerned reevaluation of the municipal shares of the company along market prices, i.e. increasing the capital of the company. The mayor had not done it, though he was obliged to. Now Sofianski himself may demand it at the general shareholders’ assembly of the company to correct this mistake. (Whether the assembly will decide in favour is another matter, and this could be considered direct pressure on Ashtrom – of mass public dimensions).

It is also possible that the municipality itself demand in court nullification of the joint-stock venture – for instance, due to violations in the registration of the property contribution. This would mean the end of the company, followed by considerable financial consequences, as Ashtrom would probably claim damages, quite lawfully, as any other company in its situation.

Even if we assume that the above legal parameters are incomplete, still they are quite enough to get a general idea about the case. The hypotheses and the legal techniques we will leave to those directly involved in the case. What conclusions can be drawn about the approaches in management, as part of the pattern of using the municipal shares in the company? It is obvious that the wide choice of legal possibilities offers good prospects for fighting. The question is: fighting for what?

If the fight is for the municipal property of *Hali*, then it, as seen in the above explanation, can be fought only on the presumption of violations. This fight should not be part of the municipal or mayor's strategy. If it was part of the mayor's strategy six years ago, this simply means that the violations were done on purpose, intending to see them later, like cards hidden in the sleeve.

If the fight is for keeping the joint-stock venture, how is it possible to keep a partnership, in which the partners have contradicting, at the two extreme ends, ideas (statements) concerning the property? The property either belongs to the joint-stock company, controlled by Ashtrom, or to the municipality (like Sofianski claims) – not taking into account all the legal details. In this insincere partnership, one of the two partners will feel taken in. For the moment, these are the citizens of Sofia. If it turns out that *Hali* property has not been contributed, then it will be Ashtrom cheated one. This is certainly not a proper partnership.

If the fight is for breaking the company (this is a possible result), the goal will be achieved only at the cost of heavy mutual accusations: in this case, we will be given evidence of corrupt commercial practices, an admission of having made mistakes and violated the law. Like we mentioned, financial claims will probably follow.

If the fight is to protect Sofianski from accusations, then this fight could be successful if violations are proved: with the property contribution, and at the cost of Ashtrom's infringed interests.

If we go over the described hypotheses, it becomes clear that in any case things are far beyond the idea of a perfect deal, the idea the citizens of Sofia cherished until recently. Very far from the strategy of partnership between municipal and private interests, upon which the concept of the economic policy of the city rested. Instead of perfect partnership, protection of municipal interests, development of the city, etc., the citizens of Sofia get evidence of hidden

defects in partnership, poor publicity, conflicts between private and municipal interests, ruined trust between the mayor and the municipal councilors (See headlines like: “*Councilors: Sofianski Lies About Hali*” ...)

And finally, if someone goes over again the above pages, he or she will adopt a more skeptical approach to the “political interpretations” of the case. It is not a question of political constructions, but of (in)effective and (im)proper economic management. The unification of the right-wing space is important, but in this case it is a question of low estimations, damaging the municipality, ignorance of municipal councilors – things, which by assumption should be equally far from both right and left-wing spaces. That is, it is a question of a situation in which the “interests of the citizens of Sofia”, and “the interests of Sofianski” go together only phonetically.

V. Municipal property management: Division between the political, economic and criminal aspects

1.

Municipal property. From a legal and economic point of view, the problem of the municipal property is at the basis of most of the above-described problems – using and, above all, managing the municipal property. (Using this property is a separate, yet for the moment a less important problem.) It is at the management of the municipal property that the A) political, B) economic, and C) criminal aspects cross. These we will try to “differentiate” for the purposes of the analysis.

A) There are large-scale economic interests (a lot of money) in the municipal property management. B) Municipal property management, therefore, attracts the political beginnings (control over the economic interests and using these interests). C) Municipal property management bears the criminal elements, the media en-masse reveal as findings (the most transparent of which is contributing municipal property at low prices...).

Such a description puts things in their proper places – if we are interested in the reality, and not in what is only visible. Thus, all at once, a series of myths about the economic condition of the city and the economic management of the municipality topples down. Myths, in which many citizens of Sofia sincerely believe in.

A) Municipal property management focuses large-scale economic interests, it is not a question of whether the municipality is “poor”, or whether it can afford something. The “poor” municipality, which for years has failed to find enough funding for sanitation, is the owner of real estates of enormous value. This value is still to go up. The “poor” municipality has for years been drained off millions of Bulgarian levs; the “poor”

municipality generously forgives joint-stock ventures for the lack of dividends; in its poverty, it generously offers real estate property at prices, which are many times lower than the market ones (See the results of the internal audit of *Sofijski imoti*). The “poor” municipality has been a source of constant enriching, and whoever has thought of that in time has won.

- B) In municipal property management it is a question of control over enormous economic interests, of big profits and big financial means – and not of who heads which party, or who wants to unite which political space. (That is why, for more than half a year, the new municipal councilors have failed to find out about the new Board of Directors of *Sofijski imoti*.) The unification of the right-wing space is a consequence, a secondary element. The original reason is elsewhere. That is why so many media, intuitively or consciously, have turned to the economic beginnings. It is not accidental that in many texts the political parties do not look like organized representation of groups of people, but rather like managers of property, like owners of “business empires”. And instead of challenging ideologies, the readers receive something like a war communiqué on the “*raging fight of economic interests in Sofia municipality. There Alexander Pramatarski's democrats (...) are in coalition with Gergyovden, and defend the inherited from Antoan Nikolov business empire against that of Stefan Sofianski.*”
- C) In the municipal property management there is a wide range of possibilities for illegal favouring, corruption, malfeasance, law violations, hidden privatization, draining off municipal resources. That is why here it is not a question of who the judicial system favours, or whether prosecution is somebody’s “weapon”. If investigators, prosecution, court interfere, something else has already happened. Something that has to be investigated. Even if it was bad people who initiated the internal audit of *Sofijski imoti*, the auditors’ opinion concerns things that have already happened.

In short, before we cast a glance at the picture of municipal property management, we should temporarily set aside details of who claims what, that he owned, sold, contributed, could not, did not know, did not remember, did not vote, did not understand, etc. We should first realize, we should be completely aware of the fact that Mayor and SMC are the united whole, which, in the management of municipal property, combines the zodiac slogans: “I own”, “I know”, “I can”, “I act”, “I give out”, “I know how”...

Now the picture as we see it by the end of May 2004, at the background of the existing information. The picture looks pretty bad. In several directions.

1. The situation changes completely our ideas of proper, transparent, honest, admissible. Let us take, for example, the sale patterns through competition,

and through auction. The mass concept recognized the sale through negotiations with a potential buyer as nontransparent. The sale through competition – as transparent. It proves that sale through competition has also been discredited. (A method, defined by some as “absolutely nontransparent” in the case of selling municipal real estate property). The mass ideas of “honest” and “good” management of a municipal company presuppose competence of the municipal company management. Actually, “honest” and “good” management obviously means that all municipal political groups are represented in the management. (Obviously then – and only then! – the management of a municipal company will be honest and good.) Our ideas are shattered also by the scope, the size of the scandalous elements. That is why, to the media, the fact that a given real estate property has been contributed at a price at least twice as low as the market one is the “*funny part*”, and the fact that the property has been sold both at a low price and illegally, is “curious”.

We start with the psychological dimensions of the problem, as in this case it is a question of getting used to norms, which have nothing to do with the general ideas of right and wrong, of proper and improper. The quoted media are not to blame for that; the original reason the facts, the existing practices. Nothing is scandalous anymore. Nothing is surprising. There is nothing to be taken by surprise at. The scope is different.

A certain real estate property (an underground warehouse in Block 7 in Bulgaria Blvd.) has been sold by *Sofijski imoti* at a price twice lower than the official expert estimate⁹? God, hasn't the mayor himself been accused of reducing the price of *Hali* 400 times?

Through only four property contribution deals, *Sofijski imoti* has deprived the taxpayers with over 25 million leva? (According to PIFCA audit report) Well, according to the former Executive Director of *Sofijski imoti*, Toshko Dobrev, “*Sofijski imoti is one of the cleanest shirts in the municipal wardrobe*”!? We wonder what the other shirts look like?

It is scandalous that a municipal councilor has become the owner of half a hotel²⁷? What scandal? What is wrong with that?

2. In the second place, the lack of opportunity to trace the “fate” of a piece of municipal real estate property creates a favourable environment for any operations (including legal) – “muddy water”, in which the eventual findings will appear post-factum, and years later somebody will play the role of an honest receiver. Time passes, findings are forgotten... Does anybody remember the time when *Sofijski imoti* was set up: to guarantee municipal debts; on the strict condition that real estate property will not be sold (a ban which later dropped off)? What if now there are suspicions? What if real estate property was sold during the two rounds of the local

elections? What if the municipal company has sold its shares to its partner in the joint-stock venture, and “*has not received dividends, as profit is expected in long-term plans*”? As the saying goes “This who eats the pastry is not crazy, crazy is the one who offers it”... Now is the time!

3. What is even more dangerous – this environment does not allow the existence of competent public opinion. Not as a corrective, but competent public opinion in general. Only in such environment one can hesitate whether *Sofijski imoti* is a scandalous instrument of draining off financial means (like some media claim), or “a powerful, stable, and the best according to financial indicators municipal company, which is at the moment deliberately ruined.”

This environment dilutes our idea of responsibility, of guilt. Nobody is to blame, or in other cases “the others” are to blame, “the previous ones”, “those”. PIFCA audit report on *Sofijski imoti* revealed losses amounting to tens of millions levs, on the other hand, “*the Board of Directors and the management of Sofijski imoti have not taken a single step of importance, of managerial importance without the sanction, without the approval of the respective body, the Municipal Council, without an act issued by the mayor’s administration, respectively*”. The political responsibility lies with the United Democratic Forces – as a majority in the former SMC... A BSP municipal council was the head of the Board of the company, but that was only an “*attempt of BSP, as opposition, to act as a corrective in the municipal activities*”. And after BSP had been long years a corrective in the municipal activities (with the head of the Board, that is!), the chairman of BSP group of municipal councilors, Bozhidar Dimitrov, suddenly announced on Darik Radio that “*Maybe Sofianski should have been long ago (...) sent to prison*”.

There is hidden privatization, infringed municipal interests, draining off financial resources – it is nobody’s fault, everything is within the law, legally perfect, with the sanction of the “respective body”. Dozens of municipal councilors – of different political colouring – who have voted on the decisions of the “respective body”, are now trying to declare themselves once as a corrective, then as victims of manipulation, then as uninformed, never heard, never seen.

4. In the fourth place, quite obviously, there are very few rules in the municipal property management. The existing ones – as much as they exist – are of no particular importance. The essayistic phrase “rules don’t matter” can in this case be backed with facts. For example, as we know, in December 2003, the municipal councilors imposed moratorium on real estate transactions. The moratorium was withdrawn in February 2004. These are the rules. The significance of these rules is revealed by the fact that during the moratorium, *Sofijski imoti* sold several real estate properties – to be precise, twenty-six transactions (listed in the register) for almost 60

real estate properties. Well, the management of the company should be held responsible for this... What about Mayor Sofianski – wasn't he himself who did not observe an explicit decree, back in 2001, in which the head of PIFCA ordered reevaluation of the municipal shares in the joint-stock venture on *Hali*, along market costs? But let us leave aside these trifles. What rules are we talking about if *Sofijski imoti* still goes on “pouring” real estate property into a joint-stock company (*Digesta SIP*) after it sold its shares of the company? Yes, the legal experts are laughing, yet the taxpayers should be crying.

5. The so far described situation as a whole – quite naturally and logically – has a deeply corrupting effect on conscientious persons. At a session of the Municipal Council, a BSP municipal councilor, Anton Koutev, announced that *Billa*, a chain of stores, had purchased a *Sofijski imoti* plot at a price equal to that of three portable computers. Even if the facts had been exaggerated, the conclusion would be definitely true: “*They [Billa] could not afford such behaviour in Austria...*”. Yes, most probably they could not afford. What about *Ashtrom* – could they afford elsewhere to get 75% of joint-stock company shares, not covered by investment, but by means of ... a loan, lent by Ashtrom Group itself to *Centralni Hali*? What is more, at an interest to the amount of the annual LIBOR plus 5% for each month for the duration of the contract? Hardly possible.

It would not be correct to comment facts and practices using such stylistics, if we could not formulate proposals. Above we have already formulated some, as a result of the experience and modest judgement of the project team. Below we will mention only several recommendations.

- Creating a register of the municipal property seems to be the best, and radical, instrument for blocking the games, experiments, and malpractice with municipal property. At least, the public will have the opportunity to trace who, when, and what has “obtained”, no matter who remembers about this and who does not. The opportunity for checking should not be underestimated.
- Changes in the municipal procedures are indispensable, if the municipal councilors really want to be able to control the processes. If, for instance, a managerial act has to be affirmed by SMC, at least the visible parameters can be discussed, commented, and corrected.
- The only chance for the heaviest cases seems to be the “surgical” interference. It is too late for *Sofijski imoti* to change management, or to be restructured. The company must be audited and finally liquidated. The radical decision is of SMC competence (SMC may decide that after small corrections, the company will be able to function “properly”.) Yet if SMC decides to keep the company in this condition, it risks keeping a

construction which will constantly produce scandalous findings of malpractice and corruption. Or maybe – malpractice and corruption *without* findings. Let us back our opinion with arguments: the newspaper headline “*On the Traces of the Lost Millions by Sofijski Imoti*” is, alas, only a journalistic metaphor. Nobody can trace the lost millions anymore. The PIFCA audit report itself covers only part of *Sofijski imoti* transactions. It covers only the contributed property in joint-stock ventures only for the period 1st July 2001 – 30th November 2003. These are no more than 20% of all transactions of the company...

- Changes are needed in the municipal Decree on acquiring and management of municipal property. (It is necessary to regulate the criteria and procedures for exchanging municipal property.)
- SMC (after postponing for seven years) should observe the legal decisions and adopt a set of regulations on the conditions and procedures through which Sofia Municipality exercises its owner’s rights on the municipal part of the capital of companies.
- A special law concerning the capital city could be of help. (According to the current legislation, the state subsidies are distributed regardless of the specificity of the city/town/village, regardless of the amount of taxes their citizens pay. However, the capital city is in a “special regime”, for instance, concerning the adoption of the General Regulatory Plan. The Plan is ready and approved by SMC. According to the Law on Territory Regulation, it has to pass the sanction of Parliament – a requirement which is valid only for Sofia.)
- Until new rules come into force, the old existing rules should be observed and there should be constant control on how they are observed. If PIFCA issues a decree, it should be observed (like mentioned above, some recommendations have not been observed). If the Law on Municipal Budget stipulates something (for example, procedures of public debate on draft budgets), it must be observed. (Let us remember: “*The mayor of the municipality introduces the draft budget for a public debate by the local community, announcing the date of the debate no later than 7 days in advance in the local media. The public debate follows procedures approved by the municipal council. The proposals made during the debate enter a protocol, which becomes an inseparable part of the draft project thus submitted to the municipal council for consideration.*”; Law on Municipal Budget, Art. 11, Sent. 6). If Sofia Municipal Council imposes moratorium on real estate property transactions, the municipal companies must observe it. (A bad example is given by a local company, which during the three months of moratorium managed to sell 60 real estate properties).

Indeed, to follow the rules is somewhat a didactic proposal, which people of administrative and managerial experience may discard. All the more that to follow the recommendations of the team of auditors may be easy, yet unfavorable. (See: “*The team of auditors gives the following recommendations: the management of Sofijski imoti must make the necessary steps to terminate the participation of the company in the capital of Sofia City Company (...); to set up internal rules for announcing the investment intentions of Sofijski imoti, with a view to widening the circle of potential investors and guarantee the implementation of the investment project.*”) Why should PIFCA auditors believe that the aim is “to widen the circle of potential investors”?

2.

The substitution with the political aspect. A specific and essential problem concerning the control on the economic activities of Sofia Municipality is the imposing of the political dominant over the interpretations of the economic activities. A report of a non-governmental organization was interpreted as a discrediting attack against Mayor Sofianski, only because of the conclusion that the citizen of Sofia pay too much for the sanitation of their city. When the same conclusion was formulated by Interim Mayor Gerdjikov a few months later, it was not considered a political discrediting move. It was not even considered news.

The core of the problem is that few people recognized the revealed facts and figures to be true. Even fewer are the people who realize that if the facts were not true, SMC would not go into changing the concession contracts. Yet – and this is a more unpleasant conclusion – many people consider the various political interpretations on the case truthful. The problem of the “political beginnings” has always existed, however, it became painfully acute after the ruling of the court for a temporary suspension of Sofia Mayor, therefore it deserves to be considered separately.

The mass interpretation of the problems in *Hali* case as a “political attack”, a “political favour”, and a “politically motivated decision” is a fact, proved by the publicly articulated stands of political analysts and politicians. There is enough ground for such interpretations, as Sofianski himself is the leader of a political party with ambitions to unite the right-wing space. And the Bulgarian political life in the last years has produced enough evidence of fusion of economic and political goals, as well as of attempts of political and economic interests to influence the system of jurisdiction.

In short, there are enough objective conditions for this approach. However, the approach itself contains a corrupt element – drawing conclusions before revealing facts is harmful for realizing the nature of the problem. Conclusions about who is behind “the attack against Sofianski” come before the information of what it is all about. Conclusions that in the *Hali* case the public interests

have been protected, run before the information about the contract with the Israeli company. The political and politological approach presumes too many things – for example, that (actually existing) interests have already been protected by a certain act.

The political analyst Ivan Krastev, in an interview, formulated a situation with no way out: *“Public opinion, on the one hand, wants prosecution and investigative magistrates to initiate inquest into the activities of those who are currently in power, and not only those who have lost their power. However, at the same time, the society does not want the court to turn into a third round in the local elections.”* This situation has no way out, as whatever the decision of the court is, it will be interpreted as political. As in this case, “whether the municipality has protected the public interest in its contract with the Israeli company” turns into a secondary question. The first question will be the impact of the court’s decision on the social-political life in the country.

Yes, it is possible that the Movement for Rights and Freedoms, the Bulgarian Socialist Party, the National Movement Simeon II, Ivan Kostov, Georgi Parvanov, Simeon Saxe Cobourg Gotha, and others, were interested in the attack against Sofianski. Yes, it is possible that someone was “at the bottom” of the findings. Yet this should not prevent us from seeing what these findings are about. The comments of the kind: who is interested in all this, who could push prosecution into action, or influence the court will always find their readers. What is more important is that there should be readers also for the Results of the Internal Audit of *Sofijski Imoti*.

The comments on where the political attack against the leader of the Union of Free Democrats comes from are important. But it is no less important to find out, for instance, whether *“representatives of Sofia Municipality have tried to conceal documents concerning Hali joint-stock venture and the proceedings initiated against Mayor Sofianski.”* (Like Deputy Chief Prosecutor, Hristo Manchev, claims.) Whether there followed “considerably damaging consequences for Sofia Municipality”, whether there is “evidence of committed a common-nature crime which infringed damages on the municipality”, whether “with the mandate of the Mayor to conclude the transaction on *Centralni Hali* in 1998, he had to observe the decision of the Municipal Council complying with the laws of the country”. This is the statement of the court, and, though it does not sound intriguing they must be important and “interesting” by themselves. And maybe, like Sofianski claims, *“when talking about estimations, the benefits should also be taken into account: establishing a place for regulated commodity circulation, a place, where taxes are paid.”*? This could also be logical. However, this is a different debate, and it should not be suffocated by the crushing burden of the political aspect. Since the “political” is capable of formulating quick and easy answers before the questions are asked.

Let us add that the “political” beginning will not only have its readers in future, it is not at all exhausted as an issue. For, nobody estimates, for example, the political effect of the temporary suspension of the mayor through the prism of the emblematic image. For it was Sofianski who was invited to anti-corruption forums. For the reader can still learn from the webpage of the Center for International Private Enterprise that in April 2004, the Mayor will speak on the topic of *Using Public-Private Partnerships to Advance Economic Reforms*, and that in Washington (Federal City Council, Main Conference Room, 1156 15th Street NW, Suite 600, Washington, DC 20005) of all places... (“Mr. Sofianski... will introduce the mechanisms of public-private partnerships that have led to improved governance and economic growth...”). Yes, the political importance of what is happening in Sofia is big, maybe bigger than we would like. However, it should not dominate the debate on the municipal economic policy.

Otherwise the public ideas about the economic activity of Sofia Municipality may prove to be more important than the activity itself. The monitoring reveals that things are exactly like this. The conclusion itself is neutral, yet with crucial and very dangerous consequences for all such projects. It poses a considerable problem before the activities under the monitoring, before the efforts of investigative journalism, before the public control, even before the court and state control. If the results of the control (investigation, analysis) prove contradictory to the public ideas, these results will be “mined” in advance, stamped with the tag “political attack”. The problem is fundamental to projects concerned with public control, for the strength of the public control is in the “public”. If the society does not recognize it as public control, the latter will get no support, it will not be taken into account, it will be ignored – then the results will be ignored by the media, they will provoke the suspicions of the society. Whatever the results, they have been produced by a handful of freaks with no public mandate, who go round taking pictures of garbage bins, seeking reports of the expenditures of the resources collected from taxpayers, “stirring up commotion” (using the already quoted expression of a concessioner)... Rummaging in the public registers, collecting figures, asking embarrassing questions, writing open letters, and the like freakery. If the taxpayer does not recognize his own interest in this control – in the control on how his own money has been spent – then he, the taxpayer, fully deserves to suffer malpractice with his money.

In lieu of conclusion

The structuring of this text into five separate segments on different issues does not allow drawing conclusions as a composition final of the exposition. However, certain estimations can be made – not as a final, but as summary of the findings and reflections above.

First, it is an unpleasant and disquieting fact that the conclusions about the municipal economic activity, formulated in September 2003, have turned even more negative eight months later.

Let us remember: *“The very fact that the described corrupt practices have been allowed for and tolerated in Sofia, encourages a number of economic subjects to repeat this experience in other cities and towns in the country. If all this can happen in the capital city, what about a provincial town, where the practices of public control are still at the embryonic stage?(...)”*

The Euro-integration prospects before Bulgaria presuppose further development of the role of the local self-government, of the local institutions of authority – of their rights and responsibilities, influence, power and role in the system of governing the society as a whole. This change is still being formulated in Bulgaria, its capacity is still to be checked in practice – more or less carefully or decisively. However, if this changed role goes in a stable combination with practices like the ones described above, then the long-term negative consequences will prove extremely serious.”

Second, the above exposition shows that the issue of economic policy and municipal property needs not only monitoring, but also systematic efforts (expert analyses, evaluations, checks, media coverage) in several different thematic directions – municipal property, municipal companies, concession contracts, services, etc. Without such systematic efforts, the interest in the issues will go down to considering only isolated cases, isolated examples of practices and activities. (This text has the same shortcomings.) Only systematic efforts by independent experts, media, non-governmental organizations, municipal and state institutions will guarantee significant results.

Third, regardless of the specificity of all efforts, their common ground should be publicity. Experience shows that it can guarantee correction of incorrect estimations, neutralize possible speculations, provide the chance to ask questions and get answers, curb corrupt practices. It will give a chance even this exposition to be questioned or refuted.

2nd June 2004
