

# Bulgarian non financial sector's credit policy

CREDITREFORM BULGARIA

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This publication is the result of research on the credit policy and debt collection experience of the Bulgarian non financial sector. The survey was done by the Bulgarian office of the organization CREDITREFORM.

CREDITREFORM has prepared such analyzes on EU countries since 1970. They are based in data supplied by companies and on specialized macroeconomic information. Every year results are classified in annual bulletins offered to governments, banks, insurance companies and organization members.

This survey was carried between November 2003 and March 2004 and summarizes the experience of the Bulgarian non financial sector.

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## I. Macroeconomic Influence

Over the last years Bulgarian companies enjoyed a stable macroeconomic environment. The introduction of the Currency Board in July 1997 resulted in stabilizing the bank system, inflation control, stable interest rates, reduction of the budget deficit and increase of the currency reserves. Reliance on the bank system grew higher. Between 1998 and 2003 banks were privatized. The share of the private sector increased from 60% in 1998 to 71.5% in 2002.

Table 1. Chain indices of the real GDP (1989-2003)

Base year														
Year	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
1989	100	110	120.1	129.6	131.5	129.2	125.6	138.6	146.8	141.2	138	130.9	125.9	120.1
1990	<b>90.9</b>	100	109.2	117.8	119.6	117.4	114.1	126	133.5	128.3	125.4	119	114.4	109.2
1991	83.3	<b>91.6</b>	100	107.9	109.5	107.6	104.5	115.4	122.2	117.5	114.9	109	104.8	100
1992	77.2	84.9	<b>92.7</b>	100	101.5	99.7	96.9	107	113.3	109	106.5	101.1	97.2	92.7
1993	76	83.6	91.3	<b>98.5</b>	100	98.2	95.5	105.4	111.6	107.3	104.9	99.5	95.7	91.3
1994	77.4	85.1	93	100.3	<b>101.8</b>	100	97.2	107.3	113.6	109.3	106.8	101.3	97.4	93
1995	79.6	87.6	95.6	103.2	104.8	<b>102.9</b>	100	110.4	116.9	112.4	109.9	104.3	100.3	95.7
1996	72.2	79.4	86.7	93.5	94.9	93.2	<b>90.6</b>	100	105.9	101.9	99.6	94.5	90.8	86.7
1997	68.1	74.9	81.8	88.2	89.6	88	85.5	<b>94.4</b>	100	96.2	94	89.2	85.7	81.8
1998	70.8	77.9	85.1	91.8	93.2	91.5	88.9	98.2	<b>104</b>	100	97.8	92.7	89.2	85.1
1999	72.5	79.7	87	93.9	95.3	93.6	91	100.4	106.4	<b>102.3</b>	100	94.9	91.2	87
2000	76.4	84	91.7	99	100.5	98.7	95.9	105.9	112.1	107.8	<b>105.4</b>	100	96.2	91.7
2001	79.4	87.4	95.4	102.9	104.5	102.6	99.7	110.1	116.6	112.1	109.6	<b>104</b>	100	95.4
2002	83.2	91.6	100	107.9	109.5	107.6	104.5	115.4	122.2	117.5	114.9	100	<b>104.8</b>	100
2003	86.7	95.3	104.1	112.3	114	112	108.8	120.1	127.2	122.3	119.6	104.1	109.1	<b>104.1</b>

Source: Main macroeconomic indices, 1998, 1999, 2000, 2001, 2002, NSI, Sofia, Statistics Reference Book of the Republic of Bulgaria, 2003, NSI, Sofia.

The GDP increase is higher than the EU average, however its per capita ratio reaches only 25% of that of the EU.

Table 2. Bulgarian Main Macroeconomic Indices 1998-2003

Indices	1998	1999	2000	2001	2002	2003*
GNP (BGN mln.)	21 577	22 776	26 753	29 709	32 324	33 642
Real GDP growth (%)	4.0	2.3	5.4	4.0	4.8	4.1
GNP per capita (in USD)	1542.3	1576.7	1541.8	1705.5	1988.3	2 165.8
Inflation (with Accumulation %)	1.6	7.0	11.3	4.8	3.8	5.6
Unemployment (%)	12.2	16.0	17.9	17.3	16.3	14.3
Direct foreign investments (in USD mln.)	537.3	818.8	1001.5	812.9	904.7	1272.6

Source: NSI, BNB, Ministry of Economy

\* preliminary data

## II. Indebtedness of the Bulgarian non financial sector

Between 1998 and 2003 the debt of the Bulgarian non financial sector increased 2.27 times. Higher competition urged companies not only to get bank investment loans but also to grant trade credits to their clients.

**Table 3. Debt of the non financial sector (in BGN mln.)**

	1998	1999	2000	2001	2002*
<b>Debt (BGN mln.)</b>	16 676.1	20 662.5	27 156.3	33 708.6	37 891.8
<b>Liabilities' share in company's capital (in %)</b>	49.8	52.9	56.8	58.9	59.6

\* preliminary data

Source: Statistic Annual, NSI 1999, 2001, 2001, 2002.

Equity share of enterprises in Bulgaria is clearly lower than in Germany but higher than in Italy.

**Table 4. Equity to liability ratios (in %) of enterprises in several countries**

	Germany	France	Italy	Holland	USA	Bulgaria
<b>Capital</b>	30.1	35.2	26.7	48.8	37.4	18.7
<b>Reserves</b>	29.8	6.0	8.7	4.9	15.5	18.7
<b>Liabilities</b>	39.9	58.8	64.6	46.3	47.1	62.6
<b>Incl. Bank loans</b>	6.7	7.5	19.0	8.4	9.0	10.6

Source: Economic Research of Creditreform, Insolvencies in Europe 2002-2003

\* according to NSI data, Statistic Annual 2001, C.2002.

Changes in the share of liabilities both in the private and public sectors reflect the activity of the Bulgarian private sector. The relative share of liabilities in the non financial private sector increased from 55.3 % in 1998 to 84.6 % towards the end of 2002.

**Table 5. Share of non financial sector's liabilities in the private and public sectors combined (in %)**

Sector	1998	1999	2000	2001	2002*
<b>Private</b>	55.3	65.9	77.9	80.6	84.6
<b>Public</b>	44.7	34.1	22.1	19.4	15.4

Source: Statistic Annual, NSI 1999, 2001, 2001, 2002.

\* preliminary data

The current liabilities to long term liabilities ratio shifted towards larger long term liabilities resulting from the extended bank investment loans.

**Table 6. Current to long term liabilities ratio in the non financial sector (%)**

Liabilities	1998	1999	2000	2001	2002*
<b>Current</b>	76.3	76.8	77.2	75.8	74.9
<b>Long term</b>	23.7	23.2	22.8	24.2	25.1

\* preliminary data

Source: Statistic Annual, NSI 1999, 2001, 2001, 2002.

Increased trade credits generated higher liabilities in the non financial sector. Liabilities almost tripled between 1998 and 2002, with BGN 651,30 mln. new debts between 1999 and 2001 alone, a 214% increase. In 2002 the private sector had the lion's share of trade credits liabilities: 96.3% of the short term and 91.8% of the long term with only 3.7% and 8.2% left for the public sector. In 1998 current and long term liabilities of the non financial private sector were 88.24 % and 54.47 % against 11.76 % and 55.53 % for the non financial public sector.

**Table 7. Bulgarian non financial sector's trade credits liabilities between 1998 and 2002 (in BGN mln.)**

	1998	1999	2000	2001	2002*
<b>Trade credits liabilities</b>	328.7	573.5	996.9	1224.8	1376.8

\* preliminary data

Source: Statistic Annual, NSI 1999, 2001, 2001, 2002.

The equity share in Bulgaria decreased between 1998 and 2001. In 1998 the equity-to-liabilities ratio was 47.1 to 52.9 against 37.4 to 62.6 in 2001. Typically for this period the level of bank debt remained constant (at 10.2 to 10.6 %) despite the credit expansion. The share of purely trading financing amongst companies increased. This can be explained by the long and cumbersome procedure when applying for a bank credit coupled to the fact that a bank is a privileged creditor in case of defaulted debt repayment, whilst in case of trade credits a supplier is even interested in increasing its turnover, most often the beneficiary being already a customer, with a good relationship established between them. Many suppliers prefer granting trade credits with a repayment schedule in order to keep a customer. In case of delayed payments, however, interest is hard to collect, and in case of default the creditor is in a far less favorable position than a bank.

**Table 8. Equity to liabilities ratio of the Bulgarian non financial sector between 1998 and 2001 (in %)**

	1998	1999	2000	2001
<b>Capital</b>	20.2	18.9	19.2	18.7
<b>Reserves</b>	26.9	24.8	20.6	18.7
<b>Liabilities</b>	52.9	56.3	60.2	62.6
<b>thereof bank loans</b>	10.2	10.5	9.8	10.6

Source: NSI, Statistic Annual, 1999, 2001, 2001, 2002.

### III. Key characteristics of the Bulgarian non financial sector's credit policy

#### Part 1. Credit limit, taking credit decisions

Do companies have established internal credit policy?

88.7 % of the companies that participated in the research have established credit policy with rules and procedures when granting trade credits to customers. This is due to the market development and aims at increased competitiveness. Therefore, Bulgarian non financial sector does not fall much behind its EU counterparts where over 90% have a clearly established credit policy. 11.3 % of the companies in Bulgaria have no established policy in granting trade credits.

**Table 9. Is there an established company's credit policy**

Industry	A company with an established credit policy (%)	A company with unestablished credit policy (%)
Production	87	13
Building & construction	91	9
Commerce	89	11
Services	93	7

61% of the companies had to change their credit policy because of market and competition pressure. Companies are forced to develop more flexible strategies and start offering more favourable conditions and payment terms to their customers. That is valid especially for commerce and services sectors.

Almost 39% of the companies define internal credit policy as independent of competition in their respective field of activity.

**Table 10. Companies' credit policy influenced by competition**

Industry	Companies which changed their credit policy due to competition (%)	Companies which did not change their credit policy, despite competition (%)
Production	59.3	40.7
Building & construction	42.0	58.0
Commerce	67.3	32.7
Services	67.0	33.0

#### Payment terms

74 % of the companies demand prepayment or cash. However, 73.6 % grant their customers trade credits up to 30 days, 49.7% - up to 60 days, and 13.8 % deliver goods on consignment.

**Table 11. Payment terms of companies by industries (in %)**

Industry	Prepayment or cash	Credit up to 7 days	Credit 8-14 days	Credit 15-30 days	Credit 31-60 days	Credit over 60 days	Consignment
<b>Production</b>	76.7	34.0	43.0	70.9	46.5	23.3	12.8
<b>Building &amp; construction</b>	75.0	33.0	66.7	91.6	58.3	33.0	8.0
<b>Commerce</b>	78.0	41.3	63.0	76.0	52.2	32.6	21.7
<b>Services</b>	47.0	40.0	53.0	67.0	53.0	27.0	-

*Remark* The sum totals more than hundred because the enquired have given more than one answer

### Actual payment terms

The highest share of companies have signed deals under the 8 to 14 days deferred payment terms - 51.7 %, the smallest share have deals on consignment - 16.3%. Deals against prepayment or cash take a relatively high share - 35.7 %.

**Table 12 Actual payment terms (in %)**

Industry	Prepayment or cash	Credit up to 7 days	Credit 8-14 days	Credit 15-30 days	Credit 31-60 days	Credit over 60 days	Consignment
<b>Production</b>	38.0	24.5	20.8	36.8	30.4	26.3	22.9
<b>Building &amp; construction</b>	26.0	15.5	27.5	40.8	22.0	17.8	2.0
<b>Commerce</b>	38.0	19.2	21.8	32.0	26.5	22.90	10.5
<b>Services</b>	38.0	39.0	10.75	51.3	34.8	30.5	-

*Remark* The sum totals more than hundred because the enquired have given more than one answer

When comparing we see a gap between cases when prepayment or cash is demanded (69.2 %) and cases when deals are actually signed under these conditions – only 35%. This gap is highest in commerce and construction segments.

### Setting the credit limit

Over 90% of companies in developed markets set credit limits to their customers. Credit limit calculation is the main instrument in finding the right balance between reasonable turnover increase and the risk of non payment.

Untill recently, many companies in Bulgaria had no established credit policy and didn't set credit limits to their customers. The survey revealed that in 2003 some 88% of the enquired companies had already set credit limits to their customers, thus behaving more and more like the companies in the EU.

**Table 13. Companies having set credit limits to their customers (in %)**

Industry	set credit limit			No credit limit set
	For all customers	For regular customers	For relatively regular customers	
Production	5.8	70.9	8.1	16.2
Building & construction	9.0	75.0	8.0	8.0
Commerce	8.7	73.9	8.7	10.7
Services	40.0	40.0	6.7	13.3

### Information for credit decision making

An EU directive provides for annual accounts of capital companies to be public information. Additionally databases kept by official institutions such as chambers of commerce, courts etc. provide information about protested cheques and payment behavior. Other information sources include branch analyses, credit and debt collection agencies. On the other hand EU companies have automated systems to follow customers' payments and larger companies have their own credit control departments.

In Bulgaria companies' financial statements are still regarded as confidential. Few annual accounts are published and many still don't reflect the real business operations. The credit register stores information on bank credits only and is available only to banks.

**Table 14. Information sources used when taking credit decisions**

Information source	%
Customers' information	39.0
Third parties information sources	37.0
Trade experience with customers	83.0

*Remark* The sum totals more than hundred because the enquired have given more than one answer.

The information companies require from their customers to base their credit decisions on comprises of: financial standing, turnover, customers, staff, and market share. This is typical for big companies granting considerable credit lines.

Furthermore, companies get external information from specialized agencies' credit reports, from customers' main business partners about their payment experience and customers' trade reputation, from specialized branch publications, from press reports etc.

For most Bulgarian companies the track record with client base is the prevailing argument when setting a credit limit, the rationale being to continue crediting customers with steady payments records. This practice combined with failure to evaluate and control risk lead to delayed payments and bad debts.

**Table 15. Information sources by industries (%)**

Industry	Information source		
	Information from customers	Information from third parties	Trade Experience with customers
<b>Production</b>	34.9	34.9	86.0
<b>Building &amp; construction</b>	25.0	33.0	83.0
<b>Commerce</b>	39.1	37.0	87.0
<b>Services</b>	73.3	46.7	60.0

*Remark* The sum totals more than hundred because the enquired have given more than one answer.

## **Part 2. Payment control, delayed payments, out-of-court debt collection**

### **Satisfaction with customers' payments**

61% of companies are satisfied with their customers' payments. Most satisfied are manufacturing entities. That is due to the fact that 38% of their invoiced deals were prepaid or paid cash and many were concluded with a fixed term from 15 to 30 days. Most unsatisfied with their customers' payments are companies operating in building & construction sector– 58%.

**Table 16. Satisfaction with customers' payments**

	%
<b>Quite satisfied</b>	25.28
<b>Satisfied</b>	35.65
<b>Quite unsatisfied</b>	33.62
<b>Disappointed</b>	5.45

**Table 17. Companies' satisfaction with the customers' payments by branches (%)**

Industry	Quite satisfied	Satisfied	Quite unsatisfied	Disappointed
<b>Production</b>	28.5	46.3	19.4	5.8
<b>Building &amp; construction</b>	22.1	17.0	58.0	2.9
<b>Commerce</b>	23.8	39.3	30.4	6.5
<b>Services</b>	26.7	40.0	26.7	6.6

## Delayed payments

Table 18. Average payment terms in Europe for 2002 (in days)

Country	Payment terms (average in days)	Delay (average in days)	Total
Italy	66	21	87
France	46	10	56
Belgium	39	22	61
Great Britain	31	23	54
Austria	27	10	37
Switzerland	22	14	36
Holland	26	20	46
Germany	23	17	40
Sweden	26	8	34

\* Source: *Insolvencies in Europe 2002/2003, Economic Research of Creditreform, 2003.*

<b>Bulgaria</b>	<b>14</b>	<b>41</b>	<b>55</b>
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In order to recover their current assets sooner Bulgarian companies require short payment terms from their customers. Actual delay in payment in Bulgaria is longer than the EU average payment delay.

Table 19. Enquired companies' actual deals and payment delays

Industry	Payment within terms	Delay						Non payment
		up to 7 days	8-14 days	15-30 days	31-60 days	61-90 days	over 90 days	
Production	62.8	20.3	14.2	17.0	13.1	9.1	10.8	7.2
Building & construction	33.0	27.0	27.0	25.0	14.0	19.0	11.0	3.0
Commerce	60.0	22.2	14.5	14.6	10.0	6.8	4.5	9.2
Services	70.5	11.4	7.8	13.6	11.4	14.7	2.8	2.8

**Remark** The sum totals more than hundred because the enquired have given more than one answer.

60% of the deals concluded between Bulgarian companies are paid within terms and 7% end as bad debts. 40.3% of companies state that 10% of their customers have delayed payment for more than 90 days. The average payment delay in Bulgaria is 41 days with average payment term of 14 days.

Bulgarian companies' payment record is worse than in the EU due to the slow-going judicial system and the existing normative acts dealing with insolvency. No statistics are kept on companies declared insolvent. In 2002 150,275 EU companies have been declared insolvent.

**Table 20. Number of European companies declared insolvent 2001-2002**

Country	2001	2002
Austria	5 178	5 254
Belgium	7 062	7 121
Denmark	2 189	2 472
Finland	2 077	2 802
France	34 876	38 688
Germany	32 390	37 700
Greece	591	512
Ireland	427	379
Italy	15 200	15 600
Luxembourg	750	695
Holland	4 329	4 802
Norway	2 174	2 507
Portugal	1 594	1 924
Spain	335	448
Sweden	7 433	7 819
Switzerland	3 613	4 800
Great Britain	15 574	16 752
<b>Total</b>	<b>135 795</b>	<b>150 275</b>

\* Source: *Insolvencies in Europe 2002/3003, Economic Research of Creditreform, 2003.*

## Losses due to delayed payments in 2002

An average 25% of the companies suffer losses from unpaid invoices mainly in commerce and services sectors. 27.6% of companies have incurred debt collection expenses.

Many Bulgarian companies can't evaluate their losses caused by delayed payments. The conclusion is that even if companies have an established credit policy, most of them can't calculate in future pricing the losses from delayed payment.

## Avoiding delayed payments and debt collection

Only 32% of companies have resorted to professional debt collection.

**Table 21. Methods used to avoid delayed payments and to collect debts (%)**

Industry	Insurance of credit risk	Factoring	Legal services	Debt collection agencies	No methods used
Production	8.1	1.16	41.9	11.6	5.8
Building & construction	-	-	75.0	8.33	25.0
Commerce	2.2	-	38.7	19.6	28.3
Services	26.7	13.3	20.0	20.0	-

An average 9.25% of companies insure credit risk, whereas over 40% of the EU companies do so. 35.1% of companies said the lack of information about these services is the main reason for not insuring, 28.25% answered this kind of services was too expensive, for 38.13% these services were difficult to apply to their branch, and 16.5% were of the opinion they do not need to insure.

**Table 22. Reasons for not insuring the credit risk (in %)**

Industry	Lack of information	Services are expensive	Using services is difficult	No need
<b>Production</b>	41.9	25.6	20.9	13.9
<b>Building &amp; construction</b>	41.7	8.3	50.0	16.7
<b>Commerce</b>	43.5	39.1	28.3	8.7
<b>Services</b>	13.3	40.0	53.3	26.7

Only 3.62% of companies have used factoring services whereas over 15% of EU companies do use them. According to 66.8% of companies they don't use this kind of services for lack of information, and according to 10.6% factoring services are expensive. It is worth to note that 20% of the companies dealing with services regard these as unnecessary which indicates they are not familiar with factoring.

**Table 23. Reasons why companies don't use factoring**

Industry	Lack of information	Services are expensive	No need	Other
<b>Production</b>	50.0	8.1	18.6	6.9
<b>Building &amp; construction</b>	83.3	16.7	8.3	-
<b>Commerce</b>	73.9	10.9	6.5	4.3
<b>Services</b>	60.0	6.7	20.0	6.7

Despite the fact that legal collection in Bulgaria is difficult and inefficient, it is common practice to use legal services. 43.9% of the companies mainly in commerce and building sectors indicate they use legal services.

Using specialized agencies for out-of-court debt collection has been for a long time normal practice in over 80% of the EU companies. In Bulgaria, with an average payment delay of 41 days, only 16% of enquired companies confirm to have used out-of-court debt collection, these being mainly companies dealing with trade and services.

According to 43.8% of companies lack of information was the reason for not using this kind of services. In many cases debt collection is still identified with the activity of criminal structures. 13.18 % of Bulgarian companies regard professional debt collection services as expensive, 18.08% say using these services in their branch was complicated and 13.65 % mean there was no need for such kind of services.

## IV. Debt collection methods

Companies' receivables in 2001 grew by 30.68 % compared to 2000, and for the same period receivables from trade loans increased by 84.51%.

Table 24. Receivables of non financial enterprises in Bulgaria between 1998 and 2001 (in BGN mln.)

Receivables	1998	1999	2000	2001
Long term receivables	311.0	424.8	686.0	1553.4
Incl. Trade loans granted	39.9	56.6	97.8	201.5
Current receivables	5 120.2	6 887.5	9999.7	12 410.7
Incl. Trade loans granted	26.5	66.4	94.6	153.5
Total receivables	5 451.2	7 312.3	10 685.7	13 964.1
Total receivables from trade loans granted	66.7	123	192.4	355.0

Source: Statistic Annual, NSI 1999, 2001, 2001, 2002.

Here is a summary of what the enquired companies said about their methods of debt collection:

### Debt collection using own resources

The practice in developed markets shows that debt collection on its own can be effective if customers' payments are controlled and strictly registered. There is a direct relation between probability of debt repayment and creditor's taking timely collection measures. Experience shows that a reminder sent within a week after payment term can considerably increase collection. If the company starts collecting a month after payment term, collection goes down considerably and the declining trend continues if measures are taken 60 days after payment term or later.

The following reasons make own debt collection in Bulgaria low efficient:

- many companies lack automated trade credits payment control system
- there are no credit control departments
- the work is not done by professionals
- there is direct relation between company size and debt collection efficiency, with smaller companies having relatively high collection expenses.

### Taking legal steps.

**A) Litigation:** Many of the companies report litigation as being the most frequently used debt collection method. At interviews the following draw-backs were revealed.

1). Huge costs – incl. court taxes (4% of the amount claimed), taxes and deposits for experts examinations, lawyers' fees, taxes for other evidential claims, translations, legalizations etc. Usually costs are around 10% of the claim, but for claims below BGN 600 they can reach 50% of the claim.

2). Cumbersome procedure of hearings setting and lawsuit management. Judges at first instance courts (especially in the capital Sofia, Sofia District Court and Sofia City Court) are overwhelmed. E.g. 15-20 court cases are appointed for hearing on the same day or even at the same time. If a case is postponed the new court session is usually more than 2 months away (e.g. for Sofia City Court 3-4 months later). The Law allows for numerous appeals and case trials before higher instance courts. An appeal can run for more than a year. The creditor has to be patient and wait for two or three years to receive the court ruling together with the legal sanction against the debtor – a court decision and a writ of execution. A new procedure must be started for the voluntary or compulsory execution.

3). The companies report mistakes as well – judges being overwhelmed with sessions arguments, claims and objections are not correctly recorded. Basic errors occur even when the judge examines the creditor's application to start a procedure against a debtor. The companies report that cases of litigations were not started due to unpaid taxes (when taxes were paid), applications not examined, and judgements passed against creditor's indications and argumentation of facts before the litigation actually starts, thus practically passing judgement on the case before the hearings which distorts the whole procedure.

4). Cumbersome procedure – despite amendments in the Civil Procedure Code passed in 2002 serving summons for the first court session is extremely problematic, especially if the defendant bribes the official who hands out the papers and the summons. The court postpones the case several times (does not proceed with the case). In cases of District or City Courts irregular summons can well take a whole year thus enormously increasing the duration of the process. Intensive commercial and civil legal relations, private persons mobility, easy transformation of the trade companies and transfer of activities and the so called “assets stripping” render any prolongation of the court procedure extremely damaging to plaintiff's interests. Companies report being confronted with the following example case: debtor – a private person that left the country, with whereabouts unknown, a trade company – with changed management, structure and form, having divested its assets. Under this scenario even favorable court decision will not allow active execution against the debtor. The creditor has to attack in court the individual divestment deals which have damaged his interests, asking the court to declare them null and void. Unfortunately this procedure is also difficult and cumbersome.

5). The companies state that there are numerous cases of controversial opinions of experts examination which reveals experts' corruption. On many occasions the court appointed expert directly contacted the parties to make them bid for a favorable expert opinion.

**B) Execution procedures.** Companies report that after the court decision is passed in 95% of the cases the debtor does nothing to repay the debt, obliging creditors to resort to execution procedures for compulsory collection through a bailiff. Despite the amendments in in the Civil Procedure Code related to compulsory execution to make it faster and more efficient, companies still face many problems. Please find below the draw-backs listed by the companies:

1). Cumbersome process of date setting, procedure management and summons serving. The companies describe the execution procedure as equally difficult: e.g. it cannot be established if there is such a debtor, private individual or trader, at the addresses given by the first instance court or by the creditor; a creditor's representative had better personally supervise the serving of papers and summons; often the bailiffs consider the fact of the debtor's not being found at the

address given by the creditor to be sufficient enough reason to abandon execution; the creditor is required to present information about the bank accounts, the existing realities, movables and other debtor's assets. In most cases the creditor cannot provide such data and blocking of bank accounts, distraint on movable assets and realities get delayed.

2). bailiffs and clerks work in extremely bad conditions and they are overwhelmed

3). The law concerning public auctioning is clearly set in favour of the debtor (art. 367 to art. 389, as well as art. 348 of the Civil Procedure Code). For the public sale the auctioneer (the shop, the vendor's outlet) gets a low commission – 5% of the sale price. The sale expenditures are in most cases paid by the creditor. A distrained item is auctioned at the price set by the court appointed expert, no market price is taken into consideration. By law the item cannot be sold below the price set by the expert. In case this occurs, the vendor must cover the difference out of his own pocket. Companies consider that the text of art. 371 “if the item is not sold within 3 months from delivery to the auctioning shop or from the announcement of the sale, the article is free of distraint and is to be returned to the debtor” directly favours the debtor; within the 3-month period the creditor can ask for a second auctioning and in this instance paragr. 2 of the same article allows for an up to 20% reduction of the price set by the expert. If the item remains again unsold, it is free from distraint and is returned to the debtor. The same holds true for auctioning of realties – in case there are no vendees or valid offers, a second public sale can be organized at 80% of the price set. If the realty is still not sold, it is free from execution and the distraint is lifted by bailiff's request. These texts of the law provide the perfect conditions for corruption among experts and bailiffs

### **C) Insolvency procedure against the debtor.**

Another legal way for debt collection described by the companies is initiating insolvency procedure against the debtor. At first this might seem to be a quick and efficient collection procedure because it limits the debtor's ability to harm creditor's interests. Most companies however find many deficiencies there. The different stages of the insolvency are slow and allow for contestations: examination of the application do declare a trader insolvent (this procedure could last several months, expert examinations are ordered, experts are heard out); collection of bankruptcy assets, security measures (possibility to file abolition claims); receiver's appointment; claims presentation, calling creditors' meeting, discussing and accepting a sanation plan and if such a plan is not offered, going over to the next stage: declaring the debtor insolvent, cashing the assets and satisfying the creditors. Process duration cannot be foreseen. The companies' experience shows that in Bulgaria the cashing of assets of larger companies can go on for years in a never ending process. Numerous litigations concerning procedural matters like the choice of receiver, creditors' lists, acceptance or rejection of claims by the court (especially in cases of “sham creditors”), discussions about validity of deals dated before the debtor's insolvency has been declared, which according to creditors or the receiver are harming the debtor (filing abolition claims). All these circumstances complicate the procedure, making it more expensive and preventing the effective settlement of the debt. The enquired companies find there are very few cases when creditors get fully satisfied when cashed assets are distributed.

After trying to collect their debts through court litigations the companies have come to the conclusion that the legislature has yet to create a quick and effective procedure for legal debt collection through the courts. Some of the companies openly declare the existing normative acts tolerate debtor's incorrect behaviour making him feel unpunishable. Instead of a creditor's dictatorship we have a dictatorship of the debtor.

### **Out-of-court debt collection by professional agencies**

in the developed countries out-of-court debt collection by professional agencies has an almost 150-year history.

The advantages of debt collection by professional agencies are the following:

- such agencies keep data bases on bad debtors and calculate credit ratings and credit limits
- collection agencies charge only percentage on the amounts collected, clients having to pay only in case when debts are actually collected.
- it is time and cost effective, sparing the creditor's need to organize his own debt collection department.
- the psychological effect on the debtor; he's informed that in case of non-payment his credit rating will be affected.
- collection agencies give their opinion on whether legal actions are appropriate

The following facts explain why this method is not widely used in Bulgaria:

- these services are new for Bulgaria and clients still do not trust them
- they are offered by criminal structures as well (unthinkable in the EU)
- using negative information when determining the credit risk is still not popular in Bulgaria, that's why the psychological impact on debtors is weaker than in the EU.