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Public Integrity Scan of Bulgaria

Strengthening Institutional Co-operation and Standards for
Integrity



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About this paper

Responding to today's dynamic and complex policy problems puts significant pressure on governments in delivering on their policy goals and mandates. Improving public governance and public sector effectiveness is critical if governments are to ensure they meet their citizens' expectations. There are number of areas where governments can focus efforts. This Public Integrity Scan is part of a set of public governance scans that focuses on three critical areas for fostering trust in government and public institutions. The Public Integrity Scan, supports government efforts to reaffirm and communicate core public sector values and ethics, and build a culture of integrity and control corruption. A second scan supports the government to prioritise among high-level policy objectives, in particular the centre of government (CoG) capacity to lead and co-ordinate strategic planning, policy design and implementation across government and to overcome complex and multi-faceted challenges. A third scan, supports government to establish sound regulatory frameworks and policies for improving the functioning of the public sector as a whole, implementing government objectives, and delivering better economic and social outcomes for citizens and business.

Within the framework of the "Driving Public Administration Reform Forward" project, the OECD provided support to Bulgaria to improve co-ordination among public integrity bodies, enhance the co-ordinating and strategic visioning functions of the CoG, and refine the use of regulatory management tools by developing concrete reform proposals based on good practices and international standards. The project was funded by the European Commission's Directorate-General for Structural Reform Support. Ultimately, this support will help Bulgaria create a more co-ordinated, reliable and favourable institutional environment for more efficient policy design and implementation. The project has led to three policy scans of Bulgaria that provide an integrated set of recommendations to support Bulgaria's reform efforts:

- The **Public Integrity Scan** analyses the country's institutional and legal public integrity framework and provides proposals to mainstream integrity in all public entities and improve implementation of standards.
- The **Centre of Government Scan** analyses the functions and institutional arrangements underpinning the CoG and provides an assessment of its role in decision- and policy-making systems. The Scan further looks at strategic planning and the CoG's ability to define government priorities and commitments across government and translate them into measurable objectives.
- The **Regulatory Policy Scan** assesses the country's regulatory management capacity by taking stock of regulatory policies, institutions and tools, describing trends and recent developments, and identifying gaps in relation to good practices.

The three Scans were prepared under the auspices of the OECD Public Governance and Regulatory Policy Committees and form part of the Public Governance Directorate's broader engagement with Bulgaria. They draw on the OECD's expertise on public governance, including its work on centres of government, public sector integrity and regulatory policy and contribute to the OECD's programme of work on public sector effectiveness.

This Public Integrity Scan of Bulgaria was approved by the OECD Public Governance Committee on 24 February 2022 and prepared for publication by the OECD Secretariat.

Abstract

The policy paper provides an overview of the institutional landscape on public integrity in Bulgaria, focusing on its key co-operation mechanism – the National Council on Anti-Corruption Policy – and the way it can best serve the implementation of Bulgaria's main strategic anticorruption document, the National Strategy for Preventing and Countering Corruption. It also addresses the institutional arrangements for integrity within entities of the executive branch and elaborates on how they can be best strengthened and supported by national integrity actors. Together with the Centre of Government Scan and Regulatory Policy Scan this policy paper is a part of the governance scan series drafted in the framework of the “Driving Public Administration Reform Forward” project funded by the European Commission's Directorate-General for Structural Reform Support.

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Executive summary

The report addresses the institutional landscape on public integrity in Bulgaria, focusing on how the National Council on Anti-Corruption Policy could ensure the effective implementation of Bulgaria's National Strategy for Preventing and Countering Corruption. It also provides insights on the institutional arrangements for integrity within the executive branch and elaborates on how they can be strengthened and supported by national integrity actors.

An integrity system, whether at the government (national and sub-national) or organisational level, includes actors with responsibilities for defining, supporting, controlling and enforcing public integrity. Assigning clear responsibilities to the actors in the integrity system is necessary to promote co-operation, avoid overlaps and prevent fragmentation. To ensure the effective implementation of the public integrity framework, Bulgaria could broaden the composition of the National Council on Anti-Corruption Policy (NCAP) and provide for appropriate contribution from all national integrity actors. NCAP is an inter-ministerial body serving as the main integrity and anticorruption co-operation mechanism in Bulgaria with advisory, co-ordination and control functions which are mostly related to the development and implementation of the National Strategy for Preventing and Countering Corruption. Strengthening the NCAP through developing more detailed rules on its Secretariat's role and appointment could positively support integrity and anticorruption efforts in Bulgaria. The NCAP could improve efforts to ensure its work is regularly published on the website in order to improve general awareness, promote engagement of all its members and strengthen citizens' trust in Bulgaria's integrity and anticorruption efforts.

The National Strategy for Preventing and Countering Corruption sets out the goals of the Bulgarian competent authorities in the field of preventing and combating irregularities and fraud affecting the EU's financial interests over the period 2021-2027. The NCAP could set up a mechanism to implement the National Strategy for Preventing and Countering Corruption which includes the creation of technical working groups. A Civic Council was established next to the NCAP to exercise oversight over the implementation of anti-corruption policies, give opinions and put forward suggestions for making them more effective. Enhanced contribution of the Civic Council in the NCAP's work together with inputs from the business community, civil society organisations, the media, academics and the public in general could improve the effectiveness of the NCAP's work over the National Strategy for Preventing and Countering Corruption.

Integrity actors in charge of key preventive and control functions at the entity level have a crucial role in ensuring the mainstreaming of integrity policies. The NCAP, the Chief Inspectorate and the Commission for Combating Corruption and Confiscation of Illegally Acquired Property (CACIAF) could further support and guide the development of institutional anticorruption plans by inspectorates, whose capacity should also be increased. The CACIAF could also be further strengthened by national actors such as the Inspectorates and NCAP to effectively perform its anticorruption function, including the development of a methodology for the anticorruption plans.

Public officials play a crucial part in the effective promotion of an integrity culture by being ethical and providing an example. Actors with assigned integrity competences promote integrity within the organisation by articulating efforts and assuring the institution's compliance with different integrity policies. To

institutionalise and ensure continuity of integrity policies in the public administration more broadly, Bulgaria could decide to appoint an integrity actor in each public entity.

In order to make the institutional code of ethics and the national code of conduct part of the organisational culture of entities in Bulgaria and develop a preventive approach to corruption at entity level, Bulgaria could include the promotion of the Code of Conduct – and integrity standards – among the responsibilities of integrity actors to institutionalise integrity at the entity level.

To mitigate the specific risks of senior officials and respond to the increased expectations of citizens towards government and demanding standards of conduct, Bulgaria could develop a code of ethics particularly for senior officials to specify duties, prohibitions and guidance tailored to the risks of such positions in matters such as transparency, gifts, conflict of interest and integrity in decision making.

Preventing and managing conflict of interest and integrity-related offences is essential for meeting high ethical standards in public integrity. Therefore, the rules to prevent and manage conflict-of-interest situations to all public officials and formalise CACIAF's advice function for senior public officials could be strengthened and extended.

To ensure comprehensive whistleblowing protections, Bulgaria could review the legal framework by clarifying internal and external channels, introducing the possibility of confidential disclosures and protections for whistleblowing. Establishing clear reporting channels is an essential element of a whistleblowing policy as it helps facilitate reporting and build confidence in the system and coming forward.

Bulgaria could consider introducing regulation on lobbying focusing on three key issues. First, the draft law should include clear legal definitions on a lobbyist and lobbying activities; second, it should also publish information on the objective of the lobbying activity to enable public scrutiny; and third, the draft law should assign clear responsibilities for monitoring compliance with the lobbying regulations.

1 Strengthening institutional arrangements for co-operation and implementation in Bulgaria

An integrity system includes different actors having different responsibilities which include developing, implementing, monitoring and evaluating integrity standards and tools, and which are carried out by actors across the whole-of-government (legislative, executive, and judicial) as well as across levels of government (national and sub-national). Assigning clear responsibilities to the actors in the integrity system is necessary to ensure co-operation, avoid overlaps and prevent fragmentation. At the same time, these actors should also work towards a commonly understood and shared objective to ensure the impact of integrity policies. In order to do that, it is essential that co-operation mechanisms are in place and that these are instrumental in developing and implementing a commonly-defined strategy addressing key integrity risks within the country (OECD, 2020^[1]).

The OECD Recommendation on Public Integrity devotes one of its three pillars to the development of a coherent and comprehensive integrity system. In particular, it calls adherents to:

- Clarify institutional responsibilities across the public sector to strengthen the effectiveness of the public integrity system.
- Develop a strategic approach for the public sector that is based on evidence and aimed at mitigating public integrity risks. (OECD, 2017^[2]).

The present section addresses the institutional landscape on public integrity in Bulgaria, focusing on its key co-operation mechanism – the National Council on Anti-Corruption Policy – and the way it can best serve the implementation of Bulgaria's main strategic anticorruption document, the National Strategy for Preventing and Countering Corruption (Government of Bulgaria, 2021^[3]). It also provides some insights on the institutional arrangements for integrity within entities of the executive branch and elaborates on how they can be best strengthened and supported by national integrity actors.

1.1. Upgrading the National Council on Anti-Corruption Policy

1.1.1. Bulgaria could broaden the composition of the National Council on Anti-Corruption Policy and ensure appropriate contribution from all national integrity actors

An integrity system, whether at the government (national and sub-national) or organisational level, includes different actors with responsibilities for defining, supporting, controlling and enforcing public integrity. These include the “core” actors, such as the institutions, units or individuals responsible for implementing integrity policies. The system also includes “complementary” actors, whose primary purpose is not to directly support the integrity system but without whom the system could not operate (including functions such as finance, human resource management and public procurement) (OECD, 2009^[4]).

While the institutional arrangements to define and assign such responsibilities depend on the institutional and jurisdictional setup of a country, a set of functions should be part of an integrity system according to the OECD Recommendation on Public Integrity (Table 1.1).

Table 1.1. Integrity functions in a public integrity system

System	Culture	Accountability
Assigning clear responsibilities.	Integrating integrity into human resource management (e.g. assessing the fairness of reward and promotion systems) and personnel management (e.g. integrity as criterion for selection, evaluation and career promotion).	Assessing and managing integrity risks.
Ensuring mechanisms to support horizontal and vertical co-operation.	Building capacity and raising the awareness of public officials.	Applying internal audit.
Designing and implementing the integrity strategy or strategies.	Providing advice and counselling.	Implementing enforcement mechanisms.
Monitoring and evaluating the integrity strategy or strategies.	Implementing measures to cultivate an open organisational culture.	Applying independent oversight and audit.
Setting integrity standards.	Opening channels and implementing mechanisms for complaints and whistle-blower protection.	Applying access to information and implementing open government measures.
	Raising integrity awareness in society.	Engaging stakeholders across the policy cycle.
	Conducting civic education programmes. Implementing measures to support integrity in companies.	Preventing and managing conflict of interest.
	Implementing measures to support integrity in civil society organisations.	Implementing integrity measures for lobbying.
		Implementing integrity measures in financing political parties and election campaigns

Source: (OECD, 2020^[1]).

With regards to co-operation among different institutional actors, one of the challenges is ensuring that each of them, regardless of its level of independence, works towards a commonly-understood and shared objective to ensure the impact of integrity policies. Moreover, co-operation among actors responsible for various integrity instruments and functions should support the identification of synergies, and therefore help to avoid overlaps or gaps (OECD, 2009^[4]).

The main integrity and anticorruption co-operation mechanism in Bulgaria is the National Council on Anti-Corruption Policies (*Национален Съвет по Антикорупционни политики*, NCAP), which was established in 2015 by Decree No.136 and lastly amended on 19 October 2021. The NCAP is an inter-ministerial body with advisory, co-ordination and control functions which are mostly related to the development and implementation of the National Strategy for Preventing and Countering Corruption. In particular, its functions are to:

- Co-ordinate the development and update of draft strategies, programmes and plans in the field of prevention and countering corruption.
- Monitor and report on the implementation of the relevant strategic and programming documents and organises independent external evaluations of their implementation.
- Discuss the results of the implementation of anti-corruption policies and proposes measures to increase their effectiveness.
- Discuss information and specific problems in the implementation of anti-corruption policies.

- Discuss and provide opinions on analyses and reports relevant to countering corruption.
- Propose amendments to legislative acts with the aim of conducting prevention and counter corruption policies more effectively.
- Hear representatives of the institutions with regard to formulating and implementing measures and actions for prevention and countering corruption.
- Propose to the Prime Minister to entrust inspections by the Chief Inspectorate to the Council of Ministers (CoM).

The NCAP consists of a Chairperson, a Vice-chairperson, a Secretary, and its members. Following the last amendments introduced in October 2021 to Decree 136 of 2015, the NCAP is organised as follows: the Chairperson is the Deputy Prime Minister for Public Order and Security, the Vice-Chairperson is the Minister of Justice, while the Secretary of NCAP is a member of the President's political cabinet designated by the President. Other permanent members, including new ones introduced in October 2021, are:

- the deputy Minister of Justice
- the deputy Minister of the Interior
- the deputy Minister of Economy
- the deputy Minister of Finance
- the Deputy Chairman of the Commission for Combating Corruption and Confiscation of Illegally Acquired Property (CACIAF)
- the Vice-President of the Supreme Court of Cassation
- the Vice-President of the Supreme Administrative Court
- the Inspector General of the Inspectorate of the Supreme Judicial Council
- the Deputy Prosecutor General
- the Deputy Chairman of the State Agency for National Security
- the head of the Chief Inspectorate to the CoM
- A representative of the National Association of Municipalities in the Republic of Bulgaria. (Government of Bulgaria, n.d.^[5])

On top of these permanent members, institutions such as the Ombudsman, the Chairperson of the Internal Security and Public Order Committee, and the Chairperson of the Anti-Corruption, Conflict of Interest and Parliamentary Ethics Committee of the National Assembly may participate in the meetings of the Council. Furthermore, upon invitation, MPs, ministers, heads of other state bodies, representatives of local self-government and local administration, professional and civic organisations, other officials and experts can attend the Council meetings.

The NCAP and its core mission on the anti-corruption strategy demonstrate the commitment of Bulgaria in promoting co-operation on public integrity in an institutional and strategic way. However, although it includes and involves several key actors performing integrity functions within various state branches, the current composition of the National Council could be revised to ensure the appropriate participation of all relevant actors in Bulgaria. In particular, it should involve more closely some institutions, invite other actors to take part and ensure consideration of the perspective of entities from the subnational levels of government. The independence enshrined in the Constitution to entities not belonging to the executive branch would not be hampered by their participation in an institutional mechanism whose key function is developing and co-ordinating the implementation of a national strategy, as well as sound tools and policies to better mitigate corruption risks.

The plan to build a more comprehensive approach in co-operation efforts is underscored in the National Strategy for Preventing and Countering Corruption 2021-2027 (National Anti-corruption Strategy) (Government of Bulgaria, 2021^[3]) developed by the NCAP itself. On the one hand, it recalls that the activities of the NCAP should continue in accordance with the constitutionally-enshrined principles of separation of powers, the independence of the judiciary, and the right of citizens to seek, receive and disseminate information within the limits laid down in the Constitution of Bulgaria. On the other hand, it calls the Council's work to be an expression of enhanced co-operation and dialogue between executive, judicial and legislative authorities, local authorities and the Commission for Anti-Corruption and Illegal Assets Forfeiture (*Комисия за противодействие на корупцията и за отнемане на незаконно придобитото имущество*, CACIAF). In this context, Bulgaria could consider reviewing the composition and participation mechanism of the NCAP in several ways.

Firstly, although CACIAF is already a permanent member of the NCAP, the Council could take further advantage of its role and expertise by leading and co-ordinating the implementation of the National Anticorruption Strategy's measures which are most related to its responsibilities, which include:

- Implementing preventive anti-corruption activities.
- Gathering, analysis and verification of information where there is reason to believe that senior public office holders have committed acts of corruption.
- Verification and analysis of declarations of assets and interests by senior public office holders submitted annually in the course of their mandate, as well as one year after leaving office.
- Ascertainment of conflicts of interest of senior public office holders.
- Initiation of confiscation proceedings for illegally acquired assets.
- Preparation of analyses and development of methodologies for corruption risks.
- Conducting observation and periodic assessments of the application of the anticorruption measures.
- Collection and summarisation of good practices to maintain data base for implementation of the anti-corruption policies and measures.

CACIAF was established by "Act on counteracting corruption and on seizure of illegally acquired property" (Anti-corruption Law) of 2018 as an independent specialised standing collective public body and combined the former Commission for Prevention and Ascertainment of Conflict of Interest, the Centre for Prevention and Counteracting Corruption and Organized Crime at the CoM, the relevant unit of the National Audit Office, related to the activity of the repealed Act on Publicity of Property of Persons Holding Senior State and Other Positions and the relevant specialised directorate of the State Agency National Security, related to counteracting corruption actions among the persons holding senior state positions with the Commission for Illegal Assets Forfeiture. The chairperson of the Anti-corruption Commission, his or her deputy and the three members are elected by simple majority in the National Assembly for a six-year term of office.

As stressed in the National Anticorruption Strategy (Government of Bulgaria, 2021^[3]), the work of the Council should particularly align with the preventative functions assigned to the CACIAF by the Anti-corruption Law, which include analytical, monitoring and awareness raising activities which also relate to national policies and measures (Box 1.1).

Box 1.1. CACIAF's preventive function

The Anti-corruption Law assigned a central role to CACIAF in the prevention of corruption (Chapter Four, Articles 30 to 34 of the Act) through the following responsibilities:

1. collecting, collating and analysing information on national anti-corruption policies and measures
2. analysing, developing and proposing measures to prevent and counter corruption and co-ordinate their implementation, including by sector
3. carrying out activities to disseminate anti-corruption information, including anti-corruption policies and measures.

To carry out the first function, CACIAF collects, summarises information and maintains data base for implementation of the anti-corruption policies and measures; carries out observation and periodic assessment of the application of the anti-corruption measures, including in sectors; and collects and summarises good practices.

On the function about draft proposals, specific activities include co-ordination of every draft act, drawn up by the executive bodies, on presence of a corruption risk, as well as carrying out a follow up analyses of the act impact; identification and analysis of risk zones for corruption; and development of methodologies for assessment of the corruption risk, ethic behavioural standards, systems for verification of integrity and shall give assistance for their application.

On the third function, CACIAF is entrusted to conducting training, seminars and information campaigns with anti-corruption direction; providing opinions on requests of interested persons on the implementation of the act in relation to corruption prevention; and organising studies and analysis of public opinion.

Source: (Government of Bulgaria, 2018[6]).

Secondly, the National Audit Office (*Сметна Палата*, NAO) – Bulgaria's Supreme Audit Institution - should also be made a permanent member or, at least, invited to join relevant meetings involving oversight and accountability issues. The NAO exercises control over the implementation of the budget and other public funds, which – similarly to other supreme audit institutions – gives it a unique perspective on integrity risk areas and weaknesses of the control system. Its main task is to control the reliability and truthfulness of the financial statements of budget-funded organisations, the legality, efficiency and effectiveness of public funds management. Political parties and/or candidates must also submit their financial reports to the NAO. Its greater involvement in the NCAP is also due to the fact that, based on its mandate established by the National Audit Office Act, when carrying out its activities the National Audit Office shall co-operate with government authorities, for the purpose of increasing the efficiency of the control system and fighting against crime and corruption.

Thirdly, the Institute of Public Administration (*Институт по Публична Администрация*, IPA) should be invited in all the meetings and discussion relating to implementation, training and awareness raising activities, both those related to the National Anti-corruption Strategy itself and the policies and standards developed therein. The IPA was established in 2000 as part of administrative reform in the context of forthcoming EU accession. Throughout the negotiation process and following Bulgaria's successful accession, IPA has been a key instrument in facilitating the development of public administration in Bulgaria. The IPA was established and functions under the Civil Servants Act and serves as an institution of the Council of Ministers of the Republic of Bulgaria. The Institute focuses in three work streams, namely: training, research, and consultancy to successfully modernise the Bulgarian public administration. The IPA is financially supported by the Bulgarian government, state budget and various international projects. The

Institute of Public Administration conducts courses for newly appointed officials, for managerial positions and for professional development. In this context, it offers a course on the National Code of Conduct aimed to develop ethical standards for public administration officials and prevent corruption behaviour (Box 1.2).

Box 1.2. Integrity training by the Institute of Public Administration

The Institute of Public Administration conducts mandatory career development training for: 1) first-time civil service recruits; and 2) first-time management appointees. Additionally, the IPA proposes professional development training for officials in managerial and expert positions in the public administration. The IPA enables administrations to request ad-hoc training throughout the year.

The IPA training catalogue for 2021 includes new and updated courses, some of them co-financed by the European Union through the European Social Fund. Such courses include: Modelling, analysis and improvement of work processes in administration; Strategies and policies to counter risks in the public administration; Code of Conduct - Functions and Highlights.

The programme on the Code of Conduct includes three main modules, namely: “Codes of Ethics - Substance and Meaning”, “Code of Ethics as a prevention tool”, and “Code of Conduct and Ethical Infrastructure”. The modules touch upon European ethical principles, levels of ethical regulation, various types of conflict of interest, specific ethical rules, situations with involvement in corruption, presents and benefits, reporting corruption, whistle-blower protection, anti-corruption behaviour, and good practices. Knowledge on integrity related issues is being tested through examining practical case studies and through a final test.

Other integrity-related courses offered by the IPA which are not mandatory and require the payment of a fee include: Risk management in public sector organisations; Law on Liability of the State and Municipalities for Damages (LPLM); Combating fraud in the use of EU funds.

Source: (IPA, n.d.^[7]) ; Material shared to OECD by IPA following fact-finding mission.

Fourthly, representatives from subnational entities – in particular districts and municipalities - should also be involved on a regular basis in the activities and discussion in the NCAP. The consistent inclusion of subnational entities will help better support them and avoid gaps and overcome inconsistencies across regions and municipalities on integrity policies and practices. The inclusion, since 2017, of representatives from the National Association of Municipalities (*Национално Сдружение на Общините*) as permanent members of the NCAP is a positive step. However, membership could also be extended to the District Anti-corruption Public Councils, whose functions differ across district but include the following ones: co-ordinating, monitoring and control the district's anti-corruption policy; interacting with the NCAP; analysing risk factors; proposing amendments and providing recommendations to district's entities. Furthermore, the Council could create a working group or task force dedicated to subnational integrity and discuss mechanisms and tools to support regions and municipalities in adopting and implementing coherent standards as well as in addressing common challenges in line with constitutional division of powers.

Lastly, the NCAP could introduce a mechanism to involve other ministries and authorities with responsibilities in relation to the National Anticorruption Strategy and those responsible for at-risk sectors depending on the topic addressed during the Council's meetings. For the former group, Bulgaria could identify these actors based on the institutions with a role in implementing the roadmap defined in the National Anti-corruption Strategy (Government of Bulgaria, 2021^[8]). As for the latter one, the NCAP could conduct an assessment of institutions working in sectors with high risk of corruption building on the contribution of Bulgaria to the 2021 Rule of Law Report (Government of Bulgaria, 2021^[9]), which mentions

the following institutions under the section on sectors with high risks of corruption: the National Revenue Agency (*Националната Агенция по Приходите*), which oversees the collection and administration of state taxes and obligatory social security contributions (e.g. health insurance contributions, pension insurance contributions); the Customs Agency (*Агенция „Митници*) and the relevant units of the Ministry of Interior that conduct joint operations with Directorate-General National Police (*Генерална Дирекция „Национална Полиция*) and Directorate-General Border Police (*Генерална Дирекция „Границна Полиция*) to counter smuggling, and infringements and crimes related to value added tax and the intra-Community acquisition of goods; and the Public Procurement Agency (*Агенция по Обществени Поръчки*) that supports the Public Procurement Portal, providing access to information to all aspects of the public procurement process in Bulgaria.

1.1.2. Bulgaria could ensure the continuity of the National Council on Anti-Corruption Policy by developing more detailed rules on the Secretary's role and appointment

The continuity and sustainability of integrity and anticorruption co-operation mechanisms can be affected, among other factors, by the politicisation of the subject-matter. In many countries the person in charge of the co-ordinating body for integrity and anti-corruption policies is replaced when there is a change of government. A negative consequence of this is that integrity and corruption risk management strategies are also subject to political ups and downs, generating instability that affects their progress as well as loss of knowledge and talent and make co-ordination difficult. Rather than preventing change or advocating for change alone, the challenge is to seek balances between change and continuity. For example, the term of office could be fixed for pre-established periods and require specific technical capacity from their authorities. Promoting continuity in integrity policies can also be achieved through clear and standardised transition protocols when changes in government occur (OECD, 2019^[10]).

In Bulgaria, the Chairperson and the Secretary of NCAP are key actors when it comes to ensuring the continuity and progress of the Council's work and activities. The Chairperson of the NCAP plays a key role in ensuring the advisory, co-ordination and control functions with regards to the implementation of the National Anti-corruption Strategy. In particular, he or she has the following responsibilities: represent NCAP, schedule, set the agenda and chair the meetings of the Council, organise and supervise the implementation of the Council decisions. The provisions on the Secretary are quite limited in the Decree creating the NCAP, which only indicates that he or she should be a member of the President's political cabinet and designated by the President.

Although the legal framework does not provide detailed guidance the role and responsibilities of the Secretary, according to the information collected during the fact-finding mission, this person has an essential role in advancing the work and activities of the Council at the political level, including the adoption of the National Anticorruption Strategy. However, the fact-finding mission held in June 2021 highlighted that during the political phase of transition at the time of the interviews and lasting up to at least November 2021 there was no Secretary and therefore the work of the Council, including progress in the implementation of the National Strategy, was on hold. In order to ensure the continuity of the NCAP and avoid gaps in leadership in balance with political changes, Bulgaria could introduce additional rules on the Secretary's role, whose procedure for appointment and dismissal could be further specified, and rules for periods of political transition established. While changing the appointment procedure, Bulgaria could also introduce more specific rules on the requirements and responsibilities of the Secretary so that its contribution does not depend on contingent or political factors and expectations are clear from appointed persons.

1.1.3. The National Council on Anti-Corruption Policy could be further institutionalised by formally introducing a secretariat to support its activities and the implementation of the National Anti-corruption Strategy

Another factor that hinders the institutionalisation of co-operation mechanisms is the lack of capacity to fulfil their role. In order to carry out its responsibilities, each component of the integrity system – including the co-operation mechanisms itself – requires sufficient financial, technical and human resources that are commensurate with its mandate, as well as the appropriate capacities to fulfil its responsibilities. In practice, this means, for example, allocating the assigned resources to all relevant actors to ensure co-operation, including partnering with others, attending committee meetings and contributing to common databases. When resources are constrained, there tends to be a bias towards concentrating them on achieving vertical operational delivery rather than horizontal collaborative working, which can reinforce silos and lead to fragmentation or gaps in the integrity system (OECD, 2020[1]).

In this context a key role in the NCAP is played by the Chief Inspectorate of the Council of Ministers (*Главен Инспекторат към Министерския Съвет*) which is member of the NCAP and provides expert and technical support to the work and activities of the of the Council. The Chief Inspectorate of the Council of Ministers is under the direct supervision of the Prime Minister and exercises administrative control of the Council of Ministers and its administrative structures. Among other functions, the Chief Inspectorate receives reports of corruption from officials of the administration of the CoM and carries out/supervises inspections of actions carried out by officials of the administration of the CoM such as parliamentary secretaries, heads of public relations units, regional governors, advisors and experts to the political offices of the Prime Minister and Deputy Prime Ministers. When it suspects violations, the Chief Inspectorate can send reports to the Prosecutor's Office. Additionally, the Chief Inspectorate monitors the work of the internal inspectorates and aims to strengthen them in terms of preventing corruption in the public administration.

According to the information collected during the fact-finding mission, the Chief Inspectorate counts with a total staff of seven members for all its responsibilities, including the work for the National Council. In order to sustain its role and further institutionalise inter-institutional co-operation against corruption, Bulgaria could formalise the role of the Chief Inspectorate as NCAP's secretariat with the key missions to drive the implementation of the Strategy and ensure the continuity of both the activities and technical work of the NCAP. This role should also be couple with both financial and human resources allowing to appoint staff dedicated to the corresponding responsibilities.

The need to establish a permanent secretariat of the Council with dedicated public officials is also underscored in the National Anticorruption Strategy, which stresses the need to build permanent expertise and – more generally – allocate the Council more resources. Although not mentioned in the Strategy, this secretariat could be built under the Chief Inspectorate of the Council of Ministers to ensure the continuity and capitalise past efforts. At the same, as illustrated in one of the following sections, Bulgaria could consider having a single secretariat for both the NCAP and the Post-monitoring Council and, in such case, decide whether this should be with the Chief Inspectorate or the Ministry of Justice, which will provide technical support to the latter Council. Mandating an institution to support the national integrity and anticorruption efforts – either the national co-ordination mechanism or a strategy – is common in other EU countries such as Croatia, Czech Republic, Estonia, Lithuania, Poland, which Bulgaria could consider in formalising the role of the NCAP's Secretariat (Table 1.2).

Table 1.2. Institutions supporting co-ordination mechanisms and/or strategies in EU countries

	Croatia	Czech Republic	Estonia	Lithuania	Poland
Institution(s)	Ministry of Justice and Administration	Ministry of Justice	Ministry of Justice	Commission of the Government, Special Investigation Service (STT)	Central Anti-corruption Bureau, Supreme Audit Office
Co-ordination mechanism and/or strategy supported by the institution(s)	<p>Co-ordination mechanism: Committee for the Prevention of Corruption</p> <p>Co-ordination mechanism: Government Council for the Co-ordination of the Fight against Corruption</p> <p>Strategic documents:</p> <ul style="list-style-type: none"> - Strategy for the fight against corruption - Governmental Anti-Corruption Concept for fighting corruption for 2018-2022 - Anti-Corruption Action Plan for 2021-2022 	<p>Co-ordination mechanism: Anti-corruption National Action Plan 2021-2025</p>	Strategy: Anti-corruption National Action Plan 2021-2025	<p>Strategic documents:</p> <ul style="list-style-type: none"> - National Anti-Corruption Programme for 2015-2025 - Inter-institutional Action Plan for 2020-2022 for the Implementation of the National Anti-Corruption Programme for 2015-2025 	<p>Co-ordination mechanism: Inter-Governmental Assemble for Co-ordination and Monitoring of the Implementation of the Government Anti-Corruption Programme 2018-2020</p> <p>Strategy: Government Anti-Corruption Programme 2018-2020</p>
Supporting task(s) of the institution	Professional and administrative tasks for the work of the Council	<ul style="list-style-type: none"> - Administrative, technical and organisational support - Ensuring the functioning of the Working Committees - Collecting the documents and information - Preparing technical documents - Drafting opinions or other Council outputs - Proposing selected draft legislation to the Government - Drafting the annual report on the Council's activities - Updating information on the Council's activities and written outputs on the website 	Co-ordination of the action plan through the anti-corruption network, to which each ministry and the agency responsible for the implementation of the action plan will appoint a representative.	<p>The Commission of the Government monitors, controls and co-ordinates the implementation of the Anti-Corruption Action Plan 2020-2022.</p> <p>The STT monitors the results of the Action Plan. STT also co-ordinates and implements specific anti-corruption measures and milestones established in the Action Plan.</p>	<p>The Central Anti-Corruption Bureau is responsible for implementing the tasks and activities established in the action plan of the Government Anti-Corruption Programme 2018-2020.</p> <p>The Supreme Audit Office is in charge of evaluating the progress of the Programme.</p>

Source: (Croatia, 2017^[11]); (Government of Czech Republic, n.d.^[12]); (Government of Estonia, 2021^[13]); (Government of Lithuania, 2020^[14]); (Government of Poland, 2017^[15]).

1.1.4. The NCAP could improve its website and promote a communication campaign about its work and progress in the implementation of the National Anti-corruption Strategy

Making sufficient information available for public officials is key to raising awareness and understanding of integrity policies, standards, rules and administrative procedures. The methods and messages will depend on whether the aim is to raise awareness about integrity standards that are applicable across the public sector, or integrity rules applicable in specific institutions or contexts. Furthermore, effective communication tools and the sharing of key information across bodies are essential elements to develop a successful co-operation strategy for integrity. On the one hand, implementing communication strategies ensure that all actors in the system are informed of the integrity policies in place. On the other hand, the regular use of a communication strategy can strengthen the management's commitment and maintain the ongoing co-operation. For example, this would be the case of online portals and interoperable administrative databases to share information across organisations and enhance the effective co-operation among relevant integrity actors (OECD, 2020^[1]).

The NCAP has published on its website progress made in the implementation of the past anti-corruption strategy (2015-2020), as well as summary information related to corruption cases gathered from prosecution and courts (NCAP, n.d.^[16]). Other publications in the NCAP's website include official guidelines for conducting the anti-corruption plans in the public administration. Yet, as of August 2021, the latest news was published in 2019 and the current Anti-corruption Strategy for 2021-2027 had not yet been published in the website. With regards to its activities, the meetings of the NCAP are closed to the public, but the Council's proceedings are presented to the public through regular briefings and announcements to the media. On the website of the Council, the meeting minutes have been regularly published until 2019 and it is not clear whether any following meeting has taken place, or the activity has stopped due to the COVID-19 pandemic and the political transition started in early 2021. Lastly, the law provides that reports should be submitted periodically to the President of the Republic and the Council of Ministers.

The NCAP could improve efforts to ensure its work and activity are regularly published on the website in order to improve general awareness and contribute to promote engagement of all its members and citizens' trust in Bulgaria's integrity and anticorruption efforts. In this sense, Bulgaria could consider, as minimum, updating the website's information by adding a search functionality and allowing the information to be displayed in a user-friendly format. The website could also be enhanced by including a section on the Strategy which include visual tools that would allow the public monitoring of the anti-corruption Strategy (2021-2027), covering responsibilities and progress in implementing reforms. This would incentivise compliance with roadmap developed to implement the strategy.

Bulgaria could also consider developing a new NCAP website as envisaged by the Anti-corruption Strategy (Government of Bulgaria, 2021^[3]) but also by Bulgaria's Implementation Plan in response to the 2020 Rule of Law report (Government of Bulgaria, 2020^[17]), which plans the creation of a portal providing functional access to the information related to its activities by November 2021 under the responsibility of the Administration of the CoM and the Secretariat of the National Council on Anti-corruption Policies. Such platform would provide a modern anti-corruption tool allowing quick access for citizens and a comprehensive overview of information on the activities of the NCAP and the strategy documents adopted at its meetings. Furthermore, according to the National Anti-corruption Strategy, the development of a new website of the NCAP should make it possible to systematise information on activities to prevent and combat corruption, including through the disclosure and exchange of good anti-corruption practices, disclosure of reports, analyses and developments in the prevention and suppression of corruption, etc. In developing the website, Bulgaria could take into consideration the anti-corruption website of the Czech Republic, which provides a comprehensive view on initiatives and efforts, including progress in the implementation of its strategy, the Government's Anti-Corruption Concept 2018-2022 (Box 1.3).

Box 1.3. Czech Republic's anticorruption portal

The Czech Republic provides all relevant information on the governmental fight against corruption on the website www.korupce.cz which also features a news feed on the matter. The website includes up-to-date information on the institutional and strategic aspect of the country's anticorruption efforts. This includes the mandate, minutes of meetings, working committees and opinions of the Government Council for the Coordination of the Fight against Corruption, the Government anti-corruption documents, including actions plans and updates on progress in the implementation, as well as the Anticorruption Agenda, the recently launched Project to Strengthen the Fight against Corruption and international co-operation initiatives through relevant OECD working groups, the Council of Europe's Group of States against Corruption (GRECO), and Open Government Partnership.

Source: (Government of Czech Republic, n.d.^[18])

Next to the website, Bulgaria could consider developing a campaign allowing the NCAP to disseminate its overall work, also as a tool to build awareness about the consequence of corruption and the importance of preventing and fighting it. Awareness-raising campaigns are key to increase understanding of public integrity issues. They often highlight a specific issue and reach a designated audience. Campaigns can take various forms, ranging from traditional media (radio, television, print) to social media (e.g. YouTube, Twitter, Facebook), or a combination, depending on the objectives and target audiences (OECD, 2020^[11]). This kind of activities would also contribute to support one of the measure of the Anticorruption Strategy on "organisation of information and education anti-corruption campaigns" which aims to enhance the legal culture of citizens, including through training and dissemination of information on the nature of the corruption phenomenon, the negative impact of corruption on the state and individual citizens, ways in which public officials and other citizens can fight corruption, the protection of whistle-blowers and others, is most important in this context.

1.1.5. Bulgaria could ensure co-ordination and explore synergies between the NCAP and the Council for Coordination and Cooperation under the National Monitoring Mechanism

In 2019, Bulgaria created another co-ordination and co-operation mechanism which has also been attributed an anticorruption mandate. By Decree No. 240, the Council of Ministers established the Council for Coordination and Cooperation (Съвет за Координация и Сътрудничество) (Post-monitoring Council). Such Council will succeed the Cooperation and Verification Mechanism (CVM) which in turn was established at the accession of Bulgaria to the European Union in 2007 as a transitional measure to facilitate Bulgaria's continued efforts to reform its judiciary and step up the fight against corruption and organised crime. The mission of the Post-monitoring Council will be to monitor and report public indicators related to the fight against corruption and organised crime, judicial reform, and the rule of law. However, as of November 2021, it has not yet started to function because a decision by the European Commission terminating of the Cooperation and Verification Mechanism is still pending.

The Council will consist of two Co-Chairs, a Vice-Chair and members, who are:

- the President of the Supreme Court of Cassation
- the President of the Supreme Administrative Court
- the Prosecutor General of the Republic of Bulgaria
- the Inspector General of the Inspectorate of the Supreme Judicial Council
- the Chairman of CACIAF
- the Minister of the Interior
- the Minister of Finance.

Additionally, representatives of non-governmental organisations will participate in the activities of the Post-monitoring Council as observers and carry out monitoring of the progress made and the implementation of the measures and activities by giving opinions and making proposals to the Civic Council for improving performance (European Commission, 2019^[19]). Although the Post-monitoring Council has not yet started working, the procedure for the appointment of the members of the Citizens' Council has been launched but, as of November 2021, they have not been elected yet. However, it should consist of representatives from three civil society organisations: an organisation experienced in issues of judicial reform, an organisation experienced in anti-corruption, and an employers' organisation.

The Council does not have yet its own website but it will have the responsibility to report on its activities to the public by publishing on the websites of the CoM, the Supreme Judicial Council and the Ministry of Justice, within 7 days after each meeting, the minutes of the discussions, the opinions expressed and the decisions adopted, and a report on the progress of the implementation of the measures and activities. An annual report shall also be submitted to the mentioned institutions and made public.

In case of particular difficulties and issues encountered in the implementation of the measures and actions, the Council for Coordination and Cooperation may co-ordinate the interactions between the responsible institutions. In its capacity, the Council may propose follow-up actions and legislative changes. In accordance with their constitutionally and legally-established powers, the following institutions shall provide information on the activities and measures they perform in relation to the relevant indicators that will be developed:

- the Supreme Judicial Council
- the Inspectorate to the Supreme Judicial Council
- the Ministry of Justice
- the Public Prosecutor's Office
- the Supreme Court of Cassation
- the Commission for Anti-Corruption and Illegal Assets Forfeiture
- the Ministry of Finance
- the Ministry of Interior
- the National Council on Anti-Corruption Policies
- the Chief Inspectorate of the Council of Ministers
- the National Institute of Justice.

Considering the competence of both the Post monitoring Council and the NCAP on anticorruption issues and the presence of some institutions in both co-operation mechanisms, Bulgaria could develop a co-ordinated approach between these two councils to ensure coherent action and avoid overlaps between them. Strengthening co-operation between different anti-corruption bodies is also an institutional measure of the National Anti-corruption Strategy, which aims to ensure close interaction between the NCAP and the Council for Coordination and Cooperation under the National Monitoring Mechanism for the fight against corruption and organised crime, judicial reform and the rule of law, established by Decree No 240 of the Council of Ministers of 2019.

As a minimum, the two Council could organise periodic joint meetings, both at the technical and more formal levels, where both councils could report on work, discuss possible joint actions, share good practices and address commonly-faced challenges. Should the mandates allow it, Bulgaria could also consider discussing the possibility to define a single Secretariat for both mechanisms or even merge the two Councils. The Post-monitoring Council's Secretary will be appointed by the Minister of Justice and the secretariat performed by the Strategic Development and Programs Directorate of such ministry, which will support the work at technical level. In the NCAP there is no formal secretariat although the Chief

Inspectorate plays de facto such role and the present report recommends formalising it and ensuring adequate capacity to perform such function.

1.2. Ensuring the implementation of the National Anti-corruption Strategy

1.2.1. The NCAP could set up a mechanism to implement the Anti-corruption Strategy which includes the creation of technical working groups

A public integrity strategy is essential for supporting and sustaining a coherent and comprehensive integrity system. This includes drafting the document itself, as well as ensuring the processes for developing the strategy are adequately implemented and monitored. Strategies are also a way of demonstrating commitment but can also erode trust and credibility of public authorities if they do not lead to actions or their progress is not subject to monitoring and evaluation (OECD, 2020^[1]). In this regard, the OECD Recommendation on Public Integrity calls adherents to “develop a strategic approach for the public sector that is based on evidence and aimed at mitigating public integrity risks, in particular through:

- Setting strategic objectives and priorities for the public integrity system based on a risk-based approach to violations of public integrity standards, and that takes into account factors that contribute to effective public integrity policies.
- Developing benchmarks and indicators and gathering credible and relevant data on the level of implementation, performance and overall effectiveness of the public integrity system” (OECD, 2017^[2]).

The National Anticorruption Strategy sets out the goals of the Bulgarian competent authorities in the field of preventing and combating irregularities and fraud affecting the EU’s financial interests over the period 2021-2027. The main objective of this strategy is to continue efforts to improve the prevention, detection and fight against irregularities and fraud on the expenditure and revenue sides of the EU budget. The Strategy has established a roadmap for its implementation, which details actions for implementation of the measures, indicators for implementation, expected results, deadline for implementation, financing and responsible institution (Government of Bulgaria, 2021^[20]).

Furthermore, the National Anti-corruption Strategy emphasises the importance of monitoring the progress of its implementation. In particular, it establishes a periodic analysis every two years of the implementation of the anti-corruption measures envisaged during the relevant strategic period, the state of play of anti-corruption legislation, and the implementation of anti-corruption policies. To do that, a methodology for assessing the implementation of anti-corruption policies incorporated in the strategy is envisaged.

An important element of the monitoring exercise foreseen in the National Anti-corruption Strategy is the use of sociological surveys on corruption, both among the public and among those employed in the administration. The aim of these sociological surveys of citizens and businesses is contribute to clarifying the pro-corruption environment, such as their involvement in corrupt practices, whether this has been done voluntarily or through blackmail or abuse of office by the official and the like, and thus to assess the areas of government particularly vulnerable to corruption, the level of tolerance among the public with regard to corrupt practices, the need to target specific measures to raise the level of awareness among different population groups. Furthermore, the strategy will rely on surveys about perception of corruption within the administrations, opinions on the effectiveness of control mechanisms, and how to improve anti-corruption initiatives and anti-corruption policy.

The roadmap includes detailed actions and clear sequencing for its implementation. However, it remains unclear the specific mechanisms for its implementation. For this reason, the NCAP could set up an implementation mechanism that enables the engagement and co-ordination of all relevant institutions. This implementation mechanism should be steered by the Secretariat to be established in the NCAP – which

should have the necessary capacity – and rely on the participation of key institutional stakeholders, including the CACIAF, but also on representation of civil society organisations, such as the Civil Council, and the private sector. At the operational level, each institution could nominate a contact point to co-ordinate the activities and thematic working groups could be created to promote continuous commitment and co-ordination and a fluid reporting by the rapporteur of each group. Activities by each working group could be made visible in the Council's website, also through the development of progress indicators, and yearly conferences with the participation of all heads of participating institutions would allow to regenerate political commitment, showcase progress to citizens and identify gaps and challenges in the implementation. This mechanism should be formalised in Decree 136 of 2015 creating the NCAP to ensure continuity over the whole period of the current strategy. In doing that, Bulgaria could consider the example of Estonia and the Czech Republic (Box 1.4).

Box 1.4. Implementation mechanisms for integrity and anticorruption strategies and mechanisms in Estonia and Czech Republic

Estonia

The implementation of Estonia's Anti-corruption Action Plan 2021–2025 is co-ordinated by the Ministry of Justice through an anti-corruption network, to which each ministry and institution responsible for the implementation of the action plan appoints a representative. Each institution is responsible for performing activities assigned to it in the action plan. The anti-corruption network consists of anti-corruption contacts of the ministries and representatives of the actors involved in the Action Plan (Police and Border Guard Board, National Audit Office, Transparency International Estonia, Estonian Chamber of Commerce and Industry, etc.). The network aims to develop and share best practices, support co-operation and mutual learning, and exchange experiences in addition to monitoring the activities agreed upon in the action plan.

Czech Republic

The implementation of the Czech Republic's strategy on fight against corruption is co-ordinated by the Governmental Anti-Corruption Council ("Council") which operates as an advisory body to the Government on anti-corruption matters.

While the Strategy for the fight against corruption and the Governmental Concept for fighting corruption for 2018-2022 outlines high-level perspective and approach to fighting corruption, annual Action Plan proposes concrete measures to be adopted along with an indication which ministry is responsible for preparation given measure. Every year, each action plan is being reviewed and assessed.

The Council has the mandate to constitute working committees on particular anti-corruption topics (such as lobbying, whistleblowing, conflict of interests, open government and transparency in the public administration) that provide the Council with insights and advices. In particular, Article 5 of the Statute establishes that:

- The Council or the President of the Council may, as necessary, establish working committees, the members of which shall normally be experts in a specific field.
- The tasks of the working committees shall be assigned by the Council or the President of the Council. In carrying out their tasks the working parties shall co-operate with the Secretary of the Council.

The organisational and administrative works are secured by the Anti-Corruption Department within the Ministry of Justice.

Source: (Government of Estonia, 2021^[13]); (Government of Czech Republic, n.d.^[12]).

1.2.2. Bulgaria could enhance the contribution of the Civic Council in the NCAP work and assign it a monitoring role over the National Anti-corruption Strategy

Civil society organisations have an important role in building a strategic co-operative framework for public integrity. Inviting representatives from civil society, such as business or professional associations, think tanks, increases the range of voices in the development process and can help build a common vision and increase the legitimacy of the strategy, and hence augment political support for it in the wider society (UNODC, 2015^[21]). Together with the business community, civil society organisations, the media, academics and the public in general civil society organisations can provide valuable inputs, not only in the drafting stage but also in the later monitoring and evaluation of the strategy (UNDP, 2014^[22]).

A Civic Council (*Граждански съвет*) was established by a Decree No. 136 next to the NCAP. This entity is meant to exercise civilian oversight and control over the implementation of anti-corruption policies, give opinions and put forward suggestions for making them more effective before the Council. The work of the Civic Council is supported organisationally and technically by the Secretary of NCAP. The members of the Civic Council are determined by an order of the Chairperson of the NCAP, have the right to attend the meetings of NCAP and receive the materials intended for the meeting no later than the deadline provided for the members of the Council (CACIAF, 2019^[23]).

The composition of the Civic Council was expanded in 2019 and now includes 11 members, which are: one representative from seven non-governmental organisations who are active and have a proven experience in the field of preventing and counteracting corruption; one representative from two associations assisting small and medium-sized enterprises; and one representative from two employers' organisations recognised at national level. Participation in the Civic Council is on one-year rotation. Four representatives of the NGOs, one representative of the associations supporting small and medium-sized enterprises and one representative of the employers' organisations recognised at national level are substituted in rotation, unless there are fewer applications for participation (CACIAF, 2019^[23]).

During fact-finding meetings, concerns were raised about the limitations of the Civic Council to have their proposals and ideas considered by the NCAP. In particular, discussion during some of the interviews highlighted that the participation of members of the Civic Council is merely formal and does not allow a substantial contribution to the discussion. Bulgaria could consider increasing the proposing and monitoring role of the Civic Council along the mandate of Decree 136. One way to do this could be involving the Civic Council in the monitoring of the implementation of the National Strategy for Preventing and Countering Corruption 2015-2020 through regular reports on progress to be made available in the website, which could also make use of progress indicators. At the same time, proposals brought during the meetings should be tabled and discussed during meetings with the Civic Council and also uploaded in the website for the information of the public. The Strategy itself has recognised the importance of maintaining the work of the Civic Council of the NCAP and stressed that it should continue to carry out civilian monitoring and scrutiny of the implementation of anti-corruption policies, give opinions and make proposals to make them more effective. It also specially mentions that the monitoring and implementation of the Strategy will also rely on active civic participation and participation of business, media. In enhancing the contribution of civil society in the NCAP, Bulgaria could consider the way Latvia and Poland engaged with stakeholders in the development of their strategies (Box 1.5).

Box 1.5. Civil society contribution and involvement in the development of national strategies in Latvia and Poland

Latvia

Latvia has adopted the Corruption Prevention and Combating Guidelines for 2015-2020 (Cabinet of Ministers 16.07.2115. Order Nr. 393). A public consultation period is established by the following legislation: Cabinet Regulation No. 970 adopted 25 August 2009 "Procedures for the Public Participation in the Development Planning Process". This regulation provides for organising public consultation and establishes that it shall not be less than 30 days in length. Furthermore, this regulation provides for a notification on the participation process on the website section "Public Participation" of the development planning document to the decision-making body.

Moreover, an Inter-governmental consultation period is also established by Cabinet Regulation No. 300 adopted 7 April 2009 "Rules of Procedures of the Cabinet of Ministers". Process starts with submission of draft planning documents to State Secretaries meetings, where they are announced and made public. Then inter-governmental consultation takes place under the name of "Harmonisation of Announced Drafts". According to the Rules of Procedure, there are two weeks for comments to be submitted. If there are objections, meetings are organised, and the inter-governmental consultation continues until there are no objections or few objections.

Regarding the action plans that establish the procedures to implement the strategy, Latvia developed for example, the Fourth National Open Government Partnership Action Plan of Latvia 2020 - 2021, which was developed along with non-state actors' members of a working group, such as Transparency International and Providus.

Poland's Consultation Portal

Poland has a consultation portal in the webpage of the Ministry of the Interior and Administration, which contains the draft Government Programme for Counteracting Corruption for the years 2018-2020 (the programme), including all supporting relevant materials.

According to the documents available at the public consultation portal, the programme has also undergone extended public consultation procedures including conferences, consultation to NGOs, working groups, and meetings with stakeholders. The consultation portal contains a document named "Project - version for a consensus conference", which summarises the draft strategy along the outcome of the conference that took place for the purposes of consultation. The consultation portal also contains a "Comments table" including justifications.

Source: (Republic of Latvia, 2009^[24]), (Government of Latvia, 2009^[25]); (Government of Poland, 2017^[26]).

1.3. Institutionalising integrity at entity level

1.3.1. The NCAP, the Chief Inspectorate and CACIAF could further support and guide the development of institutional anticorruption plans by inspectorates, whose capacity should also be increased

Public sector entities, similarly to countries, should also count with an integrity system having clear responsibilities, co-operation mechanisms and agreed objectives. In this context, integrity actors in charge of key preventive and control functions at the entity level have a crucial role in ensuring the mainstreaming of integrity policies. While the format and models vary across countries, their role should be coherent with other actors' responsibilities and should be supported by national actors through guidance and tools.

In Bulgaria, internal inspectorates have the main anticorruption responsibilities within entities. Heads of the inspectorates report directly with the Minister or the authority to which it is attached, as the case may be, without the intermediation of the members or the Head of the Political Cabinet or the Chief Secretary. According to Article 46 of the Administration Act they are in charge of:

- prevention and elimination of irregularities in the functioning of the administration
- independent and objective evaluation of the operation of the administration
- improvement of the performance of the administration.

Their specific activities include the exercise of control and checks as regards conflicts of interest and the content of the mandatory asset declarations, submitted by public officials, advisors and experts and the alerting of the prosecution authorities in the cases where evidence is found for a committed offence. Furthermore, the inspectorates also assess corruption risks and propose measures to limit them (Box 1.6).

Box 1.6. Inspectorates' responsibilities in Bulgaria

- Carrying out comprehensive, planned, thematic, unplanned and follow-up inspections of structures, activities and processes in the administration.
- Assessing corruption risk and propose measures to mitigate it.
- Collecting and analysing information and carry out inspections to identify violations, corruption and inefficiencies in the administration.
- Monitoring compliance with the laws, regulations and internal departmental acts on the organisation of work by the administration's officials.
- Supervising and carrying out checks under the law on prevention and establishment of conflicts of interest.
- May propose disciplinary proceedings in the event of a finding of breaches of official duties and of the code of conduct for civil servants.
- Carrying out inspections on reports received against illegal or improper acts and omissions of administrative officials.
- Sending reports to the prosecution authorities when it finds evidence of a criminal offence.
- Drawing up acts for the establishment of administrative offences in case of established offences on the part of the officials of the administration, when provided for by law.
- In the event of a report of corruption or violations of the law by a body of the executive power or a public servant in a leading position, send a copy of the report to the directorate of the chief inspectorate for appropriate action.

Source: (Government of Bulgaria, 2006^[27]).

The 2019 annual activity report of the inspectorates illustrate their increasingly active role as regards conducting checks and ad-hoc inspections following alerts by citizens, organisations or institutions. In 2019, a total of 2 221 inspections were carried out by the inspectorates under Article 46 of the Law on Administration. The available information shows that the number of inspections in 2019 significantly increased compared to the checks carried out in previous years (1 485 in 2018 and 1 365 in 2017) (Government of Bulgaria, 2020^[17]).

Each internal inspectorate is also responsible for adopting an anti-corruption plan in line with the national anticorruption strategy. These plans aim to put in place risk-based measures to counter corruption, including in high-risk sectors within the administration of the executive branch. The anti-corruption plans should be approved by 31 January of the relevant year by the relevant Minister and should be based on the official guidance and technical expertise provided by the NCAP (Box 1.7). Each anti-corruption plan is then analysed by the CACIAF in relation to the compliance with the requirements of the Guidelines to Conduct Anti-corruption Plans adopted by the NCAP (2018^[28]), including their form, content, publicity and mitigation measures. For example, according to the information provided by CACIAF on the 2020 anti-corruption plans, a total of 724 measures have been planned in the 35 departments analysed and this data confirmed a positive trend compared to the previous two years (CACIAF, 2020^[29]).

Box 1.7. Guidelines to conduct anticorruption plans

Prior to conducting the anti-corruption plans, the anti-corruption guidelines specifically call for information on:

- The relevant corruption risks.
- A description of the measure for the relevant corruption risk.
- What the measure is aimed at-organisation, process, position, need for change in a normative or internal departmental act.
- An indicator of the impact of implementation.
- Implementation/non-implementation (and reasons for non-implementation).
- Person responsible for implementing the measure.
- Publicity section, including measures aimed at promoting the anti-corruption policies of the relevant department – publication of anti-corruption plans, their implementation reports, internal departmental acts, management decisions, etc.
- Measures to protect whistle-blowers.
- Indication of the possible means of reporting (address, e-mail address, telephone number, special boxes placed in the administration).

The head of the institution shall set up a working group for the preparation of an anti-corruption plan and shall, by the order, designate the head of the working group and the deadline for the preparation of the plan. In order to achieve a comprehensive inclusion of measures in anti-corruption plans, the working group should include the head of the inspectorate, the head of the internal audit unit, a senior official from the legal and procurement directorate, other general administration officials and the heads of each specialised directorate/unit. External experts may be invited as members of the working group if their assistance is needed in the process of drawing up the anti-corruption plans. The Head of the institution shall approve the final anti-corruption plan and the official(s) responsible for the implementation of the anti-corruption measure(s) shall report at least every three months to the line manager/head of institution on the implementation of the measures, the reasons for non-implementation and the persons responsible.

Source: (NCAP, 2018^[28]).

The adoption of anticorruption plans is a positive step to manage integrity risks, create a culture of prevention and ensure accountability at the entity level. In this context, the guidelines of the NCAP and the plan's analysis of the CACIAF are an important contribution to their work and effort. However, inspectorates could be further supported by national actors to effectively perform its anticorruption function, including the development of anticorruption plans.

Firstly, as pointed out during meetings in the fact-finding interviews, the CACIAF has not yet developed the risk assessment methodology as provided for by Article 32(1)(6) of the Anticorruption Law, which also assigns CACIAF the responsibility to develop systems for verification of integrity and give assistance for their application. A proposal draft Methodology for Corruption Risk Assessment has been developed in 2019 by an interdepartmental working group, including representatives of the CoM, the National Association of Municipalities in the Republic of Bulgaria and CACIAF (Box 1.8).

Box 1.8. The draft methodology for corruption risk assessment in Bulgaria

The proposal regulates the general requirements and the procedure for assessing the corruption risk, as well as for the planning and reporting of anti-corruption measures and has the following aims:

- supporting the implementation of the anti-corruption policy by applying a unified approach for assessing the corruption risk, taking into account the specifics of the respective administration and sectoral policy
- providing basic guidelines for building a system for monitoring and managing corruption risk
- determination of the indicators and methods for assessment of the corruption risk.

According to the developed draft Corruption Risk Assessment Methodology the degree of corruption risk is determined by the following assessment indicators:

- organisational regulations/rules of procedure
- internal rules and procedures
- job descriptions.

With regards to the corruption risk assessment, it is carried out on the basis of an order or decision of the authority electing or appointing the:

- committee of inspectors from the inspectorates where such inspectorates have been established in the administration concerned
- committee of officials where there is no inspectorate in the administration concerned.

The corruption risk is assessed as "very low", "low", "medium" and "high". In terms of reporting, the above-mentioned Commissions prepare a reasoned corruption risk assessment report which is structured on the basis of: introduction; objective findings on the status of all conditions to the corruption risk indicators; a reasoned corruption risk assessment, and recommendations for corruption risk management. Each finding is substantiated with relevant evidence. The report together with its annexes is to be submitted to the selecting authority or appointing authority. The latter approve the recommendations for the management of corruption risk.

Ministers and heads of state institutions (which have functions in connection with the exercise of executive power), annually approve an annual anti-corruption plan for the current year, which also include measures concerning the subordinate budget authorising officers and territorial units. The approved anti-corruption plans are published on the website of the relevant administration. Later, the anti-corruption plans and reports are sent to CACIAF within 7 days after their approval. The corruption risk assessment is carried out at least once every three years.

In developing the anti-corruption plan, consideration should be given to:

- the measures included in national and sectoral anti-corruption strategies
- the results of inspections by internal and external control bodies of the previous year's audits
- the results of corruption risk assessments carried out
- sectors or units identified as having a high corruption risk as a result of a corruption risk assessment
- the result of the implementation of the anti-corruption plan for the previous year
- good anti-corruption practices implemented in other administrations
- the number of reports of corruption and/or conflict of interest received in the previous year.

The anti-corruption plan is prepared in accordance with a template and further contains:

- specific measures to prevent and combat corruption, leading to a reduction of corruption risk and limiting the causes leading to the existence of corrupt practices
- reasons for planning the measure (corruption risk assessment, irregularities identified, frequent reports of violations, results of the implementation of the anti-corruption plan for the previous year, etc.)
- addressees of the measures – administration or administrative units to which the measures will be applied
- time limit for the implementation of the measures
- administrative units/persons entrusted with the implementation of the measures
- a performance indicator that allows an objective assessment of impact of the measure
- the expected anti-corruption outcome of the implementation of the measures.

Source : (Government of Bulgaria, 2019^[30])

This methodology could potentially be a crucial tool because the guidelines adopted by the NCAP deal with the anticorruption plans and require the identification of corruption risks, but additional guidance is needed on how this should be carried out by inspectorates. According to the Anticorruption Law this methodology should be developed by CACIAF

Secondly, inspectorates would benefit from receiving more detailed feedback and support in relation to the anti-corruption plans. CACIAF is currently analysing them in annual reports, which contain some conclusions and proposals which are nevertheless generic. For example the 2020 report proposed that the gaps identified are taken into account in the development of subsequent anti-corruption plans by the entities (CACIAF, 2020^[29]). As such, there is no robust follow up mechanism that provides an assurance over the envisaged processes to address corruption risks and that identifies areas of improvement in future anticorruption plans. This gap is also noted by the National Anticorruption Strategy, which includes among its measures the plan to develop a methodology for assessing the effectiveness of the implementation of anti-corruption plans and identify measures to increase the effectiveness of anti-corruption plans (Government of Bulgaria, 2021^[20]). According to the Roadmap of the strategy, the responsibility would be shared between the NCAP and CACIAF. However, Bulgaria could consider creating a working group within the NCAP dedicated to continuous monitoring and evaluation of the anticorruption plans and consisting of all relevant actors including the CACIAF, the Chief Inspectorate and the National Audit Office. This working group would also be in charge of revising the Guidelines to adopt anticorruption plans, which is also envisaged by the National Anticorruption Strategy.

Thirdly, Bulgaria could increase the capacity of inspectorates under the leadership of the Chief Inspectorate, which – according to the Administration Law – should co-ordinate and assist the activities of the inspectorates. (Article 46(a)(1)(2)) Indeed, providing support, institutional guidance and capacity to anticorruption actors, such internal inspectorates, is essential to strengthen integrity at the entity level.

Increasing the capacities of inspectorates as critical anti-corruption units is an institutional measure of the National Anti-corruption Strategy, which will consist in the following measures:

- Filling available vacant posts for the posts concerned.
- Drawing up a concept of fair remuneration.
- Prioritisation of the different activities carried out by inspectorates in the annual plan, with a focus on anti-corruption.
- Initial and continuous training of inspectors (Government of Bulgaria, 2021^[20]).

The strategy assigns this responsibility to the Chief Inspectorate, which – as part as this support function – could also further promote co-ordination among inspectorates through events or tools to exchange of information and best practices. This is also provided for by the “Methodological guidance on the control functions of inspectorates” establishing that the Chief Inspectorate Directorate organises and holds periodic working meetings of the heads of inspectorates to co-ordinate and support activities and at least once a year, it holds a general meeting of the inspectorates to discuss the implementation of the tasks, to share good practices in order to improve the organisation of work and the effectiveness of administrative controls (Government of Bulgaria, 2006^[27]). The Chief Inspectorate organises these meetings, but, as mentioned in relation to the NCAP, in order to upgrade its co-ordination and support function, its capacity should be strengthened.

1.3.2. Bulgaria could establish a network of integrity officers to develop a preventive culture of public integrity

Integrity is ultimately the responsibility of all public officials. However, similarly to the situation at country level, some actors in entities play a more central role than others. This is the case, for example, of senior officials, who should play a crucial part in the effective promotion of an integrity culture by being ethical leaders and providing an example. A growing trend in OECD countries is also to assign a clear place for integrity within the organisational structure and that it is visible in the organisational chart responsibility. These are “integrity actors” – individuals committees or units – whose main function is to promote integrity within the organisation by articulating efforts and assuring the institution’s compliance with different integrity policies (OECD, 2019^[31]).

In Bulgaria there no actor with a specific integrity mandate. Internal inspectorates have key anticorruption responsibilities within entities, but their role is mostly focused on control such as checking conflict of interests, carrying out inspections, proposing disciplinary proceeding, and sending possible evidence of crimes to prosecutors (Box 1.6). As such they do not have an integrity role and different reasons support a separation of functions between prevention and the controls, including the need to build public officials’ confidence in persons they should turn to discuss sensitive issues and ethical dilemmas or who may collect information on corruption risks for preventive purpose (OECD, 2019^[31]).

For these reasons, but also to institutionalise and ensure continuity of integrity policies in the public administration more broadly, Bulgaria could decide to appoint an integrity actor in each public entity. Considering the novelty of integrity mechanisms in Bulgaria but also the limits in capacity experienced by other areas such as inspectorates, these integrity actors could consist of an integrity contact point in each entity, who would promote awareness and activities around corruption prevention, and integrity standards more generally. In terms of specific responsibilities, the focus should be on a few priorities and include: ensuring that the codes of ethics and conduct are part of the organisational culture through awareness-raising activities; designing tailored training activities with the Institute of Public Administration; and

providing advice in case of doubts or dilemmas about ethical areas such as when receiving gifts and assessing a possible conflict of interest situation. Based on their activities but also on their views on corruption risks, good practices and weaknesses at the entity level, the contact person could provide input and co-ordinate with the inspectorates when they develop the anticorruption plan and, more generally, support and promote co-ordination with other integrity-related actors within the entity such areas responsible for human resources and internal audit.

Considering the importance of signalling and ensuring the visibility of these integrity areas, Bulgaria could instruct entities to appoint the contact points within their General Secretariat or somewhere next to the senior management, which would also guarantee ensure sufficient authority and contribute to show commitment from the Minister or head of the entity. Support could be provided at central level by the NCAP through guidance and methodologies similarly to what it is currently doing for inspectorates in relation to the anticorruption plans. At the same, it could promote exchanges of experiences and good practices by organising periodic meetings among integrity contact points as well as reporting and discussing their activities once a year in a meeting of the NCAP. In developing the establishment and development of a network of integrity contact points, Bulgaria could consider the types of integrity contact points established in Austria, Italy and Poland (Box 1.9).

Box 1.9. Integrity contact points in Austria, Italy and Poland

The Network of Integrity Officers in Austria

To mainstream integrity into the public sector, Austria has established the Network of Integrity Officers, which aims to place integrity officers in various federal institutions (e.g. ministries). Tasks performed by the officers include:

- performing advisory services for employees and senior officials
- circulating information on integrity and awareness raising
- providing training
- analysing the risk of corruption
- collaboration and experience sharing
- serving as the focal point for compliance-related issues.

The Federal Bureau of Anti-Corruption is responsible for managing the network, generating and collecting expertise on the topic of integrity, and providing basic training and training materials to the officers.

Contact Points for Corruption Prevention and Transparency in Italy

In Italy, Law 190 of 2012 established that all public entities should have a Contact Point for Corruption Prevention and Transparency, to be appointed by the entities' management among senior officials. The Contact Point shall report to the management and the independent assessment body on dysfunctions related to the implementation of measures on the prevention of corruption and transparency, and shall indicate to the offices responsible for disciplinary action the names of employees who have not correctly implemented the anti-corruption and transparency measures. The entity's anti-corruption plan is prepared by the Contact Point, who also verifies its effective implementation after adoption by the entity's management and proposed amendments when significant violations are ascertained or in case of changes in the organisation or activity of the administration. The Contact Point also defines appropriate procedures for selecting and training employees to work in sectors particularly exposed to corruption and identifies personnel to be included in training programmes - including specific and sectorial ones - to train employees on ethical and legal issues.

Ethics and Integrity Advisors in Poland

In Poland, the Civil Service Department chairs and supports the activity of a network of ethics and integrity advisors. They may be appointed in ministries and other government administration offices and their role is to provide advice on solving ethical dilemmas and to support public officials in understanding the rules and ethical principles of the civil service. In addition, integrity advisors support leadership in disseminating knowledge about principles and promoting a culture of integrity in the office.

Source: (OECD, 2020^[11]); Law 190 of 2012 (Italy).

2 Enhancing integrity standards in Bulgaria

Standards of conduct are embedded in the legal system and organisational policies, which set out the basic principles and clarify the boundaries of acceptable behaviour. Clear standards also provide a common framework to ensure accountability, including by applying sanctions for violations of public integrity standards (OECD, 2020^[1]). Standards frame all components of the integrity system and regulate desired behaviour and prohibitions related to bribery, fraud, trading in influence, money laundering, managing and preventing conflict of interest, managing gifts and gratuities, declaration of assets and pre- and post-public employment, as well as functions related to whistleblower protection, integrity and transparency in lobbying, and financing of political parties and campaigns. While various institutions may be responsible for designing and implementing the policies associated with these standards, including these in the legal and regulatory framework and/or strategy is key. In this sense, the OECD Recommendation on Public Integrity stresses the importance of “including integrity standards in the legal system and organisational policies (such as codes of conduct or codes of ethics) to clarify expectations and serve as a basis for disciplinary, administrative, civil and/or criminal investigation and sanctions, as appropriate.” (OECD, 2017^[2])

Attention is usually focused on criminalisation of corruption, but strong legal and regulatory frameworks and strategies also rely on embedding integrity values and standards in organisational tools such codes of ethics and conduct as well on providing non-criminal consequences – e.g. of administrative, disciplinary and civil nature – in case of breaches. Considering that the criminal law framework is already subject of multiple reviews by international organisations (Box 2.1), the present section will focus on integrity standards not having a criminal nature. They aim to develop a culture of integrity, such as those defined in codes of ethics and conduct, and inform key policies of an integrity system such as conflict of interest, asset declarations, whistleblowing, and lobbying.

Box 2.1. Key findings and recommendations from recent reviews of anticorruption standards in the criminal area

OECD Working Group on Bribery

In 2021, the OECD Working Group on Bribery released a report as part of the fourth phase of monitoring, launched in 2016, which looked at Bulgaria’s particular challenges and positive achievements in the implementation and enforcement of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related instruments. The Working Group welcomed the efforts made by Bulgaria in recent years towards the implementation of the Convention and related instruments. However, it highlighted the concerns in various areas, including deficiencies in legislation on foreign bribery (e.g. bribery for acts outside the official’s authorised competence) and on liability of legal persons.

EU Rule of Law Report

According to the 2020 EU Rule of Law Report, the legal framework to fight corruption is largely in place, but challenges remain especially from a procedural perspective. In particular, corruption and related crimes are regulated in the Special Part of the Bulgarian Criminal Code which regulates criminal responsibilities for natural persons only. Legal entities can only be subject to administrative (non-criminal sanctions) pursuant to the Administrative Offences and Penalties Act. The report considered that the overall implementation of the Council Framework Decision 2003/568/JHA on combating corruption in the private sector can be considered satisfactory. Following the 2020 Rule of Law Report, on 30 March 2021, a working-group was tasked with recommending changes to the Criminal Code as to improve the efficiency of investigations and trials.

UNCAC Review Mechanism

According to the first review report of the UNCAC Review mechanism of 2013, the substantive criminalisation provisions of the Bulgarian legal framework comply, to a large extent, with the requirements set forth in the UNCAC. The majority of the UNCAC-based offences are established in the Criminal Code. The offence of embezzlement of property in the private sector is not stipulated as a separate crime in the Criminal Code, but prosecuted by analogy on the basis of the corresponding provisions on the embezzlement of property in the public sector, taking into account the capacity of the person as an official in the meaning of Article 93 of the Criminal Code, as well as the non-public nature of the embezzled property.

Illicit enrichment is also not incriminated as a separate crime per se. Constitutional limitations pertaining to the right to be presumed innocent until proven guilty under the law hinder the implementation of article 20 of the UNCAC in the Bulgarian legal order. Moreover, at the time of the review, no plans existed to include such an offence in a future revised text of the Criminal Code. In a more general context, however, the concept of acquisition of illegal gains as a result of criminal acts related to corruption may lead to property sanctions, including seizure and confiscation of proceeds of crime or property derived from, or used in the commission of, such criminal acts.

The Bulgarian legislation does not limit the range of the predicate offences as a result of which proceeds have been generated that may become the subject of money-laundering offences. The relevant provision of the Criminal Code addresses all types of offences of both criminal and administrative nature as predicate offence, regardless of their gravity, thus going beyond the UNCAC requirements.

Based on this analysis, the report identified some issues on criminalisation of corruption requiring attention for Bulgaria's authorities such as the following ones:

- Reconsider the usefulness of maintaining the self-standing provision on the criminalisation of the conduct of an intermediary in cases of bribery and, if deemed appropriate, trading in influence.
- Construe the offences of active bribery in the public sector, as well as trading in influence, in a way that unambiguously covers instances where the advantage is not intended for the official him/herself but for a third party (third-party beneficiary).
- Continue to clarify the interpretation of the domestic legislation relating to the inclusion of both material and non-material advantages in the bribery provisions of the Criminal Code.
- Continue to clarify the interpretation of the domestic legislation to define the difference between the objective elements of active and passive bribery, on the one hand, and their attempt, on the other, and, consequently, ascertain whether the provisions on attempt have – in principle – become irrelevant also in court practice.

Council of Europe's Group of States against Corruption (GRECO)

The Third Round Evaluation on Bulgaria addressed the review of corruption incriminations in Bulgaria and provided several recommendations. According to the Second Compliance Report of 2014, GRECO reached the following conclusions on the three pending recommendations:

- Recommendations which have been partly implemented:
 - ensuring that the offences of active bribery in the public sector, as well as trading in influence, are construed in such a way as to unambiguously cover instances where the advantage is not intended for the official him/herself but for a third party.
 - spelling out clearly that bribery of foreign arbitrators is a criminal offence also when the arbitrator performs his/her functions under the national law on arbitration of any other State.
- Recommendation which has not been yet implemented:
 - analysing and accordingly revising the automatic – and mandatorily total – exemption from punishment granted to perpetrators of active bribery in the public sector in cases of effective regret.

Source: (OECD, 2021^[32]) (European Commission, 2020^[33]); (UNODC, 2013^[34]); (GRECO, 2014^[35]).

2.1. Enhancing the impact of the national code of conduct and of institutional codes of ethics

2.1.1. Bulgaria could increase compliance and awareness of codes of conduct and ethics at entity level by providing practical guidance and support

Codes of conduct clarify expected standards and prohibited situations of public officials. Furthermore, communicating these standards and principles makes them part of the organisational culture of the public administration. International models, such as the International Code of Conduct for Public Officials, provide guidance on the issues most commonly covered in codes of Conduct. Such issues include conflict of interest, gifts and hospitalities, obligations to report misconduct, bribery and other forms of undue influence, the use of information held by public authorities, and leaving the public service.

Establishing codes of conduct is a necessary but not sufficient condition for public integrity. Common obstacles which deter public administrations from effectively setting high standards of conduct include making standards and principle for ethical conduct often derive from a commitment to overarching values, the lack of high-level commitment to comply with these standards, and the setting of broad and unproportioned procedures to manage conflict of interest (OECD, 2020^[1]).

In Bulgaria, the standards of conduct for public officials are set in the Codes of Ethics adopted by each entity and the Code of Conduct for State Employees adopted by Council of Ministers Decree No 57 of 2020. The Civil Service Act also includes the obligation to behave without impairing the prestige of the public service but then makes reference to the Code of Conduct and its obligations.

Codes of Ethics can be adopted by public entities and identify the principles that guide behaviour and decision making at the entity level. For example, the Code of Ethics for Civil Servants in the Ministry of Interior of 2014 defines the ethical standards for the professional activity of the public official in the Ministry; develops a culture and professional values based on the principles of humanity, legality, democracy, and respect for human rights; supports the training of public officials to achieve a professional ethical conduct in their work; and explicitly develops an intolerance culture of corruption. The Code has

separated sections describing the conduct and the public image of public servants, the treatment of citizens, integrity and corruption-free conduct, the relations between public officials, and the handling of official information. The section on integrity and corruption-free behaviour defines corrupt behaviour and anti-corruption behaviour related to the misappropriation of resources, influence peddling, and the obligation to report to the authority the public officials' knowledge of corruption and conflict of interest. The Code consists of two additional chapters: one chapter setting the ethical standards in the conduct of the business of public servants, covering the relationship between the public officials and victims, witnesses, offenders, and detainees; and another chapter setting the rights of public servants in the Ministry of Interior. Other Internal Codes of Ethics in Bulgaria have been developed by the Customs Agency, the Executive Agency for Fisheries and Aquaculture, the Committee on Financial Supervision, the Municipality of Burgas, and the Ministry of Labour and Social Policy.

At the national level, the Code of Conduct for State Employees sets out the rules of ethical conduct for all public officials and aims to increase public confidence in their professionalism and integrity, as well as to promote the prestige of the civil service. The Code defines a set of principle of conduct and dedicates separate sections to professional conduct, personal behaviour, relationship with colleagues and with external persons. A separate section is dedicated to anti-corruption behaviour with some prohibitions related to gifts and reception of other benefits (Box 2.2) as well as the obligation to report to the authority on their knowledge of corruption or conflict of interest.

Box 2.2. Anti-corruption provisions in the Code of Conduct of State Employees of Bulgaria

- Employees shall not allow them to be economically or otherwise dependent and to seek and accept gifts, services, money, benefits or any other benefits which may affect the performance of their duties.
- Staff members may not accept any gifts or benefits for the performance of work entering their duties, nor may they engage in any activity beyond their competence.
- Staff members shall not accept any advantage or promise of advantage in order to influence the decision of other officials in the performance of their duties.
- Staff members shall not mediate obtaining an advantage from another person in order to carry out or not carry out any act in the service.

Source: (Government of Bulgaria, 2020^[36]).

In order to make public officials aware about the Code, the immediate superior is required to make the staff member aware of its provisions within seven days of his initial taking up his duties. Furthermore, the Institute of Public Administration shall ensure the development of a training programme containing examples of situations in relation to the application of the rules of this Code, including a publicly available electronic training programme.

The Code provides a comprehensive document with a set of obligations and prohibitions for public officials. However, it is not clear how public officials that were already part of the organisation have been made aware of the Code. Furthermore, according to information provided in fact-finding meetings, interviewed people could not identify who 'owns' the Code within the entity, i.e. who promotes its awareness, co-ordinates related activities and provides answer to related questions. This is line with observations on the previous code of conduct, which was not regularly monitored and whose compliance was not under the responsibility of any specific area let alone the general authority of Secretary Generals. In that context, action was usually taken on the basis of reports from the public and it is usually punitive (Kashumov, 2018^[37]).

In order to make the institutional code of ethics and the national code of conduct part of the organisational culture of entities in Bulgaria and develop a preventive approach to corruption at entity level, Bulgaria could include the promotion of the Code of Conduct – and integrity standards – among the responsibilities of the integrity contact-points that the present report recommends above to institutionalise integrity at the entity level. Furthermore, the Code of Conduct could be complemented with a practical guidance document - created with the participation and contribution of public officials - explaining its application in real life examples and also advising on the behaviour which would align with the values expressed therein. The integrity contact point could then be in charge of ensuring that the Code of Conduct, its guidance document and, when existing, the Code of Ethics are regularly communicated to public officials through various channels including brochures, newsletters, policy manuals, annual reports and posters. According to the OECD experience, other effective forums for communication and discussion of integrity standards may include formal speech and presentations, team meetings, focus groups, brown-bag lunches and social events (OECD, 2020^[1]).

2.1.2. Bulgaria could clarify the applicable disciplinary framework for breaches of the Code of Conduct and provide further guidance on integrity breaches leading to a disciplinary sanction

Disciplinary enforcement is one type of mechanism through which public officials are made accountable for integrity breaches. The grounds for disciplinary enforcement are based on the employment relationship with the public administration and the specific obligations and duties owed it. Breaching these obligations and duties leads to sanctions of an administrative nature, such as warnings or reprimands, suspensions, fines or dismissals (OECD, 2020^[1]).

In Bulgaria, disciplinary liability for public officials is regulated in the Civil Servant Act which identifies the following categories of breaches:

- non fulfilment of the official obligations
- delay of fulfilment of the official obligations
- non observing the circle of the official obligations
- breaches of the obligations for the citizens
- not observing of the rules of the national code for conduct.

The disciplinary sanctions are remark, reproach, postponement of promotion in rank, temporary demotion in lower rank and dismissal. In cases of disciplinary proceedings, the public official could be temporarily removed from office, while in cases where criminal proceedings are instituted, this removal is obligatory. On top of disciplinary liability, the public officials are also responsible for damages caused to the state or citizens and are liable for compensation payment.

In determining the sanction, the punishing body shall take in consideration various factors such as the gravity of the breach and the consequences occurred from it for the civil service and the citizens; the form of the guilt of the public official; the circumstances under which is made the breach; the overall official conduct of the public official.

The disciplinary penalties are imposed by the body of appointment, but in case a demotion in rank or dismissal is foreseen, such body has to consult the disciplinary council established within each entity. Such council consists of three to seven regular members (at least one with legal background) and two reserve members, who are public officials, for a period of three years. Both the imposition of the decision and the consultation within the council should follow a procedure defined by the Civil Servants Act. In particular, the disciplinary punishing body is obliged before imposing the disciplinary penalty to hear to the public official and to give him time for written explanation, to collect and assess the evidence pointed out by him.

The disciplinary penalties shall be imposed not later than two months after establishing the breach and not later than one year after its commitment.

Next to the Civil Servant Act, the Labour Code – which regulates the labour relations between the employee and the employers in both the public and private sector –in its articles 186-199 provides for disciplinary liability for breaches of the work discipline, which is defined as any culpable non-performance of the work obligations and duties. The key violations of the work discipline listed in the Labour Code include violations related to: working hours, working in improper conditions, non-performance of assigned work; unfair practices related to the employer. As for the typologies of penalties, there are three: reprimand; warning of dismissal; and dismissal. The Labour Code also contains rules on the procedure – including rights of the employees – to follow to adopt a disciplinary sanction and which includes establishing the fact of the breach; determining the type of the disciplinary sanction as well as issuance and servicing of the disciplinary sanction order.

The legal framework of Bulgaria provides for rules and procedures to ensure disciplinary liability of public officials, including for breaches of the Code of Conduct (Table 2.1).

Table 2.1. Disciplinary sanctions in total and related to the Code of Conduct (2017-2020)

Year	Total disciplinary sanctions	Sanctions for breaches of code of conduct
2017	2 063	140
2018	2 195	111
2019	2 055	135
2020	2 357	105

Source: Answers from Bulgaria to OECD questionnaire.

However, they are fragmented and differences exist between the Civil Servant Act and the Labour Code in terms of breaches, sanctions and procedures. In particular, only the Civil Servant Act mentions that breaches of the Code of Conduct lead to a disciplinary sanction. This may create misunderstanding and incoherence in the enforcement of the Code, so Bulgaria could ensure coherence between the two acts, for instance ensuring that breaches of Code – or more broadly to the respect of integrity standards – are subject to disciplinary liability pursuant to the Labour Code. On top of that, the Civil Servant Act refers generally to the “not-observance of the Code of Conduct”, which could be further specified in order to allow both public officials and those enforcing the Code – including the disciplinary council – to understand what conduct constitutes a breach and what are the consequences for it. For this purpose, Bulgaria could develop guidance on how to interpret the Code in practice and provide examples on what constitutes (or not) a breach, including its consequences. This material could be developed by the Chief Inspectorate, which already provides informal support to inspectorates on disciplinary issues, could be made available together with the Code of Conduct and included in the training organised by the IPA, which could also organise specific activities for members of the disciplinary councils. Plus, it could inform a communication campaign supported by the disciplinary councils on the desired and undesired conducts according to the code and other integrity policies. This would stimulate awareness about the integrity standards, guide officials on expected behaviour and enhance its deterrent effect. In this context, it could consider the example of Brazil, which developed the campaign "Ethics Alive - Integrity on a daily basis" to provide guidance to public officials and to avoid the occurrence of disciplinary breaches (Box 2.3).

Box 2.3. The campaign "Ethics Alive - Integrity in Everyday Life" in Brazil

The campaign "Ethics Alive - Integrity in Everyday Life" in Brazil aims to create awareness on conducts aligned with integrity standards, including clarification of the legal consequence for their breaches, to work preventively on situations that may occur in the daily lives of public officials. The focus of the initiative is guiding and preventive, and it is carried out using practical examples to demonstrate the conduct expected by public officials. The entity promoting the campaign, the Office of the Comptroller General (CGU), provides materials which could be used by single entities which in turn could adapt them to their context and needs.

Source: (CGU, n.d.[38]).

2.1.3. Bulgaria could develop a code of ethics for senior public officials

Citizens expect public servants to serve the public interest with impartiality, legality, integrity and transparency on a daily basis. To effectively disseminate these core values of integrity across all levels of public service, it is crucial that senior officials are subject to the codes of conduct to lead by example and promote high standards of ethical behaviour and conduct in their organisations (OECD, 2020[1]). The importance of including senior public officials in the codes of conduct is stressed in fifth evaluation round of the Council of Europe's Group of States against Corruption (GRECO), which focuses on preventing corruption and promoting integrity in top executive functions of the government such as deputy ministers, state secretaries, and senior political officials.

In Bulgaria, although Code of Ethics which may be adopted by single entities usually apply to anybody working in it, high-level officials who are not public servants are not subject to the Code of Conduct. This is confirmed by the National Anticorruption Strategy, which highlights that there is currently no codified act in the Bulgaria laying down ethical rules concerning the activities of senior public officials in the executive branch, including members of political cabinets. For this reason, measure 5 under the strategy envisages the development of a Code of Ethics for Senior Public Officials in the Executive (Government of Bulgaria, 2021[20]). This would be an important step to mitigate the specific risks of senior officials and, as mentioned in the strategy, to respond to the increased expectations of citizens towards government and demanding standards of conduct in recent years. Bulgaria could thus develop a code of ethics for senior officials to include specific duties, prohibitions and guidance tailored to the risks of such positions in matters such as transparency, gifts, conflict of interest and integrity in decision making. The implementation of the Code of Conduct for senior officials would complement the Anticorruption Law from a preventive perspective, which is currently lacking. Similarly to the national code of conduct for public officials, awareness raising activities – both to senior officials and the public – should be organised around such code and mechanisms should be in place to provide advice as well as to scrutinise and sanction any breach.

2.2. Improving the effectiveness of the interests and assets regulations framework

2.2.1. Bulgaria could extend the rules to prevent and manage conflict of interest situations to all public officials and formalise CACIAF's advice function for senior public officials

Preventing and managing conflict of interest and integrity-related offences is essential for meeting high ethical standards in public integrity. The OECD Recommendation calls for “setting clear and proportionate

procedures (...) to manage actual or potential conflicts of interest" and to provide "easily accessible formal and informal guidance and consultation mechanisms to help public officials apply public integrity standards in their daily work as well as to manage conflict-of-interest situations" (OECD, 2017^[2]). At the outset, the definition of a "conflict of interest" is essential to understanding the issue and how to identify, manage and resolve it. A descriptive approach (defining a conflict of interest in general terms) or a prescriptive one (defining a range of situations considered as being in conflict with public duties) may be adopted (OECD, 2004^[39]).

Conflict of interest regulation can be related and linked with asset declarations, but their objectives are – at least in part - different so they should be considered separately. Indeed, while both interest and asset declarations may be developed for deterrence purposes and the *ex post* detection of irregularities or illicit enrichment, it is only through the conflict-of-interest regulation that public officials can manage possible conflicted situation and therefore prevent an integrity breach to take place. This difference is also reflected in the process: while it is important identify and report interests and assets in specific moments of the year or of the officials' career, conflicts of interest situation can arise in any moment so the correspondent policy should ensure and provide guidance on the reporting and management procedures when it occurs, and this may not necessarily be when a regular interest and asset declaration is due.

In Bulgaria, the conflict-of-interest regulation is set in the Anti-Corruption Law, which defines conflict of interest as a situation "where a person holding senior public position has private interest, which may influence his impartiality and the objective fulfilment of his powers or official duties" (Art. 52). This regulation only applies to senior public officials, such as the President and the Vice-President, the Members of the Parliament, the Prime Minister, the Deputy Prime Minister, the Ministers and their Deputy Ministers, Members of the European Parliament from the Republic of Bulgaria, Members of the European Commission from the Republic of Bulgaria, the Constitutional Court President, the Presidents of the Supreme Cassation Court, of the Supreme Administrative Court, and the General Prosecutor, the Ombudsman and Deputy Ombudsman, the Chairperson and Deputy Person of the Communication Regulation Commission, the National Audit Office, among others.

Any person holding a senior public position shall not represent the state or municipality when he has private interest in taking a certain decision or perform his duties to vote in private interest. Officials are additionally prohibited to use their official position in order to influence in a private interest other bodies or persons during the preparation, adoption, issuance or ruling of acts, or during the performance of controlling or investigating functions. Any person holding a senior public position is not to be entitled to dispose of state or municipal property, to spend budget means, including from funds of the EU, or provided by the EU to the Bulgarian state, to issue certificates, permits, or licenses, or perform control on these activities in the interest of non-profitable legal persons, trade companies or co-operatives, in which he, or persons related to him, are members of a management, or control body, managers, partners, or possess shares or assets. Any breaches to the rules on conflict of interest are subject to pecuniary sanctions from the Anti-Corruption Commission.

In order to prevent and manage conflict of interest situations, the Anti-Corruption Law (Articles 63-65) stipulates that the procedure is the following:

- Where a person holding a senior public position has private interest, he is obliged to withdraw from performing a concrete power, or official duty, by notifying the body of election or appointment.
- Where at a meeting of a collective state body or a body of the local self- government an issue is discussed or solved, in which its member has declared a private interest, he/she shall not be able to participate in the discussion and vote.
- The body of election or appointment shall be obliged to withdraw a person holding a senior public position, if it has information about his private interest in relation to a concrete official power or obligation.

- Self-withdrawal, or withdrawal shall be made immediately after occurrence or learning about the data for availability of a private interest.

In terms of controls, CACIAF is responsible with controlling the existence of conflict-of-interest situations of persons holding senior public positions along the following procedure:

- Finding conflict of interests is performed after a whistleblowing report, submitted to the Commission, upon a Commission decision, or upon a request of the person holding a senior public position.
- Finding conflict of interests cannot be performed after an anonymous whistleblowing report.
- The procedure of finding conflict of interests of the Commission members are formed with a Commission decision, taken unanimously in a secret voting, excluding the person, for whom the decision is voted.
- In a procedure of finding conflict of interests, the Commission require and receive information from bodies of the state power, bodies of the local self-government, as well as from legal and natural persons.

In particular, CACIAF's "Conflict of Interest Directorate" has the following responsibilities:

- Carrying out checks to establish the existence or absence of a conflict of interest on the basis of an alert issued to the Commission, on the basis of a decision of the Commission or at the request of the senior public officeholder.
- Requesting and receiving the necessary information and documents, respectively from the election or appointment authority, public authorities, local self-government bodies, as well as from legal and natural persons, makes inquiries through direct access to electronic registers, databases and other data held by other state authorities, with the exception of security services.
- Preparing draft decisions on:
 - initiating proceedings to establish a conflict of interest
 - the establishment of a conflict of interest, as well as an infringement under Article 68 and 69 of the Anti-Corruption Law, the imposition of a fine under Article 171 of the Anti-Corruption Law and the determination of its amount, as well as seizing under Article 81
 - failure to identify a conflict of interest
 - extension of the duration of the inspection pursuant to Article 74 (1) of the Act; termination of proceedings and other procedural requirements.
- Processing the conflict-of-interest files received, preparing the draft decisions, together with the reasons for them, and submitting them to a committee meeting.
- Liaising with the Anti-Corruption Directorate within its competence with regard to reports of conflicts of interest for senior public officials.
- Liaising with the Coordination and Control Directorate as well as with the Public Register Directorate within the limits of the powers conferred (CACIAF, n.d.^[40]).

The Bulgarian Anti-Corruption Law (Art. 80-81) also includes consequences for non-compliance with the said piece of legislation through disciplinary sanctions. Finding conflict of interests with the AC Law is grounded for dismissal from the public official position, unless where the Constitution provides otherwise. The law stipulates that the remuneration, received from the legal relations, or the act, caused conflict of interests, for the period, during which the conflict of interests has been hidden, is seized in favour of the state, or municipality. The law also specifies that situations where a person holding a senior public position, or a person related to him, has received material benefit as a result of conflict of interests, its equivalent amount is seized in favour of the state, unless it is subject to seizure under other grounds.

To further prevent future occurrence of conflict of interest, the Anti-Corruption Law adds a one-year ban from holding public positions from the enforcement of the decisions with which the conflict of interested was established. Additionally, during the one year after the dismissal of a person holding a senior public position after a case of conflict of interest, that person is prohibited of signing labour contracts, contracts for consultant services or other contracts for performing head or control functions with trade companies, sole traders, co-operatives or non-profitable legal persons, in relation to which during the last year of performing his official powers, or duties has realised an order, regulation or control, or has signed contracts with them, as well as being a partner, to possess shares, or assets, to be manager or member of a managing or controlling body of such trade companies, co-operatives or non-profitable legal persons.

According to the information provided during the fact-finding interviews, CACIAF has developed a procedure for receiving, reviewing inquiries and providing information to interested parties on the application of the Anti-Corruption Law, including the possibility to submit inquiries online through the official website of CACIAF. Similarly, it also provides informal advice to public officials on questions and doubts about possible conflict-of-interest situations. However, this advice function is currently carried out on an informal basis and has not been formalised yet in the legal framework.

Public officials who do not belong to the senior category are obliged to submit to the appointing authority a declaration for property ownership and interests when entering office and on an early basis pursuant to Article 29 of the Civil Servant Act. The following Article, 29(a) provided for the obligation to reveal and avoid conflict of interests but it appears that it has been repealed in 2009. The Code of Conduct also contains the prohibition for public officials to carry out any activity in the private interest which violates Chapter 8 of the Anticorruption Law, which in turn defines a conflict of interest the situation when “a private interest may influence his impartiality and the objective fulfilment of his powers or official duties.”

The regulation of Bulgaria on conflict of interest includes key elements of the OECD framework including definitions, identification of non-acceptable situations, guidance on how to prevent a conflict of interest to take place as well as control mechanisms and sanctions. However, let alone a general prohibition included in the Civil Service Act, it only applies to senior officials so it could be extended to all others, especially in so far as it concerns the prevention and management options, e.g. what situations are at risk and what to do in case of having a conflict. This aspect of the regulation is indeed crucial in a conflict-of-interest framework because it sends the message that conflict-of-interest situations, if managed, can be addressed without incurring into corruption, breaches, it prevents conflicted decisions to take place, and contributes to create an open organisational culture which encourages the effective control and management of conflict-of-interest situations. Extending the scope of the regulation, either through the Civil Service Act or the Anticorruption Law, would also require introducing controls. These could be carried out by the inspectorates which in turn could drop the review of asset declarations (cf. next recommendation). However, such controls should be proportional and focused on risk-based positions or processes and, more importantly, combined with awareness raising, training, guidance and advice on what to do in case a possible conflict of interest situation arises. In order to co-ordinate the support in such tasks, a key role would be played by the integrity contact points, whose establishment was recommended above to support a preventive culture within Bulgaria’s public sector. Similar guidance and preventive efforts should also be ensured for senior public officials and, in this sense, CACIAF may formalise the advice role it has been providing so far on possible conflict-of-interest situations and management options and couple it with training and guidance efforts. This would improve the understanding of the regulation’s rational and objectives, and nurture a culture of openness. However, this formal advising role of CACIAF should come with clear separation of those performing it from the directorates which perform controls in order to avoid any misunderstanding and incentivising openness towards the CACIAF itself.

2.2.2. Bulgaria could narrow the categories of officials who should submit asset and interest declarations and develop a single platform for submissions

An effective asset declaration system increases transparency and the trust of citizens in the public administration by disclosing information about the assets of politicians and public officials, helps detecting conflict of interest among public officials, and monitors the wealth variations of politicians and public officials, clarifying their potential illicit enrichment or illegal activity by providing additional evidence. Important aspects to consider when designing an asset declaration system are whether to include specialising regulations of asset declarations for different categories and branches of public officials, the creation of a specialised institution with enough human and financial resources to implement the system of asset declarations, and type of public officials subject to the system and their obligation in accordance with their level and responsibilities (e.g. MPs and senior officials in contrast to middle- and low-level officials) (OECD, 2011^[41]).

In Bulgaria, the Civil Servants Act states that upon taking up the employment, and every year by May 15th, public officials are obliged to submit to the appointing authority a declaration for property ownership and interests. Declarations for senior officials are regulated under the Anti-Corruption Law, which requires them to submit the following ones:

- declaration for incompatibility
- declaration for property and interest
- declaration for change in already declared circumstances
- declaration for change in declared circumstances in the declaration in the part of interests and for the origin of means in pre-term payment of obligations and credits.

Due to the newly adapted Anti-Corruption Law, the assets and the interest declarations are combined into a uniform document, which is considered a positive improvement (Kashumov, 2018^[37]). In terms of objectives, these declarations appear to fulfil two functions: firstly to identify illicit enrichment in so far as verifying authorities carry out checks between the “declared facts and the received information”; (Article 45 of the Anti-corruption Law) secondly, as one source of information to find *ex post* conflict of interests situations.

In practice, according to the 2021 Rule of Law Report, in 2020, CACIAF conducted 21 587 verifications of declarations of property and interests of persons holding senior public positions (compared to 9 900 verifications conducted in 2019), including those of persons who participated in the local elections (European Commission, 2021^[42]).

Institutionally, the Bulgarian legislation defines different entities to verify the declarations of assets and interests:

- The Anti-Corruption Commission, Public Register Directorate — for senior public officials (Box 2.4).
- The inspectorates under the Administration Act — for officials of the administration, for representatives of the state in commercial companies with state capital, and members and experts of political cabinets (other than those checked by the Commission).
- A committee designated by the Appointing Authority (if no Inspectorate has been established in the structure under the Law on Administration) — for the officials of the administration concerned.

Box 2.4. CACIAF's Public Register Directorate

Within the Anti-Corruption Commission, the Public Register Directorate is responsible for the activities under Chapter Five Declarations of the Anti-Corruption Law. In detail, the Directorate's responsibilities are to:

- accept and process the declarations of assets and interests of persons holding senior public positions
- keep and maintain the electronic public register for the declarations
- adopt the declarations of the persons holding a senior public position and draw up a list of persons who have not submitted declarations within the statutory deadline for their publication on the Commission's website
- requests further information from state, local and local authorities, judicial authorities and other institutions to which the facts declared are subject to registration, disclosure or certification
- performs inspections of the submitted declarations for property and interests through direct access to the electronic registers, database and other information files maintained by other state bodies, with the exception of the security services
- requests additional information from state bodies, local self-government bodies and local administration, the judiciary and other institutions to which the declared facts are subject to entry, declaration or certification
- carry out an analysis of declarations of assets and interests of senior public officials
- carry out the verification and analysis of declarations of assets and interests, the Directorate interacts with the "Anti-Corruption", "Conflict of Interest" and "Coordination and Control" Directorates.

Source: (CACIAF, 2018^[43]).

According to the information collected through the OECD questionnaire, entities such as the inspectorates under the Administration Act are given limited access to public registers and therefore cannot fully verify the declared and in-register data. That contrasts with the Anti-Corruption Commission, which has been granted access by law to all records containing data on declared circumstances - including disclosure of banking and tax and social security information – and, as of November 2021, is developing a centralised automated information system on “Corruption Risk Analysis” which will optimise, digitalise and automate the processing and verification of the declared facts and circumstances, it will provide automated electronic data exchange with external systems and registers and it will serve as a key tool for conducting corruption risk analysis. The limited information at disposal of the inspectorates hampers one of the objectives of the current system of asset declarations because, in order to detect illicit enrichment, it is crucial to cross check data from asset declaration with, for example, the household members' asset declaration, the size and location of their immovable assets, and outside activities, business partners and contracts. This cross comparison would help to identify inconsistencies, misrepresented information and other red flags, such as a big difference between income and spending. At the same time, the fact that all public officials are obliged to submit asset declarations creates a significant burden for both the officials and the administration which is not convenient from a cost-benefit perspective. This situation calls for a more focused and proportional approach by Bulgaria, which could narrow the scope of officials obliged to submit an asset declaration in order to focus efforts in reviewing those of senior public officials and those working in at risk sectors or positions such as public procurement and the management of public funds, including EU ones. The assessment of at-risk positions could be part of the anti-corruption plans to be developed annually by public entity. According to an OECD comparative study on Eastern Europe and Central Asia countries of

2011, only some of the countries have adopted the all-inclusive scope for public officials (OECD, 2011^[41]). The same report highlights that while any public official can potentially be influenced by an external interest or enrich illicitly; however, it notes that experts tend to be sceptical about overly wide application of the duty to declare assets, noting that “more often than not, policy makers tend to overreach, requiring far too many lower-level personnel to disclose” (Messick, 2011^[44]). This approach has potentially negative consequences in terms of cost of the administration, or lack of effectiveness.

On top of the scope, according to the National Anti-corruption Strategy, a significant existing weakness of the legal framework for the verification of declarations of assets and interests and the identification of conflicts of interest is the lack of a single unit to monitor and summarise the information received by the selection or appointment authorities. The development of a single electronic platform would assist in gathering and summarising information on various statistical indicators by the selection or appointment authorities in relation to the verification of declarations of assets and interests and the identification of conflicts of interest. Such functions are deemed appropriate for the NCAP in the National Strategy, which has taken the mandate to build upon integrity policies by increasing publicity in the application of the legislation on assets and interest declaration, discussing issues hampering its enforcement, and discussing potential developments of said piece of legislation. Furthermore, the electronic platform is expected to have a single entry point to ask questions on the activity of checking declarations of assets and interests and identifying conflicts of interest which could assist the prevention of future misconducts. In developing this idea further, which would also require an adequate level of IT infrastructure, Bulgaria could take into account the implementation challenges commonly faced by countries when establishing electronic disclosure systems (Box 2.5).

Box 2.5. Implementation challenges when establishing newly electronic disclosure systems

A 2019 study from the World Bank highlight that are several reasons for moving to electronic filling of declarations: it easier and faster for declarants, it allows better data management and improved security; it enables effective review and enforcement; and opens up great possibilities to make some of the data more transparent and subject to public accountability.

However, several challenges may hamper the transition and they should be anticipated and addressed since the very design and implementation of new electronic disclosure systems in order to fully benefit from their benefits. According to the report, the most commonly-faced challenges are:

- Ensuring the legal framework allow for electronic submission.
- Ensuring that the institution in charge of developing and launching the new system has the sufficient human resources and/or expertise to develop and maintain the system, or the capacity to process inquiries from the declarants.
- Using lessons learned from launching other e-governance services, involve multiple stakeholders, and must budget for ample preparation and testing time.
- Using joint teams of IT, asset declaration, and public sector reform experts to design the architecture of the e-filing system can be key to successful implementation.
- Planning and designing the electronic system based on a cost-benefit analysis.
- Designing the system to include a much larger number of electronic documents and sessions than originally needed at inception.
- Addressing the issue of data integrity and provide safeguards for data authenticity.
- Designing the registration and authentication in the electronic system with the possibility of using alternative methods in the early stages of operation (e.g. bankID, mobileID, national digital IDs).

- Developing awareness raising campaigns and trainings are important to raise the level of compliance, ensure trust in the new system, and facilitate a smooth operation.
- Ensuring that regulations clearly stipulate the rules for the duration of storing electronic data entered in the system and its publication.
- Ensuring that data is captured and processed from the beginning in the form that will allow data publication and reuse in a machine-readable format in the future.
- Considerations of personal data protection should be taken into account from the start of the electronic system development and its implementation to avoid legal challenges of violations of the filers' rights.

Source: (World Bank, 2018^[45])

2.3. Updating and introducing integrity legislation

2.3.1. Bulgaria could ensure a comprehensive legal framework on whistleblowing protection in line with the EU Directive

The OECD Recommendation on Public Integrity calls on adherents to support an open organisational culture within the public sector response to integrity concerns, in particular by providing alternative channels for reporting suspected violations of integrity standards, including where appropriate the possibility of confidentially reporting to a body with the mandate and capacity to conduct an independent investigation (OECD, 2017^[2]).

According to a 2021 report from civil society, the majority of the citizens surveyed (60%) do not think that they would be sufficiently protected if they report a corruption act or a conflict of interest related to public office holders. Indeed, only 2.9% said that they would feel completely comfortable reporting such violations of integrity. According to the same report, the lack of guarantees for protection and the fear of action against the whistle-blower are the most frequently cited reasons for refusing to report corrupt practices and conflicts of interest in Bulgaria (Bulgarian Institute for Legal Initiatives, 2021^[46]).

The legal framework in Bulgaria provides for the possibility of whistleblowing reports in various laws and standards, including the Constitution of the Republic of Bulgaria, the Administrative Procedure Code, the Anti-Corruption Law, and the National Code of Conduct for State Employees.

Firstly, the Constitution of the Republic of Bulgaria (Art. 45) stipulates that "citizens have the right to lodge complaints, submit proposals and petition State institutions".

Secondly, the Administrative Procedure Code specifies that the breaches and misconduct may only be reported to the competent administrative body, e.g. the body that is directly responsible for the management and supervision of the authorities and officials whose unlawful or inappropriate actions or omissions have been reported (Gyaurova-Wegertseder and Todorov, 2021^[47]). The Administrative Procedure Code also regulates that reports may be submitted to administrative bodies, as well as to other bodies performing public law functions for abuses of power and corruption, mismanagement of state or municipal property or other illegal or inappropriate acts or omissions of administrative bodies and officials in the respective administrations affecting state or public interests, rights or legal interests of others. In practice, citizens can report irregularities and misconduct to any public institution, including regulatory and other bodies with control functions, local government bodies, the ombudsman, and specialist agencies such as the State Agency for National Security and the Anti-Corruption Commission, the inspection services of various ministries and the Council of Ministers, etc. Furthermore, under the Administrative Procedure Code, it is stipulated that no proceedings shall be instituted on the

basis of anonymous proposals or reports and that no one may be prosecuted solely for submitting a proposal or report. The identity of the whistle-blower should be kept confidential if they are reporting on conflicts of interest cases.

Thirdly, the Anti-Corruption Law further provides that any person having data concerning corruption, or conflict of interests about a person holding senior public position, may submit a report to the Commission. In specific cases, a report may be considered a publication to the mass media, if it meets requirements under Art. 48 of the Law. In case a report is not under the Commission's competence, it is re-sent immediately to the relevant bodies. However, anonymous reports are not examined and/or resent on competence. In detail, they should contain information such as full name, Unified Civil Number, address, telephone number, e-mail address of the sender; the name of the person, against whom the report is sent and the senior public position held by him; concrete data about the stated violation; reference to documents providing additional information; date of submission of the report; and signature of the person submitting the report. Reports against a judge, prosecutor, or investigator, containing data about acts which harm the prestige of the judiciary are to be send for check to the Inspectorate under the Supreme Judicial Council. Also, Article 51 of the Law stipulates that a person who has been dismissed, persecuted or in respect of whom action has been taken leading to mental or physical harassment for submitting a report shall be entitled to compensation for the pecuniary and non-pecuniary damage suffered by him in court. CACIAF applies special rules for the receipt and consideration of reports for corruption or conflict of interest and for protection of whistle-blowers. A template, an electronic report form and internal rules for handling reports and protecting whistle-blowers are published on the Commission's website (CACIAF, n.d.^[48]).

Fourthly, the National Code of Conduct for State Employees (Art.22) ensures that Civil servants cannot be sanctioned for having reported a case of breach of this Code. Additionally, there is an obligation from the members and staff of CACIAF to protect the anonymity of the persons who have submitted reports of corruption or conflict of interest, nor disclose related facts and data (Art. 49 of the Anti-Corruption Law).

Although the legal framework in Bulgaria allows the reporting of an act of corruption through various channels, the regulation is fragmented, and gaps exist as to confidentiality and protections measures. Firstly, the presence of different rules in different instruments creates an inconsistent framework which also makes it difficult to create awareness and promote this kind of disclosures. Secondly, it has been observed that anonymous reports are not allowed pursuant to Administrative Procedure Code which establishes that they should be dismissed without consideration (Gyaurova-Wegertseder and Todorov, 2021^[47]). Thirdly, the laws provide for protection against retaliation and compensation against disciplinary dismissal, but further elements are needed to ensure comprehensive protection against different types of retaliation and damages a whistle-blower may suffer. In this context, as noted during Phase 3 of the monitoring of the OECD Anti-bribery Convention and confirmed in its Phase 4 report, none of Bulgaria's existing legislation met the standards of the 2009 OECD Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions to protect from discriminatory or disciplinary actions public and private sector employees who report suspected acts of foreign bribery (OECD, 2011^[49]) (OECD, 2021^[32]). In the past there has been attempts to increase protections but, when adopting the Anti-corruption Law, the Bulgarian Parliament voted against them under the rationale that whistle-blowers should bear legal responsibility when they present information that may lead to the initiation of proceedings against an official (Kashumov, 2018^[37]).

To ensure comprehensive whistleblowing protections, Bulgaria could review the legal framework by clarifying internal and external channels, introducing the possibility of confidential disclosures and protections for whistleblowing. Establishing clear reporting channels is an essential element of a whistleblowing policy as it helps facilitate reporting and build confidence in the system and coming forward. Reporting channels generally include internal disclosures, external disclosures to a designated body, and external disclosures to the public or to the media. Another core element of an effective whistle-blower protection system is ensuring that the whistle-blowers is kept confidential and adequate protections are in place for avoiding retaliation after reporting suspected integrity violations. Anonymous reporting can

provide a strong incentive for whistle-blower to come forward. As a minimum, a whistle-blower system should clearly define – and communicate – available channels and protect the confidentiality of the whistle-blower. When a whistle-blower has experienced reprisal after disclosing misconduct, providing clarity on the measures and remedies available can further reassure potential whistle-blowers to come forward. These can range from return to employment after unfair termination, job transfers or compensation, to damages if there was harm that cannot be remedied by injunctions, such as difficulty in or the impossibility of finding a new job (OECD, 2016^[50]) (OECD, 2020^[1]). The recommended changes of the legal framework would also contribute to align Bulgaria's legislation with the EU Directive on Whistleblowing, which all EU Member States including Bulgaria have transpose in their legal system by December 17th 2021 (Box 2.6).

Box 2.6. The EU Directive on whistleblowing and status of transposition by Bulgaria

The EU Directive on whistleblowing sets the common minimum standards for the protection of whistle-blowers. The Directive expands the definition of whistle-blower to include not just employees, but individuals who report wrongdoing encountered in a work-related context.

The Directive establishes the obligations to create internal and external reporting channels, to follow up on reports and keep the whistle-blower informed, as well as it allows the public disclosure of the wrongdoing in the event of not receiving a response from the reporting channels.

It prohibits retaliation against whistle-blowers and individuals who assist whistle-blowers, protecting their identities in most circumstances, with clear and limited exceptions to confidentiality and an advance notice to the whistle-blower when his or her identity needs to be disclosed. Member States can decide whether legal entities in the private or public sector and competent authorities are required to accept and follow up on anonymous reports. However, persons who reported or publicly disclosed information on breaches anonymously, but who are subsequently identified and suffer retaliation, shall nonetheless qualify for the protection.

A separate section is dedicated to protecting the reporting person against retaliation, including protection against dismissal and demotion by the employer. The Directive also includes applicable penalties for persons who hinder or attempt to hinder reporting, retaliate against the reporting person and breach the duty of maintaining the confidentiality of the whistle-blowers' identity.

According to a 2021 Report from civil society on the status of transposition of the EU Directive on whistleblowing, in early 2020 Bulgaria created a working group which in March that year drafted a preliminary impact assessment of the transposition on the Bulgarian legal framework. From mid-September to mid-October 2021, Bulgaria organised a public on-line consultation on a background document and the structure of the draft "Law for the protection of persons who report or publicly disclose information on violations" which received feedback from representatives of civil society and of the private sector.

Source: (Transparency International, 2019^[51]); (European Union, 2019^[52]); (Government of Bulgaria, n.d.^[53])

2.3.2. Bulgaria could introduce regulation on lobbying

Lobbying in all its forms is a legitimate act of political participation. It grants stakeholders access to the development and implementation of public policies. Lobbyists, as well as advocates and all those influencing governments, represent different valid interests and bring to policy makers' attention much needed insights and data on all policy issues. For these reasons, lobbying can be beneficial to our societies.

The OECD Recommendation on Principles for Transparency and Integrity in Lobbying calls on countries to provide an adequate degree of transparency to ensure that public officials, citizens and businesses can obtain sufficient information on lobbying activities. Thus, lobbying should be "considered more broadly and inclusively to provide a level playing field for interest groups, whether business or not-for-profit entities, which aim to influence public decisions" (OECD, 2021^[54]).

The Rules for the organisation and activity of the National Assembly include a couple of relevant rules in so far as they forbid its members to use their official position to obtain special privileges or benefits. Since May 2021, the Rules also forbid them to accept gifts in their official capacity unless they are protocol gifts and are worth up to one-twentieth of their basic monthly salary and establishes that gifts in excess of such amount shall be handed over to the National Assembly and included in a public register of the National Assembly. However, as of November 2021, this public register has not been created yet (National Assembly of Bulgaria, n.d.^[55]).

Beyond these specific rules, Bulgaria does not have any comprehensive framework regulating lobbying activities nor any definition of lobbyist and lobbying activities. As noted in the 2021 Rule of Law report (European Commission, 2021^[42]), regulating lobbying in Bulgaria has been included as one of the measures of the Implementation Plan adopted by Bulgaria in response to the 2020 Rule of Law Report (Government of Bulgaria, 2020^[17]). In particular, Bulgaria established a working group for researching the best European practices, drafting a concept for regulating lobbying in line with the European Commission's recommendations and standards, Recommendation CM/Rec (2017)2 of the Council of Europe and preparing a bill following public consultations. However, concrete steps are yet to be taken.

Bulgaria could consider introducing regulation on lobbying focusing on three key issues. First, the draft law should include clear legal definitions on a lobbyist and lobbying activities; second, it should also publish information on the objective of the lobbying activity to enable public scrutiny; and third, the draft law should assign clear responsibilities for monitoring compliance with the lobbying regulations, establish sanctions for non-compliance, and ensure sufficient resources are provided to achieve the objectives of the law.

There are many and diverse examples of OECD countries regulating lobbying activities. A total number of 22 OECD countries have adopted a transparency tool to provide transparency over lobbying. A majority of these countries have public online registries where lobbyists and/or public officials disclose information on their interactions. For example, this is the case in Australia, Canada, Chile, France, Ireland, and the United States. The Netherlands has a voluntary register in the House of Representatives where lobbying firms, NGOs and businesses can register certain details. Another approach is to require certain public officials to disclose information on their meetings with lobbyists through open agendas (Spain and EU level with senior public officials). Some countries also require *ex post* disclosures of how decisions were made ("legislative footprint") (OECD, 2021^[54]). Within the Eastern European region, Poland, Hungary, and Romania have in place transparency requirements on lobbying activities and provide examples that Bulgaria could follow when discussing and developing regulation on lobbying (Box 2.7).

Box 2.7. Lobbying regulations in Poland, Hungary, and Romania

Poland

In Poland, the Act on Legislative and Regulatory Lobbying stipulates that all public authorities are targeted by lobbying activities related to the law-making process (the above-mentioned “legislative footprint”). Poland provides transparency on lobbying activities through a register of entities performing professional lobbying, as well as lists of registered persons administered by the chambers of parliament (the Sejm and the Senate). Managers of public authorities must publish, once a year and by the end of February, information on the actions taken against them by lobbyists. In addition, the Standing Orders of the Sejm (Article 201c) provides for the publication of proposals, expert opinions and legal opinions submitted by lobbyists to Committees working on a specific bill. The documents are made available on the Sejm’s Information System. The Senate Regulations (Article 63) also specify that the rapporteur of a committee reporting on legislation must indicate when activities are performed by professional lobbyists in the course of committee work. They must also present the committee’s position on the proposals presented by lobbyists.

Hungary

In Hungary, the procedural rules of receiving lobbyist are covered under Government Decree 50/2013 on the system of integrity management at public administration bodies. The public officials and institutions targeted by lobbying activities are any public administration body under the control or supervision of the Government or its members, and the officials of such bodies, with the exception of law enforcement agencies and the Military National Security Service. However, the Hungarian Government decree does not specify which types of decisions are targeted.

Romania

In Romania, lobbying requirements are provided under Section 3 of the Memorandum for creating a Unique interest Groups Transparency Register. The public officials targeted by the lobbying activities are the decision makers of the central executive government, such as the Prime Minister, the Ministers, Secretary of States, and State counsellors, as well as senior officials from certain institutions and central bodies of the administration of the government. The decisions subject to disclosure are related to public policy.

Source: (OECD, 2021^[54]).

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