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II. Executive summary

Bulgaria

1. Introduction: overview of the legal and institutional framework of Bulgaria in the context of implementation of the United Nations Convention against Corruption

Bulgaria signed the United Nations Convention against Corruption on 10 December 2003 and deposited its instrument of ratification on 20 September 2006.

The implementation by Bulgaria of chapters III and IV of the Convention was reviewed in the first year of the first review cycle. The executive summary of that review was published on 16 January 2012 ([CAC/COSP/IRG/I/1/1/Add.4](#), [CAC/COSP/IRG/I/1/1/Add.4/Corr.1](#) and [CAC/COSP/IRG/I/1/1/Add.4/Corr.2](#)).

The legislation implementing chapters II and V of the Convention principally comprises the Constitution, the Act on Counteraction of Corruption and Confiscation of Illegally Acquired Property (Corruption and Confiscation Act), the Civil Servants Act, the Act on the Protection of Whistle-blowers or Persons Publicly Disclosing Information about Violations (Whistle-blower Protection Act), the Access to Public Information Act, the Public Procurement Act, the Public Finance Act and the Measures against Money-Laundering Act.

Institutions with mandates relevant to preventing and countering corruption include the Commission for Counteracting Corruption and for Confiscation of Illegally Acquired Property (the Corruption and Confiscation Commission), internal inspectorates in ministries and State bodies, the Inspectorate to the Supreme Judicial Council, the Ministry of Justice, the National Audit Office, the Public Procurement Agency and the Financial Intelligence Directorate in the State Agency for National Security.

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

In March 2021, the Council of Ministers adopted a national strategy for preventing and combating corruption for the period 2021–2027. The strategy consists of seven core priorities, each with a set of dedicated measures, and is accompanied by an implementation road map, which sets out actions for the implementation of those measures under the respective priorities, as well as performance indicators, responsible and participating institutions, and financing and implementation deadlines. The strategy was developed on the basis of an evaluation report on the implementation of the previous national strategy, for 2015–2020, by a working group commissioned by the Prime Minister that comprised a broad range of governmental and non-governmental stakeholders, and it was adopted by the Council of Ministers in March 2021.

The strategy is implemented by executive, legislative and judicial authorities, the business sector and civil society. No budget is earmarked specifically for the implementation of the strategy, and the implementing authorities use their own annual budgets for the purpose of carrying out relevant measures.

The National Council on Anti-Corruption Policies, established by Council of Ministers Decree No. 136 in 2015, functions as the inter-agency coordinator that supports the development, implementation and monitoring of the strategy. Civil society is consulted through the Civil Society Council under the National Council on Anti-Corruption Policies, which is not a permanent body but carries out its activities through meetings, and the Chief Inspectorate of the Council of Ministers provides expert and technical support for its work.

The Corruption and Confiscation Commission implements the State policy on the prevention of corruption by, inter alia, identifying and analysing risk areas, developing preventive measures in accordance with guidelines for anti-corruption measures adopted by the National Council on Anti-Corruption Policies, and conducting anti-corruption training for public officials.

All ministries and agencies are required to prepare annual anti-corruption plans. The Corruption and Confiscation Commission prepares an annual report, including recommendations, on the implementation of those anti-corruption plans and submits the report for discussion and adoption by the National Council on Anti-Corruption Policies. Ministries and agencies are required to report on the implementation of the recommendations in their anti-corruption plans for the upcoming year.

Impact assessment is mandatory in the legislative process. The Council of Ministers issued, in 2019, a guide for conducting preliminary impact assessments; in 2020, a guide for conducting subsequent impact assessments; and in 2022, a list of laws for which preliminary impact assessments should be conducted (Decision No. 436). For draft laws prepared by the executive authorities, consultation with the Corruption and Confiscation Commission on possible corruption risks is mandatory (art. 32 of the Corruption and Confiscation Act). All impact assessments are published on the Public Consultation Portal (www.strategy.bg). However, for laws proposed by the parliament, both the implementation of impact assessments and public consultation are limited, as internal rules in the National Assembly modify the requirements established in the Law on Normative Acts, such as the 30-day consultation period.

Bulgaria uses the results or recommendations of international organizations and monitoring by the European Commission and the Council of Europe as a basis for legislative initiatives and strategies. Bulgaria is a member of international initiatives such as the Council of Europe Group of States against Corruption, the Organisation for Economic Co-operation and Development (OECD) Working Group on Bribery in International Business Transactions and the Camden Asset Recovery Inter-Agency Network (CARIN). Bulgaria cooperates with the European Commission under the Cooperation and Verification Mechanism.

The Corruption and Confiscation Commission is the designated corruption prevention authority under the Corruption and Confiscation Act. The Commission is mandated to collect and analyse information on national anti-corruption policies and measures, to develop and propose measures to prevent and counter corruption, to coordinate implementation and to disseminate information (art. 30 of the Corruption and Confiscation Act). The National Assembly exercises control over the activities of the Commission, and its chair, deputy chair and members are elected by the National Assembly (art. 8 of the Corruption and Confiscation Act) and can be removed by the National Assembly in accordance with article 11 of the Corruption and Confiscation Act. The Commission is a first-level spending unit of the national budget and enjoys financial independence. It has about 400 staff members, approximately 20 of whom work exclusively on prevention. In addition, staff training is carried out, as described below.

Under the Administration Act, internal inspectorates are set up in all ministries and State bodies to detect violations, propose disciplinary proceedings and report possible corruption offences to the Prosecutor's Office. The inspectorates carry out their activities only under the direct supervision of the body in which they were created and free from any influence of the political cabinet and employees in the relevant administration (art. 4 (2) of Council of Ministers Ordinance No. 93/2018). The General Inspectorate coordinates, supports and evaluates the activities of the inspectorates and reports directly to the Prime Minister.

The Inspectorate to the Supreme Judicial Council addresses issues related to the integrity of the judiciary; its members are elected by the National Assembly.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

The Civil Servants Act, the Administration Act and the Local Self-government and Local Administration Act govern the management of the civil service (as defined in sect. 3 of the Civil Servants Act). Entry into the civil service is mandatorily preceded by a competitive procedure based on professional accomplishments (art. 10 of the Civil Servants Act). Promotion is based on an annual evaluation of the execution of office (arts. 75 and 82 of the Civil Servants Act). There is no central recruitment procedure or dedicated human resources agency; authorities are responsible for making their own recruitment decisions. Appeals are subject to administrative review by the appointing authority, whose decision is final and not subject to judicial review (arts. 10c and 10e of the Civil Servants Act).

The Ministry of Interior identified road control, border control and public procurement as areas where the risk of corruption is particularly high. The anti-corruption plan of the Ministry for 2022 provides rules for the rotation of staff working in those areas, and a special software is used to minimize the influence of human factors in rotation arrangements. Integrity tests may be conducted as an enhanced procedure for the selection of candidates for those positions.

Articles 67–72 of the Civil Servants Act, article 107a of the Labour Code, and the Ordinance on the Salaries of Employees in the State Administration regulate the remuneration system, which is based on the level of the position occupied and on qualifications and professional experience. Employment conditions are comparable to those in the rest of the labour market.

The Institute of Public Administration conducts a national study every three years to identify the training needs of the public administration, including in relation to ethics and corruption prevention, and provides training accordingly. The Corruption and Confiscation Commission organizes various training courses on anti-corruption topics for State officials. The Ministry of Interior regularly organizes training on anti-corruption topics for its employees.

The general framework on exercising the right to be elected is regulated by the Constitution (arts. 65, 93, 95, 130 and 132), the Election Code (arts. 351 and 397) and laws governing specific elections. Declarations of assets and interests and of incompatibilities are generally required after, rather than before, candidates take office, in accordance with the Corruption and Confiscation Act (art. 35) and the Ancillary Provisions to the Act (art. 2.1). Legislation on lobbying is in the early stages of development.

The Political Parties Act regulates the financing of political parties. The Election Code regulates the financing of participants in the different types of elections (political parties, coalitions of parties and initiative committees that nominate candidates). The National Audit Office exercises financial control over the activities of political parties (art. 33). Political parties must submit to the National Audit Office annual financial reports containing their financial statements for the preceding calendar year and including all donations and their sources (art. 34). Representatives of parties, coalitions of parties and nomination committees must submit election campaign financial reports, containing information on income, spending and payment commitments in relation to election campaigns, to the National Audit Office within 30 working days after the election day (art. 172 of the Election Code). Both annual financial reports and election campaign financial reports are published on the National Audit Office website. Political parties are further required to keep a public register of donations on their websites, including the identity of donors and the origin of funds (art. 29 of the Political Parties Act). Although State subsidies are permitted (art. 25 of the Act), the use of public administrative resources, anonymous donations, donations from legal entities and funds from foreign sources (except when the donor is a national of another European Union member State) are prohibited (art. 24 of the Act and art. 168 of the Code). There is no upper limit on donations, only a limit on donations from single sources and limits on electoral spending (art. 165 of the Code).

Articles 43 and 43a of the Political Parties Act and articles 476–479 of the Election Code provide for administrative penalties for violations.

Provisions on conflicts of interest among senior public officials are contained in chapter 8 of the Corruption and Confiscation Act. Section 2, paragraph 2, of the Supplementary Provisions of the Corruption and Confiscation Act extends such requirements to non-senior public officials. The definition of conflicts of interest covers actual, potential and non-financial conflicts (arts. 52 and 53 of the Corruption and Confiscation Act). When a conflict of interest arises, public office holders must recuse themselves and notify the electing or appointing authority (art. 63 of the Corruption and Confiscation Act). The Code of Conduct for State Administration Employees prohibits the acceptance of gifts or benefits by public officials that might influence their official duties (art. 11).

Senior public officials listed in article 6 of the Corruption and Confiscation Act, except those obliged under the Judiciary Act (see art. 11 of the Convention), are required to submit declarations of their assets and interests, and those of their spouses and minor children, to the Corruption and Confiscation Commission (arts. 35 and 37 of the Corruption and Confiscation Act) and non-senior officials are required to submit such declarations to their appointing or electing authority (sect. 2, paras. 1–2, of the Supplementary Provisions of the Corruption and Confiscation Act). The Corruption and Confiscation Commission, and the relevant inspectorate or a specially appointed commission, apply a mechanism for the analysis and verification of declarations by senior and non-senior officials, respectively. The ability of the Corruption and Confiscation Commission and the inspectorates to conduct the effective verification and follow-up of the large number of declarations is affected by the need for adequate capacity and resources. The Corruption and Confiscation Commission publishes declarations of senior public officials and a list of persons who have failed to submit declarations on time (art. 40 of the Corruption and Confiscation Act). In the case of the judiciary, a list of persons with identified non-conformities is published on the website of the Inspectorate to the Supreme Judicial Council (art. 175g (3) of the Judiciary System Act), but is removed at the end of each calendar year. The Corruption and Confiscation Commission can impose fines in cases of violations (arts. 173, 174 and 177 of the Corruption and Confiscation Act).

The Civil Servants Act introduces an obligation for civil servants to perform official duties in accordance with the principles of lawfulness, loyalty, accountability, stability and political neutrality (art. 18). The Code of Conduct for State Administration Employees, adopted by Council of Ministers Decree No. 57 in 2020, regulates the behaviour of all employees in the public administration. The development of standards of conduct for senior officials is provided for in the national anti-corruption strategy.

The Whistle-blower Protection Act regulates the conditions, procedures and measures for the protection of persons in the public and private sectors who report or publicly disclose information on violations of law that endanger or damage the public interest, or on violations of European Union law. The Code of Conduct for State Administration Employees includes an obligation for public officials to report corruption or conflicts of interest in the administration to their superiors (art. 13). Public officials may also report to the Prosecutor's Office, police or, if senior officials are involved, the Corruption and Confiscation Commission. Reports of corruption or conflicts of interest pertaining to senior public officials are received by the Commission.

Non-compliance with the Code of Conduct for State Administration Employees can lead to disciplinary sanctions under the Civil Servants Act (art. 89 (2) (5)) and the Labour Code (art. 107a (21) and art. 186). Imposing disciplinary sanctions does not preclude civil, administrative or criminal liability on the part of the violator.

Judicial independence is enshrined in the Constitution (art. 117) and further developed in the Judiciary Act. The prosecution service is part of the judiciary. The Supreme Judicial Council makes decisions on the appointment, promotion, demotion, transfer

and release from office of judges and prosecutors (art. 129 of the Constitution). The composition of the Supreme Judicial Council and conditions for the election of its members are regulated by article 130 of the Constitution and article 16 of the Judiciary Act. The Council comprises 25 members: 3 are ex officio,¹ 11 are elected by a qualified majority of parliament, and 11 are elected by magistrates. Efforts are under way to improve the composition and functioning of the Council to enhance its independence, while ensuring adequate accountability.

The Inspectorate to the Supreme Judicial Council oversees the activity of the judiciary and carries out reviews related to the integrity and conflicts of interest of judges, prosecutors and investigating magistrates, their property declarations, actions that impair the prestige of the judiciary and violations of the independence of judges, prosecutors and investigating magistrates. It is also responsible for proposing disciplinary proceedings regarding magistrates to the relevant colleges of the Council. The Code of Ethics for Bulgarian Magistrates applies to all members of the judiciary, including judges and prosecutors. Professional ethics committees for judicial authorities carry out reviews of unethical behaviour on the part of magistrates, including violations of the Code. Professional ethics committees for the chambers of the Council carry out reviews of the moral qualities of candidates applying for election, promotion and transfer to administrative leadership positions in judicial authorities. Anti-corruption efforts and integrity are core topics in the mandatory initial and continuing training offered by the National Institute of Justice to the judiciary.

The Prosecutor General is appointed and released by the President of the Republic upon proposal by the plenary of the Supreme Judicial Council and holds office for a term of seven years, without eligibility for a second term in office (art. 129 of the Constitution). Nominations for the appointment and release of deputies are made by the Prosecutor-General to the Prosecutors' Chamber of the Supreme Judicial Council. In May 2023, Bulgaria adopted legislative amendments introducing, inter alia, a mechanism for accountability and criminal liability on the part of the Prosecutor General and the Deputy Prosecutors General and for judicial review of prosecutors' decisions not to open investigations.²

Public procurement and management of public finances (art. 9)

Public procurement is regulated by the Public Procurement Act and secondary acts, which transpose relevant European Union directives. The fundamental principles for public procurement include equal treatment and non-discrimination, proportionality, free competition, publicity and transparency (art. 2 (1) of the Public Procurement Act). Public procurement contracts are awarded on the basis of the most economically advantageous offer (art. 70). The contract notice must indicate the selected awarding criteria (art. 70).

As a general rule, contracting authorities must use open or restricted tendering for contracts with a value exceeding a specified threshold; however, in specific circumstances established by law, other award procedures may be used (arts. 73 and 132 of the Public Procurement Act). In practice, the use of negotiated procedures without prior publication is relatively high, which was noted as an area of vulnerability in the country's national recovery and resilience plan. According to that plan, decreasing the number of contracts assigned to single bidders and the number of negotiated procedures without prior publication is among the goals for 2025.

¹ Ex officio members are the President of the Supreme Court of Cassation, the President of the Supreme Administrative Court and the Prosecutor General, who are appointed by the President upon proposal by the Council.

² In June 2023, the Prosecutor-General submitted to the Constitutional Court a request to declare unconstitutional provisions of the Criminal Procedure Code and the Judiciary System Act related to the refusal to initiate pretrial proceedings, the mechanism for independent investigation of the Prosecutor-General and the election of members of the Supreme Judicial Council. A ruling by the Constitutional Court is pending.

Contracting authorities may define the minimum eligibility requirements for participation on the basis of criteria relating to a person's suitability for exercising professional activity, economic and financial standing, and technical and professional capacity (art. 59 of the Public Procurement Act).

Contracting authorities must provide free access to procurement documents in electronic form (art. 32 of the Public Procurement Act), including contract notices and award decisions (arts. 154 and 155), both through the Public Procurement Register maintained by the Public Procurement Agency and through the Official Journal of the European Union (arts. 35 and 36). Since 2021, it has been mandatory for all public contracts to be announced and awarded through the country's centralized automated information system for electronic public procurement, which was established in accordance with article 39a of the Public Procurement Act.

Under the Public Procurement Act, public procurement decisions are subject to appeal before the Competition Protection Commission (chap. 27), which may impose sanctions on contracting authorities (art. 215), and to further appeal before the Supreme Administrative Court (art. 216).

The Public Procurement Agency assists the Minister of Finance in the implementation of State policies on public procurement. The National Audit Office and the Public Financial Inspection Agency carry out external ex post control regarding compliance with the rules for awarding public procurement contracts, including the implementation of those contracts (art. 238 of the Public Procurement Act).

The general rules on conflicts of interest and on declarations of assets and interests for public officials apply to procurement personnel (arts. 35 and 52–54 of the Corruption and Confiscation Act). The Public Procurement Act includes several provisions on conflicts of interest concerning tenders, members of evaluation commissions and members of competition juries (arts. 54, 80, 103 and 157). The Implementation Rules of the Public Procurement Act oblige members of evaluation commissions to declare the absence of conflicts of interest, recuse themselves when necessary and report external pressures for favourable treatment (arts. 51, 52 and 140). The Public Procurement Act provides for the obligatory removal of a tenderer in cases of irreconcilable conflicts of interest (art. 54 (1)). The Institute of Public Administration organizes training for various representatives of the State administration. The Public Procurement Agency organizes training on anti-corruption topics for its staff, including for public procurement personnel.

Procedures for the compilation and adoption of the national budget are stipulated in the Public Finance Act and the Rules of Procedure of the Council of Ministers and its Administration. The Council organizes and manages the drafting, submission to the National Assembly and implementation of the national budget through the Minister of Finance and first-level budget spending units (art. 7 of the Public Finance Act). Relevant budget documentation is made available to the public through the State Gazette and the official website of the Ministry of Finance.

All first-level spending units are required to prepare and present monthly, quarterly and annual budget execution reports to the Ministry of Finance. The Ministry prepares and publishes monthly, quarterly and annual information on State budget execution. The Fiscal Council assesses national budgets and execution reports and may submit opinions and recommendations for the consideration of the National Assembly (art. 6 of the Fiscal Council and Automatic Corrective Mechanisms Act).

The financial statements of budgetary organizations are subject to internal control in accordance with the Financial Management and Control in the Public Sector Act, and to external audit by the National Audit Office in line with the National Audit Office Act. In the event of deviations, the National Audit Office notifies the Minister of Finance, who may take follow-up actions (art. 107 of the Public Finance Act). Heads of government agencies are responsible for taking risk management and internal control measures pursuant to the Financial Management and Control in the Public Sector Act (arts. 3 and 13). The Ministry of Finance issues guidelines and coordinates

measures across agencies. Failure to comply with the Public Finance Act may constitute a violation of budgetary discipline (art. 2 of the Additional Provisions to the Public Finance Act). The Public Financial Inspection Agency conducts financial inspections, verifies compliance with the Public Finance Act and initiates administrative penalty proceedings.

The Accountancy Act regulates the obligations of public and private entities to preserve the integrity of financial records and prevent their falsification (arts. 9–11, 23, 24 and 42).

Public reporting; participation of society (arts. 10 and 13)

The principle of public access to information is enshrined in the Constitution (art. 41 (2)). The Access to Public Information Act regulates the procedure for accessing information (chap. 3) and establishes limitations in specified cases (arts. 7, 8, 13 and 41b). Information that has been requested more than three times by different persons is subject to mandatory publication (art. 15 (1) (16)).

All citizens can request information from public authorities on matters of legitimate interest to them. The Platform for Access to Public Information (<https://pitay.government.bg>) is a dedicated platform for citizens to lodge such requests and for authorities to respond. Refusals to provide information are subject to judicial review (art. 41k of the Access to Public Information Act).

All public authorities are obliged to publish online certain information on their organization, functions and activities, as defined in the Access to Public Information Act (art. 15). The Open Data Portal, operated by the Ministry of eGovernment, is a centralized system for publishing public sector information in the form of data sets. All government decisions are published in the Legal Information System of the Council of Ministers (www.pris.government.bg).

The Administrative Procedure Code provides a unified regulation for administrative procedures. Bulgaria joined the Open Government Partnership in 2012 and has adopted measures to simplify administrative procedures, such as plans for the reduction of administrative burdens and a catalogue of priority administrative services.

The Administrative Procedure Code (arts. 65–75) and the Statutory Instruments Act (art. 26) provide for public consultation in the process of drafting laws. The Administrative Reform Council adopted a set of standards for conducting public consultations in 2019. Prior to submitting draft laws for adoption, drafting authorities must publish them on their respective websites or the Public Consultation Portal, along with the findings of the preliminary impact assessment and the reasons for adoption. Citizens and legal entities may submit written opinions and participate in the subsequent debates. Between January 2019 and December 2022, the Ministry of Justice conducted 109 public consultations on draft normative acts prepared by the Ministry.

The National Council on Anti-Corruption Policies and the Corruption and Confiscation Commission encourage the participation of non-governmental stakeholders in anti-corruption efforts through the Civil Council and memorandums of cooperation, respectively.

Corruption risk assessments are carried out in a decentralized manner, with no comprehensive study by either the Council of Ministers or the judiciary. Public authorities are required to include information on corruption risks in their annual anti-corruption plans, which are published on their websites and analysed by the Corruption and Confiscation Commission. The Ministry of Justice conducts surveys on public attitudes towards corruption and measures corruption risks on the basis of investigation, prosecution and adjudication statistics.

The national strategy for preventing and combating corruption for the period 2021–2027 includes among its seven priorities creating an environment for public

intolerance to corruption and organizing information and educational anti-corruption campaigns. Anti-corruption content is included in school and university curricula, and the Corruption and Confiscation Commission also conducts public information and training activities.

Information on the Corruption and Confiscation Commission is published on its website. Anonymous reports of suspected corruption are not accepted by the Commission (art. 47 of the Corruption and Confiscation Act), but may be addressed by the prosecution service.

Private sector (art. 12)

The Ministry of Interior regularly organizes meetings with representatives of the private sector to discuss topics of common interest, including anti-corruption efforts. The Whistle-blower Protection Act imposes obligations on private-sector employers with more than 50 employees and on employers operating in financial services and in fields such as the prevention of money-laundering and terrorism financing, regardless of their number of employees, to designate internal reporting channels, adopt internal rules for reporting violations and submit statistical information to the national external whistle-blowing body.

Although several industry associations publish the OECD Good Practice Guidance on Internal Controls, Ethics, and Compliance on their websites, the implementation of that guidance remains an ongoing effort. Public companies and issuers of securities are obliged to apply the Corporate Governance Code approved by the Financial Supervision Commission (art. 100m of the Public Offering of Securities Act). Business codes of conduct have also been adopted in other sectors (e.g. the Bulgarian Construction Chamber, the Supreme Bar Council and large enterprises).

All legal entities established in Bulgaria must be entered in the Commercial Register, the Register of Non-Profit Legal Entities or the unified national administrative register (BULSTAT).³ The disclosure of beneficial ownership information in those registers is mandatory for legal persons, including legal persons and natural persons operating as trustees of trusts and similar foreign legal arrangements, with only few exceptions⁴ (arts. 61–63 of the Measures against Money-Laundering Act). The authorities reported that more than 1,000 applications for first-time registration, changes in previously entered registration data or announcements of acts were examined per day in the Commercial Register and the Register of Non-Profit Legal Entities, and that fewer than 200 violations of beneficial ownership requirements were detected annually. Bulgaria disallows bearer shares, and companies that fail to adhere to these requirements are terminated.

Post-employment restrictions for senior public officials, and by extension for civil servants, are established in the Corruption and Confiscation Act (sect. IV, chap. 8). The cooling-off period is normally one year.

All companies are obliged to prepare annual financial statements in accordance with national accounting rules as stipulated in the Accountancy Act, which transposes Directive 2013/34/EU of the European Parliament and of the Council on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings. The annual financial statements of small, medium and large entities, if they meet the requirements laid down in article 37, paragraph 1, of the

³ Over 870,000 entities were registered in the commercial register and the register of non-profit legal entities as of July 2023.

⁴ Entities not required to submit beneficial ownership information are those directly owned by natural persons and where the data of those persons are visible through the entity, either in the Commercial Register or any of the files of entities that are part of the chain of ownership, such as shareholders in limited liability companies or owners of solely owned limited liability companies or solely owned joint-stock companies. Other entities not required to submit beneficial ownership information are associations and foundations under the Non-Profit Legal Entities Act if their beneficial owners are entered as natural persons on another basis in the files of the non-profit legal entities in the register.

Accountancy Act, are audited by independent external auditors in accordance with the Independent Financial Audit Act (art. 37 of the Accountancy Act). Large public interest enterprises are further required to prepare non-financial statements and to disclose corruption-related information (art. 41 of the Accountancy Act). Financial institutions are subject to internal audit requirements and listed companies must have internal audit committees.

The violations referred to in article 12, paragraph 3, of the Convention are governed by article 9 of the Accountancy Act. Failure to maintain adequate accounting records may lead to fines (arts. 68, 69 and 71) and can constitute an accounting offence (chap. 9 of the Criminal Code).

Expenses for bribes are not tax-deductible (art. 26 (12) of the Corporate Income Taxation Act).

Measures to prevent money-laundering (art. 14)

The legal framework establishing measures to prevent money-laundering, including customer due diligence, the reporting of suspicious transactions and record-keeping, comprises the Measures against Money-Laundering Act, the Rules for Implementation of the Measures against Money-Laundering Act and related rules, requirements and directives of the Financial Intelligence Directorate in the State Agency for National Security and of the National Bank of Bulgaria. The legal framework against money-laundering has been updated to implement the requirements of the fifth European Union anti-money-laundering directive. The anti-money-laundering regime is applicable to banks, non-bank financial institutions and designated non-financial businesses and professions, including money or value transfer services, persons organizing gambling operations, and non-profit organizations.⁵ Obligated entities are required to perform customer due diligence (art. 11 of the Measures against Money-Laundering Act), which includes the identification and verification of beneficial owners (art. 10 (2)). The Act also addresses record-keeping (art. 67) and requirements to report suspicious transactions (art. 72). The latter requirement applies whenever there is a suspicion or knowledge that money-laundering or the proceeds of criminal activity are involved. Authorities explained that the term “suspicion” covers both cases of actual suspicion and cases where there are reasonable grounds to suspect activities related to money-laundering or the proceeds of crime.

Anti-money-laundering supervisory authorities comprise the Financial Intelligence Directorate in the State Agency for National Security, the National Bank of Bulgaria, the Financial Supervision Commission, the National Revenue Agency and the Communications Regulation Commission.

Domestic cooperation is significantly enhanced through the functions of the Financial Intelligence Directorate in the State Agency for National Security and other competent authorities, including in the context of the national risk assessment. At the national level, law enforcement agencies, supervisory bodies and other authorities exchange information on the basis of national legislation and agreements and memorandums of understanding. International cooperation is handled by the Financial Intelligence Directorate and other authorities through different mechanisms, including the Egmont Group, by sharing information upon request or spontaneously in accordance with the provisions of national law and international agreements, and through channels such as the Financial Intelligence Unit Network (FIU.net) and the Egmont Secure Web.

Bulgaria implements a dual declaration system for cross-border movements of cash and negotiable instruments. When crossing into or out of Bulgaria across the external borders of the European Union, persons must declare amounts of 10,000 euros or higher. At the internal borders of the European Union, if a person is carrying cash in

⁵ Intensified supervision of virtual asset service providers began in 2021 and draft legislation to regulate the sector was pending at the time of the visit.

the amount of 10,000 euros or higher, a cash declaration must be submitted upon the request of the customs authorities. In the case of non-accompanied funds, declarations are not mandatory but may be required by customs authorities. Additional declaration requirements apply to cross-border movements of precious metals and gems in accordance with the Foreign Exchange Act. Customs authorities monitor the observance of these requirements and are authorized to seize and intercept items. Draft legislation would fully introduce into domestic legislation Regulation (EU) 2018/1672 of the European Parliament and of the Council on controls on cash entering or leaving the Union, which has been applied by Bulgaria since the amendments entered into force in June 2021.

Bulgaria directly applies the provisions of Regulation (EU) 2015/847 of the European Parliament and of the Council on information accompanying transfers of funds, which requires payment service providers to collect complete information about the payer and payee, verify the information and decline transactions that are missing that information. Bulgarian law provides for sanctions for violations of the cited regulations, including in the Act on Payment Services and Payment Systems.

Bulgaria adheres to international and regional standards in the fight against money-laundering, including those issued by the Financial Action Task Force and the European Union. Bulgaria is regularly evaluated in its application of those requirements by the Committee of Experts on the Evaluation of Anti-Money-Laundering Measures and the Financing of Terrorism (MONEYVAL), and under the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, to which it is a party.

Bulgaria also participates in networks such as the European Union Agency for Criminal Justice Cooperation (Eurojust), the European Union Agency for Law Enforcement Cooperation (Europol), the International Criminal Police Organization (INTERPOL) and the UNODC Global Operational Network of Anti-Corruption Law Enforcement Authorities (GlobE Network) to enhance cooperation against corruption and money-laundering.

The first national money-laundering and terrorist financing risk assessment was published in January 2020, and an update to that assessment was published in February 2023. Bulgaria also published sectoral risk assessments in relation to virtual assets and non-profit organizations in February and May 2023, respectively.

2.2. Successes and good practices

- The Access to Public Information Act provides for the obligatory publication of information that has been requested more than three times by different persons (art. 10 (a)).
- Examinations of the accuracy of legal and beneficial ownership information in the registers of legal persons (art. 12, para. 2 (c)).

2.3. Challenges in implementation

It is recommended that Bulgaria:

- Ensure the continued implementation of impact assessments and public consultations on draft legislation, including laws proposed by parliament (arts. 5, para. 3, and 10 (a)).
- Consider adopting conflict of interest rules and declaration requirements for candidates for election, as well as upper limits for election and campaign contributions, and continue to develop legislation to regulate political lobbying (art. 7, paras. 2 and 3).
- Continue to ensure adequate capacity and resources for the verification and follow-up of declarations of assets and interests (art. 8, para. 5).

- Endeavour to adopt and implement standards of integrity for higher-ranking officials, including persons holding senior public positions in the executive branch, to promote the correct, honourable and proper performance of public functions (art. 8, para. 2).
- Strengthen integrity in public procurement by adopting measures to limit the use of negotiated procedures without prior publication and implementing measures to limit the number of contracts assigned to single bidders and the number of negotiated procedures without prior publication to the necessary minimum (art. 9, para. 1).
- Continue to comprehensively and periodically assess corruption risks in the public administration, including with a view to informing future iterations of the national anti-corruption strategy, and consider using independent research to enhance the monitoring and evaluation of the effectiveness of preventive measures (art. 10 (c)).
- Take measures to enhance the composition and functioning of the Supreme Judicial Council, with a view to strengthening judicial independence and preventing opportunities for corruption among members of the judiciary, and ensure the continued accountability of the Prosecutor General and Deputy Prosecutors General (art. 11, para. 1).
- Consider taking measures to allow the anonymous reporting by the public of corruption incidents (art. 13, para. 2).
- Finalize the adoption of amendments to the Foreign Exchange Act that would extend cash declaration requirements to cross-border transfers within the European Union, require declarations for non-accompanied funds and fully transpose Regulation (EU) 2018/1672 (art. 14, para. 2).

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

Bulgaria has established a legal and institutional framework for asset recovery and provides broad opportunities for cooperation with other States.

In accordance with article 471 of the Criminal Procedure Code, Bulgaria affords international legal assistance in criminal matters, including for asset recovery purposes, to other States under the provisions of international treaties to which it is a party or on the basis of the principle of reciprocity. International legal assistance comprises a range of acts of investigation, the collection of evidence, the provision of information, and other forms of legal assistance as provided for in the international agreements or upon request (art. 471 of the Code).

Bulgaria does not require an international treaty to provide assistance and recognizes the Convention as a legal basis for mutual legal assistance. Since 2011, the Ministry of Justice, as the central authority, has registered and handled at least 32 mutual legal assistance requests, including for confiscation, freezing and legal assistance for gathering evidence on the basis of the Convention. No refusals of requests for asset recovery were reported.

Pursuant to Framework Decision 2007/845/JHA of the Council of the European Union, the Corruption and Confiscation Commission is designated as a national asset recovery office. The Commission is a member of the European Union Asset Recovery Offices platform, together with other national asset recovery offices within the meaning of the Framework Decision.

Bulgarian legislation allows for the spontaneous exchange of information in criminal proceedings. In cases involving European Union member States, the Criminal Procedure Code (art. 481) expressly regulates information exchange through

designated contact points and other duly protected means. Authorities can spontaneously transmit information through financial intelligence unit networks and official channels such as the Secure Information Exchange Network Application (SIENA), the Camden Asset Recovery Inter-Agency Network (CARIN) and European Asset Recovery Offices, and through Europol and INTERPOL. Authorities cooperate with non-European Union counterparts through cooperation agreements or international networks in accordance with Bulgarian legislation.

In addition to several multilateral agreements on international cooperation in criminal matters, Bulgaria has concluded five bilateral agreements that include provisions on asset recovery.

Bulgaria provided case examples involving the return of assets to requesting countries pursuant to Council Framework Decision 2006/783/JHA.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

Under the Measures against Money-Laundering Act, obliged entities are required to verify the identity of their customers, to identify beneficial owners and take reasonable measures to verify their identity (arts. 10–11), to perform enhanced customer due diligence when clients are national or foreign politically exposed persons and their related persons or for other categories of higher-risk business relationships, accounts and transactions (arts. 35–43), and to report suspicious transactions to competent authorities (art. 72). Where there are doubts as to the accuracy of customer identification data, the transaction or business relationship must be terminated (art. 17). Draft legislation would eliminate the possibility of politically exposed persons being identified by means of a written declaration⁶ from the customer (art. 42 (2) (2)).

In addition to legal requirements for standard, simplified and enhanced customer due diligence (arts. 11, 25 and 35 of the Measures against Money-Laundering Act), the Financial Intelligence Directorate in the State Agency for National Security and the National Bank of Bulgaria have issued guidelines, including on “know your customer” requirements. The results of the national risk assessment, together with a list and summary matrix of higher-risk events published on the website of the State Agency for National Security, are taken into account by obliged entities in conducting their own risk assessments (art. 98 of the Act). Bulgarian authorities support obliged entities by issuing methodological assistance letters and organizing training.

Article 74 (7) of the Measures against Money-Laundering Act allows the Financial Intelligence Directorate in the State Agency for National Security to issue mandatory instructions to obliged entities to monitor specific transactions or operations and provide information thereon to the Directorate. The law allows instructions to be issued on the basis of requests from foreign financial intelligence units or where information is received from domestic sources or through international cooperation.

Bulgarian law requires financial institutions to keep customer due diligence records for at least five years after termination of the business relationship or occasional transaction (arts. 67–69 of the Measures against Money-Laundering Act).

Financial institutions in Bulgaria are not allowed to establish or maintain correspondent relationships with shell banks or with foreign financial institutions that permit their accounts to be used by shell banks (art. 45 of the Measures against Money-Laundering Act). The country’s legislation also requires a physical presence (company registration and physical location of activities) in Bulgaria for the issuance of a banking licence (arts. 2–3a of the Act on Credit Institutions).

Bulgaria has an asset declaration system for relevant public officials, judges, prosecutors and investigating magistrates, as described under article 8, paragraph 5,

⁶ This possibility was eliminated by the amendments to the Measures against Money-Laundering Act (art. 42 (3); State Gazette No. 84/2023), which came into effect on 6 October 2023.

of the Convention. Declarations are filed on paper and electronically. Most of the data declared, both for persons occupying senior public positions and for magistrates, are publicly available through online registers, except for information concerning employees of the security services and personal identifying information. As described above, non-compliance is subject to sanctions. Relevant information may be shared through mutual legal assistance channels, in observance of applicable privacy requirements.

Persons holding senior public positions, as well as resident legal entities and sole proprietors, with the exception of banks and resident natural persons, are required to declare bank accounts that they control abroad if the balance in the accounts exceeds the thresholds provided by Bulgarian law, in accordance with the Corruption and Confiscation Act and the Foreign Exchange Act and related regulations, respectively.

The Financial Intelligence Directorate in the State Agency for National Security is an administrative-type financial intelligence unit within the State Agency for National Security and is responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions, among other functions.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

Under the Civil Procedure Code, States have the legal capacity to be parties to court proceedings (art. 27 (1)). Other States are permitted to file civil lawsuits in domestic courts in Bulgaria and act as plaintiffs in proceedings having as their subject rights, obligations or facts pertaining to material legal relationships (arts. 18 and 27). Interpretative case law was provided during the country visit.

In Bulgaria, another State may act as a plaintiff in a civil case and request compensation for damages (arts. 27 and 124 of the Civil Procedure Code). Legal persons (including foreign public institutions and foreign public enterprises) that have suffered damage from a criminal offence may also seek compensation in criminal proceedings (art. 84 of the Criminal Procedure Code). When deciding on the criminal sentence, the court also considers the civil claim (art. 301 (1) of the Criminal Procedure Code). Case examples were provided.

Bulgarian law provides for the confiscation of proceeds of crime as a coercive measure for the benefit of the State (art. 53 of the Criminal Code), in addition to confiscation as punishment for the crimes contained in the special part of the Criminal Code. A State's rights to property may be recognized if it is a bona fide owner of property that is subject to confiscation. Third-party rights in criminal proceedings are protected by provisions in the Civil Procedure Code (arts. 8, 124 (1), 143 (1)–(3), 147, 148, 356–359, 396, 439 (1) and 440).

Bulgarian law permits the recognition and enforcement of foreign judgments on confiscation and forfeiture (arts. 463 and 469 of the Criminal Procedure Code) for criminal offences recognized under Bulgarian law. The procedure for recognition is stipulated in the Code (chap. 36, sect. 2), which applies unless a relevant international agreement prevails. Requests are received by the Ministry of Justice and submitted, along with the judgment and other relevant documents, to the corresponding court for consideration (art. 465 of the Code). Articles 463 ff. of the Code define the grounds for recognizing foreign judgments and for the procedures for holding hearings. The court examines the request in a panel of three judges at an open hearing attended by the prosecutor, with counsel being appointed for the sentenced individual. Special legislation applies to the recognition and execution of confiscation and seizure orders issued by European Union member States.

Bulgarian legislation provides for the confiscation, for the benefit of the State, of property that has been the subject of money-laundering (art. 253 (6) of the Criminal Code) and the confiscation of property that is the subject of a crime or property into

which it has been transformed. The equivalent value is awarded if the property is missing or has been alienated.

The provisions of article 253 (1)–(6) of the Criminal Code also apply where the offence through which the property was acquired falls outside the criminal jurisdiction of Bulgaria (art. 253 (7)). However, there is a limitation in that the objects and instruments of crime, including the benefits obtained, must belong to a perpetrator, thus precluding the possibility of third-party confiscation. No such limitation exists in the case of civil forfeiture, which applies regardless of the ownership of the property.

Confiscation of the direct and indirect benefits from a crime is possible if they are not subject to return or recovery (art. 53 (2) (b) of the Criminal Code). The equivalent value is awarded when the benefit is missing or has been alienated. Value-based confiscation can also be imposed in relation to instruments of the crime (art. 53 (1) (a) of the Criminal Code) and in some cases in relation to the objects of the crime (e.g. arts. 225c (5), 253 (6) and 307a of the Criminal Code).

These measures are supplemented by the civil forfeiture regime in the Corruption and Confiscation Act (art. 108 (4)), which is applicable to assets for which a legitimate source has not been identified, including third-party sources. Although a prerequisite for initiating an investigation under the Corruption and Confiscation Act is the indictment of a person for a crime, forfeiture can take place in the absence of a criminal conviction, such as in cases of amnesty, death or abscondment of the perpetrator.

Bulgaria has specific legislation to execute freezing and seizure orders from European Union member States.⁷ Requests from other States, including those under the Convention, are recognized by the application of article 72 of the Criminal Procedure Code and the national provisions on mutual legal assistance. However, according to Bulgarian case law,⁸ the owner of the property must be charged in all cases involving requests for interim measures under article 72. A case example was provided in which the court had granted the request of another State under the Convention.

Article 72 of the Criminal Procedure Code permits Bulgarian authorities to proactively preserve objects for confiscation or forfeiture by applying a range of measures under the Civil Procedure Code. A special unit has been established in the Corruption and Confiscation Commission to preserve and manage seized and frozen property in criminal and civil proceedings (art. 160 of the Corruption and Confiscation Act).

Bulgarian authorities process requests to execute foreign confiscation orders in accordance with articles 463–469 of the Criminal Procedure Code, and requests for obtaining orders for confiscation and provisional measures in accordance with articles 471 ff. Requests from European Union member States are governed by separate legislation.

While outgoing requests for mutual legal assistance should contain the information listed in article 475 (1) of the Criminal Procedure Code, incoming requests must comply with article 55, paragraph 3, of the Convention. The National Judicial Network on Criminal Matters publishes specific guidance for mutual legal assistance requests on the website of the Supreme Judicial Council.

Bulgarian law does not recognize *de minimis* value as a ground for refusing a request (art. 472 of the Criminal Procedure Code).

In cases involving European Union member States, according to article 15 of the Act on the Recognition, Enforcement and Issuance of Writs for Securing of Assets,

⁷ Freezing of property is possible under article 234 of the Criminal Procedure Code for a period of up to 18 months, depending on the severity of the charge.

⁸ Interpretative decision No. 2 of 11 October 2012 of the Supreme Court of Cassation.

Bulgarian authorities must immediately notify the issuing State when the freezing order has to be lifted. For other States, this is done as a matter of standard practice.

Bulgarian legislation affords legislative guarantees to bona fide third parties (art. 53 of the Criminal Code; art. 143 (2) and arts. 144–146 of the Corruption and Confiscation Act). Accordingly, direct or indirect proceeds of crime are not subject to confiscation if they are subject to return or recovery to their legitimate owners or bona fide third parties.

Return and disposal of assets (art. 57)

Bulgarian authorities can return confiscated property to a prior legitimate owner through direct recovery mechanisms on compensation for damages in criminal or civil proceedings or through international cooperation. Bulgaria can also dispose of or transfer confiscated assets for the purposes of returning or recovering property to the victim (art. 53 (2) (b) of the Criminal Code) and in accordance with the provisions of its international treaties.

However, there is no provision requiring the return of confiscated assets to requesting States in cases involving offences under the Convention. In cases involving European Union member States, Bulgaria has adopted specific legislation, namely, the Act on the Recognition, Execution and Transmission of Confiscation and Seizure Orders and Decisions Imposing Financial Penalties, thereby transposing into Bulgarian legislation the requirements of Council Framework Decision 2006/783/JHA. The Act includes a specific provision, article 28, which regulates the disposal of property and the return of 50 per cent to requesting States where the proceeds are valued above 10,000 euros (art. 28 (1)). No such obligation is specified in the legislation for offences under the Convention and there is no corresponding regulation on how assets are to be distributed to other countries. Authorities reported that, in such cases, proceeds from the enforcement of foreign confiscation judgments would be transferred to the budget of the judiciary, as stipulated in article 3 (13) of the National Revenue Agency Act.

The Act on the Recognition, Execution and Transmission of Confiscation and Seizure Orders and Decisions Imposing Financial Penalties also regulates the possible deduction of costs in cases involving the return of assets to European Union member States (art. 13). For other States, there is no regulation on the matter of costs.

As indicated above, Bulgaria has entered into specific agreements and arrangements on the return of confiscated property to States members of the European Union.

3.2. Successes and good practices

- Bulgaria has provided assistance related to asset recovery in a number of cases on the basis of the Convention and has successfully returned assets to other States in the framework of the European Union (art. 51).

3.3. Challenges in implementation

It is recommended that Bulgaria:

- Eliminate the possibility of politically exposed persons being identified by means of a written declaration from the customer (art. 52).⁹
- Monitor the application of rules precluding the possibility of third-party confiscation to ensure that there are no undue obstacles to international cooperation for the purposes of asset recovery, and take corrective measures if necessary (art. 54, para. 1 (b)).
- Monitor the application of article 72 of the Criminal Procedure Code to ensure the swift execution of provisional measures leading to confiscation, including

⁹ This possibility was eliminated by the amendments to the Measures against Money-Laundering Act (State Gazette No. 84/2023), which came into effect on 6 October 2023.

in cases where the owner of property may not be charged, to ensure that there are no undue obstacles to international cooperation (art. 54, para. 2).

- Take the necessary measures to ensure that confiscated property is returned in line with article 57 of the Convention, even in the absence of an agreement with the requesting State (art. 57, para. 3), and consider regulating the costs arising from asset recovery proceedings in accordance with article 57, paragraph 4.
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