



Implementing the OECD Anti-Bribery Convention in Bulgaria

Phase 4 follow-up report

This report, submitted by Bulgaria, provides information on the progress made by Bulgaria in implementing the recommendations of its Phase 4 report. The OECD Working Group on Bribery's summary and conclusions to the report were adopted on 10 October 2023.

The Phase 4 report evaluated and made recommendations on Bulgaria's implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 2021 Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions. The Phase 4 report was adopted by the OECD Working Group on Bribery on 14 October 2021.

Table of contents

Bulgaria Phase 4: Two-year Written Follow-Up Report Summary and Conclusions	3
Summary of findings	3
Recommendations for ensuring effective prevention and detection of foreign bribery	4
Recommendations for ensuring effective enforcement of the foreign bribery and related offences	6
Recommendations regarding liability of, and engagement with, legal persons	9
Recommendations regarding other measures affecting implementation of the Convention	12
Dissemination of the Phase 4 Report	14
Conclusions of the Working Group on Bribery	14
 Annex. Phase 4 Evaluation of Bulgaria: Two-Year Written Follow-Up Report by Bulgaria	 15
 Additional information provided on 25 August 2023.....	 57
 Additional information provided on 19 September 2023	 71

Bulgaria Phase 4: Two-year Written Follow-Up Report Summary and Conclusions

Summary of findings¹

1. In October 2023, Bulgaria presented its Phase 4 written follow-up report to the OECD Working Group on Bribery in International Business Transactions (hereinafter, “Working Group” or “WGB”). The report described Bulgaria’s efforts to implement the 52 recommendations and to address the 14 follow-up issues identified in its [Phase 4 evaluation](#) of October 2021. In light of the information provided, the Working Group concludes that Bulgaria has fully implemented 15 recommendations, partially implemented 19 recommendations, and not implemented 18 recommendations. As requested by the Working Group, Bulgaria has also reported on foreign bribery enforcement efforts.
2. Bulgaria reported some progress in implementing the Working Group’s recommendations. In particular, the new Law on the Protection of Whistleblowers (2023) represents an important development for Bulgaria’s detection framework. The Prosecutor General issued Letter of Instruction No 5025/2015.ΠΠ of 15 December 2022 “for improving the investigation and prosecution of bribery-related offences, including of foreign officials” (hereinafter, “Prosecutor General’s Letter of Instruction of December 2022”), which is a positive step towards implementing some recommendations, including in relation to the assessment of foreign bribery allegations, confiscation, prosecution of legal persons, and feedback on analysis disseminated by Bulgaria’s financial intelligence unit (FID-SANS) and the National Revenue Agency (NRA). Bulgaria took some commendable measures to raise awareness of, or provide training to, public officials and the private sector, which Bulgaria is encouraged to intensify to meet the Working Group’s expectations. Bulgaria also reported concrete measures towards enhancing data collection on international cooperation and suspicious transactions reports to FID-SANS.
3. In 2022, a working group was set up within the Ministry of Justice to prepare legislative amendments to the Law on Administrative Offences and Sanctions (LAOS), the Criminal Procedure Code (CPC) and the Criminal Code (CC) (hereinafter, “MoJ working group on legislative amendments”).² Bulgaria indicates that this body is discussing proposals to address several Phase 4 recommendations requiring changes to the legislation on foreign bribery and corporate liability, and is expected to complete its work at the end of 2023. Bulgaria has also prepared amendments to the Law on Accounting. While these are positive developments, the Working Group only considers enacted legislation when assessing the implementation of the Anti-Bribery Convention.³ Critical recommendations such as those pertaining to the foreign bribery offence or the liability of legal persons thus remain, to date, unimplemented. The Working Group is also concerned that the draft amendments shared with the evaluation team would not address or fully address the relevant recommendations. The Working Group strongly encourages Bulgaria to reconsider these draft amendments in light of the analysis contained in this report.
4. Bulgaria has also made insufficient progress in implementing other recommendations. Bulgaria has yet to adhere to the 2019 Recommendation of the Council on Bribery and Officially Supported Export Credits. Bulgaria is yet to address most concerns related to the laws on media freedom; internal controls, ethics and compliance programmes by the private sector; awareness of foreign bribery-related risks and

¹ The team evaluating Bulgaria’s follow-up report was composed of Lead Examiners from **Chile** (Nicole Duffau Valdés, International Affairs Senior Analyst, Financial Analysis Unit, and Daniela Francisca Santana Silva, Head of the International Cooperation and Affairs Unit, Comptroller General of the Republic) and **Greece** (Dimosthenis Stigas, Court of Appeal Judge and Justice counsellor at the Permanent Representation of Greece to the EU, and Miranta Papouli, Senior Inspector-Auditor, Chief of Section, National Transparency Authority of Greece), as well as members of the **OECD Anti-Corruption Division** (Solène Philippe and Lucia Ondoli, legal analysts). See Phase 4 Procedures, paras 54 et seq. on the role of Lead Examiners and the Secretariat in the context of two-year written follow-up reports.

² The MoJ working group is composed of prosecutors from the Supreme Prosecutor’s Office, one judge from the Supreme Court of Cassation, district court judges as well as representatives of the Ministry of Interior, the Agency on Public Procurement, the Registry Agency and the academia.

³ For example, see [Chile: Follow-up to the Phase 3 Report and Recommendations](#), para. 5; Peru: [Phase 2 Two-Year Follow-Up Report](#), recommendation 3(a).

typologies among anti-money laundering obliged entities; and measures to prevent, detect and sanction foreign bribery in public procurement and official development assistance.

5. The Working Group remains seriously concerned about Bulgaria's enforcement situation. Since Phase 3, Bulgarian authorities opened only one foreign bribery investigation in March 2017 (*EU Funds case*), which is still ongoing. The case was initially investigated by Bulgaria's Specialised Prosecutor's Office as it involved an organised criminal group. This prosecutor's office was closed in 2022, however.⁴ Bulgaria reports that the case has been transferred to the Sofia City Prosecutor's Office. While some delay may have been caused by the abolition of the Specialised Prosecutor's Office, which was initially in charge of the case, this prolonged investigation raises concerns as to the prioritisation and allocation of adequate resources to foreign bribery cases. A new foreign bribery allegation over which Bulgaria might potentially have jurisdiction has surfaced in the media since the Phase 4 Report. The case is under investigation in another Party to the Convention. Bulgarian authorities were not aware of this possible foreign bribery allegation, however.

6. Case law and practice have not clarified most issues identified for follow-up in the Phase 4 Report. In particular, the Working Group will continue to monitor developments related to prosecutorial independence in Bulgaria under follow-up issue 19(e). Among the significant developments that have occurred in this area since the Phase 4 Report, Bulgaria started to adopt reforms aiming to address concerns related to the status and powers of the Prosecutor General. On 26 May 2023, the CPC and the Judicial System Act were amended with a view to ensuring the accountability and criminal liability of the Prosecutor General and their deputies, and to provide for judicial review against decisions of prosecutors not to open investigations regarding, inter alia, corruption crimes.⁵ The National Assembly is discussing a draft law amending and supplementing the Constitution relating to the Prosecutor's Office. The draft law aims at ensuring greater accountability and responsibility of the Prosecutor General. Measures include guarantees for independent investigations, "limiting the functions of prosecutors strictly within the criminal process", "abolishing the general supervision of legality" and setting up a Prosecutorial Council. The draft law was not shared with the evaluation team. The National Assembly also discussed measures aiming to limit the Prosecutor General's influence in the Supreme Judicial Council, although this process is now on hold.⁶ There have been further developments in the broader area of prosecutorial and judicial independence (including in relation to the Inspectorate to the Supreme Judicial Council and the management of prosecutors' and judges' careers),⁷ which the Working Group will closely follow up.

7. The Working Group's Summary and Conclusions on Bulgaria's implementation of the Phase 4 recommendations are presented below. The Summary and Conclusions should be read in conjunction with the report prepared by Bulgaria (see the Annex. Phase 4 Evaluation of Bulgaria: Two-Year Written Follow-Up Report by Bulgaria).

Recommendations for ensuring effective prevention and detection of foreign bribery

- ◆ *Recommendation 1 – Partially Implemented:* Bulgaria has taken several initiatives to raise awareness of foreign bribery risks among public officials, but more efforts are needed to raise awareness of private sector stakeholders. Concerning the public sector, an international seminar on the implementation of the OECD Anti-Bribery Convention was held in 2022, with presentations

⁴ In April 2022, Bulgaria's National Assembly voted a law that abolished the Specialised Prosecutor's Office and Specialised Criminal Court ([Law on Amendments and Supplements to the Judicial System Act](#), State Gazette, No. 32 of 26 April 2022). These specialised jurisdictions had been created in 2011 to deal, in particular, with cases relating to organised crime and certain cases of high-level corruption. The [Explanatory Memorandum to the draft law](#) suggests that the reform aimed to address issues concerning their effectiveness and independence. Bulgaria's Constitutional Court confirmed the constitutionality of this reform (Constitutional Court Decision No.7 of 14 July 2022).

⁵ On 5 June, the Prosecutor General in office at the time referred the amendments to the Constitutional Court for a review of their constitutionality. The Court granted the request on 27 June. It is not bound by a specific time limit for rendering its decision.

⁶ European Commission (2023), 2023 Rule of Law Report – [Country Chapter on the rule of law situation in Bulgaria](#).

⁷ Idem.

from representatives of WGB Members and the OECD. The Institute of Public Administration has included in its training catalogue for 2022 and 2023 a course on “Bribery of foreign public officials and reporting suspected crimes”. Further initiatives targeting public sector officials are described under recommendation 3(a). Concerning awareness raising initiatives for the private sector, as mentioned under recommendation 13(a), information on the OECD Anti-Bribery Convention, as well as other publications and guidelines for SMEs and SOEs have been translated into Bulgarian and published online. While the dissemination of these documents is useful, more awareness-raising initiatives targeting companies exporting and investing abroad are needed. Bulgaria is therefore encouraged to continue its awareness raising and training efforts in the public sector and to take more initiatives for private-sector stakeholders.

- ◆ *Recommendation 2 – Not Implemented:* Bulgaria did not take steps to prioritise implementation of the Working Group’s Phase 4 recommendations in the context of the measures for implementing the National Anti-Corruption Strategy 2021-2027.
- ◆ *Recommendation 3(a) – Fully Implemented:* Bulgaria has made significant efforts to raise awareness and provide regular training on the foreign bribery offence and reporting obligations to public officials who could play a role in detecting and reporting the offence, including Ministry of Foreign Affairs (MFA) officials. In addition to the initiatives described under recommendation 1, civil servants in the Ministry of Interior receive regular training on the topic “Combating crimes committed by officials”, which also addresses foreign bribery and its detection. Moreover, in April 2022, the MFA instructed all diplomatic representations to take concrete actions to (i) raise awareness of all employees on the Convention requirements, (ii) regularly monitor local media for foreign bribery allegations, and (iii) report suspected foreign bribery cases to law enforcement. Trade representatives have also been asked to follow the MFA instructions.
- ◆ *Recommendation 3(b) – Fully Implemented:* The MFA Diplomatic Institute has included a specific module on foreign bribery and reporting obligations in its training programs for diplomatic officers, consular officers, other officials, and new MFA employees.
- ◆ *Recommendation 4 – Partially Implemented:* In January 2023, Bulgaria’s National Assembly adopted a Law on the Protection of Whistleblowers,⁸ which meets several of the 2021 Anti-Bribery Recommendation’s standards and represents important progress for Bulgaria’s detection framework. The new law has a broad scope of application. It covers persons in the public or private sector who report or publicly disclose, on reasonable grounds, a violation that became known to them in a work-related context. Reported violations cover foreign bribery. Protected persons include employees, independent workers, job applicants, former employees, trainees, and persons who assist or who are related to the whistleblower. Whistleblowers can report through an internal or external channel, which must ensure confidentiality. Companies with more than 50 employees must set up internal channels. External reporting is managed by one central body, an independent unit of the Commission for Personal Data Protection. The law provides, at least in principle, a broad set of remedies and support measures for whistleblowers, including prohibition of retaliation and of waiving the protections, possibility to obtain interim relief, compensation for damages, as well as information, assistance, and legal aid. However, the protections available may have some shortcomings. Retaliation is limited to an “act or omission which occurs in a working context” and the burden to prove that an action is retaliatory is on the whistleblower. Moreover, an employer who retaliates is liable to a fine up to BGN 8 000 (EUR 4 000), which is likely not dissuasive enough. Other aspects of the law raise doubts and will need to be followed up as practice develops. Allegations of foreign bribery based on an anonymous report, or a report relating to conduct older than two years, may be discarded. The law does not clearly state that the Commission for Personal Data Protection should immediately report suspicions of serious crimes (including foreign bribery) to the Prosecutor’s Office (although officials have a general obligation to report crimes under Art. 205 CPC). The Working Group will also follow up, more generally, whether the new framework is effective, remedies available to whistleblowers are appropriate, and efforts are deployed to raise awareness of the new reporting channels and protections. On 5 October 2023, the National Assembly adopted amendments to the Law on the Protection of Whistleblowers. Bulgaria reports

⁸ [Law on the Protection of Whistleblowers or Persons Publicly Disclosing Information about Violations](#), which was promulgated in the State Gazette No. 11 of 2 February 2023 and entered into force on 4 May 2023.

that the law aims to address some of the deficiencies identified above. However, Bulgaria did not share the amendments with the evaluation team because the law is not yet promulgated.

- ◆ *Recommendation 5(a) – Partially Implemented:* Bulgaria was recommended to ensure that laws relating to freedom of the press are fully applied in practice, which would allow journalists to report foreign bribery allegations without fear of reprisals. Bulgaria mentions a provision in the new Law on the Protection of Whistleblowers, pursuant to which a person who publicly discloses information on a violation enjoys the law’s protections under certain conditions. The provision appears to have a narrow scope, however, because it would only apply within the whistleblower-protection framework of the law, i.e. to persons reporting violations uncovered in a work-related context (and, potentially, to journalists assisting them with the public disclosure). Bulgaria further reports measures that might reduce pressure on journalists. These include amendments to the defamation offence in the Criminal Code, as well as initiatives on media freedom and protection against strategic lawsuits undertaken in the context of the National Coordination Mechanism for the Rule of Law. However, since the Phase 4 Report, there have been new reports of undue pressure and intimidation lawsuits against investigative journalists.
- ◆ *Recommendation 5(b) – Partially Implemented:* Bulgaria has taken some steps to ensure that law enforcement authorities routinely and systematically assess foreign bribery allegations reported in domestic and foreign media. In particular, the Prosecutor General’s Letter of Instruction of December 2022 suggests that Prosecutor’s Offices regularly review criminal allegations reported in the media, including foreign media, to assess whether there is sufficient information to initiate pre-trial proceedings. Bulgaria further reports that, following an amendment to the Rules for Media Communication in the System of the Prosecutor’s Office, two pre-trial proceedings for corruption offences (embezzlement and bribery) were initiated under the new procedure. However, it is unclear whether these measures will be effective in foreign bribery cases, noting that one foreign bribery allegation over which Bulgaria might potentially have jurisdiction has surfaced in foreign media since the Phase 4 Report (see para. 5 above), but Bulgarian authorities were not aware of it.
- ◆ *Recommendation 6(a) – Fully Implemented:* Bulgaria has made efforts to raise awareness and provide training to external auditors on foreign bribery. In particular, the Commission for Public Oversight of Statutory Auditors (CPOSA) and the Institute of Certified Public Accountants have developed a specialised training for certified accountants and registered auditors on foreign bribery. The seminar programme addresses, *inter alia*, the OECD Anti-Bribery Convention, the applicable national legislation, “typical scenarios in the work of the auditor and what to pay attention to”, and “practical examples from the international practice of the Big 4”. This training first took place in June 2023 and will be offered at least twice a year.
- ◆ *Recommendation 6(b) – Fully Implemented:* Bulgaria took several steps to improve compliance with the Independent Financial Audit Act. In particular, the CPOSA has strengthened the criteria for evaluating the independence of registered auditors during its inspections and carried out a wide range of unscheduled thematic inspections, including on compliance with legal requirements and professional standards. The CPOSA also publishes on its website information on the scope of inspections, which creates an additional incentive to comply with the requirements. Moreover, important efforts have been made to raise awareness of the independence standards in the initial and continuing training of statutory auditors.

Recommendations for ensuring effective enforcement of the foreign bribery and related offences

- ◆ *Recommendation 7(a) – Not Implemented:* Bulgaria has not taken steps to amend the foreign bribery offence to cover any use of the public official’s position, whether or not within the official’s authorised competence. Bulgaria reports that the Ministry of Justice has brought this recommendation to the attention of the MoJ working group on legislative amendments (see para. 3 above).

- ◆ *Recommendation 7(b) – Not Implemented:* In Bulgaria, bribery is punishable when “with the consent of the official, the gift or benefit was proposed, promised or given to another person”, (Art. 304(c) CC). This recommendation asked that Bulgaria withdraw the requirement of “the consent of the official”, unless further clarified by case law. Bulgaria reports that the MoJ working group on legislative amendments is considering replacing the word “consent” with “knowledge” of the official. The proposed amendment would not properly address this recommendation because the “knowledge” of the official would require proving an element outside the definition of foreign bribery in the Anti-Bribery Convention.⁹
- ◆ *Recommendation 8(a): – Not Implemented:* Bulgaria has not enacted provisions to sanction aggravated foreign bribery to the same extent as aggravated domestic bribery. Bulgaria reports that the MoJ working group on legislative amendments is considering introducing additional aggravated circumstances for active bribery (Art. 304 CC) that would mirror those already applicable to passive bribery (Art. 301 CC). Bulgaria should make sure, however, that the planned amendment also addresses this recommendation, i.e. that the provisions on aggravated bribery of Bulgarian officials are also applicable to bribery of foreign officials, which is not currently the case (see Art. 304(2) CC on bribery for a violation of the official’s duties and Art. 304.a CC on judicial and law enforcement bribery, which only apply to active domestic bribery).
- ◆ *Recommendation 8(b) – Partially Implemented:* Bulgaria describes efforts by the National Institute of Justice (NIJ) to integrate the topic of foreign bribery into different trainings for judges and prosecutors. While these initiatives are welcome, and include training on the “individualization of penalties” in general, they do not seem to specifically address the issue of the adequacy of sanctions applied in practice. Bulgaria is encouraged to provide further guidance and training to the judiciary, to ensure that sanctions imposed against natural persons for foreign bribery are effective, proportionate and dissuasive in practice.
- ◆ *Recommendation 8(c) – Partially Implemented:* Bulgaria reports actions taken to ensure that prosecutors in foreign bribery cases routinely seek confiscation of the bribe, and of the direct and indirect proceeds of bribery, although their impact remains to be assessed. In particular, the Prosecutor General’s Letter of Instruction of December 2022 draws the attention of supervising prosecutors to the necessity to regularly request in court proceedings the confiscation of the bribe as well as of the direct and indirect benefits received by the briber, or their monetary equivalent. In addition, guidelines for prosecutors concerning money laundering and financing of terrorism issued in July 2023 require that in pre-trial proceedings for a predicate offence involving “corrupt conduct” (including foreign bribery), an investigation is always carried out to determine whether any criminal benefit has been obtained. The NIJ provides initial and continuing training for judges, prosecutors, and investigating magistrates. In 2022 the Deputy Prosecutor General sent a proposal to the NIJ’s Director to include in the training schedule topics on the investigation and prosecution of corruption crimes including foreign bribery, as well as international cooperation and tracking of direct and indirect benefits. Bulgaria reports that the NIJ has started preparations for developing training on these topics. Bulgaria further reports that national investigative services are working on updating the methodological guidance on investigating bribery offences, which will stress the importance of tracing direct and indirect criminal proceeds. Bulgaria is encouraged to pursue these efforts.
- ◆ *Recommendation 9(a) – Fully Implemented:* Bulgaria has increased its participation in WGB-related meetings for law enforcement officials. One prosecutor attended the WGB Informal Meeting of Law Enforcement Officials (LEO) in June 2023, and two prosecutors participated in the meetings of the Law Enforcement Authorities Network of the Anti-Corruption Network for Eastern Europe and Central Asia (ACN LEN), in October 2022 and September 2023. Bulgaria is encouraged to continue attending these meetings. In addition, one investigator from the Ministry of Interior acted as lead examiner in the Phase 4 evaluation of Portugal (2022). Bulgaria further reports efforts made to disseminate information on the implementation of the Convention and the work of the WGB. In

⁹ See, for example, OECD WGB (2013), [Portugal: Phase 3 Report](#), para. 37 and recommendation 1(a)(iii), which asked Portugal to clarify that the foreign bribery offence does not require proof that the official knows that an improper advantage has been given to a third party; OECD WGB (2017), [Finland: Phase 4 Report](#), para. 87, which explains that Article 1 of the Convention is drafted to ensure that in most circumstances, the offence is complete even if the official is not aware of the offer, promise, or gift of a bribe.

particular, Bulgaria's Phase 4 Report was published on the Departmental Information Site of the Prosecutor's Office and all competent prosecutor's offices are invited to nominate participants for WGB-related meetings for law enforcement officials.

- ◆ *Recommendation 9(b) – Partially Implemented:* Bulgaria has taken some initial steps to increase detection, but more efforts should be undertaken in light of the current state of foreign bribery enforcement in Bulgaria. The Prosecutor General's Letter of Instruction of December 2022 suggests that Prosecutor's Offices regularly review allegations of crimes reported in the media, including foreign media, in order to assess whether there is sufficient information to initiate pre-trial proceedings. In addition, two prosecutors from the Supreme Prosecutor's Office of Cassation now participate in the WGB's periodic reporting and discussions on foreign bribery allegations and enforcement actions. However, one new foreign bribery allegation over which Bulgaria might potentially have jurisdiction surfaced in foreign media since the Phase 4 Report (see para. 5 above), but Bulgarian authorities were not aware of it.
- ◆ *Recommendation 9(c) – Partially Implemented:* Bulgaria has taken some steps to remind prosecutors that foreign bribery allegations should be properly assessed. As mentioned under the previous recommendation, the Prosecutor General's Letter of Instruction of December 2022 suggests that Prosecutor's Offices regularly review publicly reported allegations of crimes, to assess whether there is sufficient information to initiate pre-trial proceedings. The instructions also remind prosecutors and investigators to thoroughly investigate cases in order to identify possible criminal elements. However, in light of the current state of foreign bribery enforcement in Bulgaria, it may be appropriate to provide investigators and prosecutors with more guidance concerning the elements that could be sought or steps that could be taken in order to properly assess new foreign bribery allegations (for example, seeking additional information through informal cooperation with foreign counterparts that may work on the case). Bulgaria further explains that, under the CPC (Art. 213), a prosecutor's decision not to initiate pre-trial proceedings can be appealed. However, these rules may have limited relevance for foreign bribery cases and limited impact on the implementation on this recommendation.
- ◆ *Recommendation 9(d) – Not Implemented:* Bulgaria has not taken concrete steps yet to amend Art. 209(1) CPC so that anonymous notices can be considered as a "statutory occasion" that may trigger the opening of a pre-trial proceeding. The Ministry of Justice has brought this recommendation to the attention of the MoJ working group on legislative amendments.
- ◆ *Recommendation 9(e) – Partially Implemented:* Bulgaria has taken some initial steps that may facilitate assigning primary responsibility for foreign bribery cases to specialised prosecutors in the future. In particular, the Prosecutor General's Letter of Instruction of December 2022 suggests that Prosecutor's Offices "assess the possibility" to assign work on certain bribery cases to specific prosecutors among which the random case allocation would be carried out, and to create a contact point for the reporting of bribery allegations. It is unclear to what extent the assignment to specialised prosecutors and prioritisation will be implemented in practice. Bulgaria states that, under the CPC (Art. 195), foreign bribery cases can be assigned to more specialised prosecutor's offices. Bulgaria suggests that this role might be taken up by the Sofia City Prosecutor's Office. However, no official institutional arrangements have been taken in this sense. This is not possible because the decision is left to the discretion of the competent prosecutor. Bulgaria further states that prosecutors handling foreign bribery cases can also be given jurisdiction over related criminal offences (e.g., money laundering and false accounting). This last point will be followed up as practice develops.
- ◆ *Recommendation 9(f) – Not Implemented:* It appears that Bulgaria has not allocated adequate human and financial resources to investigations and prosecutions of foreign bribery against natural and legal persons. Bulgaria reports, *inter alia*, that the Prosecutor General's Letter of Instruction of December 2022 suggests that Prosecutor's Offices periodically review the human resources assigned for the investigation and prosecution of bribery-related cases, and ensure regular capacity building in relation to bribery investigations through appropriate training, including in the field of forensic accounting and information technology. Planned efforts to provide targeted trainings and to update the investigation methods in economic crimes are also described. However, as mentioned in para. 5 above, the only foreign bribery case that was ongoing at the time of the

Phase 4 Report is still at the pre-trial proceeding stage after 6 years. This prolonged investigation raises concerns as to the prioritisation and allocation of adequate resources in foreign bribery cases.

- ◆ *Recommendation 10(a) – Fully implemented:* Bulgaria has taken steps to collect more detailed statistics on international cooperation related to foreign bribery. In 2022, the Prosecutor's Office enhanced the functionalities of its case management system to collect data on incoming and outgoing requests for mutual legal assistance (MLA), European Investigation Orders (EIOs), and extradition, including on the type of offence (whether or not foreign bribery), the nature of the assistance requested (for MLA and EIOs), and the execution time.
- ◆ *Recommendation 10(b) – Partially implemented:* Bulgaria has taken limited steps to utilise more actively informal means of international co-operation in foreign bribery cases, including by engaging with the WGB Informal Meeting of Law Enforcement Officials (LEO). The Prosecutor General's Letter of instruction of December 2022 reminds all prosecutors and investigators of the need to: 1) actively use all possible channels for international cooperation, where necessary; and 2) actively communicate with the foreign executing authority in case of delays in the execution of MLA requests or EIOs. However, these provisions are very brief and do not explicitly mention informal cooperation channels, including the LEO, which may limit their impact. It is also unclear whether these instructions "reminding" prosecutors and investigators to take these steps will be effectively implemented in practice. Bulgaria participated in the latest LEO meeting (June 2023). Bulgaria is encouraged to continue attending these meetings.
- ◆ *Recommendation 11(a) – Fully implemented:* Bulgaria has taken measures to raise awareness among relevant practitioners of the administrative false accounting offence introduced in 2016 in Art. 9 of the Law on Accounting. In addition to the training on foreign bribery for certified accountants and registered auditors mentioned under recommendation 6(a), the Institute of Certified Public Accountants provides regular training on the Law on Accounting, including sessions on Art. 9 in connection to financial fraud reporting and foreign bribery.
- ◆ *Recommendation 11(b) – Not implemented:* Bulgaria has not yet increased the maximum monetary sanctions available for false accounting. Bulgaria is considering several options for amending the Law on Accounting. A draft amendment prepared by the Ministry of Finance would increase the maximum amount of the monetary sanctions from BGN 5 000 to 15 000 (EUR 7 500) for "managers" and from BGN 10 000 to 20 000 (EUR 10 000) for companies. The sanctions introduced by this amendment would remain too low to implement recommendation 11(b) and comply with the Convention. Alternatively, Bulgaria is considering introducing "a maximum sanction defined by a percentage of the amount of the violation". These draft amendments were not shared with the evaluation team.

Recommendations regarding liability of, and engagement with, legal persons

- ◆ *Recommendation 12(a) – Not Implemented:* Bulgaria has not amended its legislation to provide jurisdiction over Bulgarian legal persons for foreign bribery, including where the legal person uses non-nationals to bribe on its behalf abroad. The MoJ working group on legislative amendments is currently considering including in the LAOS a provision stating that proceedings against legal persons can also be commenced if the person having committed the criminal offence is "a foreign citizen and there are obstacles to criminal proceedings in the country for the committed crime". The provision would not properly address this recommendation. First, the Phase 4 Report noted that Bulgaria's legal framework is not clear as to the jurisdiction rules applicable to legal persons, and that the framework described in Phase 4 does not seem to provide for an effective jurisdictional basis to commence proceedings in the absence of jurisdiction over a natural person. These uncertainties are not addressed by the proposed amendment. Bulgaria is therefore encouraged to clarify what are the applicable jurisdiction rules in proceedings against legal persons. Second, the proposed amendment has a narrow scope of application. It would only cover cases in which the legal person uses non-nationals to bribe on its behalf abroad if "there are obstacles to criminal

proceedings in the country for the committed crime.” This criterion would create interpretative issues as to what should be considered an “obstacle” to such proceedings.

- ◆ *Recommendation 12(b) – Not Implemented:* Bulgaria has not amended existing provisions to ensure that proceedings against a legal person are not restricted to cases where the natural person who perpetrated the offence is prosecuted or convicted. The MoJ working group on legislative amendments is currently considering amendments to the LAOS that would expand the list of situations in which a proceeding against a legal person can be commenced even when a proceeding against a natural person may not be commenced or is abandoned, to include cases in which the natural person offender is prosecuted or convicted abroad. Another amendment would require the prosecutor who initiates the proceedings against the legal person to state the personal data of the accused or convicted natural person only if there are any. While these would address some of the concerns expressed in the Phase 4 Report, Bulgaria should ensure, more generally, that proceedings against legal persons are not limited to cases where the natural person who perpetrated the offence is prosecuted or convicted. This covers cases in which the prosecution cannot indict the natural person offender or decides to suspend or terminate the criminal proceedings, including cases in which the natural person cannot be identified, has absconded, or cannot be prosecuted for lack of jurisdiction.
- ◆ *Recommendation 12(c) – Fully Implemented and converted to follow-up:* The MoJ working group on legislative amendments is considering options for combining proceedings against natural and legal persons in the same case. Bulgaria should make sure that, whichever option is selected, the new procedural rules will allow to proceed against the legal person only, in case no natural person can be prosecuted for the offence in question (which seems to be the case for one of the two options currently discussed). The Working Group will follow as case law and practice develop whether proceedings against natural and legal persons can be combined, where appropriate.
- ◆ *Recommendation 12(d) – Not Implemented:* Bulgaria did not take steps to ensure that the full range of investigative tools in the CPC, including special intelligence means, are available against legal persons. Bulgaria merely reports that it is considering amendments to the LAOS that would allow the court to use the evidence collected in criminal proceedings against natural persons in the proceedings against legal persons. However, according to the Phase 4 Report, this is already possible. Moreover, this rule would not address the issue raised by the recommendation, which is the fact that in proceedings against legal persons the full range of investigative tools in the CPC is not available. This is particularly relevant for the cases in which the natural person who has committed the offence cannot be prosecuted (and therefore there is no possibility to collect evidence in criminal proceedings).
- ◆ *Recommendation 12(e) – Not Implemented:* Bulgaria has yet to take steps to ensure that the limited circumstances for summoning a legal person’s representative do not prevent the commencement of court proceedings against legal persons. The MoJ working group on legislative amendments is currently considering amendments to the LAOS which would introduce detailed rules for summons in proceedings against legal persons.
- ◆ *Recommendation 12(f) – Partially Implemented:* Bulgaria took some steps to draw the attention of prosecutors to the importance of opening proceedings for the sanctioning of legal persons for foreign bribery. The Prosecutor General’s Letter of Instruction of December 2022 reminds prosecutors and investigators of their obligation to regularly verify in the course of the investigation the existence of legal entities enriched by the crime. As noted above, it is unclear whether these instructions “reminding” prosecutors and investigators to take this measure will be effectively implemented in practice. The National Institute for Justice is also planning to strengthen training programmes on proceedings against legal persons, both for judges and prosecutors. Bulgaria is encouraged to pursue the planned trainings efforts.
- ◆ *Recommendation 12(g) – Not Implemented:* Bulgaria has not increased the maximum available sanctions for legal persons to a level that is effective, proportionate and dissuasive. The MoJ working group on legislative amendments is currently considering amendments to the LAOS which would increase the maximum level of sanctions for legal persons. The applicable pecuniary sanction would be up to BGN 10 million (EUR 5 million), but not less than the equivalent of the benefit, when the benefit deriving from the offence exceeds BGN 500 000 (EUR 250 000). When

the benefit does not have a “property” nature or the amount cannot be determined, the maximum sanction would be BGN 1 million (EUR 500 000) as before. The latter amount is still very low. The new maximum amount may also not be effective, proportionate, and dissuasive in foreign bribery cases. The Working Group has considered a similar maximum fine too low.¹⁰

- ◆ *Recommendation 12(h) – Not Implemented:* Bulgaria has yet to amend its legislation to allow for the suspension or debarment of legal persons. The MoJ working group on legislative amendments is currently considering amendments to the LAOS which would allow the court to impose, along with the pecuniary sanction, a temporary ban on participation in public procurement or concession procedures from one to three years. The court may also impose the revocation or suspension of the operation of a permit or license, and the exclusion of tax reliefs, subsidies, and grants from the state or municipal budget. These additional sanctions would be a positive development.
- ◆ *Recommendation 12(i) – Not Implemented:* Bulgaria has yet to amend its legislation to expressly cover the confiscation of the bribe from legal persons. The MoJ working group on legislative amendments is working on draft amendments to the LAOS, which would define the term “direct benefit” as including the “subject of the crime”. Bulgaria states that this would guarantee that the bribe could be confiscated in the proceedings against the legal person even when it cannot be confiscated in the criminal proceedings against the natural person. Bulgaria is also encouraged to make sure that value confiscation is applicable to the proceeds of foreign bribery (the direct or indirect benefits), noting that according to the Phase 4 Report this does not seem possible.
- ◆ *Recommendation 13(a) – Partially Implemented:* The Ministry of Economy and Industry and the Bulgarian Small and Medium Enterprises Promotion Agency (BSMEPA) have commendably published online information in Bulgarian on the Anti-Bribery Convention. It would be important that the 2021 Anti-Bribery Recommendation is disseminated as well. The OECD 2022 “Toolkit for raising awareness and preventing corruption in SMEs” and the International Chamber of Commerce 2016 “Anti-corruption Third Party Due Diligence: A Guide for Small and Medium Size Enterprises”, as well as the OECD Guidelines on Combating Corruption and Integrity in Public Enterprises have also been published in Bulgarian online. Employees of SOEs attended a seminar organised with the Agency for Public Enterprises and Control on “integrity”, “anti-corruption” and the recommendations of the OECD. A major organisation representing large businesses has developed a variety of awareness and prevention tools on corruption, including foreign bribery, for its members. Bulgaria is encouraged to pursue awareness-raising and training initiatives drawing on international guidance, and directly targeting companies exporting and investing abroad, including SMEs, and especially those operating in countries and sectors associated with high corruption risks.
- ◆ *Recommendation 13(b) – Partially Implemented:* Bulgaria does not report sufficient actions to promote the development and implementation of anti-corruption internal controls, ethics and compliance programmes by the private sector. In addition to the publications in Bulgarian available on the BSMEPA’s website (mentioned under recommendation 13(a) above), Bulgaria has instituted a National Contact Point for Responsible Business Conduct, with a dedicated website that provides information on the OECD Guidelines for Multinational Enterprises. Bulgaria further reports that some state-owned enterprises have developed codes of ethics and internal anti-corruption rules, and others will follow. Bulgaria also notes that business organisations and large businesses have recently been investing in introducing higher integrity standards and practices. Some private sector-led initiatives aimed at promoting the adoption of anti-corruption prevention measures are commendable, although Bulgaria did not provide information on their exact scope and impact. In light of the situation described in the Phase 4 Report, however, Bulgaria is encouraged to be more proactive in promoting anti-corruption compliance programmes, including through providing targeted training and guidance on how such programmes can be developed and implemented in practice, and disseminating the Good Practice Guidance on Internal Controls, Ethics and Compliance (Annex II of the 2021 Anti-Bribery Recommendation).

¹⁰ See OECD WGB (2018) [Phase 4 Evaluation of Switzerland](#), para. 100 and rec. 9(a) to increase the statutory maximum level of fines (CHF 5 million / approx. EUR 4.3 million) for legal persons convicted of foreign bribery.

Recommendations regarding other measures affecting implementation of the Convention

- ◆ *Recommendation 14(a) – Partially implemented:* Bulgaria’s financial intelligence unit (FID-SANS) took some steps, notably a workshop on the risks associated with politically exposed persons (PEPs) in 2022 and updated guidelines on the identification of PEPs in 2023, to raise the awareness of foreign public official bribery-related money laundering risks among non-financial obliged entities, including lawyers, accountants, and real estate agents. These measures, which focused on bribery of PEPs, are insufficient, however, to capture all the aspects of the foreign bribery offence and associated money laundering risks.
- ◆ *Recommendation 14(b) – Partially implemented:* Bulgaria took some limited steps to provide guidance and typologies on foreign bribery cases to all obliged entities. FID-SANS published red flags of suspected money laundering by PEPs, which include non-adherence to the Anti-Bribery Convention as a risk factor, and a strategic analysis document on “Trends and typologies in PEPs related FID-SANS cases”. In addition, the updated guidelines on the identification of PEPs mentioned under recommendation 14(a) cover corruption/bribery risk scenarios associated with PEPs. These measures are insufficient to cover all aspects of foreign bribery-related money laundering.
- ◆ *Recommendation 14(c) – Fully implemented:* FID-SANS took measures to collect more detailed statistics on suspicious transaction reports (STRs) received from obliged entities, including on the categories of entities having filed the STRs and the underlying predicate offences. FID-SANS’s data collection tools will be automated when the implementation of the goAML software is completed (see recommendation 14(d) below).
- ◆ *Recommendation 14(d) – Not implemented:* FID-SANS has made progress towards implementing UNODC’s goAML software to improve the automation of the reporting process. GoAML is now installed and both employees from FID-SANS and obliged entities have started to receive training from UNODC. The software is now being customised by FID-SANS. Employees from FID-SANS will receive further training from UNODC, and tests will be carried out, before the software can be launched. Bulgaria did not provide any indication on the target date for doing so.
- ◆ *Recommendation 14(e) – Fully implemented:* Bulgaria has reported several concrete steps to encourage prosecutors and investigators to provide feedback on follow-up actions to analysis provided by FID-SANS, including the issuance of Prosecutor General’s Indicative letter No 2365/2015 of 9 May 2022, which introduced a procedure for providing a response on the outcome of actions taken when information is received from FID-SANS; the aforementioned Prosecutor General’s Letter of instruction of December 2022, which reminds all prosecutors and investigators of the need to provide more regular feedback on follow-up where information about a crime was received by FID-SANS; and the Instruction on the organisation of the work of the Prosecutor’s Office of the Republic on cases and pre-trial proceedings initiated for money laundering and terrorist financing, which refers to the organisation of feedback to FID-SANS. Bulgaria reports that the results of an inspection on the implementation of the Prosecutor General’s Letter of instruction showed that the requirement on feedback to FID-SANS is being implemented.
- ◆ *Recommendation 15(a) – Partially implemented:* Bulgaria reports interesting initiatives to enhance training on detecting corruption by tax auditors, but it remains unclear whether specific modules on foreign bribery were included in the training curricula for NRA personnel. In particular, Bulgaria mentioned large-scale training on detecting corruption, without explaining whether this training is to be provided on a regular basis as part of the curricula for NRA personnel. In 2024, the NRA will include self e-learning courses on “Bribery of foreign officials and reporting of suspicion of committed crime” as part of mandatory introductory training for some categories of NRA personnel, including those in charge of “Control”, “Fiscal Control”, “Client Service”, “Collection” and “Appeal”. This would be a welcome step to institutionalise training on detecting foreign bribery by tax auditors.
- ◆ *Recommendation 15(b) – Partially implemented:* The Rules on co-operation between the Prosecutor’s Office of the Republic of Bulgaria and the NRA provide that the NRA should be informed when a prosecutor terminates criminal proceedings or refuses to initiate pre-trial

proceedings in cases initiated on the basis of a notification from the NRA, or where court proceedings have been initiated. This was reminded to prosecutors in the Prosecutor General's Letter of Instruction of December 2022. In addition, Bulgaria states that the NRA has access to information tracking the status of cases. In the absence of data, however, the effectiveness of this feedback process could not be assessed.

- ◆ *Recommendation 16(a) – Not implemented:* Bulgaria has not yet adhered to the 2019 Export Credit Recommendation. Bulgaria reports that it will adhere to the Recommendation as part of its application for accession to the OECD, and according to the OECD accession process timeline.
- ◆ *Recommendation 16(b) – Fully implemented:* Bulgaria has reported concrete steps to consolidate BAEZ's two sets of anti-corruption rules and procedures. BAEZ conducted a review of these rules and procedures for this purpose, which resulted in the adoption of an amendment by the Management Board of BAEZ on 31 July 2023.
- ◆ *Recommendation 17(a) – Fully implemented:* Since 2022, 19 employees from the Public Procurement Agency (PPA) have received training from the Institute of Public Administration (IPA) on "Bribery of foreign officials and whistleblowing when a crime is suspected". In addition, since 2021, 99 PPA employees have also received internal training on "Prevention and counteraction of corruption", which covers foreign bribery and due diligence processes. The IPA's annual course on "Bribery of foreign public officials and reporting suspected crimes", mentioned under recommendation 1, included a section on the most common indicators of possible foreign bribery and corruption in public procurement procedures. Employees from a material number of contracting authorities have also received this training.
- ◆ *Recommendation 17(b) – Partially implemented:* Bulgaria does not have information on whether contracting authorities check, where appropriate, the debarment lists of international financial institutions. Bulgaria states that the PPA published information on the World Bank debarment list on the PPA Portal, which includes some instructions for contracting authorities.
- ◆ *Recommendation 17(c) – Fully implemented:* Bulgaria clarified that contracting authorities may take into account the existence of anti-corruption internal controls, ethics and compliance programmes of companies when assessing whether a company convicted of foreign bribery can be considered "reliable" and be allowed to participate in a public procurement process (Art. 56 of the Public Procurement Law).
- ◆ *Recommendation 17(d) – Partially implemented:* Bulgaria only includes anti-corruption clauses in public contracts awarded under programmes funded by the EU or another donor. However, any other public contracts awarded in Bulgaria, including potentially large contracts in high-risk sectors, do not contain such clauses. Bulgaria reports that an obligation to include an anti-corruption clause in public procurement contracts will be introduced in the Implementing Rules of the Public Procurement Law. The Law on Amendments and Supplements to Public Procurement Law was adopted by the National Parliament in October 2023. The Implementing Rules should be approved within two months of the entry into force of the Law.
- ◆ *Recommendation 18(a) – Fully implemented:* Bulgaria revised the template for official development assistance (ODA) Grant Agreements by introducing a requirement that "beneficiaries", which include both natural and legal persons, declare that they have not been convicted of bribery.
- ◆ *Recommendation 18(b) – Not implemented:* Bulgaria has not taken clear steps to verify publicly available debarment lists of international financial institutions during the ODA applicants' selection process. To facilitate the verification of an applicant's declaration that they have not been convicted of bribery, applicants are now required to indicate the public registers or competent authorities that may provide information justifying their declaration. In practice, the MFA would only check international debarment lists in cases where applicants would refer to these in their application. Bulgaria did not clarify whether applicants are encouraged to do so, and/or whether they do so in practice. In any case, the MFA would not check international debarment lists on its own initiative. Bulgaria reports that Revised Internal Regulations on ODA grants, which are expected to be adopted by the end of 2023, will include an obligation for the relevant diplomatic missions to check international debarment lists (where applicable) as part of the pre-selection procedure carried out by the relevant evaluation commissions established in the Bulgarian embassies.

- ◆ *Recommendation 18(c) – Not implemented:* Bulgaria has not yet taken concrete measures to ensure that appropriate due diligence, including on the applicants' corruption risk management systems, is undertaken prior to the granting of ODA contracts. Bulgaria is carrying out a comparative study of other countries and other Bulgarian institutions carrying out similar measures, to inform potential changes to its procedures. The drafting of the study and the potential measures is expected to be finalised by the end of 2024.
- ◆ *Recommendation 18(d) – Fully implemented:* Bulgaria reports that the revised template for Grant Agreements includes a clause for the termination of the contract and the reimbursement of the grant, in case it is found that the beneficiary "has an effective sentence for a corruption crime" in Bulgaria or a third country.

Dissemination of the Phase 4 Report

8. As regards online publications about the Phase 4 Report, the Ministry of Justice published the Phase 4 Report in both Bulgarian and English on its [website](#), alongside a [press release](#) about the Report. The [Bulgarian Industrial Association](#) and the e-media "[Economy](#)" also reported on the Phase 4 Report. In addition, the Ministry of Justice circulated the Phase 4 Report with all institutions involved in the evaluation process and concerned by the recommendations.

9. The abovementioned IPA/Ministry of Justice training course on "Bribery of foreign public officials and reporting suspected crimes" included in the 2022 and 2023 training curricula of IPA covers the Bulgaria Phase 4 Report's recommendations. The abovementioned international seminar organised by the MFA in cooperation with the Ministry of Justice on the implementation of the OECD Anti-Bribery Convention covered the implementation of the Convention in Bulgaria and the recommendations from the Phase 4 Report.

Conclusions of the Working Group on Bribery

10. Based on these findings, the Working Group concludes that of Bulgaria's 52 recommendations, 15 have been fully implemented (recommendations 3(a), 3(b), 6(a), 6(b), 9(a), 10(a), 11(a), 12(c), 14(c), 14(e), 16(b), 17(a), 17(c), 18(a) and 18(d)), 19 have been partially implemented (recommendations 1, 4, 5(a), 5(b), 8(b), 8(c), 9(b), 9(c), 9(e), 10(b), 12(f), 13(a), 13(b), 14(a), 14(b), 15(a), 15(b), 17(b) and 17(d)), and 8 have not been implemented (recommendations 2, 7(a), 7(b), 8(a), 9(d), 9(f), 11(b), 12(a), 12(b), 12(d), 12(e), 12(g), 12(h), 12(i), 14(d), 16(a), 18(b) and 18(c)). The Working Group invites Bulgaria to report back in writing within two years (i.e. October 2025) on the implementation of recommendations 2, 7(a), 7(b), 8(a), 11(b), 12(a), 12(b), 12(d), 12(g) and 12(i) and Bulgaria's foreign bribery enforcement efforts. The Working Group will continue to monitor the follow-up issues identified in the Phase 4 Report as case law and practice develop.

Annex. Phase 4 Evaluation of Bulgaria: Two-Year Written Follow-Up Report by Bulgaria

PART I: RECOMMENDATIONS FOR ACTION

Recommendations for ensuring effective prevention and detection of foreign bribery

Text of recommendation 1:

1. Regarding **awareness raising**, the Working Group recommends that Bulgaria urgently take the necessary steps to raise awareness of foreign bribery risks among all relevant public and private sector stakeholders [2009 Recommendation III(i) and Annex I.A].

Action taken as of the date of the follow-up report to implement this recommendation:

During the reporting period, Bulgaria took several measures to raise awareness of foreign bribery risks among the relevant public and private sector stakeholders.

On the initiative of the Ministry of Foreign Affairs (MFA) with the assistance of the Diplomatic Institute at the MFA and in cooperation with the Ministry of Justice, an international seminar dedicated to the implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was organized. It was held in hybrid format on November 17, 2022 in Sofia. The purpose of the event was to contribute to awareness raising among state administration and the diplomatic representatives of the Republic of Bulgaria on the Convention itself, its goals and implementation mechanisms.

At the end of 2021, the Institute of Public Administration (IPA) in collaboration with the Ministry of Justice of Bulgaria developed a training course “Bribery of foreign public officials and reporting suspected crimes” which was included in IPA’s training catalogue for 2022 and 2023. That training course aims to raise awareness of foreign bribery risks and provide strong and regular knowledge to the public officials who could play a role in detecting and reporting foreign bribery.

The Anti-Corruption Commission is also actively engaged with dissemination of information related to the fight against corruption, including raising awareness of the risks of bribery of foreign officials. Under the current legislation, the Anti-Corruption Commission's powers in relation to bribery of foreign public officials are limited to initiating proceedings for confiscation of illegally acquired property, in the event of proper notification by the Prosecutor's Office, referral to the appropriate authority in case of a report of bribery of a foreign official not falling within the scope of Art. 6(1) of the Law on Countering Corruption and Confiscation of Illegally Acquired Property (LCCCIAP), or referral to the Public Prosecutor's Office in the event of detection or disclosure of bribery of a foreign public official.

Within the scope of its powers under Article 30(3) of the LCCCIAP, the Anti-Corruption Commission increases public awareness and disseminates information about its activities mainly through its website (www.caciacf.bg). With the aim of ensuring publicity and transparency in the work of the Anti-Corruption Commission and its decisions, the following information is published and updated in a timely manner on the official website:

- Decisions concerning the approval of draft laws drawn up by the executive authorities on the existence of corruption risk;
- Decisions on establishing a conflict of interest pursuant to Art. Article 13(1)(4) of the LCCCIAP;
- Decisions on establishing conflict of interests pursuant to Art. 5(1) of the LCCCIAP;

- Decisions on discontinued proceedings;
- Conflict of interest court rulings in force;
- Decisions of the Anti-Corruption Commission under Art. 13(1)(8) of the LCCCIAP;
- Judgments in forfeiture proceedings pursuant to Article 13(4) of the LCCCIAP;
- Orders to discontinue legal proceedings pursuant to Article 13(4) of the LCCCIAP;
- Updates on Commission activities which are of public interest.

In addition to the above, the Anti-Corruption Commission, on the basis of Article 13(4) of the LCCCIAP, makes available on its website, in a timely manner, all court decisions in the court cases in which it is involved, including those that have not entered into force and are subject to appeal, as well as orders to terminate court proceedings, including those that have not entered into force. This keeps the public awareness high regarding cases related to the forfeiture of illegally acquired assets including cases concerning forfeiture of illegally acquired property by foreign public officials.

Through its website the Anti-Corruption Commission provides access to the Register of Senior Public Office Holders, which contains their declarations of assets and interests. The Register provides information on the filing of declarations of assets and interests by the persons liable within or outside the statutory time limits, as well as the results of a full verification of the data declared, indicating the cases in which the verification has resulted in a finding of non-compliance. The purpose of the Register is to ensure publicity and transparency of the assets and income of Senior Public Office Holders.

A systematic summary of the main case law on Chapter Eight "Conflict of Interest" of the LCCCIAP and on procedural issues in court proceedings is publicly available.

In order to raise public awareness, the Commission's website continues to host an "Internet Reception" from where questions on the application of the law can be asked directly. Answers to frequently posed questions are also published in the same section.

The Commission's website publishes the Internal Rules for the Provision of Information on Inquiries on the Application of the LCCCIAP. The usefulness of the 'Internet Reception' is confirmed by the 128 opinions and replies to queries submitted by interested parties in 2022.

An e-filing functionality for reporting corruption or conflict of interest has been developed on the basis of Article 47 and Article 48 of the LCCCIAP.

The Internal Rules for receiving and examining signals of corruption and conflict of interest and for the protection of reporting persons under the LCCCIAP are published on the Anti-Corruption Commission website.

If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 2:

2. Regarding **implementation of the Convention** and the National Anti-Corruption Strategy 2021-2027, the Working Group recommends that Bulgaria, through the National Anti-Corruption Policy Council, urgently prioritise implementation of the Working Group's recommendations [Convention Article 5; 2009 Recommendation II and III(i), V and Annex I.D; Phase 3 recommendation 8(a)].

Action taken as of the date of the follow-up report to implement this recommendation:

If no action has been taken to implement recommendation 2(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(a):

3. Regarding **detection of foreign bribery by public officials**, the Working Group recommends that Bulgaria:

(a) continue to raise awareness and provide regular training to public officials who could play a role in detecting and reporting foreign bribery, including MFA officials, about the offence and reporting obligations [2009 Recommendation III(i), and IX(ii); Annex I.A; Phase 3 recommendation 8(b)];

Action taken as of the date of the follow-up report to implement this recommendation:

The Institute of Public Administration, as the main institution responsible for providing trainings for the state employees of the public administration, conducted specialized trainings on integrity, ethical standards, corruption risks and anti-corruption in a systematic way during the years. In implementation of the Working Group's recommendations, at the end of 2021 the Institute of Public Administration in collaboration with the Ministry of Justice of Bulgaria developed a training course "Bribery of foreign public officials and reporting suspected crimes" which was included in the IPA's training catalogues for 2022 and 2023. The aim of the course is to acquaint the participants with the Bulgaria Phase 4 report's recommendations, the current legal framework for combating bribery of foreign officials, with the specifics of the crime bribery of foreign officials, the ways to identify cases of bribery of foreign officials and subsequent communication with the authorities of the Ministry of Internal Affairs and the Prosecutor's Office. The public administration was informed about the newly developed course through the training catalogues of IPA for 2022 and 2023. The training is generally available to all employees in the public administration. Requests for participation can be submitted by the human resources division of each administration or by every employee with a profile in the Institute's digital training system, where they can also independently submit individual requests for participation.

In April 2022, the MFA sent instructions to all diplomatic representations of the Republic of Bulgaria calling them on to familiarize themselves with the specific requirements of the Convention, to follow up on media reports of cases that fall within the scope of the Convention, to facilitate exchange of information and to report any signal of act of corruption and bribery of foreign officials to the law enforcement authorities of the Republic of Bulgaria.

The Bulgarian diplomatic, consular and permanent representations were instructed to take concrete actions:

- to raise awareness and familiarize all employees with the specific requirements of the Convention /by order of the head of the mission/;
- to monitor regularly local media for publications of cases that fall within the scope of the Convention;
- to report any signal of act of corruption and bribery of foreign officials which should be filed through the dedicated anti-corruption web site of the MFA and through the opinion/ suggestion boxes in embassies to the Inspectorate of the MFA, which forwards all reports to the competent law enforcement authorities; another option is to report the information received to the law enforcement authorities of the Republic of Bulgaria (the Supreme Prosecutor's Office of Cassation and the Ministry of Interior with a copy to the Inspectorate of the MFA).

The instructions were included in the annual work plans of the diplomatic representations of the

Republic of Bulgaria (in the section on activities to prevent and detect corruption and conflict of interest).

The Ministry of Economy and Industry sent a circular (letter dated 14 April 2022) to all trade representatives at Trade and Economic Affairs Offices to the Embassies of the Republic of Bulgaria abroad with background information and instructions to follow the detailed instructions by the Ministry of Foreign Affairs to all diplomatic, consular and permanent representations abroad for actions and active involvement in the implementation of the Convention and the recommendations to Bulgaria.

In line with efforts towards raising awareness, the Diplomatic Institute to the Minister of Foreign Affairs of the Republic of Bulgaria has included a special module focusing on the Anti-bribery Convention and reporting foreign bribery cases in the pre-stationing training of diplomats.

Training of all civil servants of the Ministry of Interior, engaged in the activity of detecting bribery of foreign officials, is provided regularly and is carried out both in professional education and in professional training according to the schedule within the discipline „Combating economic crime“ on the topic – „Combating crimes committed by officials“, where the issue of foreign bribery and its detection is also addressed.

On the initiative of the Ministry of Foreign Affairs with the assistance of the Diplomatic Institute at the MFA and in cooperation with the Ministry of Justice, an international seminar dedicated to the implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was organized. It was held in hybrid format on November 17, 2022 in Sofia. The purpose of the event was to contribute to awareness raising among state administration and the diplomatic representations of the Republic of Bulgaria on the Convention itself, its goals and implementation mechanisms. The seminar included presentations on the importance of the Convention, the challenges to its implementation, the role of the OECD in the fight against foreign bribery, on the implementation of the Convention in Bulgaria and the recommendations from the Phase 4 report; in addition international expertise in uncovering and investigating bribery of foreign public officials was shared by representatives of Swiss Confederation, Israel, the USA and the Netherlands.

If no action has been taken to implement recommendation 3(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(b):

3. Regarding **detection of foreign bribery by public officials**, the Working Group recommends that Bulgaria:

(b) include specific modules on foreign bribery in the curricula of the MFA Diplomatic Institute training provided to new MFA officials on anti-corruption measures [2009 Recommendation III(i) and Annex I.A].

Action taken as of the date of the follow-up report to implement this recommendation:

The Diplomatic Institute at the MFA included in its regular training programs for the professional training of diplomatic officers, consular officers, other officials and new employees of the MFA specific modules on the foreign bribery and the obligations for its reporting, in accordance with the measures in the Anti-Corruption Plan of MFA.

On the initiative of the Ministry of Foreign Affairs with the assistance of the Diplomatic Institute at the MFA and in cooperation with the Ministry of Justice, an international seminar dedicated to the implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in

International Business Transactions was organized. It was held in hybrid format on November 17, 2022 in Sofia. The purpose of the event was to contribute to awareness raising among state administration and the diplomatic representations of the Republic of Bulgaria on the Convention itself, its goals and implementation mechanisms. Mr. Yoshiki Takeuchi, Deputy Secretary-General of the OECD, Ms. Gita Kottari, Deputy Director of the OECD Legal Affairs Directorate and Mr. Paul Whittaker, representative of the OECD's Anti-Corruption Unit took part in the seminar, as well as representatives of the Swiss Confederation, Israel, the USA and the Netherlands, who presented good practices in the implementation of the Convention.

If no action has been taken to implement recommendation 3(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4:

4. Regarding whistleblower protection, the Working Group recommends that Bulgaria, in the context of forthcoming reforms, enact legislation that provides clear and comprehensive protections from retaliation to whistleblowers in the public and private sectors who report suspected acts of foreign bribery [2009 Recommendation III(iv) and IX(iii); Phase 3 recommendation 9].

Action taken as of the date of the follow-up report to implement this recommendation:

On 27 January 2023, the National Assembly adopted the Law on the Protection of Whistleblowers or Persons Publicly Disclosing Information about Violations (promulgated in SG No. 11 of 2 February 2023 and entered into force on 4 May 2023). The new law regulates the conditions, procedures and measures for the protection of persons in the public and private sectors who submit alerts or publicly disclose information about violations of the law that endanger or damage the public interest and EU law.

The law provides for a comprehensive and streamlined legal framework for whistleblowers' protection and aims to implement fully Directive 2019/1937/EU of the European Union on the protection of persons who report breaches of Union law. It also takes into account the 2021 OECD Recommendations in this regard.

The purpose of the law is to ensure the protection of persons in the public and private sectors who signal or publicly disclose information about violations of Bulgarian legislation or acts of the European Union, which became known to them during or in connection with the performance of their work or official duties or in other work context. Protection will be granted to any person who discloses information about irregularities that became known to them in a work context. It also covers job applicants, former employees, volunteers, interns, as well as people related to the whistle-blower.

Whistleblower protection refers to the reporting of wrongdoing related to breaches in the field of tax fraud, money laundering or offences related to public procurement, product and transport safety, environmental protection, public health and consumer and data protection. The scope of the law also extends to reporting of criminal acts including foreign bribery and corruption.

The law provides for a three-tier system for reporting – internal and external reporting, as well as public disclosure. The companies with more than 50 employees, public sector institutions, authorities as well as municipalities with 10,000 or more inhabitants are obliged to set up suitable internal reporting channels. According to the law, these channels shall be managed in a manner that ensures the completeness, integrity and confidentiality of the information and prevents unauthorised persons from accessing that information. Obligated entities (public and private sector employers) are required to provide clear and easily accessible information on the conditions and procedures for reporting and protection. The information shall be made available on the websites of the obliged entities as well as

in prominent places in the offices and work premises.

The Commission for Personal Data Protection is designated as a central body for external reporting. The external whistleblowing channel shall be an independent structural unit of the Commission, provided with a sufficient number of staff specially trained to deal with whistleblowing.

The whistleblower can choose whether to report a violation internally within the company or to use the external channel. If nothing happens in response to such a report, or if the whistleblower has reason to believe that it is in the public interest, they can also go directly to the public. They enjoy protection in all cases.

The law affords protection against any form of retaliation. An employer who violates the prohibition on retaliation shall be fined from BGN 2 000 to BGN 8 000. In the meantime, the competent authorities shall issue binding prescriptions for the cessation of the retaliation acts until the completion of their inspection. Persons who have suffered harm as a result of the whistleblowing may seek compensation for the damage suffered (Art. 51 of the Law on Obligations and Contracts).

The whistleblowers also have right to supporting measures such as right to information or advice, assistance before public authorities with regard to exercising their right to protection and legal assistance in criminal, civil or administrative proceedings in connection with the whistleblowing.

If no action has been taken to implement recommendation 4, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(a):

5. Regarding detection through media, the Working Group recommends that Bulgaria:
(a) ensure that laws relating to freedom of the press are fully applied in practice to ensure that allegations of foreign bribery can be reported without fear of reprisals [Convention Article 5 and Commentary 27; 2009 Recommendation III(i), Annex I.D.];

Action taken as of the date of the follow-up report to implement this recommendation:

Persons who have publicly disclosed information about violations of the law, including foreign bribery, may also benefit from the protection of the Law on the Protection of Whistleblowers or Persons Publicly Disclosing Information about Violations. They shall qualify for the protection under this law provided that the conditions of Art. 7 are met which include:

- the person first reported internally or externally and no appropriate action was taken in response to the report; or
- the person has reasonable grounds to believe that the breach may constitute an imminent or manifest danger to the public, or in the case of external reporting there is a low prospect of the breach being effectively addressed.

If no action has been taken to implement recommendation 5(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(b):

5. Regarding detection through media, the Working Group recommends that Bulgaria:

(b) ensure that law enforcement authorities routinely and systematically assess foreign bribery allegations that are reported in domestic and foreign media [Convention Article 5 and Commentary 27; 2009 Recommendation III(i), Annex I.D].

Action taken as of the date of the follow-up report to implement this recommendation:

In relation to this recommendation the Prosecutor's Office of Bulgaria issued the following documents:

1. *Order No ПД-02-28 of 15 December 2022 of the Prosecutor General*, by which *the Rules for Media Communication in the System of the Prosecutor's Office of the Republic of Bulgaria*¹¹ are supplemented with a new item 13a with the following text:

„13a. When, upon review of media information, a spokesperson for a district or regional prosecutor's office finds evidence of a crime of a general nature within the jurisdiction of that prosecutor's office, he or she shall promptly notify his or her administrative head. If the offence is within the jurisdiction of a regional prosecutor's office without a designated spokesperson, the notification of its administrative head shall be made by the relevant district prosecutor's office. If a spokesperson in an appellate prosecutor's office finds evidence of a crime committed in its region, the appropriate district or regional attorney's office shall be notified immediately.

Where a foreign media outlet has been cited as the source of information about a crime, efforts shall be made to access that information or request the same from the media outlet that cited it.'

2. *Letter of Instruction No 5025/2015.FII of 15 December 2022 of the Prosecutor General for improving the investigation and prosecution of bribery-related offences, including of foreign officials*. The letter directs the administrative heads of the prosecutor's offices to take additional measures to improve the organisation of investigations into such crimes, including *by regularly assessing allegations of crimes reported in the media, including foreign media, in order to assess whether there is evidence to initiate pre-trial proceedings*.

The MoI also reports that the internal rules of the institution allow signals to be registered orally, by phone, fax or e-mail, in writing in person or through an explicitly authorized representative. Anonymous signals are also registered /often these are media articles/.

If no action has been taken to implement recommendation 5(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6(a):

6. Regarding detection of foreign bribery by accountants and auditors, the Working Group recommends that Bulgaria:

(a) urgently proceed with raising awareness and providing training to external auditors on the foreign bribery offence, including methods and red flags to detect foreign bribery [Convention Article 8; 2009 Recommendation III(i) and X.B(iii) and (v); Phase 3 recommendation 6(a)];

Action taken as of the date of the follow-up report to implement this recommendation:

The Commission for Public Oversight of Statutory Auditors (CPOSA) and the Institute of Certified Public Accountants jointly developed a specialized training for certified accountants and registered auditors in Bulgaria on the foreign bribery offence, including methods and red flags to detect foreign

¹¹ Approved by Order No ПД-02-9 of 24 March 2015, amended and supplemented by Order No ПД-02-08 of 12 April 2019.

bribery.

The first training took place on 15 June 2023 (link to the event:

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%B1%D0%BE%D1%80%D0%B1%D0%B0-%D1%81-%D0%BF%D0%BE%D0%B4%D0%BA%D1%83%D0%BF%D0%B2%D0%B0%D0%BD%D0%B5%D1%82%D0%BE-%D0%BD%D0%B0-%D1%87%D1%83%D0%B6%D0%B4%D0%B8-%D0%B4%D0%BB%D1%8A%D0%B6%D0%BD%D0%BE%D1%81%D1%82%D0%BD%D0%B8-%D0%BB%D0%B8%D1%86%D0%B0-%D0%B2-%D0%BC%D0%B5%D0%B6%D0%B4%D1%83%D0%BD%D0%B0%D1%80%D0%BE%D0%B4%D0%BD%D0%B8%D1%82%D0%B5-%D1%82%D1%8A%D1%80%D0%B3%D0%BE%D0%B2%D1%81%D0%BA%D0%B8-%D1%81%D0%B4%D0%B5%D0%BB%D0%BA%D0%B8/>).

In compliance with the legal requirements for continued professional development of auditors under Art. 30 of the Independent Financial Audit Act, a second training is expected to be held this Autumn. It is planned that such trainings will also be held at least twice a year in the future.

In addition to the above, a project is currently being implemented to produce a self-tuition film on the subject, which will be available free of charge to all certified accountants and registered auditors in Bulgaria.

If no action has been taken to implement recommendation 6(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6(b):

6. Regarding detection of foreign bribery by accountants and auditors, the Working Group recommends that Bulgaria:

(b) undertake more efforts to raise awareness of the independence standards among external auditors in order to improve compliance with IFAA [Convention Article 8; 2009 Recommendation III(i) and X.B(ii)].

Action taken as of the date of the follow-up report to implement this recommendation:

During the reporting period the CPOSA took the following actions:

- organization of at least two trainings per year on the topic of prevention and detection of bribery of foreign public officials by expert accountants and registered auditors (see the answer to recommendation 6a);
- preparation and finalization by the end of 2023 of the self-tuition film project for expert accountants and registered auditors on the topic of prevention and detection of bribery of foreign public officials;
- strengthening the criteria for evaluating the independence of registered auditors when CPOSA carries out inspections to guarantee the quality of their professional activity, incl. updating the methodology for carrying out inspections;
- carrying out a wide range of unscheduled thematic inspections, including checks on compliance with legal requirements and professional standards (ISA and the International Code of Ethics for Professionals Accountants) according to Art. 9 IFAA - information on the scope of inspections is

published on the official website of the CPOSA, which further motivates registered auditors to more thoroughly apply the requirements of the law and standards.

Compliance with ethical requirements, incl. for independence, is mandatory for the registered auditor when performing their professional activities. For each detected violation, appropriate actions are taken to seek administrative liability, accordingly, for each imposed penalty, information on the nature of the violation and the imposed penalty is published in the public register of registered auditors under Art. 20 IFAA.

If no action has been taken to implement recommendation 6(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Recommendations for ensuring effective enforcement of the foreign bribery and related offences

Text of recommendation 7(a):

7. Regarding the foreign bribery offence, the Working Group recommends that Bulgaria:
(a) amend its foreign bribery offence to cover any use of the public official's position, whether or not within the official's authorised competence [Convention Article 1; Phase 3 recommendation 1(a)];

Action taken as of the date of the follow-up report to implement this recommendation:

In 2022, a working group has been set up within the Ministry of Justice to prepare legislative amendments to the Law on Administrative Offences and Sanctions (LAOS), the Criminal Procedure Code and the Criminal Code. The working group is composed of prosecutors from the Supreme Prosecutor's Office, one judge from the Supreme Court of Cassation, district court judges as well as representatives of the Ministry of Interior, the Agency on Public Procurement, the Registry Agency and the academia. The working group is working on the draft proposals for amending the Criminal Code. The Ministry of Justice has brought this recommendation for consideration to the members of the working group. There has been no clear outcome of the discussions so far.

If no action has been taken to implement recommendation 7(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 7(b):

7. Regarding the foreign bribery offence, the Working Group recommends that Bulgaria:
(b) withdraw unless further clarified by case law the requirement for 'the consent of the official' for bribes given to third party beneficiaries [Convention Article 1].

Action taken as of the date of the follow-up report to implement this recommendation:

The working group within the Ministry of Justice is considering an amendment to Article 304c of the Criminal Code, which consists of replacing the word "consent" with "knowledge" of the official.

If no action has been taken to implement recommendation 7(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 8(a):

8. Regarding sanctions, the Working Group recommends that Bulgaria:

(a) enact a provision to sanction aggravated foreign bribery to the same extent as aggravated domestic bribery [Convention Article 3; Phase 3 recommendation 3(b)];

Action taken as of the date of the follow-up report to implement this recommendation:

The working group within the Ministry of Justice is considering introducing additional aggravated circumstances for active bribery offence (Art. 304 CC) which will mirror the aggravated circumstances already envisaged for the passive bribery offence (Art. 301 CC). The amendments discussed would provide for more severe penalties, for example, in cases where the bribe was offered, promised, or given to the public official to perform or because of having performed another crime in connection with his service. Other examples would include cases where the bribery was committed towards a person holding a responsible official position, including that of a judge, assessor, prosecutor, investigator, of a police body or of an investigating police officer; for a second time; or where the bribe is in large or particularly large amounts, representing a particularly grave case.

If no action has been taken to implement recommendation 8(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 8(b):

8. Regarding sanctions, the Working Group recommends that Bulgaria:

(b) take all necessary steps, including through guidance and training to the judiciary, to ensure that sanctions imposed against natural persons for foreign bribery are effective, proportionate and dissuasive in practice [Convention Articles 3 and 5; 2009 Recommendation III(i); Phase 3 Recommendation 3(a)];

Action taken as of the date of the follow-up report to implement this recommendation:

Action taken as of the date of the follow-up report to implement this recommendation:

The topic, related to the bribery of foreign public officials is included in the curricula and programmes of the mandatory initial training of candidates for junior judges, junior prosecutors and junior investigating magistrates and in the ongoing training of acting Bulgarian magistrates. The qualification of the representatives of the Bulgarian judiciary continues to be organized both centrally and regionally, in face-to-face, electronic and hybrid form, taking into account the procedural role, competence and professional experience of the participants.

In terms of effectiveness and ensuring adequate expertise in courts and public prosecution bodies, the National Institute of Justice (NIJ) follows a horizontal approach of integrating the issue of bribery of foreign public officials into the content of various training courses in criminal law. In addition to training on topics such as “bribery”, “trading in influence”, “countering corruption”, the bribery of foreign public officials is also included in trainings on international cooperation in criminal matters, the protection of the EU’s financial interests, money laundering, fraud, organized crime, general business and tax crimes, document crime, the application of special means of intelligence, the individualization of penalties. The target groups of these trainings are judges, prosecutors, investigating magistrates and staff of the Ministry of the Interior, the State Agency “National Security” and the General Directorate for Combatting Organized Crime.

By the end of 2023, NIJ is expected to deliver a training on bribery of foreign public officials, and judges, prosecutors, investigators and representatives of the authorities of the Ministry of the Interior will be invited to take part in the event.

Within the NIJ’s “Modern Learning Environment for Judges, Prosecutors, Investigating magistrates and other representatives of the Professional Community” – a project, implemented with the support of the Justice Programme of the Norwegian Financial Mechanism 2014-2021, teams of authors from the Judiciary and the Academia are developing 12 self-training modules, some of which will cover bribery of foreign public officials from different aspects of substantive and/or procedural law: “Criminal procedural law for prosecutors”, “Criminal substantive law for judges, prosecutors and investigating magistrates”, “Manual of an appellate criminal chamber”, “Fulfillment and execution of the profession of the investigating magistrate”. Once completed, the training materials will be available in electronic format to all registered users on the NIJ e-learning portal.

If no action has been taken to implement recommendation 8(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 8(c):

8. Regarding sanctions, the Working Group recommends that Bulgaria: (c) take steps to ensure that prosecutors in foreign bribery cases routinely seek confiscation of the bribe, and the direct and indirect proceeds of bribery obtained by a briber, or monetary sanctions of comparable effect [Convention Article 3, Phase 3 Recommendation 4(b)].

Action taken as of the date of the follow-up report to implement this recommendation:

In relation to this recommendation Bulgaria notes the following actions taken:

1. *Letter of instruction No 5025/2015.FII dated 15 December 2022 of the Prosecutor General*, reminding all prosecutors and investigators of the need to:

✓ timely clarify, in accordance with the nature of the case, the financial situation of the person under investigation in order to assess the assignment of financial checks or the imposition of precautionary measures under Article 72 of the Code of Criminal Procedure in the event that he/she is charged;

✓ regularly require in court proceedings the forfeiture of the bribe, as well as the direct and indirect benefits received by the subject of the active bribery, or their monetary equivalent, when they are missing.¹²

2. *Order No ПД-02-13 of 10 July 2023 of the Prosecutor General* approving the *Guidance for organizing the work of the Prosecutor’s Office of the Republic of Bulgaria on files and pre-trial proceedings initiated for money laundering and financing of terrorism*. The guideline (item 24.1) requires that in cases of pre-trial proceedings for a predicate offence generating a benefit, an investigation should be carried out to determine whether any criminal benefit has been obtained, and

¹² As information can be indicated:

Sentence No 29 of 1 July 2022 of the District Court — Burgas in private criminal case No 516/2022 (upheld Decision No 50134 of 26 October 2022 of the Supreme Court of Cassation in criminal case No 668/2022, II n. o. of the Criminal Code), by which the defendant was sentenced on the basis of Article 53, paragraph 3, item 1 point 1, in conjunction with paragraph 2, letter ‘b’ of the Criminal Code to pay to the state the amount of BGN 2,749, representing a direct benefit that occurred as a direct consequence of the offence under Article 215, paragraph 2, item 4 of the Criminal Code.

Verdict No 260018 of 20 October 2020 of the District Court — Plovdiv in private criminal case No 2402/2019 in connection with a crime under Article 199, paragraph 1, item 4 of the Criminal Code, under which 2 mobile phones were confiscated from the defendant for the benefit of the state, ‘because on the basis of Article 53, paragraph 2, letter ‘b’ of the Criminal Code, the same constitute indirect benefit acquired through crime, according to Article 53, paragraph 3, item 2 of the Criminal Code.

such an investigation should always be carried out in the case of offences involving corrupt conduct.

3. On the basis of *letter No 2265/2021 of 05 April 2023 of the Deputy Prosecutor General* to all district prosecutor's offices, inspection of the practical application of the provision of Article 307a of the Criminal Code was conducted. As a result, information has been provided on a number of court rulings on bribery in which the object of the offence has been forfeited to the state.

If no action has been taken to implement recommendation 8(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(a):

9. Regarding the investigation and prosecution of foreign bribery, the Working Group recommends that Bulgaria:

(a) take an active part in the different meetings of the Working Group, including the Law Enforcement Officials meetings, and disseminate information at the national level to relevant authorities and stakeholders about implementation of the Convention and the work of the Working Group [Convention Article 12; 2009 Recommendation XIV(iv) and XV];

Action taken as of the date of the follow-up report to implement this recommendation:

Since 2022 the Prosecutor's Office has been taking part in various law enforcement officials meetings, as follows:

- ✓ in October 2022, two representatives of the Prosecutor's Office of the Republic of Bulgaria participated in the 12th meeting of the Law Enforcement Authorities Network with the Anti-Corruption Network for Eastern Europe and Central Asia (ACN LEN), held in Istanbul, Turkey;
- ✓ in June 2023, a representative of the Sofia City Prosecutor's Office took part in the informal meeting of law enforcement authorities of the WGB Member States in Paris, France;
- ✓ in September 2023, two representatives of the Sofia City Prosecutor's Office will participate in the 13th meeting of the ACN LEN, which will be held in Astana, Kazakhstan.

The MoI is also engaged with the activities of the WGB. MoI representatives took part in the Phase 4 evaluation of Bulgaria as well as in the Phase 4 evaluation of Portugal.

If no action has been taken to implement recommendation 9(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(b):

9. Regarding the investigation and prosecution of foreign bribery, the Working Group recommends that Bulgaria:

(b) increase the use of proactive steps to gather information from diverse sources to increase detection [Convention Article 5 and Commentary 27; 2009 Recommendation III, V and Annex I].

Action taken as of the date of the follow-up report to implement this recommendation:

On 15 December 2022 the Prosecutor General issued **Letter of instruction No 5025/2015.ΓII**, which provides guidance to the *administrative heads of the district prosecutor's offices* to take additional

measures to improve the organization of investigations of such crimes, including by:

- ✓ regularly assessing allegations of criminal offences reported in the media, including in foreign media, in order to assess whether there is evidence to initiate pre-trial proceedings;

Two prosecutors from the Supreme Prosecutor's Office of Cassation were designated as authorised users and granted access to the information collected by the OECD on foreign bribery allegations, and to the discussions of this information in the WGB tour de table.

The investigative bodies of the MoI have a wide range of tools to detect crimes. According to Art. 10 of the Law on the Ministry of Interior, the operative and investigative work shall be carried out through 1. investigative interview; 2. search for persons; 3. operative combination; 4. operative identification; 5. voluntary cooperation with citizens; 6. operative planting of undercover officers for investigation; 7. confidential transaction; 8. controlled delivery; 9. operative experiments.

If no action has been taken to implement recommendation 9(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(c):

9. Regarding the investigation and prosecution of foreign bribery, the Working Group recommends that Bulgaria:

(c) ensure that all foreign bribery allegations are properly assessed by the competent authorities and, where appropriate, pre-trial proceedings are commenced [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D];

Action taken as of the date of the follow-up report to implement this recommendation:

On 15 December 2022 the Prosecutor General issued **Letter of instruction No 5025/2015.FII**, which provides guidance to the *administrative heads of the district prosecutor's offices* to take additional measures to improve the organization of investigations of such crimes, including by:

- ✓ regularly assessing allegations of criminal offences reported in the media, including in foreign media, in order to assess whether there is evidence to initiate pre-trial proceedings;

- ✓ consideration of the possibility of establishing a dedicated point of contact for reporting allegations of bribery by citizens and representatives of the executive branch, including foreign officials.

The same letter of instruction *reminded prosecutors and investigators* to ensure a thorough investigation of the case in order to identify possible criminal elements.

When a signal for bribery of foreign officials is addressed to the MoI, the police authorities shall register it and carry out the relevant check. In any case, they shall report the signal to the competent prosecutor's office.

If no action has been taken to implement recommendation 9(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(d):

9. Regarding the investigation and prosecution of foreign bribery, the Working Group recommends that Bulgaria:

(d) amend article 209(1) CPC to allow anonymous notices to be considered as a statutory occasion, thus potentially increasing the source of detection of cases [Convention Article 5 and Commentary 27; 2009 Recommendation IX(i) and (ii), and Annex I.D];

Action taken as of the date of the follow-up report to implement this recommendation:

In 2022, a working group has been set up within the Ministry of Justice to prepare legislative amendments to the Law on Administrative Offences and Sanctions (LAOS), Criminal Procedure Code and the Criminal Code. The working group is composed of prosecutors from the Supreme Prosecutor's Office, one judge from the Supreme Court of Cassation, district court judges as well as representatives of the Ministry of Interior, the Agency on Public Procurement, the Registry Agency and the academia. The Ministry of Justice has brought this recommendation for consideration to the members of the working group. There has been no clear outcome of the discussions so far.

If no action has been taken to implement recommendation 9(d), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(e):

9. Regarding the investigation and prosecution of foreign bribery, the Working Group recommends that Bulgaria:

(e) assign primary responsibility for foreign bribery cases to specialised prosecutors in such a way that sufficient priority is given to their enforcement, improve expertise and interagency co-ordination, facilitate a dedicated point of contact for reporting foreign bribery allegations by the public and government agencies, and give jurisdiction over related offences [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D];

Action taken as of the date of the follow-up report to implement this recommendation:

If no action has been taken to implement recommendation 9(e), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(f):

9. Regarding the investigation and prosecution of foreign bribery, the Working Group recommends that Bulgaria:

(f) allocate adequate human and financial resources to investigations and prosecutions of foreign bribery against natural and legal persons, including the availability of expertise in forensic accounting and information technology (Convention Article and Commentary 27; 2009 Recommendation Annex I.D; Phase 3 recommendation 5(a));

Action taken as of the date of the follow-up report to implement this recommendation:

If no action has been taken to implement recommendation 9(f), please specify in the space below

the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 10(a):

10. Regarding international cooperation, the Working Group recommends that Bulgaria:
(a) maintain detailed statistics on international co-operation requests on foreign bribery, including the underlying offence, time required for execution, and nature of assistance sought [Convention Article 9; 2009 Recommendations III(ix) and XIII];

Action taken as of the date of the follow-up report to implement this recommendation:

In 2022, in the respective reference 'International Legal Assistance and European Arrest Warrant' of the Unified Information System, indicators have been added concerning the type of offence (whether or not it is for bribery of a foreign official), the nature of the assistance requested, and the time for execution, calculated in time intervals of 'up to 3 months', 'up to 6 months', 'up to 1 year' and 'over 1 year'. This information is automatically displayed when required.

If no action has been taken to implement recommendation 10(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 10(b):

10. Regarding international cooperation, the Working Group recommends the Bulgaria:
(b) actively utilise informal means of international co-operation in foreign bribery cases, including by engaging with the Law Enforcement Officials meeting (Convention Article 9; 2009 Recommendation XIII(i) and (iii); Phase 3 recommendation 5(c)).

Action taken as of the date of the follow-up report to implement this recommendation:

By Letter of instruction No 5025/2015.FII of 15 December 2022 of the Prosecutor General all prosecutors and investigators are reminded of the need to:

- ✓ actively use all possible channels for international cooperation where necessary;
- ✓ actively communicate with the foreign executing authority in case of delays in the execution of requests for legal assistance or European Investigation Orders.

If no action has been taken to implement recommendation 10(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 11(a):

11. Regarding the false accounting offence, the Working Group recommends that Bulgaria:
(a) raise awareness of the new administrative false accounting offence among relevant practitioners [Convention Article 8; 2009 Recommendation III(i) and X.B(iii) and (v)];

Action taken as of the date of the follow-up report to implement this recommendation:

The Ministry of Finance held preliminary consultations with business representatives, accountants and registered auditors regarding the need to introduce adequate measures in relation to false accounting. The interlocutors showed interest in the topic of prevention and fight against bribery of foreign officials.

Public consultation of a draft law amending the Accountancy Act to increase the levels of sanctions for false accounting is forthcoming.

If no action has been taken to implement recommendation 11(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 11(b):

11. Regarding the false accounting offence, the Working Group recommends that Bulgaria: (b) introduce adequate sanctions for the false accounting offence for the purpose of bribing foreign public officials or of hiding such bribery [Convention Article 8; 2009 Recommendation III(i) and X.A(iii)]; Phase 3 Recommendation 6(a)].

Action taken as of the date of the follow-up report to implement this recommendation:

The Ministry of Finance has prepared an amendment to the Accountancy Act by which Bulgaria will introduce adequate sanctions for the false accounting offence for the purpose of bribing foreign public officials or of hiding such bribery.

Article 68 of the Accountancy Act is proposed to be amended as follows:

(1) A manager who violates the provisions of Article 9 shall be punishable by a fine of BGN 5 000 to BGN 15 000, and the enterprise shall be penalised by a pecuniary sanction in the amount of BGN 10 000 to BGN 20 000.

The draft law will be published for public consultation on the website of the Ministry of Finance, as well as on the Public Consultation Portal.

The delay of the amendments is due to the political situation in the country and the lack of functioning National Assembly and government.

If no action has been taken to implement recommendation 11(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Recommendations regarding liability of, and engagement with, legal persons

Text of recommendation 12(a):

12. Regarding liability of legal persons, the Working Group recommends that Bulgaria: (a) amend its legislation to provide jurisdiction over Bulgarian legal persons for foreign bribery, including where the legal person uses non-nationals to bribe on its behalf abroad [Convention Articles 2 and 4; Phase 3 recommendation 2(a)];

Action taken as of the date of the follow-up report to implement this recommendation:

In 2022, a working group has been set up within the Ministry of Justice to prepare legislative amendments to the Law on Administrative Offences and Sanctions (LAOS), the Criminal Procedure Code and the Criminal Code. The working group is composed of prosecutors from the Supreme Prosecutor's Office, one judge from the Supreme Court of Cassation, district court judges as well as representatives of the Ministry of Interior, the Agency on Public Procurement, the Registry Agency and the academia. The working group is working on the draft amendments to the LAOS. Amendments to Art. 83b of the LAOS have been considered which would provide for jurisdiction to sanction legal persons in cases where the foreign bribery offence was committed abroad by a foreign citizen.

If no action has been taken to implement recommendation 12(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 12(b):

12. Regarding liability of legal persons, the Working Group recommends that Bulgaria:
(b) urgently amend existing procedure and legislation, as necessary, to ensure that proceedings against a legal person are not restricted to cases where the natural person who perpetrated the offence is prosecuted or convicted [Convention Article 2; 2009 Recommendation Annex I.B; Phase 3 recommendation 2(c)];

Action taken as of the date of the follow-up report to implement this recommendation:

Amendments to Art. 83b of the LAOS have been considered to address the WGB's concerns that proceedings against legal persons are dependent on the criminal proceedings against the natural person. Under the proposed text, the prosecutor who initiates the proceedings against the legal person would no longer be required to state the personal data of the accused or the convicted natural person, if no charges have been brought against the person or the criminal proceedings have been terminated or suspended.

If no action has been taken to implement recommendation 12(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 12(c):

12. Regarding liability of legal persons, the Working Group recommends that Bulgaria:
(c) where appropriate, consider combining proceedings against natural and legal persons in the same case following the practice of some other Working Group members with non-criminal corporate liability [Convention Article 2; 2009 Recommendation Annex I.D];

Action taken as of the date of the follow-up report to implement this recommendation:

The Working Group within the Ministry of Justice has been carefully considering this recommendation

in light of the judgment of the European Court of Justice C 203/21 DELTA STROY 2003¹³ that was issued in November 2022, on a preliminary ruling concerning the interpretation of Articles 4 and 5 of Council Framework Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Property, and of Article 49 of the Charter of Fundamental Rights of the European Union.

After concluding that the corporate liability regime regulated in the Law on Administrative Offences and Sanction is criminal in nature, the ECJ finds it unacceptable that "the competent court, before which the proposition from the competent prosecutor to impose a financial penalty on a legal person is brought, is not able to assess whether that offence was in fact committed". The inability of the legal person to put forward its observations in that regard is also found problematic in terms of the presumption of innocence and the rights of the defence. According to the ECJ, however, this right of the legal person to apply for the proceedings to be reopened cannot be considered equal to the right of the legal person to full judicial review. Following the above, the ECJ came to the conclusion that "Article 48 of the Charter of Fundamental Rights of the European Union must be interpreted as precluding national legislation under which a national court may impose on a legal person a criminal penalty for an offence for which a natural person who has the power to bind or represent that legal person is allegedly liable, where that legal person has not been put in a position to dispute the reality of that offence".

In view of the above, the working group within the Ministry of Justice discusses two possible approaches for action, which would lead to amendments to the Criminal Procedure Code. Option one envisages the possibility for the court to decide on the administrative sanctions for legal persons in the same criminal proceedings when deciding on the criminal liability of natural persons. The administrative proceedings against the legal person would develop separately when the criminal proceedings against the natural persons could not be initiated or have been terminated or suspended. In both cases, representatives of legal persons would have the same legal position, rights and obligations as the accused natural person. Option two would provide for the court to decide on the administrative sanctions for legal persons in separate administrative proceedings but the legal person would be given the right to participate through its representative in the ongoing criminal proceedings against the natural person. In this case, the representative of the legal person would enjoy the same rights as the accused natural person. At present, the working group is favouring the first option.

If no action has been taken to implement recommendation 12(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 12(d):

12. Regarding liability of legal persons, the Working Group recommends that Bulgaria:
(d) take steps to ensure that the full range of investigative tools in the CPC, including special intelligence means, are available in proceedings against legal persons [Convention Articles 2 and 5; 2009 Recommendation Annex I.D; Phase 3 recommendation 2(b)];

Action taken as of the date of the follow-up report to implement this recommendation:

Amendments to Art. 83d of the LAOS have been considered to allow the court to use the evidence and means of proof, including physical evidence, collected in criminal proceedings against natural persons

¹³<https://curia.europa.eu/juris/document/document.jsf?jsessionid=8012D7B56392A3287E729E6988291A88?text=&docid=267932&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=319478;>

in the proceedings against legal persons. The proposed wording might be subject to further amendments depending on the decision to be taken by the drafting working group to address the criticism of the ECJ.

If no action has been taken to implement recommendation 12(d), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 12(e):

12. Regarding liability of legal persons, the Working Group recommends that Bulgaria:
(e) take steps to ensure that the limited circumstances for duly summoning a legal person's representative do not prevent court proceedings against legal persons being commenced [Convention Article 2];

Action taken as of the date of the follow-up report to implement this recommendation:

Detailed rules for summoning of the legal person's representative(s) have also been contemplated to guarantee that the court proceedings cannot be jeopardized due to the bad faith behaviour of the legal person's representatives. For this purpose, amendments to Article 83d of the LAOS have been envisaged to specify the persons who may represent legal entities in the administrative proceedings and cases in which the court may appoint special representatives. How summons of the legal entity should be served (at the address of the legal entity's registered office, the address of the place of business, the address of the first acquired property, etc.), as well as the range of persons to whom summonses or documents for the legal entity may be served, would also be regulated in detail.

If no action has been taken to implement recommendation 12(e), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 12(f):

12. Regarding liability of legal persons, the Working Group recommends that Bulgaria:
(f) urgently draw the attention of prosecutors to the importance of taking proceedings for the sanctioning of legal persons for foreign bribery, including by strengthening training programmes on proceedings against legal persons [Convention Articles 2 and 3; 2009 Recommendation III(ii) and Annex I.B];

Action taken as of the date of the follow-up report to implement this recommendation:

If no action has been taken to implement recommendation 12(f), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 12(g):

12. Regarding liability of legal persons, the Working Group recommends that Bulgaria: (g) increase the maximum available sanctions for legal persons to a level that is effective, proportionate and dissuasive as required by Article 3 of the Convention [Convention Articles 2 and 3];

Action taken as of the date of the follow-up report to implement this recommendation:

The working group within the MoJ has been discussing a significant increase of the sanctions for legal persons. It is envisaged that the highest pecuniary sanction can go up to 10 million BGN (5 million euros) thus responding to the requirement of Art. 3 of the Convention for effective, proportionate and dissuasive sanctions. The level of sanctions would be determined in an increasing progression on the basis of the amount of the benefit for the legal person.

If no action has been taken to implement recommendation 12(g), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 12(h):

12. Regarding liability of legal persons, the Working Group recommends that Bulgaria: (h) amend its legislation to allow for the suspension or debarment of legal persons to an appropriate degree [Convention Articles 2 and 3; 2009 Recommendation XI; Phase 3 recommendation 12];

Action taken as of the date of the follow-up report to implement this recommendation:

The working group within the MoJ has been discussing to include additional sanctions for legal persons. More specifically, amendments to Art. 83a LAOS have been considered to allow legal persons to be excluded from public advantages, such as temporary debarment from public procurement or concession procedures; as well as exclusion of tax reliefs, subsidies and receiving grants from the public budget. In order to facilitate the practical implementation of the additional sanctions the working group foresees that court decisions against the sanctioned legal person would be sent to the Registry Agency for announcement in the Commercial Register and the Register of Non-Profit Legal Entities on the account of the sanctioned legal person.

If no action has been taken to implement recommendation 12(h), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 12(i):

12. Regarding liability of legal persons, the Working Group recommends that Bulgaria: (i) amend its legislation to expressly cover the confiscation of the bribe from legal persons [Convention Articles 2 and 3; Phase 3 recommendation 4(a)].

Action taken as of the date of the follow-up report to implement this recommendation:

The working group has been considering to explicitly define the term 'direct benefit' as including the

subject of the crime, which would guarantee that the bribe would be confiscated in the proceedings against the legal person even when it cannot be confiscated within the criminal proceedings against the natural person.

If no action has been taken to implement recommendation 12(i), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 13(a):

13. Regarding engagement with the private sector, the Working Group recommends that Bulgaria:
(a) Take priority measures to raise awareness of the crime of bribery of a foreign official among business associations and companies, including small and medium-sized enterprises and state-owned enterprises, with an emphasis on those doing business in countries and sectors with a high risk of corruption [Recommendation III of 2009 (i); Phase 3 report recommendation 8 (c)].

Action taken as of the date of the follow-up report to implement this recommendation:

Detailed information on the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions has been published on the website of the Ministry of Economy and Industry in the Strategies and Policies section, under the Business Environment sub-section.

The following guidelines and good practices have also been published in Bulgarian:

- Toolkit for raising awareness and preventing corruption in SMEs (HIGHLIGHTS 2022). The toolkit outlines practical ways in which governments and other stakeholders can engage SMEs in the fight against corruption.
- Toolkit for raising awareness and preventing corruption in SMEs: provides policy-making information on ways to facilitate and promote compliance with anti-corruption legislation in SMEs and supports companies in assessing their corruption risks and compliance challenges.
- ICC Anti-corruption Third Party Due Diligence: A Guide for Small and Medium Size Enterprises. This tool helps small and medium-sized businesses create an effective due diligence process that fits into an overall ethics and compliance program.

The Bulgarian Small and Medium Enterprises Promotion Agency (BSMEPA) also takes priority measures to raise awareness by publishing information about the Convention, as well as good practices and comments in this area on the Agency's institutional website, as well as on the official website of the National Contact Point of Bulgaria for Responsible Business Conduct (NCP). Information can be found at the following links: https://www.sme.government.bg/?page_id=37; <https://bulgariancp.bg/dokumenti-failove/>

By Decision No 776/12.10.2022 the Council of Ministers adopted a Policy on the Participation of the State in Public Enterprises (Policy). It sets out: the justification of the State's ownership in public enterprises; the objectives set by the State as owner of public enterprises; the role of the State in the management of public enterprises; policy performance indicators; the role and responsibilities of ministers exercising the rights of the State in enterprises and other state organisations involved in policy implementation. Adherence to the *OECD Guidelines on Combating Corruption and Integrity in Public Enterprises* is a long-term non-financial objective that the Policy defines as common to the entire government sector. In this regard, the Policy provides an opportunity in the process of formulating

medium-term objectives and planned results, in their business programs, for public enterprises to set for implementation as a non-financial objective the fight against corruption. The policy of the State's participation in public enterprises is available in Bulgarian and English on the Public Enterprises and Control Agency's (PECA) website <https://www.appk.government.bg/bg/54>. The *OECD Guidelines on Combating Corruption and Integrity in State-owned Enterprises* have been published on the PECA website (<https://www.appk.government.bg/bg/133>) in order to familiarize state-owned public enterprises with their provisions.

In order to ensure efficiency, transparency and accountability of state-owned enterprises similar to those of public private companies, the PECA maintains an electronic information system for public enterprises, in which they disclose quarterly and annual financial and other information related to their activities. According to Article 48(1) of the Accountancy Act, public enterprises draw up a non-financial statement containing information to the extent necessary to understand the development, results, state of the enterprise and the impact of its activities, concerning, as a minimum, environmental, social and employee matters, respect for human rights, the fight against corruption and bribery. In application of Article 61(3) of the Rules for the Implementation of the Public Enterprises Act, the non-financial statement which the state-owned public enterprises categorised as 'large' draw up under the Accountancy Act shall be disclosed in the electronic information system for public enterprises, which is accessible to interested parties on the website of the PECA <https://reports.appk.government.bg/>.

The PECA prepares Annual Summary Reports on State Public Enterprises, which are available in Bulgarian and English on the Agency's website <https://www.appk.government.bg/bg/55>.

If no action has been taken to implement recommendation 13(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 13(b):

13. Regarding engagement with the private sector, the Working Group recommends that Bulgaria: (b) promote the development and implementation of anti-corruption internal controls, ethics and compliance programmes by the private sector, including through the Good Practice Guidance [2009 Recommendation III(i), X.C(i) and Annex II].

Action taken as of the date of the follow-up report to implement this recommendation:

BSMEPA takes priority measures to raise awareness by publishing information about the Convention, as well as good practices and comments in this area on the Agency's institutional website, as well as on the official website of the National Contact Point of Bulgaria for Responsible Business Conduct (NCP) Information can be found at the following links: https://www.sme.government.bg/?page_id=37; <https://bulgariancp.bg/dokumenti-failove/>

The preparation of a Code of Ethics for Persons Working in State-Owned Enterprises and related policies and risk assessment is included as a measure in the National Recovery and Resilience Plan. Following the adoption of the Code of Ethics, the PECA is ready to provide the necessary assistance for its disclosure and awareness-raising in state-owned public enterprises, with a focus on those doing business in countries and sectors at high risk of corruption.

All state-owned enterprises in which the Minister of Economy and Industry exercises the rights of the state have developed codes of ethics and internal rules for combating corruption, and have also developed a Risk Register which indirectly provides prevention actions based on identified risks. Enterprises have effective rules for financial management and control.

If no action has been taken to implement recommendation 13(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Recommendations regarding other measures affecting implementation of the Convention

Text of recommendation 14(a):

14. Regarding money laundering, the Working Group recommends that Bulgaria:
(a) urgently raise the awareness of non-financial institutions on the risks of foreign bribery [Convention Article 7; 2009 Recommendation III(i)];

Action taken as of the date of the follow-up report to implement this recommendation:

FID-SANS has been carrying out regular analysis on the risks connected with a number of major predicate offences, notably corruption, e.g. included in the National Risk Assessment (NRA)¹⁴ report update in 2023. Summary of the report was communicated to all obliged entities under the Law on Measures against Money Laundering (LMML) (incl. non-financial institutions) by publishing it on the web site of the State Agency for National Security (SANS) – www.dans.bg¹⁵.

Specific Chapter in the 2023 NRA Report is focused on analysis of threats stemming from predicate criminality, which serves as the main source for generating criminal proceeds – Chapter 3. This chapter contains analysis of the internal and external sources of criminal proceeds that are subsequently laundered in or through the Republic of Bulgaria. Analysis of links between the initial generation of criminal proceeds and the identified money laundering typologies and to assessment of corresponding risks is also included. Separate analysis is included also for assisting the process of ML and stand-alone ML as well as analysis of recovery controls and residual risk. As a result 7 Risk Events were registered for predicates including one for PEPs-related ML found to have extreme level of risk. Links to these predicates are also cross-analysed in other chapters of the Report in relation the engagement of certain natural persons (e.g. straw-men, PEPs relatives or close associates) or legal entities, professions or sectors to these predicates.

Chapter 4 of the 2023 NRA Report is focused on analysis of subjects undertaking ML. The subject categories analysed within this Chapter *include PEPs – domestic and foreign (non-resident)*.

Besides, FID-SANS was able to produce several new specific strategic analysis documents, focused on predicate offences in FIU cases, PEPs related FIU cases and the type of legal entities in FIU cases (more data is provided below related to the next recommendation).

FID-SANS took several steps ensuring obliged entities are informed on the established trends and typologies, as well as established ML and TF risks, e.g. by organising awareness-raising events on AML/CFT obligations for obliged entities, incl. within the Structural Reform Support Programme Project “Enhancing capabilities of Bulgarian authorities to effectively mitigate money laundering and

¹⁴ Please note that parts of the 2023 NRA report contain sensitive information which is not aimed for public dissemination. According to Art. 96, para 6 of the Law on Measures against Money Laundering (LMML) the information and data from this report shall be used only for the purposes of the national risk assessment and may be provided to third parties or revealed only subject to prior approval and to an extent determined by the authority or institution concerned. This limitation is also valid for the other data shared by FID-SANS for the purposes of Phase 4 evaluation report of Bulgaria.

¹⁵ In section concerning the measures against ML/TF.

terrorist financing” funded by the EC and co-funded by the CoE¹⁶.

In the framework of this project Bulgarian authorities were provided with technical assistance in the implementation of the National Risk Assessment (NRA) Action Plan, including through the organisation of several capacity-building activities for AML/CFT competent authorities (incl. trainings/workshops) and the development of targeted AML/CFT guidelines for high-risk sectors.

An awareness-raising workshop on ML/TF risks associated with PEPs was held on 17 November 2022. Participants from Bulgarian obliged entities and competent authorities gathered and exchanged experience on challenges and good practices in identification and mitigation of the specific risks associated with PEPs as well as on identifying close associates of PEPs, establishing the source of wealth and source of funds and identifying whether the beneficial owner of a legal entity is a PEP.

As a result of the project Technical Paper “Guidelines for obliged entities on identifying Political Exposed Persons (PEPs) and establishing the source of wealth and source of funds” was prepared being an update of previous guidelines. It provides recommendations to the Bulgarian Authorities to set up specific Guidelines addressed to obliged entities on identifying PEPs and establishing the source of wealth and source of funds, including related red flags, in order to manage ML/TF risks associated with PEPs.

If no action has been taken to implement recommendation 14(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 14(b):

14. Regarding money laundering, the Working Group recommends that Bulgaria:
(b) provide specific guidance and typologies on foreign bribery cases for all obliged entities [Convention Article 7; 2009 Recommendation III(i)];

Action taken as of the date of the follow-up report to implement this recommendation:

FID-SANS has taken several measures to enhance the awareness of obliged entities under the Law on Measures against Money Laundering (LMML), including publishing strategic documents at the web site of the State Agency for National Security (SANS), e.g.:

- Red flags of suspected money laundering by PEPs;
- Strategic analysis “Trends and typologies in PEPs related FID-SANS cases”.

In addition to several guidelines provided to all obliged entities (e.g. related to beneficial ownership, implementation of the measures against TF, etc.), the aforementioned guidelines on identifying PEPs have also been updated in 2023 in cooperation with a Council of Europe expert in the SRSP project.

If no action has been taken to implement recommendation 14(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

¹⁶ Project under REGULATION (EU) 2017/825 of 17 May 2017 on the establishment of the Structural Reform Support Programme for the period 2017 to 2020 and amending Regulations (EU) No 1303/2013 and (EU) No 1305/2013, as amended by Regulation (EU) 2018/1671 of 23 October 2018.

Text of recommendation 14(c):

14. Regarding money laundering, the Working Group recommends that Bulgaria: (c) maintain detailed statistics on STRs received to allow the FID-SANS to analyse the obliged entities that are reporting cases and also the underlying predicate offence [Convention Article 7; 2009 Recommendation III(i)];

Action taken as of the date of the follow-up report to implement this recommendation:

Significant steps have been taken by FID-SANS to ensure the availability of detailed and comprehensive statistics. These include review of the case management procedures at different units within the FIU and the introduction of more granular data entry approach to incoming and outgoing information, which resulted in FIU's capability to support statistic, which include breakdown by different criteria, incl. predicate offences indicated in STRs.

- This has been done in parallel with the customization of the goAML software, which is still going on and is planned to be integrated in the goAML system, which will facilitate further automatisation of statistics keeping process.
- These steps resulted in a more comprehensive and granular analysis in NRA Report update from February 2023, Sectorial assessment of money laundering and terrorist financing risks related to virtual assets and virtual assets service providers (VAs/VASPs SRA) from February 2023, and Report on the Terrorist Financing Risk Assessment in the Non-Profit Organizations Sector (NPO TF RiskAssessment) from May 2023, as well in FID-SANS ability to produce several new specific strategic analysis documents, focused on predicate offences in FIU cases, PEPs related FIU cases and the type of legal entities in FIU cases.

Good example of enhanced FIU's capability to support detailed and comprehensive statistics is the data included in the Strategic analysis "Trends and typologies in PEPs related FID-SANS cases", mentioned above. According to its results, historically, a review of the available information shows the following trend regarding the number of ML cases involving PEP or PEP-related persons:

- The lowest number of cases was in 2020, followed by a double increase in 2021 and a decrease by 35% in 2022. The same trend was established in relation to the value of STRs for the aforementioned period, and it should be noticed that the decrease in 2022 is by 60%.
- Based on the PEP-involving STRs received in 2021-2022, including resident and non-resident PEPs or PEP-related persons, it was established that the largest part (about 70%) of the STRs received relate to resident PEPs. Significantly lower part include as reported subjects PEP-related persons, respectively – non-resident PEPs, and in 2022 an increase in the share of resident PEPs was observed opposite to the share of PEP-related persons.

If no action has been taken to implement recommendation 14(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 14(d):

14. Regarding money laundering, the Working Group recommends that Bulgaria: (d) implement the goAML (or similar) software to facilitate the reporting of STRs by obliged entities [Convention Article 7; 2009 Recommendation IX(i)];

Action taken as of the date of the follow-up report to implement this recommendation:

IT resources of FID-SANS have been substantially increased through the procurement of goAML software and necessary hardware equipment:

- All the hardware equipment for the goAML installation has been acquired.
- The supporting IT infrastructure at FID-SANS was prepared for the deployment of goAML software (August 2022). After an intensive cooperation between the IT experts of UNODC and SANS, the goAML software was successfully installed remotely by UNODC. Correspondence was held regarding the next steps of the implementation of the software. These include the organization of two trainings by UNODC – one for administrators of the system for configuration and customization, and another one for users (analysts).
- UNODC mission in Bulgaria took place in the period 16.01 - 27.01.2023 and training was provided to SANS employees so that they can carry out all the necessary technical configurations and settings for working with goAML. The UNODC mission also included training of obliged entities under AML/CFT legislation on preparation for goAML registration and suspicious transaction reporting requirements.
- Currently, FID-SANS is in the process of customization of the system.

If no action has been taken to implement recommendation 14(d), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 14(e):

14. Regarding money laundering, the Working Group recommends that Bulgaria: (e) ensure that the competent prosecution authorities that receive analysis reports from the FID-SANS, and as part of improved interagency cooperation, provide more regular and more detailed feedback on follow-up actions [Convention Article 7; 2009 Recommendation IX(i)].

Action taken as of the date of the follow-up report to implement this recommendation:

The following inter-agency acts should be noted as relevant for the purposes of the implementation of this recommendation:

1. *Indicative letter No 2365/2015 of 09.05.2022 of the Prosecutor General*, introducing a procedure for providing a response on the outcome of actions taken when information is received by FID-SANS under Article 75, paragraph 75, item 1 of the Law on Measures against Money Laundering (LMML) and Article 9b, paragraph 4 of the Law on Measures against the Financing of Terrorism (LMFT).
2. *Letter of instruction No 5025/2015.FII dated 15 December 2022 of the Prosecutor General*, reminding all prosecutors and investigators of the need to provide more regular feedback on follow-up in cases where information about the crime has been received by FID-SANS or the revenue authorities.

3. *Instruction on the organization of the work of the Prosecutor's Office of the Republic of Bulgaria on cases and pre-trial proceedings initiated for money laundering and terrorist financing*, approved by *Order No P PД-02-13 of 10 July 2023* of the Prosecutor General, which Section V “Inter-agency cooperation and feedback” refers to the established organization on the feedback to the FID-SANS and the control authorities.

4. *Letter No 2265/2021 of 05 April 2023 of the Deputy Prosecutor General*, on the bases of which an inspection regarding the practical application of the Prosecutor General's Letter of Instruction No 2365/2015 of 09 May 2022 was carried out. According to the summarised results, some of the prosecution offices have introduced additional internal organisation to implement the instructions of the Prosecutor General. In one of the prosecutor’s offices, deficiencies in the feedback were identified and appropriate measures were taken.

There is a possibility for electronic submission of alerts, notifications and other documents to any prosecutor's office in the country through the *e-services portal of the Prosecutor’s Office* (<https://e-services.prb.bg/epob-ui/#/services>). When using this functionality, the sender receives a Unique Identification Number, which is used in the ‘Check File’ section (<https://e-services.prb.bg/epob-ui/#/home>), the movement of the document can be traced, including when it is processed by different PRB structures, and the information is up-to-date as of the previous day.

If no action has been taken to implement recommendation 14(e), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 15(a):

15. Regarding taxation, the Working Group recommends that Bulgaria:
(a) include specific modules on foreign bribery in the curricula of training for NRA personnel [2009 Recommendation III(iii) and VIII(i)]; Phase 3 recommendation 7(b)];

Action taken as of the date of the follow-up report to implement this recommendation:

A total of 36 training courses on topic “Tax Legislation Changes” were held with 1299 participants. Current issues with the implementation of the Tax and Social Security Procedure Code and the Personal Income Tax Act and the CITA. The training includes a topic related to the presentation of a handbook for uncovering corrupt practices.

The main points covered by this topic are:

- the national legislative framework;
- reporting in cases of giving or accepting bribes;
- indicators of fraud or bribery and examples of techniques in use;
- methods of gathering evidence to identify bribery.

The training was held under the following Scheme:

1. One training on the content of the course for trainers, held by employees of the Tax and Social Security Methodology Directorate at the National Revenue Agency Headquarters. In this training participated 32 trainers from the Appeals and Tax and Social Security Practice Directorates in Sofia, Plovdiv, Veliko Tarnovo, Varna and Burgas.
2. On a territorial basis, the trainers held 35 similar training courses with 1267 participants from all

Territorial Directorates of the NRA, using the training materials intended for the training of trainers where the above topic is reviewed.

The handbook for uncovering corrupt practices is uploaded on the NRANET and is available to all NRA employees.

In 2022 and 2023, 4 employees occupying expert positions in the NRA attended the training course offered by IPA on the topic: Bribery of Foreign Public Officials and Reporting Suspected Crime.

If no action has been taken to implement recommendation 15(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 15(b):

15. Regarding taxation, the Working Group recommends that Bulgaria:

(b) provide feedback and follow-up on cases where the NRA has notified irregularities to prosecutors' offices [2009 Recommendation III(iii) and VIII(i)].

Action taken as of the date of the follow-up report to implement this recommendation:

There is no information about such cases, accordingly, no notifications have been sent to the Prosecutor's Office in relation to false accounting offences for the purpose of bribing foreign public officials or of hiding such bribery. In view of this, we are unable to provide feedback and follow-up actions in cases where the NRA has notified the Prosecutor's Office of irregularities related to the bribery of foreign public officials.

If no action has been taken to implement recommendation 15(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 16(a):

16. Regarding officially supported export credits, the Working Group recommends that Bulgaria:

(a) adhere to the 2019 Recommendation on Bribery and Officially Supported Export Credits, which should then be implemented by BAEZ [2009 Recommendation XII(ii); Phase 3 recommendation 11(a)];

Action taken as of the date of the follow-up report to implement this recommendation:

BAEZ expresses its readiness to implement an internal change in its regulations after Bulgaria's adherence to the 2019 Recommendation on Bribery and Officially Supported Export Credits.

If no action has been taken to implement recommendation 16(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 16(b):

16. Regarding officially supported export credits, the Working Group recommends that Bulgaria: (b) consider consolidating BAEZ's anti-corruption rules and procedures to ensure consistency and proper implementation [2009 Recommendation XII(ii); 2019 Export Credit Recommendation];

Action taken as of the date of the follow-up report to implement this recommendation:

BAEZ is revising and updating its internal anti-corruption rules and procedures in order to achieve consolidation and ensure consistency with the rules for the implementation of mechanisms for checks, monitoring and reporting of corruption in export credit transactions. The relevant amendment of the internal anti-corruption rules and procedures were adopted by the Management Board of BAEZ on 31 July 2023.

If no action has been taken to implement recommendation 16(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 17(a):

17. Regarding public procurement, the Working Group recommends that Bulgaria: (a) continue to train the staff of the Public Procurement Agency and contracting authorities on foreign bribery, including on how to carry out effectively due diligence in relation to public procurement contracting [2009 Recommendation III(i) and XI(iii); Phase 3 Recommendation 12];

Action taken as of the date of the follow-up report to implement this recommendation:

The Public Procurement Agency (PPA) continues to train its employees on the topic "Prevention and counteraction of corruption". On this topic, 4 internal trainings were held in 2021, with 38 PPA employees trained, in 2022 – 5 internal trainings, respectively, with 47 employees trained, and in 2023 so far – 3 internal trainings, respectively, with 14 employees trained.

Employees of the PPA also took part in external courses, organized by the Institute of Public Administration (IPA):

- "Measures against money laundering" – 5 PPA employees trained (2021);
- "Bribery of foreign officials and whistleblowing when a crime is suspected" - since 2022 so far 19 PPA employees were trained or enrolled.

If no action has been taken to implement recommendation 17(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 17(b):

17. Regarding public procurement, the Working Group recommends that Bulgaria:
(b) where appropriate, check the debarment lists of international financial institutions [2009 Recommendation XI(iii)];

Action taken as of the date of the follow-up report to implement this recommendation:

Public Procurement Law (PPL) stipulates that contracting authorities/entities are responsible for the proper forecasting, planning, conduct, completion and reporting of procurement results (Art. 5, para 1 PPL). Currently, in Bulgaria there are over 4 400 authorities/entities, so checking the debarment lists of international financial institutions is on their remit. Checking the lists of suspended companies of international financial institutions could serve in certain cases as a red flag for contracting authorities, but there is no legal ground under PPL to reject economic operators from participation in procurement procedures on the said condition. In addition, according to Art. 56 PPL, any economic operator could demonstrate its reliability despite the existence of a relevant ground for exclusion.

If no action has been taken to implement recommendation 17(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 17(c):

17. Regarding public procurement, the Working Group recommends that Bulgaria:
(c) consider, as appropriate in the context of combatting foreign bribery, the existence of anti-corruption internal controls, ethics and compliance programmes of companies seeking procurement contracts [2009 Recommendation XI(iii)];

Action taken as of the date of the follow-up report to implement this recommendation:

The Public Procurement Law (PPL) prevents the conclusion of a public procurement contract with persons convicted of bribery. At the same time, the PPL does not contain provisions that give persons with developed internal control systems and/or adopted ethical rules an advantage in relation to the award of public procurement contracts.

Under national law, the Commission for the Protection of Competition (CPC) is the body responsible for competition advocacy. The Commission issues opinions aimed at increasing market openness. The CPC publishes on its website guidelines for companies wishing to take action to avoid and prevent possible infringements of competition rules, including on the establishment of corporate compliance programmes. The Guidelines are non-binding:

<https://www.cpc.bg/legislation?tag=4ves471s4m9ads70r8f1kv7f4d>

If no action has been taken to implement recommendation 17(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 17(d):

17. Regarding public procurement, the Working Group recommends that Bulgaria: (d) include anti-corruption clauses within public procurement contracts [2009 Recommendation XI(iii)].

Action taken as of the date of the follow-up report to implement this recommendation:

It is a standard practice contracting authorities to include anti-corruption/ integrity clauses for procurement procedures financed under EU/other donor programmes.

As a basic rule, the PPL provides for public contracts not to be awarded to persons convicted of bribery and this applies to low-value contracts under Art. 20, para. 3 of PPL.

If no action has been taken to implement recommendation 17(d), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 18(a):

18. Regarding official development assistance (ODA), the Working Group recommends that Bulgaria: (a) ensure that both natural and legal persons applying for ODA contracts be required to declare that they have not been convicted of corruption offences [2009 Recommendation XI(ii); 2016 Recommendation 6(ii)];

Action taken as of the date of the follow-up report to implement this recommendation:

A new template of a Grant Agreement was developed with specific clause, introducing the obligation of beneficiaries to declare that they have not been convicted of crimes of a general nature, including those listed in the Special Part, Chapter 8, Section IV /Bribery/ of the Criminal Code of the Republic of Bulgaria.

At the submission of the application form for projects financed under Official Development Assistance, potential beneficiaries are obliged to declare /by filling in a Declaration/ that they have not been convicted of crimes of a general nature, including those listed in the Special Part, Chapter 8, Section IV /Bribery/ of the Criminal Code of the Republic of Bulgaria. The Declaration also introduces the obligation of the beneficiary to notify in a written way the Bulgarian authorities of any change in the declared circumstances, to indicate the public registers that contain information about the declared circumstances, as well as the competent authority (ies), which according to the legislation of the respective country is/ are obliged to provide information about these circumstances.

If no action has been taken to implement recommendation 18(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 18(b):

18. Regarding official development assistance (ODA), the Working Group recommends that Bulgaria: (b) verify publicly available debarment lists of international financial institutions during the applicants' selection process [2009 Recommendation XI(ii); 2016 Recommendation 6(iv)];

Action taken as of the date of the follow-up report to implement this recommendation:

Within the application procedure for projects financed under Official Development Assistance, potential beneficiaries are obliged to declare /by filling in a Declaration/ that they have not been convicted of crimes of a general nature, including those listed in the Special Part, Chapter 8, Section IV /Bribery/ of the Criminal Code of the Republic of Bulgaria. In the Declaration beneficiaries should indicate the public registers that contain information about the declared circumstances, as well as the competent authority (ies), which according to the legislation of the respective country is/ are obliged to provide information about these circumstances in order to be verified by the Embassies and the relevant departments at the MFA.

It should be noted that the projects financed by the Bulgarian ODA are small-scaled with beneficiaries being NGOs or public institutions (e.g. municipalities).

If no action has been taken to implement recommendation 18(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 18(c):

18. Regarding official development assistance (ODA), the Working Group recommends that Bulgaria: (c) undertake appropriate due diligence, including on the applicants' corruption risk management systems, prior to the granting of ODA contracts [2009 Recommendation XI(ii); 2016 Recommendation 6(iii)];

Action taken as of the date of the follow-up report to implement this recommendation:

Foreign Economic Relations and Development Cooperation Directorate at the MFA is conducting a study of the experience of other countries, as well as other institutions in Bulgaria in connection with the recommendation to introduce a comprehensive verification, including regarding the corruption risk management systems of the applicants, before concluding ODA contracts.

If no action has been taken to implement recommendation 18(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 18(d):

18. Regarding official development assistance (ODA), the Working Group recommends that Bulgaria: (d) include, within ODA contracts, termination, suspension or reimbursement clauses or other civil and criminal actions, where applicable, in the event of the discovery that the implementing partner subsequently engaged in corruption during the course of the contract [2009 Recommendation XI(ii); 2016 Recommendation 8(i)].

Action taken as of the date of the follow-up report to implement this recommendation:

The template for the Grant Amendment have been modified with the introduction of clauses for termination of the contract and reimbursement of the grant provided, in the event that it is found that the beneficiary has an effective sentence for a corruption crime, according to Bulgarian legislation or similar to the corruption crimes defined in Chapter 8, Section IV /Bribery/ of the Criminal Code of the Republic of Bulgaria, in another EU member state or a third country.

If no action has been taken to implement recommendation 18(d), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

PART II: ISSUES FOR FOLLOW-UP BY THE WORKING GROUP

Regarding Part II and as per the procedures agreed by the Working Group, countries are invited to provide information with regard to any follow-up issue identified below where there have been relevant developments since the Phase 4 report. Please also note that the Secretariat and the lead examiners may also identify follow-up issues for which it specifically requires information from the evaluated country.

19. The Working Group will follow up on the issues below as case law, practice, and legislation develops:

Text of issue for follow-up 19(a):

(a) human and financial resources available to the prosecutors' office to support the effective detection, investigation and prosecution of foreign bribery [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D; Phase 3 recommendation 5(a)];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

On this topic, the following actions taken should be noted:

1. *Letter of instruction No 5025/2015.II dated 15 December 2022 of the Prosecutor General, which directs* the administrative heads of all district prosecutor's offices in the country to take additional measures to improve the organization of investigations of such crimes, including by:

✓ periodic review of the human resources allocated to the investigation and prosecution of such cases;

✓ assessing the possibility of assigning specific prosecutors to work on such cases, from among whom the random distribution of cases is carried out.

✓ ensuring that the capacity of prosecutors and investigators in relation to the investigation of such offences (including the case law in such cases) is regularly upgraded through appropriate training, including in the field of forensic accounting and information technology;

✓ consideration to establish a dedicated point of contact for reporting allegations of bribery, including of foreign officials, by citizens and representatives of the executive authority.

2. *Letter No 2265/2021 dated 05 April 2023 of the Deputy Prosecutor General* to all district prosecutor's offices in the country to carry out an inspection on the practical implementation of *Letter of instruction No 2265/2021 of 15 December 2022 of the Prosecutor General*. According to the summarised responses, all prosecutors in the respective prosecution offices have familiarised themselves with the letter, and some of the prosecution offices have introduced additional internal organisation for its implementation.

3. *Letter No 2265/2021 of 21 December 2022 of the Deputy Prosecutor General* to the Director of the National Institute of Justice, proposing that the training schedule include topics on the investigation and prosecution of bribery-related crimes, including bribery of foreign officials, as well as other bribery-related crimes. It has also been pointed out that an additional contribution to enhancing the capacity of prosecutors and investigators would be to address issues of international cooperation in the investigation of such crimes, as well as the tracing of direct and indirect benefits gained by the perpetrator, or the enrichment of legal persons, from such crimes.

4. *Letter No 10447/2020, dated 19 June 2023 of the Deputy Prosecutor General*, proposing that the Director of the National Investigation Service conduct a review with a view to possibly updating basic investigative methodologies for specific types of crimes or groups of crimes that are directly or indirectly related to the generation of criminal proceeds. The above mentioned methodologies are published on the Departmental Information Site of the Prosecutor's Office of the Republic of Bulgaria, to which all prosecutors and investigators have access.

Text of issue for follow-up 19(b):

(b) monitoring of media reporting pursuant to the Order of the Prosecutor General [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

In addition to the above-mentioned *order of the Prosecutor General to supplement the Rules on Media Communication, by letter No 2265/2021 of 05 April 2023 of the Deputy Prosecutor General* to all district prosecutor's offices in the country, an inspection was carried out on the application of the said provision in practice. According to the summarized answers, since the introduction of the said requirement, two pre-trial proceedings for corruption offences (one for embezzlement and one for bribery under Article 302 of the Criminal Code) have been initiated on the basis of information received under this procedure. It has also been found that some of the prosecutor's offices have put in place additional internal organisation to implement this requirement.

Text of issue for follow-up 19(c):

(c) coordination between investigators and prosecutors [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Since the adoption of Bulgaria's Phase 4 report, there have been neither pre-trial proceedings for foreign bribery nor proceedings under Article 83a of the Administrative Violations and Sanctions Act (LAOS) relating to this offence, which would allow us to provide relevant information.

Text of issue for follow-up 19(d):

(d) number of and reasons for cases returned by the courts to the pre-trial authorities [Convention Article 5; 2009 Recommendation Annex I.D; Phase 3 follow-up issue 13(a)];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Please find attached detailed information on some of the legislative changes, as well as the actions taken by the Prosecutor's Office of the Republic of Bulgaria with a view to unifying the case law for returning the cases to the pre-trial authorities.

As evident from *the Report on the implementation of the law and the activities of the prosecution and investigative bodies in 2022*¹⁷, the positive trend in recent years of an insignificant share of pre-trial proceedings returned by the court (2.9% in total) compared to the prosecutorial acts submitted to the court is maintained, which is an objective criterion for the increased quality of prosecutorial work. The main groups of reasons for returning cases are:

- ✓ an irremediable substantive violation of procedural rules committed during the pre-trial proceedings;
- ✓ deficiencies found by the court in the drafting of the indictment;
- ✓ an agreement not approved by the court, submitted under Article 382 of the Criminal Procedure Code (CPC);
- ✓ the absence of the grounds under Article 78a of the Criminal Code (CC), when the case has been submitted by a decree under Article 375 of the CPC (Article 377, paragraph 1 of the CPC);
- ✓ the prosecutor failed to remove obvious factual errors in the indictment (Article 248a, paragraph 2 of the CPC).

Text of issue for follow-up 19(e):

(e) whether prosecutors who conduct foreign bribery cases are subjected to potential political or other undue interference through the Prosecutor General [Convention Article 5].

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Pursuant to Article 139, paragraph 2 of the Judicial System Act (JSA), the Prosecutor General and his/her deputies, who are vested with relevant powers, may revoke or amend prosecutorial acts in writing, unless they have been subject to judicial review, and these powers do not apply to acts of the European Public Prosecutor and European delegated prosecutors in the exercise of their functions under Regulation (EU) 2017/1939.

¹⁷ https://prb.bg/bg/pub_info/dokladi-i-analizi (pages 7 and 8).

With regard to criminal proceedings, pursuant to Article 7 of the Criminal Procedure Code (CPC), the Prosecutor General supervises the legality and methodological guidance of the activities of all prosecutors, with the exception of the activities of the European Public Prosecutor and the European delegated prosecutors when they perform functions under Regulation (EU) 2017/1939. Outside the regulated instance control, the CPC provides for the possibility of *ex officio* control of the prosecutor's decree, which, according to Article 46, paragraph 4, may be carried out by a prosecutor from the prosecutor's office of the higher rank, when the decree has not been examined in court.

Additionally, reference should be made to the Guidelines for the Exercise of Instance and Ex Officio Control in the Prosecutor's Office approved by the Prosecutor General in 2021. Pursuant to items 8 and 13 of the Guideline, outside of the cases under Article 200 of the CPC, instance and ex officio review shall be carried out until a prosecutor from the Supreme Cassation Prosecutor's Office or the Supreme Administrative Prosecutor's Office has ruled, and their acts shall not be subject to appeal by way of instance, or shall not be subject to mandatory ex officio review on the occasion of a new complaint or signal. Pursuant to paragraph 14 of the Guideline, the Prosecutor General and his deputies may exercise ex officio control over the acts of the Supreme Cassation Prosecutor's Office and the Supreme Administrative Prosecutor's Office.

Again, according to Article 143 of the JSA and Article 46, paragraph 4 of the CPC, the control of the prosecutors from the superior prosecutor's offices, including that of the Prosecutor General, is limited only to the correctness and legality of the act, as the instructions — which should be in writing and motivated — cannot affect the internal conviction of the supervising prosecutor on how to decide the case on the merits (whether to initiate, suspend or terminate criminal proceedings).

Text of issue for follow-up 19(f):

(f) as relevant, the reasons for the termination of foreign bribery cases [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

There were no pending pre-trial proceedings for foreign bribery/no termination of foreign bribery cases.

Text of issue for follow-up 19(g):

(g) impact of the CJEU decision on Bulgaria's extradition framework [Convention Article 9];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

The Draft law amending and supplementing the Extradition and European Arrest Warrant Act was submitted to the National Assembly by decision of the Council of Ministers on 13 April 2023. Preparatory work is currently underway for its consideration in plenary by MPs.

The draft law provides for the adoption of new provisions in the Extradition and European Arrest Warrant Act which introduce: 1) an obligation for the competent prosecutor to submit a request to the

relevant court of first instance for a detention order to be taken against the accused for the purpose of issuing an EAW, whereby the court shall examine the lawfulness and proportionality of issuing an EAW, and on the basis of the court's ruling the prosecutor may issue an EAW; 2) an obligation for the prosecutor to immediately submit a request for a detention order to be taken against the accused after the person has been surrendered by the executing EU Member State. In the course of the proceedings the accused and his/her defence counsel may challenge the lawfulness and proportionality of the EAW issued by the prosecutor.

Text of issue for follow-up 19(h):

(h) whether Bulgaria's standard of liability is adequately broad to cover the wide variety of decision-making systems in legal persons [Convention Article 2; 2009 Recommendation III(ii) and Annex I.B];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Text of issue for follow-up 19(i):

(i) application of articles 83(3) and (4) LAOS on successor liability in practice [Convention Article 2; 2009 Recommendation III(ii) and Annex I.B];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

With regard to *the application of Article 83, paragraph 3 and 4 of the LAOS*¹⁸ in cases of enrichment of a legal person from a crime we would like to highlight Decision No 33 of 6 February 2020 of the District Court — Burgas in a criminal case No 1068/2019¹⁹, confirmed by Decision No 107/23 July 2020 in appeal criminal case of administrative nature No 100/2020 of the Burgas Court of Appeal.

Text of issue for follow-up 19(j):

(j) whether the prosecutors proactively pursue proceedings against legal persons for foreign bribery and related offences (2009 Recommendation III(i), IV and Annex I.A and D; Phase 3 recommendation 5(b));

With regard to the issue identified above, describe any new case law, legislative, administrative,

¹⁸ Pursuant to Article 83, paragraph 1 of the LAOS, in the cases provided for in the relevant law, decree, order of the Council of Ministers or regulation of the municipal council of legal entities and sole traders may be imposed a pecuniary sanction for non-performance of obligations to the state or the municipality in carrying out their activities.

¹⁹ According to the decision, the court imposed a pecuniary sanction on B. T. *** EOOD, with current manager and sole owner of the capital I. A. A., representing the equivalent of the pecuniary benefit, *which, as the legal successor of the legal entity B. T. *** EOOD was enriched as a result of the commission by G. D. G. in his capacity of managing and representing the latter legal entity, a crime* under Article 255, paragraph 4 in conjunction with paragraph 3, in conjunction with paragraph 1, items 2, 6 and 7 and paragraph 26, paragraph 1 of the Criminal Code. The Court has established the existence of all preconditions under Article 83a, paragraph 1 of ZANN for imposing a pecuniary sanction on the successor of B. T. EOOD — B. T. EOOD, the capital of which is solely owned by I. A. A., managed and represented by him since July 2019.

doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Insofar as there are no pending pre-trial proceedings for foreign bribery during the period under review, there are no discontinued ones. Nonetheless, we provide the available statistical information on the number of proceedings in which sanctions were imposed on legal entities for enrichment by crime in 2022 and the first quarter of 2023. It is noted that there have been several judgments under Article 83a of the LAOS (one of which is reported to have entered into force) in which legal persons have been convicted of enrichment from an offence under Article 253 of the Criminal Code .

Text of issue for follow-up 19(k):

(k) whether sanctions imposed against legal persons are effective, proportionate and dissuasive [Convention Articles 2, 3 and 5];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Data on the amount of sanctions imposed can be derived from the reference on the cases concluded with a final decision under Article 83a of the LAOS (please refer to the enclosed statistics).

Text of issue for follow-up 19(l):

(l) application in practice of article 83a(5) LAOS regarding calculation of sanctions against legal persons [Convention Articles 2, 3 and 5; 2019 Recommendation Annex I.B];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

In relation to the *calculation of the penalties*, with the reasoning regarding the amount of the penalties it²⁰ can be referred to the Decision No 417 dated 21 June 2022 of the Sofia City Court on criminal case No 4429/2021²¹; Decision No 213 of 28 October 2022 of the District Court — Varna in criminal case No 989/2022²² etc.

²⁰ After the entry into force of the provision of paragraph 4 of Article 83a of the LAOS — from 23 December 2021.

²¹ According to the decision, ‘Within the framework provided for in Article 83, paragraph 1, item 4 of the LAOS, the court finds that in this case the pecuniary sanction should be determined in the amount equivalent to the benefit that could have accrued to the company [...], taking into account the gravity of the offence committed the circumstance, as well as the fact that this activity of the company has been developing for several months, in different sites in the resort ‘Sunny Beach’, as the company has been enriched illegally and would have continued its activity if the police authorities had not carried out an inspection. In this case, the damaging effects are significant and are determined, in addition to the value of the goods offered, by the specific interests of the brand representatives and potential customers affected. The court also took into account the financial situation of the company, which was not declared bankrupt. Therefore, a pecuniary sanction in the minimum provided for in Article 83a, paragraph 1, item 4 of the LAOS — the equivalent of undue benefit with which the company would be enriched in the amount of BGN 94,245, the court finds appropriate to the principle of fairness and proportionality of the sanction to the gravity of the offence.’

²² According to the decision, ‘Given that there is no evidence of previous sanctions imposed on the legal entity, and on the other hand, in this case the benefit received is in a specific amount, the court finds that the pecuniary sanction should be set at the nearest amount, namely — BGN 29,500.’

Text of issue for follow-up 19(m):

(m) post enforcement non-deductibility of bribes to foreign public officials for tax purposes [2009 Recommendation VIII(i); Phase 3 recommendation 7(a);

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Expenses for bribes and/or concealment bribes are not admissible as expenses for taxation purposes – Article 26, Item 12 of the **Corporate Income Tax Act (CITA)**.

In the event of an illegal deduction of bribes and a conviction of a taxpayer for bribing foreign public officials, there is a mechanism for post enforcement review of tax returns.

In cases of convictions against taxpayers for bribing foreign public officials, the revenue authority can take actions for tax and social security control in order to establish the tax obligations of the taxpayer resulting from the illegal reporting of the bribe given to a foreign public official as an expense. The retroactivity of the actions for initiation of tax and social security control proceedings is guaranteed by the stipulated deadlines for carrying out the tax and social security controls regulated in the Tax and Social Security Procedure Code (TSSPC). Pursuant to Article 109, Paragraph 1 of the TSSPC, no proceedings shall be instituted to establish tax liabilities under this Code when 5 years have passed since the end of the year in which a tax return has been submitted or should have been submitted, or since the end of the year in which data have been received from third parties and organisations in cases where the submission of a tax return is not prescribed by this law.

It should be noted that at the request of the prosecutor, already at the stage of initiation and progress of the criminal proceedings against a taxpayer who has unlawfully deducted the bribe given to a foreign person as an expense, the revenue authority could initiate proceedings to establish the taxes due. In these cases, the provision of Article 109, Paragraph 2 of the TSSPC is applicable and it provides that pursuant to Article 109, Paragraph 1 said deadline **does not apply** if criminal proceedings have been initiated the outcome of which would depend on the establishment of tax liabilities.

In addition, CITA has provisions regarding the submission of corrective tax returns at the initiative of the taxable person who has illegally deducted the bribe given to a foreign public official as an expense. Chapter Twelve of the CITA (from Article 75 to Article 81) stipulates the method of correcting accounting errors. This line also applies to errors other than accounting ones, for example, errors in the conversion of the accounting financial result for tax purposes.

Text of issue for follow-up 19(n):

(n) enactment of the draft Law on Development Assistance and Humanitarian Aid [2009 Recommendation XI(ii); 2016 Recommendation; Phase 3 recommendation 10].

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Drafting of a law on development aid is included in the Medium-term Program for development aid and humanitarian aid for the period 2020-24.

PART III: FOREIGN BRIBERY AND RELATED ENFORCEMENT ACTIONS SINCE PHASE 4

Foreign bribery and related enforcement actions since Phase 4

To this end, we would kindly ask you to please provide information on:

- The foreign bribery investigations and prosecutions mentioned in §§ 19-26 to (pp. 10-12) of the [Bulgaria Phase 4 report](#)

Please update the information contained in these documents and add information on any additional investigations underway or terminated since Phase 4.

Information may be provided below or in a separate document.

Action taken as of the date of the follow-up report:

PART IV: DISSEMINATION OF EVALUATION REPORT

Efforts made to publicise and disseminate the Bulgaria Phase 4 report, for example, through public announcements, press events, sharing with relevant stakeholders, particularly those involved in the on-site visit [*Phase 4 Evaluation Procedures, para. 61*]

The Ministry of Justice published the Bulgaria Phase 4 report in both Bulgarian and English on its website - <https://mjs.bg/home/index/b646cc72-5865-42d1-b567-afd8ff3d7bd5>. In parallel, the MoJ also published a press release about the report - <https://mjs.bg/home/index/8062f6e3-9f25-437b-8088-ef7df077235>. The adoption of the report was also covered by the Bulgarian Industrial Association - <https://www.bia-bg.com/service/view/29274/>, and the electronic media economy.bg - <https://m.economy.bg/bulgaria/view/48040/OISR-Bylgariya-tryabva-da-zasili-usiliyata-si-za-razkrivane-na-podkupi-v-chuzhbina>.

The Ministry of Justice shared the report with all institutions, which were involved in the on-site visit and which are the addressees of the recommendations of the report.

Action taken as of the date of the follow-up report:

At the end of 2021, the Institute of Public Administration in collaboration with the Ministry of Justice developed a training course “Bribery of foreign public officials and reporting suspected crimes” which was included in the IPA’s training catalogues for 2022 and 2023. The aim of the course is to acquaint the participants with the Bulgaria Phase 4 report’s recommendations, the current legal framework for combating the bribery of foreign officials, with the specifics of the crime of bribery of foreign officials, the ways to identify cases of bribery of foreign officials and subsequent communication with the authorities of the Ministry of Internal Affairs and the Prosecutor's Office.

On the initiative of the Ministry of Foreign Affairs with the assistance of the Diplomatic Institute at the MFA and in cooperation with the Ministry of Justice, an international seminar dedicated to the implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was organized. It was held in hybrid format on November 17, 2022 in Sofia. The purpose of the event was to contribute to raise awareness among state administration and the diplomatic representations of the Republic of Bulgaria of the Convention itself, its goals and implementation mechanisms. The seminar included presentations on the importance of the Convention, the challenges to its implementation, the role of the OECD in the fight against foreign bribery, on the implementation of the Convention in Bulgaria and the recommendations from the Phase 4 report; in addition international expertise in uncovering and investigating bribery of foreign public officials was

shared by representatives of Swiss Confederation, Israel, the USA and the Netherlands.

Additional information provided on 25 August 2023

Question submitted:	Evaluation team's question	Response provided:	Bulgaria's response
11/08/2023	<p>Bulgaria did not provide information on the implementation of recommendations 2, 9(e), 9(f), 12(f). We therefore understand that no action has been taken. Please note, however, that Bulgaria has the option to indicate if it intends to adopt measures in the future, or to explain why no action will be taken for implementing these recommendations.</p>	17 and 18 August 2023	<p><u>Recommendation 2</u></p> <p>Since the adoption of the Phase 4 report Bulgaria held several parliamentary elections which had impact on the work of the National Anti-Corruption Policy Council. The Council held one meeting in 2022. Currently a new Council of Ministers Decree for the establishment of the National Anti-Corruption Policy Council undergoing inter-ministerial consultations in view of its adoption in the coming weeks. The Decree will update the composition of the National Anti-Corruption Policy Council taking into consideration the newly formed government. Therefore, it is expected that the Council meetings will resume soon.</p> <p><u>Recommendation 9(e)</u></p> <p><i>As regards Recommendation 9(e) the Supreme Prosecutor's Office of Cassation reports the following:</i></p> <p>1. <i>Letter of Instruction No 5025/2015.ГП of 15 December 2022 of the Prosecutor General, whereby the administrative heads of all district prosecutor's offices in the country are given guidelines for adoption of additional measures for the improvement of the organisation for the investigations of such criminal offences, including through:</i></p> <ul style="list-style-type: none"> ✓ assessment of the possibility to assign work on such cases to specific prosecutors, among which the random case allocation is carried out. ✓ provision of a possibility for regular capacity building of prosecutors and investigators through respective trainings with respect to the investigations of such criminal offences (incl. with regard to case-law on this matter), including in the field of court

		<p>accounting and information technologies;</p> <p>✓ assessment of the possibility for the creation of a special contact point intended for reporting of allegations of bribe, incl. of foreign officials, on the part of the citizens and the representatives of the executive branch.</p> <p>2. <i>Letter No.2265/2021 of 05 April 2023 of the Deputy Prosecutor General</i> to all district prosecutor's offices in the country for the performance of an inspection about the practical implementation of Letter of Instruction No 5025/2015.ГП of 15 December 2022 of the Prosecutor General. In accordance with the summarised answers, all the prosecutors in the respective prosecutor's offices are acquainted with the specified letter, as some of the prosecutor's offices introduced also additional internal organisation on its implementation, including a contact point.</p> <p>3. After the closing of the specialised prosecutor's offices, in accordance with the new structure – approved by orders of 03 July 2023 – of the Sofia City Prosecutor's Office in the General Economic Crime sector at the Economic department, are included 23 prosecutors and 28 instigators are included only in the Economic sector at the Investigation Department of the Sofia City Prosecutor's Office.</p> <p>4. As a part of the specialisation and capacity building, a special note is made of the participation of representatives from the Sofia City Prosecutor's Office and the Sofia Appellate Prosecutor's Office in 2022 and 2023 in the meetings of the Law Enforcement Network at the Anti-Corruption Network for Eastern Europe and Central Asia (ACN LEN), arranged by the OECD (in Istanbul, Turkey; in Astana, Kazakhstan), as well as in the informal meeting of the law enforcement authorities at the OECD Working Group on Bribery.</p>
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Recommendation 9(f)

As regards Recommendation 9(f) the Supreme Prosecutor's Office of Cassation reports the following:

1. *Letter of Instruction No 5025/2015.ГП of 15 December 2022 of the Prosecutor General*, whereby the administrative heads of all district prosecutor's offices in the country are given guidelines for adoption of additional measures for the improvement of the organisation for the investigations of such criminal offences, including through:

- ✓ a periodical review of the human resources assigned for investigation and criminal prosecution of such cases;

- ✓ provision of a possibility for regular capacity building of prosecutors and investigators through respective trainings with respect to the investigations of such criminal offences (incl. with regard to case-law on this matter), including in the field of court accounting and information technologies;

2. *Letter No.2265/2021 of 05 April 2023 of the Deputy Prosecutor General* to all district prosecutor's offices in the country for the performance of an inspection about the practical implementation of Letter of Instruction No 5025/2015.ГП of 15 December 2022 of the Prosecutor General. In accordance with the summarised answers, all the prosecutors in the respective prosecutor's offices are acquainted with the specified letter, as some of the prosecutor's offices introduced also additional internal organisation on its implementation.

3. *Letter No.2265/2021 of 21 December 2022 of the Deputy Prosecutor General to the Director of the National Institute of Justice*, whereby a proposal is made to provide for in the training timetable topics about the investigation and criminal prosecution of criminal offences related to bribe, including of foreign officials, as well as of other criminal offences related to bribe.

		<p>It is also noted in the letter that additional contribution in relation to the increase of the capacity of prosecutors and investigators would also be the consideration of questions concerning international cooperation in the investigation of such criminal offences, as well as tracking of direct and indirect benefits obtained by the perpetrator, respectively the enrichment of legal entities from such criminal offences.</p> <p>4. <i>Letter No.10447/2020 dated 19 June 2023 of the Deputy Prosecutor General</i>, whereby a proposal is made to the Director of the National Investigation Service to carry out a review in view of a possible update of principal methods for investigation of specific types of crimes or groups of crimes that are directly or indirectly related to the generation of criminal benefits. The specified methods are published on the Departmental information website of the Prosecutor's Office of the Republic of Bulgaria, which is accessible to all prosecutors and investigators.</p> <p><u>Recommendation 12(f)</u></p> <p><i>As regards Recommendation 12(f) the Supreme Prosecutor's Office of Cassation reports the following:</i></p> <p>In addition, in relation to the statistical data provided by the Prosecutor's Office about the several court decisions on enrichment of legal entities from criminal offences under Article 253 of the Criminal Code, the Prosecutor's Office reports the following actions:</p> <p>✓ <i>Letter of instruction No 5025/2015.ГП dated 15 December 2022 of the Prosecutor General to all district prosecutor's offices</i> in the country whereby the attention of prosecutors and investigators is drawn to the mandatory provision of regulator tracking in the course of the investigation about the presence of legal entities enriched from the criminal offence, including when the file or the pretrial proceeding against the natural persons who committed the crime were</p>
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			<p>terminated on grounds specified in the Administrative Violations and Sanctions Act.</p> <p>✓ <i>Letter No.2265/2021 of 21 December 2022 of the Deputy Prosecutor General to the Director of the National Institute for Justice</i>, whereby a proposal is made to include in the training timetable topics on the investigation and criminal prosecution of criminal offences related to bribe, including foreign bribery, as well as of other criminal offences related to bribes, including also the examination of issues about the tracking of direct and indirect benefits obtained by the perpetrators, respectively the enrichment of legal entities from such criminal offences.</p> <p>As regards Recommendation 12(f) the National Institute for Justice (NIJ) informed that they will include the topic on corporate liability in the framework of trainings on the Administrative Violations and Sanctions Act which they conduct annually for an audience of judges from the administrative, regional and district courts. In 2024 the NIJ will invite for participation public prosecutors, and their prerogatives and the obligations in relation to the liability of legal persons will be incorporated into the training program.</p>
11/08/2023	Concerning the International seminar on the implementation of the OECD Anti-Bribery Convention (17 November 2022, Sofia and hybrid), mentioned, <i>inter alia</i> , under recommendation 1: please provide the programme and indicate, if possible, the approximate number of participants and their position (e.g. X diplomatic representatives).	18 August 2023	Please find enclosed the list of participants of the Seminar (<i>Annex I</i>) and the programme (<i>Annex Ia</i>). Please kindly note that not all participants who were present have signed the list of participants. In addition, representatives of several Bulgarian diplomatic missions participated in the Seminar online, including from the embassies in Paris, Rabat, Budapest and Bern.
11/08/2023	Concerning the training course "Bribery of foreign public	17 August 2023	According to the information provided by Institute for Public Administration the "Bribery of foreign public officials and

<p>officials and reporting suspected crimes”, mentioned, <i>inter alia</i>, under recommendation 1: please provide the programme and indicate, if possible, the approximate number of participants and their position (in 2022, as well as in 2023 if the training has already taken place).</p>	<p>reporting suspected crimes” training course is conducted as an e-learning module with a total duration of the lecture videos up to 4 training hours.</p> <p><u>The module consists of 3 main topics:</u></p> <ol style="list-style-type: none"> 1. Existing legal framework to combat bribery of foreign public officials; 2. Identifying cases of bribery of a foreign public official; 3. Notification of the pre-trial authorities in case of suspicion of a criminal offence. Supplementary reading resources are included for each topic. <p>In 2022 the training was successfully completed by 165 participants. The posts held by the training participants are determined by the Classification of Positions in the Bulgarian civil service, <u>for 2022 forming the following statistics:</u></p> <ul style="list-style-type: none"> - Senior civil servants - 4 participants; - Other positions not listed in the Classifier - 3 participants; - Expert positions with analytical and/or control functions - 132 participants; - Expert positions with support functions - 10 participants; - Managerial positions – 16 participants. <p>By August 2023, the training has been successfully completed by 122 participants. <u>The positions held by the training participants:</u></p> <ul style="list-style-type: none"> - Senior civil servants - 7 participants; - Other positions not listed in the Classifier – 1 participant;
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			<ul style="list-style-type: none"> - State internal auditor in the administration of the Council of Ministers and ministries - 1 participant; - Expert positions with analytical and/or control functions – 92 participants; - Expert positions with support functions - 14 participants; - Managerial positions – 7 participants.
11/08/2023	Please indicate, if possible, how many certified accountants and auditors attended the training on the foreign bribery offence in June 2023, mentioned under recommendation 6(a) .	17 August 2023	<p>The Commission for Public Oversight of Statutory Auditors (CPOSA) provided the following information on the training on the foreign bribery offence in June 2023:</p> <p>Date: 15.06.2023</p> <p>Subject: Convention on Combating Bribery of Foreign Public Officials in International Business Transactions</p> <p>Program :</p> <ol style="list-style-type: none"> 1. General context in relation to anti-corruption legislation, European directives and attempts to introduce good practices in Europe and around the world. 2. National regulations - applicable provisions under the Criminal Code. 3. Typical scenarios in the auditor's work and what to pay attention to. 4. Unpredictable procedures. 5. Practical examples from the international practice of the Big 4. <p>Participants in the seminar: 50 statutory auditors.</p>
11/08/2023	Recommendation 6(b) mentions that the CPOSA strengthened "the criteria for	17 August 2023	In the software used to carry out inspections, changes have been made that adapt the new requirements of the

	<p>evaluating the independence of registered auditors". Could Bulgaria please provide more information on the new criteria?</p>		<p>International Standard On Quality Management (ISQM) 1 and 2 (issued by International Auditing and Assurance Standards Board (IAASB), and verification procedures have been developed accordingly in relation to all the essential requirements of IASQ 1 and 2, as well as the International Code of Ethics for Professional Accountants, including international independence standards (issued by International Ethics Standards Board For Accountants (IESBA), i.e. the criteria are those requirements of the professional standards and the Code.</p> <p>In addition, the Risk Assessment and Analysis Unit at CPOSA expanded the scope of procedures related to the preparation of inspections by including those for analysis and assessment of risks related to the independence of statutory auditors from the point of view of information about connections between audited entities, persons related to the statutory auditors and the entities, review of the additional reports of the auditors to the audit committees regarding identified problems, incl. fraud, the recommendations given and their implementation by the management of the entities.</p> <p>Audit committees are required annually to provide copies of the auditors' supplementary reports to the audit committees of public interest entities.</p> <p>Proposals are being prepared for changes to the Independent Financial Audit Act, which would regulate by law more conservative requirements regarding the independence of statutory auditors - in accordance with the changes in the International Code of Ethics for Professional Accountants, effective from 2023.</p>
11/08/2023	<p>Bulgaria mentioned under recommendation 11(b) that the delay in certain legislative amendments is due to "<i>the</i></p>	17 August 2023	<p>We confirm that the 49th National Assembly began its mandate on the 12 April 2023.</p>

	<p><i>political situation in the country and the lack of functioning National Assembly and government". We understand that the 49th National Assembly has resumed the activities (News - National Assembly of the Republic of Bulgaria) and a government coalition has been formed in recent months. Please indicate whether Bulgaria expects discussions on legislative reforms to resume soon or whether there are still some obstacles.</i></p>		<p>The Ministry of Finance has prepared an amendment to the Accountancy Act by which Bulgaria will introduce adequate sanctions for the false accounting offence for the purpose of bribing foreign public officials or concealment of such bribery. The draft law also includes a number of other necessary amendments, which are not related to the abovementioned issue.</p> <p>The amending act is expected to be published very soon for public consultation on the website of the Ministry of Finance, as well as on the Public Consultation Portal, in order to be submitted for approval in the Council of Ministers and subsequently proposed for adoption in the National Assembly.</p>
11/08/2023	<p>Bulgaria provided in Annex no. 2 a Draft Law to amend and supplement the Administrative Violations and Sanctions Act, dated 26.09.2022. Please confirm whether this is the draft currently discussed by the working group within the MoJ. Please also indicate what will be the next steps leading to presenting the draft amendments to the National Assembly, as well as what will be the approximative timeline, if possible.</p>	25 August 2023	<p>We confirm that the presented Draft Law to amend and supplement the Administrative Violations and Sanctions Act, dated 26.09.2022 is the one which is under ongoing discussions within the Ministry of Justice. In addition we would like to draw your attention to the fact that on the 10th November 2022 the Court of Justice issued a judgement on case C-203/21, "<i>DELTA STROY 2003</i>" concerning Bulgaria and the further deliberations in the working group within the Ministry of Justice need to be held in view of further improving the national legislation on corporate liability in order to comply with the decision of the EU Court of Justice.</p> <p>As to the approximative timeline, we would like to indicate that the Working group in the Ministry of Justice will finalize the draft legislative proposals at latest by the end of 2023.</p>
11/08/2023	<p>Concerning the awareness-raising workshop on ML/TF risks associated with PEPs held on 17 November 2022, mentioned under recommendation 14(a): please indicate, if possible, the number of participants as well</p>	25 August 2023	<p>According by information provided by the Financial Investigation Directorate - State Agency for National Security (FID-SANS), more than 90 participants took part in the workshop on ML/TF risks associated with PEPs held on 17 November 2022. The participants are representatives of the following types of</p>

	as the type of entity they represented (e.g. banks, other financial institutions, lawyers, notaries, accountants, company service providers, etc.)		obliged entities: banks, other financial institutions, lawyers, notaries, real estate agents, VASPs, currency exchange offices, auditors, gambling companies, PMOs, NPOs, leasing companies and one professional organization.
11/08/2023	Concerning recommendation 14(c) : after the customisation of goAML (which we understand is still ongoing), will the FIU be able to use the software to produce statistics on the type of entities submitting STRs and on predicate offences?	25 August 2023	According to the information provided by the FID-SANS after the customisation of goAML, the FIU will be able to use the software to produce statistics on the type of entities submitting STRs and on predicate offences.
11/08/2023	Concerning recommendation 15(a) : please confirm that the "handbook for uncovering corrupt practices" is the same 2013 Handbook mentioned in para. 181 of the Phase 4 Report and that the handbook does not deal with foreign bribery.	17 August 2023	<p>According to the information provided by the National Revenue Agency (NRA), the handbook for uncovering corrupt practices is the same. It was published on NRAs internal webpage in 2013 and is available to all NRA employees.</p> <p>The purpose of the handbook is to provide guidance on how to detect and establish bribes given to domestic and foreign officials. The handbook provides, on the one hand, useful legal information and on the other hand, practical advice for revenue authorities: indicators of a given bribe, examples of detection of bribes in tax audits and inspections. The manual may be used as a helpful tool for detection of bribes during tax audits.</p> <p>The handbook and its guidelines provide guidance to the revenue administration to train its employees on best tax practices, including how to recognize suspicious financial transactions, which in some cases may also be bribery payments.</p>
11/08/2023	Concerning recommendation 15(b) : please indicate whether, for offences other than foreign bribery, the NRA receives feedback and follow-up concerning its reporting of	17 August 2023	In accordance with Article 30 of the Rules on co-operation between the Prosecutor's Office of the Republic of Bulgaria and the National Revenue Agency (NRA), in case the supervising prosecutor terminates criminal proceedings or refuses to initiate pre-trial proceedings in cases initiated on the

	<p>irregularities to prosecutor's offices.</p>	<p>basis of a notification under Article 34(2) of the Tax and Social Security Procedure Code, the prosecutor shall send a copy of the decision to the revenue authority. In cases where court proceedings have been initiated, NRA shall be notified by the court.</p> <p>Although the information is not sought in relation to the bribe of foreign officials, the Supreme Prosecutor's Office of Cassation would like to present information about the following:</p> <p>1) By <i>letter of Instruction No 5025/2015.ГП of 15 December 2022 of the Prosecutor General</i> addressed to all district prosecutor's offices in the country, the prosecutors and investigators are reminded to provide on a more regular basis feedback for the subsequent actions in the cases when the information for the criminal offence has been received from the revenue authorities.</p> <p>2) Discussions are currently ongoing in a working group composed of representatives of the Prosecutor's Office of the Republic of Bulgaria and the NRA on the preparation of a cooperation act in view of improving the exchange of information.</p> <p>3) The present possibilities specified with respect to Recommendation 14(e) (on the feedback to the Specialized Administrative Directorate for Financial Intelligence at the State Agency for National Security (FID-SANS)) for the tracking of the movement of a file (document) on the official website of the Prosecutor's Office of the Republic of Bulgaria.</p>
11/08/2023	<p>Concerning follow-up issue 19(e): We understand that: (i) the applicable rules mentioned by Bulgaria have not been amended since the Phase 4 Report; and (ii) the Ministry of Justice has submitted draft amendments to the Constitution addressing, among other things, the powers of the Prosecutor</p>	<p>The Ministry of Justice confirms the fact that it submitted draft amendments to the Constitution addressing, among other things, the powers of the Prosecutor General.</p> <p>In addition, we would like to mention that since October 2021 several reforms in the Judiciary took place.</p> <p>By the Act Amending and Supplementing the Jusicial System Act,</p>

<p>General (MoJ – News). Please confirm whether this is correct.</p>	<p>State Gazette, No. 32 of 2022 (Judgment No.7 of 2021 of the Constitutional Court of the Republic of Bulgaria - No. 56 of 2022) a reform was made in the specialised administration of justice as the Specialised Criminal Court, the Appellate Specialised Criminal Court and their pertaining prosecutor's offices were closed and the status of the judges and prosecutors working in them was regulated, as well as the completion of the pending cases upon observance of the principle of stability in the composition of the board. The adopted amendments are key and represent the first step in the implementation of the assumed commitments for a judicial reform. The specialized criminal courts and their respective prosecutor's offices were criticized that they did not achieve the objective set by their establishment. The structural and organisational changes with respect to the units of the specialised criminal justice are intended to guarantee the constitutional principles of independence of the judicial system.</p> <p>As regards the mechanism for engaging the criminal liability of the prosecutor general and his/her deputies:</p> <p>The question about the reform of the criminal process and the creation of a specific mechanism for engaging the liability of the prosecutor general was resolved by the adoption by the 49th National Assembly of the Act Amending and Supplementing the Criminal Procedure Code (CPC), promulgated in State Gazette No. 48 of 2023 dated 2 June 2023. The amendments to the law create guarantees that every legal reason for engaging the liability of the prosecutor general or his/her deputy will be objectively scrutinized and resolved depending on the stated facts. The legislative solution is in line with the recommendations expressed by a number of international partners that the</p>
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		<p>person investigative the prosecutor general should not originate from the existing institutional structure of the Prosecutor's Office. The transitional and final provisions of the law included also amendments to the Judiciary Act whereby measures are also ensured for restricting the factual powers of the prosecutor general, the investigation against the prosecutor general or against his/her deputy, as well as for an increase of the accountability of the prosecutor general with respect to the criminal prosecution of corruption criminal offences and restriction of the prosecutor general's supervision powers.</p> <p>The Act has introduced important changes in relation to the accountability of the prosecutor general regarding the criminal prosecution of corruption criminal offences – it is provided for that every year a report shall be moved to the National Assembly on the activity of the prosecutor's office in the field of counteraction to corruption criminal offences, with explicitly listed indicators used to report the work on them, and defining of the corruption criminal offences of high public interest. In view of the clarity of the applicable procedure, a statutory deadline is also set forth for the hearing of the prosecutor general.</p> <p>As a result of the considerable criticism against the practice of secondment of prosecutors amendments to Article 147 of the Judiciary System Act introduce a maximum period of secondment – six months within one year, as well as additional guarantees for lawfulness and justifiability of the procedure – a mandatory opinion by the Commission on Attestation and Competitions at the prosecutor's college, as well as an order with motives for the presence of an office need. The hypothesis of secondment, as an exception, by the prosecutor general, is also removed. The aim of the amendments is to respond also to the</p>
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			criticism against the practice of secondment, according to which it created vicious internal institutional dependences and is a potential threat to the free formation of internal conviction of the seconded prosecutors.
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Additional information provided on 19 September 2023

Additional comments and information provided by Bulgaria

Draft summary and conclusions of the WGB

Bulgaria Phase 4: Two-year Follow-Up Report

Paragraph 5 of the draft summary of findings

By Order No. LS-13-79 of 30.05.2023 of the Minister of Justice, a Working Group was formed for the preparation of a Draft Law on the Amendment of the Law on Judiciary, which aims to:

- improving and speeding up the procedures for holding competitions and attestation in the judiciary and introducing changes in the institute of secondment;
- making progress on legislative amendments to improve the functioning of the Inspectorate of the Supreme Judicial Council and to avoid the risk of political influence, in particular by involving the judiciary in the selection of its members.

On 28 July 2023, a draft Law amending and supplementing the Constitution of the Republic of Bulgaria with signature 49-354-01-83/28.07.2023 was submitted to the 49th National Assembly.

The amendments relating to the Prosecutor's Office aim at ensuring greater accountability and responsibility of the Prosecutor General, including guarantees for independent investigation, as well as limiting the functions of prosecutors strictly within the criminal process, while abolishing the general supervision of legality.

The draft law provides for the establishment of a Prosecutorial Council, which will exercise the main personnel and disciplinary powers over prosecutors. The Prosecutor General would be appointed by the Prosecutorial Council on the initiative of the Minister of Justice or three members of the Prosecutorial Council, and his term of office would be reduced to 5 years. It is proposed that the structure of the prosecution offices should be in line with that of the courts dealing with criminal cases and that the Prosecutor General should be the sole administrative head of the Supreme Prosecution Office.

It is envisaged that the amendments to the Judiciary Act will follow immediately after the amendments to the Constitution of the Republic of Bulgaria.

Recommendation 1

Regarding raising awareness of foreign bribery risks among state-owned enterprises that import and export abroad, the Ministry of Economy and Industry reports that it has requested commitment and implementation of the recommendations from its public enterprises. In this connection, internal rules have

been developed for control and prevention of attempts and acts of bribery of foreign officials in international business transactions.

Recommendation 5a

Bulgaria would like to report the following additional measures:

1. On 28 July 2023, **amendments to the Criminal Code** were adopted in relation with the judgments of the ECtHR in Bozhkov group of cases²³. The cases in this group concern the disproportionate interference with the freedom of expression of journalists due to their convictions for defamation of public officials committed through their articles.

The amendments revoked the qualified offence of insult and defamation, committed in respect of a public official or a public representative upon or with regard of the performance of their functions. In addition, the lower limit of the fine in the qualified offence of insult and defamation (committed in public or through the mass media) was reduced, thus giving the courts wider discretion in determining the punishment. The amendments also stipulated that exemption from criminal liability and imposition of an administrative punishment can also be done in cases where the insult or defamation is directed to bodies of power (e.g. ministers and other persons at higher state positions).

On 11 September 2023, the Bulgarian Government prepared an action report on the termination of the supervision of the Bozhkov group, which included, inter alia, a detailed analysis of the above information, as well as a number of examples from the current jurisprudence of the national courts. The report was accepted by the Execution Department and will be published in the upcoming days.

CRIMINAL CODE

Art. 148(1) (amend. - SG 28/1982, SG 10/1993, SG 21/2000) For insult:

1. inflicted in public;
2. (amend. - SG 67/2023) disseminated through mass media or otherwise;
3. (deleted - SG 67/2023)
4. (amend. - SG 67/2023) by an official or a member of the public in or on the occasion of the performance of his office or function;
5. (new, SG 67/2023) inflicted on racist or xenophobic grounds,

(amend. - SG 67/2023) the penalty shall be a fine of five hundred to ten thousand leva and public censure.

(2) (amend. - SG 28 of 1982, SG 21 of 2000, SG 67 of 2023) For defamation committed under the conditions of the preceding paragraph, as well as for defamation from which serious consequences

²³ Bozhkov v. Bulgaria, no. 3316/04, Judgement of 19 April 2011, final on 19 July 2011

have occurred, the penalty shall be a fine of one thousand leva to fifteen thousand leva and public censure.

(3) In the cases of par. 1, paragraph 1, paragraph 2 of Article 146 may be applied.

2. It should be also underlined that during the past decade, there has been *a major change in the jurisprudence of the national courts* with regard to the examination and resolution of defamation cases brought against journalists. They currently refer to and strictly apply the criteria established in Art. 10 of the European Convention on Human Rights and the ECtHR's caselaw thereof. In the vast majority of analysed cases, journalists are usually acquitted either because their materials were based on diligently verified information, or because they based their value judgments on sufficient facts. There are also cases, which were terminated and not reviewed on the merits, because the domestic court reasoned that "the expressions incriminated in the complaint are not sufficient to constitute the offence of "defamation", inasmuch as they are ... part of the admissible public debate on topics important for the entire society"²⁴.

3. The *development in the caselaw* on tort claims against journalists under Art. 45 of the Obligations and Contracts Act goes within the same lines²⁵.

4. Measures to guarantee the rights of journalists and human rights defenders are being developed in the framework of the National Coordination Mechanism for the Rule of Law and, in particular, in the High-Level Implementation Council. On 26 June 2023, a Concept Note was adopted to guarantee media freedom, pluralism, and protection from strategic legal proceedings targeting public participation (*see as attached file*). The document was drafted on the basis of discussions with representatives of the judiciary, the legal profession, and the media. At the same Council meeting, it was decided to set up an expert working group on media environment and access to information. Its composition includes representatives of reputable organisations involved in media environment issues, as well as of the institutions and organisations included in the Council. The first meeting of the working group was held on 13 September 2023.

5. Within the framework of the National Coordination Mechanism for the Rule of Law, measures were taken in 2022 to ensure fair and accurate follow-up of cases against journalists and media. By order of 18.10.2022 of the President of the Supreme Court of Cassation, an Electronic Register of proceedings against journalists and the media heard by the Supreme Court of Cassation has been established; once a quarter, lists of pending cases against journalists and the media to be heard by the Supreme Court of Cassation and the courts in the country are to be published on the court's website. The judgments handed down in the above-mentioned proceedings should be published immediately on the website of the SCC, subject to the requirements for the protection of personal data.

Recommendation 5b

²⁴ See Kornelia Ninova against Yavor Dachkov, Decision № 547 of 11.07.2023 of the SCC under a.p.c.c. № 758/2023

²⁵ See Decision № 1540 of 2.11.2018 of Burgas RC under a.c.c. № 1333/2018

Bulgaria would like again to turn the attention of the evaluation team to Letter of Instruction No 5025/2015.ΓΠ of 15 December 2022 of the Prosecutor General for improving the investigation and prosecution of bribery-related offences, including of foreign officials and to the information provided regarding the change made to the Rules for Media Communication in the System of the Prosecutor's Office of the Republic of Bulgaria (*see the attached Order*) in relation to this recommendation. The Rules are supplemented with a new item 13a which is an expression of the *proactive approach in establishing data* on committed crimes based on reports in the media.

As regards the comment that it is not clear whether the suggestions in the Letter will be effectively implemented in practice Bulgaria would like to note the inspection carried out by the Deputy Prosecutor General in April 2023 on the practical implementation of Letter of Instruction No.5025/2015.ΓΠ of 15 December 2022 of the Prosecutor General. The inspection concluded that all prosecutors in the respective district prosecutor's offices were *acquainted* with the specified letter and that some of the prosecutor's offices *introduced also additional internal organisation* on its implementation, including a contact point. In addition, according to the summarized answers, since the introduction of the said item 13a, *two pre-trial proceedings for corruption offences* (one for embezzlement and one for bribery under Article 302 of the Criminal Code) *have been initiated* on the basis of information received under this procedure. It has also been found that some of the prosecutor's offices have put in place additional internal organisation to implement this requirement. Bulgaria proposes this information to be included in the report and additionally notes that according to Article 140 (2) of JSA the orders of the administrative head in connection with his/her organisational powers shall be binding on all prosecutors, investigating magistrates and employees at the prosecution office concerned.

Bulgaria would like to point out that the addressees of the above-mentioned documents are only the bodies of the pre-trial proceedings, included in the composition of the Prosecutor's Office (prosecutors and investigators).

Recommendation 6b

In response to the provisional comments of the evaluation team on Recommendation 6b, Bulgaria would like to provide the following additional information:

1. In relation to the independence of the statutory auditors, as already mentioned in our previous response, the following requirements are stipulated by the Independent Financial Audit Act (IFAA):

a. Statutory auditors have the legal obligation (Articles 2 and 9 of the IFAA) to comply with the requirements of the INTERNATIONAL STANDARDS ON AUDITING (ISA), issued by the International Federation of Accountants through the International Auditing and Assurance Standards Board. Independence and conflict of interest are fundamental principles in auditing, enshrined in the professional standards, and thus the latter should always be applied by the statutory auditors in their practice.

In cases of non-compliance with this legal obligation, CPOSA imposes administrative sanctions on the respective violators.

b. Statutory auditors when carrying out their professional activity have the legal obligation (Art. 10 IFAA) to apply the principles and requirements of the INTERNATIONAL CODE OF ETHICS FOR PROFESSIONAL ACCOUNTANTS (INCLUDING INTERNATIONAL INDEPENDENCE STANDARDS) (IIS), issued by the International Federation of Accountants through the International Ethics Standards Board for Accountants (IESBA). The Code contains specific parts relating to independence, including conflicts of interest - International Independence Standards (Parts 4A and 4B), Part 4A INDEPENDENCE FOR AUDIT AND REVIEW ENGAGEMENTS and Part 4B INDEPENDENCE FOR ASSURANCE ENGAGEMENTS OTHER THAN AUDIT AND REVIEW ENGAGEMENTS and specifically regarding Conflicts of interest - 'Section 210 CONFLICTS OF INTEREST'. These requirements should always be applied by the statutory auditors in their practice.

In cases of non-compliance with this legal obligation, CPOSA imposes administrative sanctions on the respective violators.

2. Bulgaria would like to turn the attention of the evaluation team to the fact that according to the requirements of Art. 30 IFAA, all statutory auditors – natural persons, shall pass a training for maintaining and developing his professional qualification with an overall duration of at least 40 hours per calendar year.

The conditions and the procedure for conducting and reporting those trainings are regulated by rules adopted by CPOSA, which in its role as a supervisory authority monitors their implementation and, if necessary, imposes administrative sanctions or applies supervisory measures.

According to these rules, annual trainings must also include topics from the fields of "Financial Accounting, Financial Reporting Standards and Accounting Legislation, Financial Reporting in the Public Sector" as well as "Audit Standards, Audit Methodology, Specific Audits, Legislation and Regulations Related to the Audit Profession. Professional Ethics and Principles".

In compliance with the legal requirements, the Institute of Certified Public Accountants (the professional organization of statutory auditors in Bulgaria) has conducted the following trainings related to the independence of statutory auditors in the last 3 years:

- „Changes in the International Standards on Quality Management” which took place on 23.11.2021

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%BF%D1%80%D0%BE%D0%BC%D0%B5%D0%BD%D0%B8-%D0%B2-%D0%BE%D0%B4%D0%B8%D1%82%D0%BE%D1%80%D1%81%D0%BA%D0%B8-%D1%81%D1%82%D0%B0%D0%BD%D0%B4%D0%B0%D1%80%D1%82%D0%B8-%D0%B7%D0%B0-%D1%83%D0%BF%D1%80%D0%B0%D0%B2%D0%BB%D0%B5%D0%BD%D0%B8%D0%B5-%D0%BD%D0%B0-%D0%BA%D0%B0%D1%87%D0%B5%D1%81%D1%82%D0%B2%D0%BE%D1%82%D0%BE/>

- „ISAs – a review of the latest revisions”- held on 07/08.12.2021
<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%BC%D0%BE%D1%81-%D0%BA%D1%80>

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D1%8A%D1%82-%D0%B5-%D1%81%D0%B0%D0%BC%D0%BE-%D0%B7%D0%B0-%D1%87%D0%BB%D0%B5%D0%BD%D0%BE%D0%B2%D0%B5-%D0%BD%D0%B0-%D1%80%D0%BE-%D0%BF%D0%BB%D0%BE%D0%B2%D0%B4%D0%B8%D0%B2-%D0%BE%D0%B1%D1%89-%D0%BF%D1%80%D0%B5%D0%B3%D0%BB%D0%B5%D0%B4-%D0%BD%D0%B0-%D1%81%D1%82%D0%B0%D0%BD%D0%B4%D0%B0%D1%80%D1%82%D0%B8-%D0%B7%D0%B0-%D1%83%D0%BF%D1%80%D0%B0%D0%B2%D0%BB%D0%B5%D0%BD%D0%B8%D0%B5-%D0%BD%D0%B0-%D0%BA%D0%B0%D1%87%D0%B5%D1%81%D1%82%D0%B2%D0%BE%D1%82%D0%BE-%D0%BC%D0%B5%D0%B6%D0%B4%D1%83%D0%BD%D0%B0%D1%80%D0%BE%D0%B4%D0%B5%D0%BD-%D1%81%D1%82%D0%B0%D0%BD%D0%B4%D0%B0%D1%80%D1%82-%D0%B7%D0%B0-%D1%83%D0%BF%D1%80%D0%B0%D0%B2%D0%BB%D0%B5%D0%BD%D0%B8%D0%B5-%D0%BD%D0%B0-%D0%BA%D0%B0%D1%87%D0%B5%D1%81%D1%82%D0%B2%D0%BE%D1%82%D0%BE-1-%D0%BC%D1%81%D1%83%D0%BA-1-%D0%BF%D1%80%D0%B5%D0%B4%D0%B8%D1%88%D0%B5%D0%BD-%D0%BC%D1%81%D0%BA%D0%BA-1-%D0%BD%D0%BE%D0%B2-%D0%BC%D1%81%D1%83%D0%BA-2-%D0%BF%D1%80%D0%BE%D0%BC%D0%B5%D0%BD%D0%B5%D0%BD-%D0%BC%D0%BE%D1%81-220/>

- „An overview of Quality Management Standards: International Standard on Quality Management 1 (ISQM 1, previously ISQC 1), New ISQM 2, ISA 220 Revised' - held on 18.01.2022

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D1%8A%D1%82-%D0%B5-%D1%81%D0%B0%D0%BC%D0%BE-%D0%B7%D0%B0-%D1%87%D0%BB%D0%B5%D0%BD%D0%BE%D0%B2%D0%B5-%D0%BD%D0%B0-%D1%80%D0%BE-%D0%BF%D0%BB%D0%BE%D0%B2%D0%B4%D0%B8%D0%B2-%D0%BE%D0%B1%D1%89-%D0%BF%D1%80%D0%B5%D0%B3%D0%BB%D0%B5%D0%B4-%D0%BD%D0%B0-%D1%81%D1%82%D0%B0%D0%BD%D0%B4%D0%B0%D1%80%D1%82%D0%B8-%D0%B7%D0%B0-%D1%83%D0%BF%D1%80%D0%B0%D0%B2%D0%BB%D0%B5%D0%BD%D0%B8%D0%B5-%D0%BD%D0%B0-%D0%BA%D0%B0%D1%87%D0%B5%D1%81%D1%82%D0%B2%D0%BE%D1%82%D0%BE-%D0%BC%D0%B5%D0%B6%D0%B4%D1%83%D0%BD%D0%B0%D1%80%D0%BE%D0%B4%D0%B5%D0%BD-%D1%81%D1%82%D0%B0%D0%BD%D0%B4%D0%B0%D1%80%D1%82-%D0%B7%D0%B0-%D1%83%D0%BF%D1%80%D0%B0%D0%B2%D0%BB%D0%B5%D0%BD%D0%B8%D0%B5-%D0%BD%D0%B0-%D0%BA%D0%B0%D1%87%D0%B5%D1%81%D1%82%D0%B2%D0%BE%D1%82%D0%BE-1-%D0%BC%D1%81%D1%83%D0%BA-1-%D0%BF%D1%80%D0%B5%D0%B4%D0%B8%D1%88%D0%B5%D0%BD-%D0%BC%D1%81%D0%BA%D0%BA-1-%D0%BD%D0%BE%D0%B2-%D0%BC%D1%81%D1%83%D0%BA-2-%D0%BF%D1%80%D0%BE%D0%BC%D0%B5%D0%BD%D0%B5%D0%BD-%D0%BC%D0%BE%D1%81-220/>

- “Changes in the International Standards on Quality Management – training by ICPA” held on 20.06.2022

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- “Guidelines for step-by-step adaptation and implementation of policies and procedures in quality management systems” held on 14/15.11.2022 г. as well as on 24/25.11.2022

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%BD%D0%B0%D1%81%D0%BE%D0%BA%D0%B8%D1%82%D0%B5-%D0%B7%D0%B0-%D0%BF%D0%BE%D0%B5%D1%82%D0%B0%D0%BF%D0%BD%D0%BE%D1%81-220/>

BE-%D0%BF%D1%80%D0%B8%D1%81%D0%BF%D0%BE%D1%81%D0%BE%D0%B1%D1%8F%D0%B2%D0%B0%D0%BD%D0%B5-%D0%B8-%D0%B2%D0%BD%D0%B5%D0%B4%D1%80%D1%8F%D0%B2%D0%B0%D0%BD%D0%B5-%D0%BD%D0%B0-%D0%BF%D0%BE%D0%B%D0%B8%D1%82%D0%B8%D0%BA%D0%B8%D1%82%D0%B5-%D0%B8-%D0%BF%D1%80%D0%BE%D1%86%D0%B5%D0%B4%D1%83%D1%80%D0%B8%D1%82%D0%B5-%D0%B2-%D1%81%D0%B8%D1%81%D1%82%D0%B5%D0%BC%D0%B8%D1%82%D0%B5-%D0%B7%D0%B0-%D1%83%D0%BF%D1%80%D0%B0%D0%B2%D0%BB%D0%B5%D0%BD%D0%B8%D0%B5-%D0%BD%D0%B0-%D0%BA%D0%B0%D1%87%D0%B5%D1%81%D1%82%D0%B2%D0%BE%D1%82%D0%BE/

- “Quality management - new and revised requirements and responsibilities of the auditor” held on 10/11.05.2023, on 31.05.2023, as well as on 06.07.2023

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D1%83%D0%BF%D1%80%D0%B0%D0%B2%D0%BB%D0%B5%D0%BD%D0%B8%D0%B5-%D0%BD%D0%B0-%D0%BA%D0%B0%D1%87%D0%B5%D1%81%D1%82%D0%B2%D0%BE%D1%82%D0%BE-%D0%BD%D0%BE%D0%B2%D0%B8-%D0%B8-%D0%BF%D1%80%D0%BE%D0%BC%D0%B5%D0%BD%D0%B5%D0%BD%D0%B8-%D0%B8%D0%B7%D0%B8%D1%81%D0%BA%D0%B2%D0%B0%D0%BD%D0%B8%D1%8F-%D0%B8-%D0%BE%D1%82%D0%B3%D0%BE%D0%B2%D0%BE%D1%80%D0%BD%D0%BE%D1%81%D1%82%D0%B8-%D0%B7%D0%B0-%D0%BE%D0%B4%D0%B8%D1%82%D0%BE%D1%80%D0%B0-2/>

In addition to the above:

- There are preparatory training courses for the exam (Art. 15.1.4 of IFAA) for acquiring a qualification as a statutory auditor. Mandatory part of those courses are the topics related to independence and included in the ISAs and the INTERNATIONAL CODE OF ETHICS (INCLUDING INTERNATIONAL INDEPENDENT STANDARDS). These courses are held twice a year - the most recent ones were held respectively from 11.10 to 14.10.2022 and from 11.06 to 14.06.2023;
- There is a training video "Independence of the auditor" on the internal website of the Institute of Certified Public Accountants (ICPA) available from the beginning of 2022 to all statutory auditors (access is limited to the statutory auditors – they have to use their individual ID and password, yet if necessary, access can be granted to the video file);
- There are 5 (five) trainings that are planned to be held in November and December 2023 by ICPA. They are all focused on the changes in the INTERNATIONAL CODE OF ETHICS FOR PROFESSIONAL ACCOUNTANTS (INCLUDING INTERNATIONAL INDEPENDENCE STANDARDS) - 2022 edition, and specifically on "Current changes in the International Code of Ethics and practical guidelines for their implementation. Important reminders about auditor independence".

3. As indicated in our last response to the evaluation team, the inspection software used by CPOSA has been adapted to the new requirements of the INTERNATIONAL STANDARDS ON QUALITY

MANAGEMENT 1 and 2 (issued by the International Auditing and Assurance Standards Board (IAASB)). There are new verification procedures that have been developed in relation to all the essential requirements of these standards, as well as to the requirements of the International Code of Ethics - edition 2022, i.e. the criteria for assessing independence are those of the Professional Standards and the Code.

In this regard, all inspections to guarantee the quality of the professional activity of statutory auditors in 2023 (70 in total, of which 53 full and 15 thematic inspections) have been carried out according to the new methodology, and as of 31.08.2023 there are 34 completed inspections. In 2022, according to the previous methodology, a total of 51 inspections were carried out, of which 36 were full and 15 were thematic.

Recommendation 7b

In our understanding, diverting of the bribe for the benefit of the third party is subjectively impossible without the awareness of this fact on the part of the foreign official, as well as without his active will - expressed by consent, respectively - by indicating the third party to whom the bribe is to be offered, promised or given. Therefore, the consent or at least the knowledge of the official is a necessary element of the act as an act aimed at bribing the foreign official, so that the foreign official is retained as the recipient of the bribe even in cases where a second recipient is involved - the third party in the complex three-party relationship.

The existence of a passive relationship on the part of the foreign official, in which the foreign official not only has not consented, but also is completely unaware of the involvement of the third party, is legally and practically inconceivable. In such a case it would only be a relationship between the briber and the third party of which the foreign official is completely unaware. In that case, there would be no bribery of a foreign official at all, since part of the subjective element of the offence - that the official is aware that the bribe will benefit a third party and nevertheless agrees to perform or not to perform the expected act - is missing.

In a situation where there is no consent of the foreign official, there will be active actions of the third party alone, possibly aimed at influencing the foreign official in a particular direction to serve and achieve the purpose of the briber. Then the relationship would be simply bilateral - between the briber and that third party only. Without the active awareness of these processes, without the active role of the foreign official, and without his knowledge or consent that the third person will enrich himself for what he will or will not do as an official, we cannot speak of bribery of a foreign official.

Recommendation 8c

In connection with the finding that it is not specified whether "corrupt conduct" includes foreign bribery, Bulgaria notes that according to the *Unified Catalogue of Corruption Offenses approved by the Prosecutor General*, the scope of these crimes also includes bribery, respectively foreign bribery (Section 9 of the Criminal Code).

The evaluation team finds that it is unclear whether these instructions and guidelines will be regularly brought to the attention of prosecutors. In this regard, Bulgaria would like to note that according to Art. 246 (2) and (3) of the Criminal Procedure Code in the factual part and in the concluding part of the indictment shall be indicated whether there are grounds for application of Article 53 of the Criminal Code (for the confiscation of the object of the crime, resp. the benefits thereof, in favor of the state). According to Art. 301 (1) of the CPC, the court shall consider and decide on whether the grounds pursuant to Article 53 of the Criminal Code are at hand. As previously indicated, there are numerous judgements for bribery after Phase 4, in which the provision of Art. 307a of the Criminal Code for confiscation of the object of the bribery was applied. We would like to further note Article 249 (1) and 258 (1) and (3) of the JSA:

Article 249

(1) The National Institute of Justice shall implement:

1. (amended, SG No. 32/2011, effective 1.01.2012, SG No. 62/2016, effective 9.08.2016) 2. (new, SG No. 49/2018) mandatory induction training of judges, prosecutors and investigating magistrates when they are appointed for the first time in judicial authorities and when court assessors are elected for their first term of office;
3. (supplemented, SG No. 33/2009, SG No. 62/2016, effective 9.08.2016, renumbered from Item 2, supplemented, SG No. 49/2018) **maintaining and upgrading the qualification of judges, prosecutors and investigating magistrates.**

Article 258

(1) (Amended, SG No. 81/2012, effective 1.09.2012, amended and supplemented, SG No. 62/2016, effective 9.08.2016) **The training under Item 1 of Article 249 (1) shall last nine months and shall commence in September of the relevant year. [.....]**

(2) (Amended, SG No. 62/2016, effective 9.08.2016) **At the end of the training, the candidates for junior judges, junior prosecutors and junior investigating magistrates shall sit for a written and oral examination of a practical nature, which shall be graded on a six-point scale.**

In view of the above and noting the Letter of Instruction of the Prosecutor General, as well as the Letter of the Deputy Prosecutor General to the Director of the National Institute of Justice, proposing that the training schedule include topics on the investigation and prosecution of bribery-related crimes, including bribery of foreign officials, as well as other bribery-related crimes, ***Bulgaria finds the recommendation is implemented.***

As regards positive effects that would show the effectiveness of the Letter of Instruction and Guidelines, Bulgaria would like to point out that the ***actions are taken at Prosecutor General level*** in view of his powers under Art. 138 (1), items 1 and 6 of the JSA to direct and represent the prosecuting magistracy, as well as to issues written instructions and directives concerning the activities of the prosecutor's office in the implementation of their functions under Article 136 (6) pursuant to which the Prosecutor General shall exercise supervision as to legality and shall provide methodological guidance regarding the work of all prosecutors and investigating magistrates for an accurate and uniform application of the laws and protection of the legitimate rights and interests of citizens, legal persons and the State.

Recommendation 9a

Regarding the finding of the evaluation team, that Bulgaria does not report efforts made to address the second part of the recommendation, which requires dissemination of information to relevant authorities and stakeholders about the implementation of the Convention and the work of the WGB, we would like to highlight that the Convention is included in the APIS legal information system, to which all prosecutors and investigators have direct access. In addition, in the inter-agency acts issued on the occasion of the implementation of the recommendations, it is noted that they were prepared to ensure implementation of the recommendations in the Bulgaria Phase 4 report. The phase 4 report is published on the Departmental Information Site of Prosecutor's Office.

Regarding the question of how WGB-related meetings for law enforcement officials and ACN meetings are brought to the attention of investigators and prosecutors, Bulgaria notes that until now upon receiving information about such meetings and according to the requirements for the qualification/competence of the participant (eg. to be directly involved in supervising such cases) the invitation is sent to the relevant competent district prosecutor's office (possibly also to the appellate prosecutor's office) to nominate a participant. The latter is nominated according to the criteria for participation laid down in the invitation (including command of a relevant language) and the requirement for the number of participants.

Apart from the above, at a meeting of the Inter-Ministerial Coordination Mechanism for the process of talks and preparatory activities for the accession of the Republic of Bulgaria to the OECD on 14 July 2023, **Guidelines for the participation of Bulgarian representatives in the meetings of the OECD working bodies were adopted.** The Guidelines aim to set a common framework for preparation for participation in the OECD Working Bodies and reporting on the results of the meetings. According to the guidelines adopted, participants in OECD working body meetings are required to prepare a report and send it to all institutions concerned.

Recommendation 9b

Bulgaria reports that proactive steps have been taken to collect information from various sources, including through the created organization of work in the Prosecutor's Office for reception of citizens. It aims at ensuring immediate access of citizens to the administrative heads of the prosecutor's offices and immediate registration of their written and verbal notifications, requests, inquiries, complaints and others. The specified organization is based on the *Rules for the Reception of Citizens to the Prosecutor's Office of the Republic of Bulgaria* (approved by Order No. ПД-02-29 dated 31.10.2016 of the Prosecutor General, which are published on the official website of the Prosecutor's Office.

The Prosecutor's Office notes that there is **no data** that the Prosecutor's Office was notified in accordance with international legal assistance or through informal international cooperation about the new case referred to by the evaluators.

Recommendation 9c

Given the nature of the recommendation (related to the assessment of allegations with a view to initiating pre-trial proceedings), we note that in the event of a crime report, which does not contain sufficient data for the initiation of pre-trial proceedings in accordance with the requirement of Art. 207 (1) of the Criminal Procedure Code, the prosecutors have the power to direct the collection of such data by the Ministry of Interior by assigning an inspection pursuant to Art. 145 JSA. This authority is also applicable if it is necessary to collect additional data in the case of materials received in Prosecutor's Office from an operational inspection/check carried out by the Ministry of Interior.

Regarding the findings concerning the elements that could be sought in order to properly assess new foreign bribery allegations, Bulgaria notes that in 2015 the *Bribery Investigation Methodology (Theoretical Features and Practical Aspects Derived from Decisions of the Supreme Court)* was updated (it was published on the internal webpage and all prosecutors and investigators have access to it). In this regard, we would like to note again *Letter No 10447/2020, dated 19 June 2023 of the Deputy Prosecutor General, proposing that the Director of the National Investigation Service* conduct a review with a view to possibly updating basic investigative methodologies for specific types of crimes or groups of crimes that are directly or indirectly related to the generation of criminal proceeds. The deadline for the review and actualization is 9 October 2023.

In addition, we would like to point out the current *Rules for the Work of the National Prosecutor's Network for International Cooperation in the Republic of Bulgaria*, approved by Order No. ПД-02-20 of 11.05.2015 of the Prosecutor General, which was established in order to facilitate direct contact between prosecutors from the Republic of Bulgaria and the competent authorities abroad, as well as to support the work and consult the prosecutors and investigators in the country in relation to international legal cooperation.

In view of the above, ***Bulgaria finds that the recommendation is implemented*** by the Prosecutor's Office of the Republic of Bulgaria and should be converted to a follow-up issue.

Recommendation 9e

According to Art. 35 (2) of the CPC the district court acts as a court of first instance on all cases for criminal offences covered by Articles 252 — 260 of the CC (the group of offences includes money laundering and tax crimes), as well as Articles 301 — 307 of the CC (bribery), which means that the district prosecutor's office is competent in bribery cases and in any related crimes. Moreover, the prosecutor may join two or more cases concerning different offences against one and the same accused party (Art. 217 (2) CPC).

As regards the additional question, Bulgaria would like to note that after the Phase 3 Report the Specialised Prosecutor's Office was established the competence of which covered corruption crimes committed by persons on specifically specified positions. After the closure of this prosecutor's office in 2022, jurisdiction over all corruption crimes has been reassigned to the district prosecutor's offices. With our previous letter, the evaluation team was notified about the change made by the Sofia City Prosecution Authority in the number of designated prosecutors and investigators for work on corruption crimes, including bribes, as specialization continues to exist within certain departments.

In the context of the discussed recommendation, we would also like to point out that within the scope of the jurisdiction provided for in the Criminal Procedure Code for investigation in connection with the investigation of a specific crime, the Criminal Procedure Code allows (Art. 195, paragraph 5) following authorization of the Prosecutor General pre-trial proceedings to be carried out in another area with a view to complete investigation of the offence, respectively the case may be investigated by an investigator of the National Investigation Service (Art. 194, paragraph 2 CPC).

In view of the above, ***Bulgaria finds that the recommendation is implemented*** and should be converted to a follow-up issue.

Recommendation 9f

From the currently available information about the EU funds case, among the reasons for the delay in the investigation is the lack of execution of a total of 4 requests for legal assistance sent to another EU Member State (three requests by the Specialised Prosecutor's Office - in 2017 and 2021, and one – by the Sofia City Prosecutor's Office in 2023).

Recommendation 10a

We note again the information provided to the evaluators on the upgrade of the functionalities of the Unified Information System in relation to international cooperation in bribery of foreign officials carried out by the Prosecutor's Office of the Republic of Bulgaria in 2022. This functionality collects data on the nature of the assistance requested and the time taken to comply with both incoming and outgoing requests for cooperation (which is what the recommendation is about). A review in the UIS identified the following:

- Four outgoing requests for legal aid - 23.06.2017, 28.11.2017, 01.04.2021 and on 30.08.2023 to an EU Member State (three sent by the SP and one by the JPO) - in the EU Funds case;
- One incoming European investigation order (EIO) received from an EU Member State on 23.02.2023 and returned executed on 13.03.2023.

Additionally, we note that the functionality in the EIS has been upgraded to collect data on extraditions and transfers of production as well.

As far as the Prosecutor's Office maintains the statistics mentioned in the recommendation for both EIO (within the EU) and MLA requests (with non-EU countries), we consider that we have implemented the recommendation.

Recommendation 11a

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%B3%D0%BE%D0%B4%D0%B8%D1%82%D0%BE%D1%80%D0%B8-%D0%BE%D1%82-%D1%80%D0%BE-%D0%BF%D0%BB%D0%BE%D0%B2%D0%B4%D0%B8%D0%B2-%D0%B0%D0%BA%D1%82%D1%83%D0%B0%D0%BB%D0%BD%D0%B8-%D0%B2%D1%8A%D0%BF%D1%80%D0%BE%D1%81%D0%B8-%D0%BF%D0%BE-%D0%BF%D1%80%D0%B8%D0%BB%D0%B0%D0%B3%D0%B0%D0%BD%D0%B5-%D0%BD%D0%B0-%D1%81%D1%87%D0%B5%D1%82%D0%BE%D0%B2%D0%BE%D0%B4%D0%BD%D0%BE%D1%82%D0%BE-%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D0%B4%D0%B0%D1%82%D0%B5%D0%BB%D1%81%D1%82%D0%B2%D0%BE-2021-%D0%B3/>

- Training on the Value Added Tax Act, Corporate Income Tax Act and accounting legislation, held 29-30.11.2021

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%B1%D1%83%D1%87%D0%B5%D0%BD%D0%B8%D0%B5-%D0%BF%D0%BE-%D0%B7%D0%B4%D0%B4%D1%81-%D0%B7%D0%BA%D0%BF%D0%BE-%D0%B8-%D1%81%D1%87%D0%B5%D1%82%D0%BE%D0%B2%D0%BE%D0%B4%D0%BD%D0%BE-%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D0%B4%D0%B0%D1%82%D0%B5%D0%BB%D1%81%D1%82%D0%B2%D0%BE/>

- Criminal deviations in the financial sphere, held on 05.11.2021

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%BA%D1%80%D0%B8%D0%BC%D0%B8%D0%BD%D0%B0%D0%BB%D0%BD%D0%B8-%D0%B4%D0%B5%D0%B2%D0%B8%D0%B0%D1%86%D0%B8%D0%B8-%D0%B2%D1%8A%D0%B2-%D1%84%D0%B8%D0%BD%D0%B0%D0%BD%D1%81%D0%BE%D0%B2%D0%B0%D1%82%D0%B0-%D1%81%D1%84%D0%B5%D1%80%D0%B0/>

- Webinar on Corporate Income Tax Act, Law on Accounting, Tax and Social Insurance Procedure Code, Income Taxes on Natural Persons Act, held 01-02.02.2022

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D1%83%D0%B5%D0%B1%D0%B8%D0%BD%D0%B0%D1%80-%D0%B7%D0%BA%D0%BF%D0%BE-%D0%B7%D1%81%D1%87-%D0%B4%D0%BE%D0%BF%D0%BA-%D0%B7%D0%B4%D0%B4%D1%84%D0%BB/>

- Annual financial closing and profit distribution in companies - current legal issues and practical advice. Conversion of commercial companies - commercial and tax aspects, held on 03.12.2021

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%B3%D0%BE%D0%B4%D0%B8%D1%88%D0%BD%D0%BE-%D1%84%D0%B8%D0%BD%D0%B0%D0%BD%D1%81%D0%BE%D0%B2%D0%BE-%D0%BF%D1%80%D0%B8%D0%BA%D0%BB%D1%8E%D1%87%D0%B2%D0%B0%D0%BD%D0%B5-%D0%B8-%D1%80%D0%B0%D0%B7%D0%BF%D1%80%D0%B5%D0%B4%D0%B5%D0%BB%D0%>

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%BF%D0%BE%D0%B4%D0%B3%D0%BE%D1%82%D0%B2%D0%B8%D1%82%D0%B5%D0%BB%D0%B5%D0%BD-%D0%BA%D1%83%D1%80%D1%81-%D0%BF%D0%BE-%D1%81%D1%87%D0%B5%D1%82%D0%BE%D0%B2%D0%BE%D0%B4%D1%81%D1%82%D0%B2%D0%BE-%D0%BF%D0%BE-%D0%B2%D1%8A%D0%BF%D1%80%D0%BE%D1%81%D0%B8-1-2-%D0%BE%D1%82-%D0%BC%D0%BE%D0%B4%D1%83%D0%BB-i-%D0%B2%D1%8A%D0%BF%D1%80%D0%BE%D1%81%D0%B8-3-6-%D0%BE%D1%82-%D0%BC%D0%BE%D0%B4%D1%83%D0%BB-i-%D0%B8-ii-%D0%B2%D1%8A%D0%BF%D1%80%D0%BE%D1%81%D0%B8-8-22-26-%D0%BE%D1%82-%D0%BC%D0%BE%D0%B4%D1%83%D0%BB-ii/>

- Preparatory courses in accounting - held on 21-23.06.2022, 28-30.06.2022, 15.07.2022, 18-20.07.2022, 22.07.2022 and 25-27.07.2022

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%BF%D0%BE%D0%B4%D0%B3%D0%BE%D1%82%D0%B2%D0%B8%D1%82%D0%B5%D0%BB%D0%B5%D0%BD-%D0%BA%D1%83%D1%80%D1%81-%D0%BF%D0%BE-%D1%81%D1%87%D0%B5%D1%82%D0%BE%D0%B2%D0%BE%D0%B4%D1%81%D1%82%D0%B2%D0%BE-%D0%BF%D0%BE-%D0%B2%D1%8A%D0%BF%D1%80%D0%BE%D1%81%D0%B8-1-2-%D0%BE%D1%82-%D0%BC%D0%BE%D0%B4%D1%83%D0%BB-i-%D0%B2%D1%8A%D0%BF%D1%80%D0%BE%D1%81%D0%B8-3-6-%D0%BE%D1%82-%D0%BC%D0%BE%D0%B4%D1%83%D0%BB-i-%D0%B8-ii-%D0%B2%D1%8A%D0%BF%D1%80%D0%BE%D1%81%D0%B8-8-22-26-%D0%BE%D1%82-%D0%BC%D0%BE%D0%B4%D1%83%D0%BB-ii/>

- Preparatory course on "National Accounting Legislation", held 01-02.08.2022

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%BF%D0%BE%D0%B4%D0%B3%D0%BE%D1%82%D0%B2%D0%B8%D1%82%D0%B5%D0%BB%D0%B5%D0%BD-%D0%BA%D1%83%D1%80%D1%81-%D0%BF%D0%BE-%D0%BD%D0%B0%D1%86%D0%B8%D0%BE%D0%BD%D0%B0%D0%BB%D0%BD%D0%BE-%D1%81%D1%87%D0%B5%D1%82%D0%BE%D0%B2%D0%BE%D0%B4%D0%BD%D0%BE-%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D0%B4%D0%B0%D1%82%D0%B5%D0%BB%D1%81%D1%82%D0%B2%D0%BE-%D1%87%D0%B0%D1%81%D1%82-1/>

- Preparatory course on tax and insurance law, held 26-30.2022

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%BF%D0%BE%D0%B4%D0%B3%D0%BE%D1%82%D0%B2%D0%B8%D1%82%D0%B5%D0%BB%D0%B5%D0%BD-%D0%BA%D1%83%D1%80%D1%81-%D0%BF%D0%BE-%D0%B4%D0%B0%D0%BD%D1%8A%D1%87%D0%BD%D0%BE-%D0%B8-%D0%BE%D1%81%D0%B8%D0%B3%D1%83%D1%80%D0%B8%D1%82%D0%B5%D0%BB%D0%BD%D0%BE-%D0%BF%D1%80%D0%B0%D0%B2%D0%BE-%D0%B4%D0%B4%D1%81-%D0%B2%D1%82%D0%BE%D1%80%D0%B0-%D1%87%D0%B0%D1%81%D1%82-%D0%BC%D0%B5%D0%B6%D0%B4%D1%83%D0%BD%D0%B0%D1%80%D0%BE%D0%B4%D0%BD%D0%B8-%D1%81%D0%B4%D0%B5%D0%BB%D0%BA%D0%B8/>

- Practical considerations in understanding and navigating significant processes and testing of controls, held on 10-11.10.2022 and on 01.11.2022

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%BF%D0%BE%D0%B4%D0%B3%D0%BE%D1%82%D0%B2%D0%B8%D1%82%D0%B5%D0%BB%D0%B5%D0%BD-%D0%BA%D1%83%D1%80%D1%81-%D0%BF%D0%BE-%D1%81%D1%87%D0%B5%D1%82%D0%BE%D0%B2%D0%BE%D0%B4%D1%81%D1%82%D0%B2%D0%BE-%D0%BF%D0%BE-%D0%B2%D1%8A%D0%BF%D1%80%D0%BE%D1%81%D0%B8-1-2-%D0%BE%D1%82-%D0%BC%D0%BE%D0%B4%D1%83%D0%BB-i-%D0%B2%D1%8A%D0%BF%D1%80%D0%BE%D1%81%D0%B8-3-6-%D0%BE%D1%82-%D0%BC%D0%BE%D0%B4%D1%83%D0%BB-i-%D0%B8-ii-%D0%B2%D1%8A%D0%BF%D1%80%D0%BE%D1%81%D0%B8-8-22-26-%D0%BE%D1%82-%D0%BC%D0%BE%D0%B4%D1%83%D0%BB-ii/>

<https://www.ides.bg/%D1%80%D0%B8/%D0%BF%D1%80%D0%B0%D0%BA%D1%82%D0%B8%D1%87%D0%B5%D1%81%D0%BA%D0%B8-%D1%81%D1%8A%D0%BE%D0%B1%D1%80%D0%B0%D0%B6%D0%B5%D0%BD%D0%B8%D1%8F-%D0%BF%D1%80%D0%B8-%D1%80%D0%B0%D0%B7%D0%B1%D0%B8%D1%80%D0%B0%D0%BD%D0%B5-%D0%B8-%D0%BE%D0%B1%D1%85%D0%BE%D0%B6%D0%B4%D0%B0%D0%BD%D0%B5-%D0%BD%D0%B0-%D0%B7%D0%B%D0%B0%D1%87%D0%B8%D0%BC%D0%B8-%D0%BF%D1%80%D0%BE%D1%86%D0%B5%D1%81%D0%B8-%D0%B8-%D1%82%D0%B5%D1%81%D1%82%D0%B2%D0%B0%D0%BD%D0%B5-%D0%BD%D0%B0-%D0%BA%D0%BE%D0%BD%D1%82%D1%80%D0%BE%D0%BB%D0%B8/>

- Main risks arising from the information systems of the enterprises and their addressing for the purposes of the audit of the financial statements, held 24-25.10.2022

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%BE%D1%81%D0%BD%D0%BE%D0%B2%D0%BD%D0%B8-%D1%80%D0%B8%D1%81%D0%BA%D0%BE%D0%B2%D0%B5-%D0%BF%D1%80%D0%BE%D0%B8%D0%B7%D1%82%D0%B8%D1%87%D0%B0%D1%89%D0%B8-%D0%BE%D1%82-%D0%B8%D0%BD%D1%84%D0%BE%D1%80%D0%BC%D0%B0%D1%86%D0%B8%D0%BE%D0%BD%D0%BD%D0%B8%D1%82%D0%B5-%D1%81%D0%B8%D1%81%D1%82%D0%B5%D0%BC%D0%B8-%D0%BD%D0%B0-%D0%BF%D1%80%D0%B5%D0%B4%D0%BF%D1%80%D0%B8%D1%8F%D1%82%D0%B8%D1%8F%D1%82%D0%B0-%D0%B8-%D1%82%D1%8F%D1%85%D0%BD%D0%BE%D1%82%D0%BE-%D0%B0%D0%B4%D1%80%D0%B5%D1%81%D0%B8%D1%80%D0%B0%D0%BD%D0%B5-%D0%B7%D0%B0-%D1%86%D0%B5%D0%BB%D0%B8%D1%82%D0%B5-%D0%BD%D0%B0-%D0%BE%D0%B4%D0%B8%D1%82%D0%B0-%D0%BD%D0%B0-%D1%84%D0%B8%D0%BD%D0%B0%D0%BD%D1%81%D0%BE%D0%B2%D0%B8%D1%82%D0%B5-%D0%BE%D1%82%D1%87%D0%B5%D1%82%D0%B8/>

- Corporate Income Tax Act and Value Added Tax Act, held 21-22.11.2022

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%B7%D0%BA%D0%BF%D0%BE-%D0%B8-%D0%B7%D0%B4%D0%B4%D1%81/>

- Current tax legislation issues 2022, held 08-09.12.2022

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%B0%D0%BA%D1%82%D1%83%D0%B0%D0%BB%D0%BD%D0%B8-%D0%B2%D1%8A%D0%BF%D1%80%D0%BE%D1%81%D0%B8-%D0%B2-%D0%B4%D0%B0%D0%BD%D1%8A%D1%87%D0%BD%D0%BE%D1%82%D0%BE-%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D0%B4%D0%B0%D1%82%D0%B5%D0%BB%D1%81%D1%82%D0%B2%D0%BE-2022%D0%B3/>

- Amendments and current issues - Corporate Income Tax Act 2022, held on 12.12.2022

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%BF%D1%80%D0%BE%D0%BC%D0%B5%D0%BD%D0%B8-%D0%B8-%D0%B0%D0%BA%D1%82%D1%83%D0%B0%D0%BB%D0%BD%D0%B8-%D0%B2%D1%8A%D0%BF%D1%80%D0%BE%D1%81%D0%B8-%D0%BF%D0%BE-%D0%B7%D0%BA%D0%BF%D0%BE-2022%D0%B3/>

- Anti-money laundering measures, audit practice, problems and expected changes, held 08-09.12.2022

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%BC%D0%B5%D1%80%D0%BA%D0%B8-%D1%81%D1%80%D0%B5%D1%89%D1%83-%D0%B8%D0%B7%D0%BF%D0%B8%D1%80%D0%B0%D0%BD%D0%B5%D1%82%D0%BE-%D0%BD%D0%B0-%D0%BF%D0%B0%D1%80%D0%B8-%D0%BE%D0%B4%D0%B8%D1%82%D0%BE%D1%80%D1%81%D0%BA%D0%B0-%D0%BF%D1%80%D0%B0%D0%BA%D1%82%D0%B8%D0%BA%D0%B0-%D0%BF%D1%80%D0%BE%D0%B1%D0%BB%D0%B5%D0%BC%D0%B8-%D0%B8-%D0%BE%D1%87%D0%B0%D0%BA%D0%B2%D0%B0%D0%BD%D0%B8-%D0%BF%D1%80%D0%BE%D0%BC%D0%B5%D0%BD%D0%B8/>

- Measures Against Money Laundering Act – held 13-14.12.2022

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%B7%D0%BC%D0%B8%D0%BF-%D0%B8-%D0%B0%D0%BA%D1%82%D1%83%D0%B0%D0%BB%D0%BD%D0%B8-%D0%BC%D0%BE%D0%BC%D0%B5%D0%BD%D1%82%D0%B8-%D0%B2-%D0%BF%D1%80%D0%B0%D0%BA%D1%82%D0%B8%D0%BA%D0%B0%D1%82%D0%B0-%D0%BD%D0%B0-%D0%BE%D0%B4%D0%B8%D1%82%D0%BE%D1%80%D0%B0/>

- Current developments in the auditor's practice in complying with anti-money laundering and terrorist financing measures, held on 16.12.2022

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%B0%D0%BA%D1%82%D1%83%D0%B0%D0%BB%D0%BD%D0%B8-%D0%BC%D0%BE%D0%BC%D0%B5%D0%BD%D1%82%D0%B8-%D0%B2-%D0%BF%D1%80%D0%B0%D1%82%D0%B8%D0%BA%D0%B0%D1%82%D0%B0-%D0%BD%D0%B0-%D0%BE%D0%B4%D0%B8%D1%82%D0%BE%D1%80%D0%B0-%D0%BF%D1%80%D0%B8-%D1%81%D0%BF%D0%B0%D0%B7%D0%B2%D0%B0%D0%BD%D0%B5-%D0%BD%D0%B0-%D0%BC%D0%B5%D1%80%D0%BA%D0%B8%D1%82%D0%B5-%D1%81%D1%80%D0%B5%D1%89%D1%83-%D0%B8%D0%B7%D0%BF%D0%B8%D1%80%D0%B0%D0%BD%D0%B5%D1%82%D0%BE-%D0%BD%D0%B0-%D0%BF%D0%B0%D1%80%D0%B8-%D0%B8-%D1%84%D0%B8%D0%BD%D0%B0%D0%BD%D1%81%D0%B8%D1%80%D0%B0%D0%BD%D0%B5%D1%82%D0%BE-%D0%BD%D0%B0-%D1%82%D0%B5%D1%80%D0%BE%D1%80%D0%B8%D0%B7%D0%BC%D0%B0/>

- Preparatory courses in accounting, held on 22-23.03.2023, 27-28.03.2023, 06-07.04.2023, 21-22.04.2023 and 27-28.04.2023

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%BF%D0%BE%D0%B4%D0%B3%D0%BE%D1%82%D0%B2%D0%B8%D1%82%D0%B5%D0%BB%D0%B5%D0%BD-%D0%BA%D1%83%D1%80%D1%81-%D0%BF%D0%BE-%D1%81%D1%87%D0%B5%D1%82%D0%BE%D0%B2%D0%BE%D0%B4%D1%81%D1%82%D0%B2%D0%BE-%D1%82%D0%B5%D0%BC%D0%B8-1-6-23-25-%D0%B8-45-46-%D0%BE%D1%82-%D0%BA%D0%BE%D0%BD%D1%81%D0%BF%D0%B5%D0%BA%D1%82%D0%B0/>

- Preparatory courses on "Bulgarian accounting legislation" 2023, held on 03-05.05.2023, 09.05.2023 and 18-19.05.2023

<https://www.ides.bg/%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%80%D0%B0%D1%86%D0%B8%D1%8F-%D0%B7%D0%B0-%D1%81%D0%B5%D0%BC%D0%B8%D0%BD%D0%B0%D1%80%D0%B8/%D0%BF%D0%BE%D0%B4%D0%B3%D0%BE%D1%82%D0%B2%D0%B8%D1%82%D0%B5%D0%BB%D0%B5%D0%BD-%D0%BA%D1%83%D1%80%D1%81-%D0%BF%D0%BE-%D0%B1%D1%8A%D0%BB%D0%B3%D0%B0%D1%80%D1%81%D0%BA%D0%BE-%D1%81%D1%87%D0%B5%D1%82%D0%BE%D0%B2%D0%BE%D0%B4%D0%BD%D0%BE-%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D0%B4%D0%B0%D1%82%D0%B5%D0%BB%D1%81%D1%82%D0%B2%D0%BE-2023%D0%B3/>

Recommendation 11b

As regards to the responsibility for false accounting, Bulgaria is of the opinion that the managers are those who can be the only responsible persons for such actions. It is their responsibility to organise the bookkeeping in accordance with the provisions of the Accounting Act and determine the procedure for and the flow of accounting documents from their generation or receipt at the undertaking to their destruction or submission as required by the law (Art.16 of the AA).

In addition, Art.10 of the Accounting Act states that the persons who have drawn up and signed the accounting documents and technical information carriers shall be liable for the authenticity of the information contained therein.

These persons are subject to penalty in case of violation which is between BGN 200 (approx. EUR 100) and BGN 1000 (approx. EUR 500) (Art. 77 of the AA).

Recommendation 12f

We provide new information on the decisions under Article 83a of the LAOS - for the period 2022 - first half of 2023 (see attached). It can be seen that the institute mentioned above is applied upon the existence of the respective prerequisites.

Recommendation 13a

The Ministry of Economy and Industry (MEI) reports that information on the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions is published on the website of the MEI in the "Strategies and Policies" section, under the "Business Environment" section.

The following guidelines and good practices have also been published in Bulgarian:

- **Toolkit for raising awareness and preventing corruption in SMEs (HIGHLIGHTS 2022).** This toolkit outlines practical ways in which governments and other stakeholders can engage SMEs in the fight against corruption.

- **Toolkit for raising awareness and preventing corruption in SMEs.** The toolkit provides policy-making information on ways to facilitate and promote compliance with anti-corruption legislation in SMEs and supports companies in assessing their corruption risks and compliance challenges.

- **ICC anti-corruption third party due diligence: a guide for small and medium size enterprises.** This tool will help small and medium-sized businesses create an effective due diligence process that fits into an overall ethics and compliance program.

In connection with the entry into force of the Law on the Protection of Whistleblowers or Publicly Disclosing Information on Violations (in force from 05/04/2023), until the end of 2023 training on its implementation is provided, as well as the development of internal rules.

It should be noted that in January 2023 some employees of the public enterprises, as well as employees from ministries, took part in the already realized seminar in connection with the reporting and disclosure of information by public enterprises, held with speakers from the Agency for Public Enterprises and Control. The main topics of the seminar were "integrity", "anti-corruption" and the recommendations of the OECD.

Bulgaria would like also to provide the following additional information:

The Union for Economic Initiative (UPEE)²⁶ is also actively engaged with the anticorruption topic. It has the following effective tools to promote prevention measures and to raise awareness among its membership on corruption crimes and in particular bribery of a foreign official:

- information campaigns among the Union's members;
- promotion through publications on the official website of the organisation, including use of digital content;
- organising seminars, surveys, conferences and discussion forums.

²⁶ The Union for Economic Initiative (UPEE) represents the interests of over 10 500 enterprises with over 120 000 employees, 66 branch and 103 municipal organizations throughout Bulgaria (<https://ssibg.org/en/%d0%bc%d0%b8%d1%81%d0%b8%d1%8f-%d0%b8-%d0%b2%d0%b8%d0%b7%d0%b8%d1%8f/>).

Recommendation 13b

Bulgaria would like to provide the following additional information:

The Ministry of Economy and Industry (MEI) reports **on the publication on its website of the ICC anti-corruption third party due diligence: a guide for small and medium size enterprises**. This tool will help small and medium-sized businesses create an effective due diligence process that fits into an overall ethics and compliance program.

The Union for Economic Initiative (UPEE) works on the subject of anti-corruption and has assisted its members with practical actions in specific case studies with a corruption element. The organization conducts surveys on the subject of corruption and measures to prevent it, and advocates strongly for the adoption of effective anti-corruption law provisions, the implementation of anti-corruption programs and the enforcement of ethical standards in order to achieve a corruption-free business environment.

The Union for Economic Initiative (UPEE) reported that in March 2023 in connection with an upcoming anti-corruption project, the Union organized and conducted a survey among its members, with the aim of obtaining information on cases of corruption in the private sector in Bulgaria. The question of the survey was: “What are the specific forms of active and passive bribery that you may have personally encountered in relation to your economic activity, as a citizen or that you may have been told about from other business partners?”

The UPEE summarizes that the responses received lead to the conclusion that most of the companies are not willing to share specific information on cases of corruption because there is a low prospect of the report to be properly addressed by the national authorities. However, there are Bulgarian companies that not only openly talk about cases of corruption, but also take practical steps to fight corruption, such as notifying employer organizations about cases of corruption or reporting directly to the competent institutions. When reporting first to professional organizations, these companies rely on the organization having a "louder voice" that will be heard by the competent authorities and real actions will follow.

It is to be noted that more and more professional and industry organizations, as well as large tax-paying employers, have been recently investing in introducing high standards, responsible business practices and business values that build and maintain a culture of integrity.

The observations of the Bulgarian Industrial Association (BIA) show that all large enterprises, almost all branch and class organizations have ethical codes that include rules and principles for anti-corruption behavior. In branch organizations, the ethical rules are applied by their member companies from the sector.

Please find enclosed a list of companies with adopted codes of conduct/codes of ethics provided by the BIA. The information is structured according to legal entities with regulatory functions – professional organizations, branch organizations and individual enterprises – employers (or group of companies). Given the privacy rules, as well as the rules for the protection of copyright and personal data, the

information is provided in the form of links to the relevant document published on the official websites of the organizations/companies. Please bear in mind that the list is exemplary and not exhaustive.

These observations are also confirmed in the analysis “Private sector corruption in Bulgaria” published by the Center for the Study of Democracy in 2018, where it is stated that “in terms of the available „soft” anticorruption measures, the most widespread one is the so called ethical code, i.e. a set of norms for business behaviour, contacts with clients and suppliers. The share of companies which have adopted such ethical codes is 32.9 %, and in about 70 % of the cases company employees comply with these codes. The other two ‘soft’ measures are significantly less common: special protection for whistle-blowers for corruption practices (7.3 %) and anticorruption training (3.2 %)”^{27, 28}.

Furthermore, the Bulgarian Chamber of Commerce and Industry has produced a Code of Business Ethics based on the UN Global Compact principles, including the concept of "Supporting anti-corruption initiatives and transparency policies". The Business Integrity Club, founded on the idea of "Transparency International", has prepared a Code of Ethics for Commercial Integrity, Accuracy, and Transparency in Bulgaria. The Code of Ethics is part of the Business Integrity Standards and was developed as a result of the firms' collaborative efforts to promote integrity, transparency, and the elimination of dishonest business practices.

Recommendation 14a

Bulgaria would like to provide the following additional information:

As indicated earlier by FID-SANS, an awareness-raising workshop on ML/TF risks associated with Political Exposed Persons²⁹ was held on 17 November 2022 and more than 90 participants took part in it - representatives from various obliged entities, incl. non-financial obliged entities like lawyers, notaries and real estate agents.

As a result of the SRSP project Technical Paper “Guidelines for obliged entities on identifying Political Exposed Persons (PEPs) and establishing the source of wealth and source of funds” was prepared. Based on the recommendations from the Technical Paper, FID-SANS has also updated its guidelines on identifying PEPs in 2023, published on the web site of the State Agency for National Security (SANS) – www.dans.bg³⁰. It is worth noting that these guidelines include part dedicated to ML/TF risks, which specifically covers risk scenarios regarding foreign PEPs and the use of persons related to them for laundering of funds acquired from corruption/bribery.

²⁷ Stoyanov, A., Private Sector Corruption in Bulgaria, Center for the Study of Democracy, 2018, Published with the financial support of the European Union and the Bulgarian-Swiss Cooperation Programme, available at: https://www.researchgate.net/publication/331565046_Private_sector_corruption_in_Bulgaria;

²⁸ The information is accurate as of 2018 and does not reflect some new developments like the adoption of the Whistleblower Protection Act in 2023.

²⁹ Within the Structural Reform Support Programme (SRSP) Project “Enhancing capabilities of Bulgarian authorities to effectively mitigate money laundering and terrorist financing” funded by the EC and co-funded by the CoE (*Project under REGULATION (EU) 2017/825 of 17 May 2017 on the establishment of the Structural Reform Support Programme for the period 2017 to 2020 and amending Regulations (EU) No 1303/2013 and (EU) No 1305/2013, as amended by Regulation (EU) 2018/1671 of 23 October 2018*).

³⁰ In section concerning the measures against ML/TF.

Recommendation 14b

In addition to the information already provided with regard to the published strategic documents at the web site of the State Agency for National Security (SANS), e.g. Red flags of suspected money laundering by PEPs and Strategic analysis “Trends and typologies in PEPs related FID-SANS cases”, please note that the aforementioned red flags concern specific risk elements involving foreign PEPs, e.g.:

- Local or foreign PEPs and/or connected to them persons, according to the definition of the Law on Measures against Money Laundering (LMML), participate in the execution of operations/transactions including receiving and/or sending funds in unusually large amount in different currencies;
- Several indicators based on geographic features, e.g. foreign PEPs from a country known from public sources to have high crime levels (incl. organized crime) and foreign PEPs from a country which has not signed or ratified the relevant anti-corruption conventions (e.g. the UN Anticorruption Convention and the OECD Anti-Bribery Convention).

You may also note the aforementioned data included in the guidelines on identifying PEPs covering corruption/bribery risk scenarios.

These documents are published and available for all obliged entities.

Recommendation 14e

In relation to the findings of this recommendation, we note the information already provided to the lead examiners regarding the inspection carried out by the Deputy Prosecutor General in April 2023 of all district prosecutor’s offices on the implementation of the above-mentioned Letter of Instruction of the Prosecutor General. The results of the inspection indicate that this requirement is being implemented. The inspection found deficiencies in one prosecution office with regard to the periodicity of the provision of feedback, which was brought to the attention of the administrative head with a view to taking action under the competence.

Additionally, we point out that, pursuant to Article 213, para. 1 of the Criminal Procedure Code, in case of refusal to initiate pre-trial proceedings, the prosecutors shall notify the victim or his heirs, the damaged legal entity *as well as the person who made the notification*. The decision to refuse is subject to appeal to the superior prosecutor's office, and if upheld, the acts of the superior prosecutor's office are subject to appeal to the court (if serious crimes and other crimes specifically referred to in the Criminal Code are involved).

In accordance with the provision of Article 199 of the Code of Criminal Procedure, in pre-trial proceedings, prosecutors and investigating authorities shall issue rulings, and each ruling shall contain reasons.

In view of the actions taken (management and control), Bulgaria considers that it has implemented the recommendation, and its practical implementation should be subject to follow-up by the WGB.

Recommendation 15a

On the basis of OECD recommendations, the NRA developed a Handbook on the detection of corrupt practices in 2013 and published it on the internal page of the NRA making it available to all NRA personnel. The purpose of the Handbook is to help revenue authorities understand the different techniques used by taxpayers to give bribes, as well as to provide guidance on how to detect and establish bribes given to local and foreign officials. The Handbook, on the one hand, provides useful legal information and, on the other hand, practical advice for revenue authorities: indicators of a given bribe, examples of detection of bribes in tax audits and inspections. The Handbook can be used as an aid during tax audits.

The Handbook and its guidelines provide guidance to the revenue administration to train its personnel on best tax practices, including how to recognise suspicious financial transactions, which in some cases may also be bribery payments.

In 2024, the NRA will develop digital self-learning on: **“Bribery of foreign officials and reporting of suspicion of committed crime”**, which will be mandatory for the personnel of the functions “Control”, “Fiscal Control”, “Client Service”, “Collection” and “Appeal”. This self-learning will be part of the Introductory Training for newly recruited NRA personnel.

Recommendation 15b

Please refer to the additional information provided for recommendation 14c.

We would like once again to draw the attention of the evaluation team to Rule 30 of the Rules on the Interaction between the Prosecutor’s Office of the Republic of Bulgaria and the National Revenue Agency, which stipulates that the supervising prosecutor shall send a copy of the decree to the revenue authority when it terminates criminal proceedings or refuses to initiate pre-trial proceedings in cases initiated on the basis of a notification under Article 34(2) of the Tax and Social Security Procedure Code. This provision shall apply to the work of all district and regional prosecutor’s offices with no exception. In cases where court proceedings have been initiated, the NRA shall be notified by the court.

Please find attached an extract from Order № JIC-4687-20.10.2014.

Recommendation 17a

The Institute of Public Administration, as the main responsible institution for providing trainings for the state employees of the public administration, conducted specialized trainings on integrity, ethical standards, corruption risks and anti-corruption in a systematic way during the years. In implementation of the Working Group’s recommendations, at the end of 2021 the Institute of Public Administration in collaboration with the Ministry of Justice of Bulgaria developed a training course “Bribery of foreign public officials and reporting suspected crimes” which was included in the IPA’s training catalogue for 2022. For 2022, 142 participants from different public administration participated and passed successfully the course “Bribery of foreign public officials and reporting suspected crimes”, and for the 2023 – 145

civil servants from different administrations also participated. Part of the training includes sharing of information on the most common indicators of possible foreign bribery and corruption in public procurement procedures, which require enhanced attention by the contracting authorities. The information takes into account the recommendations of Bulgaria Phase 4 report, as well as the Detection of Foreign Bribery study by the WGB and the OECD lists of sample corruption indicators in different areas, which are designed to assist public officials in identifying cases of corruption, including foreign bribery.

Additionally, every year IPA provides trainings on the Public Procurement Law (PPL). This training examines the rules for the lawful conduct of public procurement procedures and the opportunities provided by the regulatory framework, with the emphasis on the correct completion of the decision, the announcement, the choice of selection criteria, due diligence and the award of a contract, as well as lawful management of the contract. The use of the Centralized Electronic Procurement Information System (CAIS EOP) in the preparation of a public procurement, its notice in the Register of Public Procurement, and the opening of offers is a primary thematic emphasis. Participants become acquainted with the new public procurement templates, as well as with the requirements for submission of information subject to publication. IPA has trained 802 civil servants in total from contracting authorities from 2020 to 2022, and for 2023 the participants in the course “Public Procurement Act” are 169.

Internal trainings on topic "Prevention and counteraction of corruption" are part of the Anticorruption plan of Public Procurement Agency and they are provided for the staff of the Agency. Foreign bribery is addressed as part of the prohibitions on participation in public procurement, in connection with a conviction for an offence under the Criminal Code (Art. 54, para 1, p. 1 PPL). Due diligence topic is touched upon with regard to the prohibitions under PPL.