



## ANTI-CORRUPTION MEASURES IN LAW-ENFORCEMENT INSTITUTIONS

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### I. CORRUPTION AT LAW-ENFORCEMENT INSTITUTIONS: EUROPEAN PERSPECTIVES

In countries with endemic corruption, integrity reforms can only be successful if anti-corruption institutions succeed in tackling internal corruption challenges. A sharp decline of corruption in law enforcement would provide society with the necessary tools to pursue tangible change. The experience of established democracies is that a successful transformation depends not simply on individual measures but rather on the introduction of sets of effective anti-corruption measures across the entire public administration. Corruption among law-enforcement officers has been viewed with an increasing concern by the authorities and the public in many European states. As a result, while no common approach has ever been tested with respect to the judiciary, elected politicians or the customs, countering police corruption has become an all-European effort. During the last decade, several European countries developed multi-institutional systems for police integrity. On EU level, platforms like the European Partners against Corruption (EPAC) were introduced, enabling specialised anti-corruption institutions to cooperate and share experience. In addition, Europol, Interpol and the UN developed and

#### KEY POINTS

The following measures are recommended for the modernisation of the anti-corruption system at Bulgarian law-enforcement institutions:

- **Strengthening checks and balances among anti-corruption institutions through several levels of mutual control.** EU best practice shows that serious crimes are investigated by specialised services outside the police or by independent commissions, appointed by the parliament. Minor infringements are dealt with at the level of internal control and local professional standards units, based on transparent rules.
- **Securing the independence of the anti-corruption institutions** from both political interference and the police forces, to allow them to investigate corruption at the highest hierarchical levels of the security sector. This could be achieved through introducing dual subordination of specialised anti-corruption bodies; establishing information systems independent from those of the MoI while enjoying full access to the latter; and establishing their own surveillance units.
- **Developing criteria for screening and addressing minor violations at an early stage.** Such a filtering mechanism can be provided and supervised by a better staffed Inspectorate or professional standards units at local level. Revisiting the current division of responsibilities between the Inspectorate and the Internal Security Directorate could free up more specialised resources for investigating serious crimes while preventing the slippery slope syndrome early on.
- **Adequate resources and sufficient powers of anti-corruption departments** by expanding local level structures, allowing them full access to operational information and police databases, as well as developing modern electronic systems for human resource management to expedite anti-corruption investigations.

shared the blueprints of common standards and good practices in preventing police corruption<sup>1</sup>.

In countries with high levels of corruption in the public sector, **anti-corruption efforts targeting the law-enforcement institutions should be prioritized and may precede measures targeting other institutions**. The reason is that law-enforcement agencies are indispensable in implementing anti-corruption measures in the public sector. While this has been recognized as a key objective, the anti-corruption reforms in law-enforcement structures have had mixed results in the last fifteen years.

## II. CORRUPTION AT THE BULGARIAN LAW-ENFORCEMENT INSTITUTIONS

Police corruption in Bulgaria continues to be a serious challenge. Despite the fact that overall police enjoy stronger confidence than other public institutions, public opinion considers corruption within the Ministry of Interior to be exceptionally widespread. According to the 2013 Eurobarometer survey, 67% of the Bulgarians - far above the EU average figure (36%) - believe that bribe taking is widespread in the police. Bulgaria, along with Romania (also 67%) has the worst score, followed by Latvia (63%), Lithuania (58%) and Croatia (57%).

These extremely critical attitudes are fed not only by political scandals and frequent coverage of 'police corruption' in the media but also by the personal experience of respondents. Data from the 2011 Eurobarometer study confirm that Bulgaria ranks first in the EU in terms of the percentage of respondents pressured to pay bribes by police officers (7%). Between 2009 and 2011 the number of instances

where policemen had asked for bribes did not change substantially and amounted to 450,000 annually. Bulgaria tops the list of EU member states with widespread police corruption, followed by Lithuania and Latvia (6%), Romania - 4%, etc. However, the 2013 Eurobarometer study suggests a change. Four percent of respondents in Bulgaria indicated they were pressured by police to give a bribe<sup>2</sup>. This is lower than Latvia (6%), but still higher than Lithuania with 3% and Romania and Poland, with 2%.

The positive change can be explained by the targeted efforts of the Bulgarian Ministry of Interior. The lion's share of corrupt practices was attributed to road police checks (random police checks on the roads are a popular practice in many east European countries). The increase in corruption cases in Bulgaria after 2007 was due to the higher number of police officers who were authorised to perform vehicle checks (including officers who were not part of the road police department (see Figure 1). To address this negative trend, MoI undertook countermeasures to monitor road police checks, including administrative steps to cut the number of random checks at the end of 2012 and beginning of 2013.

A 2014 Corruption assessment Report showed a 17% increase in the public perception of corruptness of police officers in the period 2002 - 2014. This increase is smaller compared to most categories in the public sector (such as political leaders, MPs and local administration). Still, police officers lag behind certain public servants who have been perceived as less corrupt (e.g. tax officials and customs officers)<sup>3</sup>

Bulgaria's accession to the EU, there has been practically no experience of corruption practices by customs officers.

<sup>3</sup> Anti-Corruption Policies against State Capture, CSD, 2014, p. 24

<sup>1</sup> [www.epac-eacn.org](http://www.epac-eacn.org)

<sup>2</sup> The 2013 Eurobarometer included pressure for bribes not only by police but also by customs officers. This makes comparison with prior periods problematic. However, previous Eurobarometer studies suggested that after

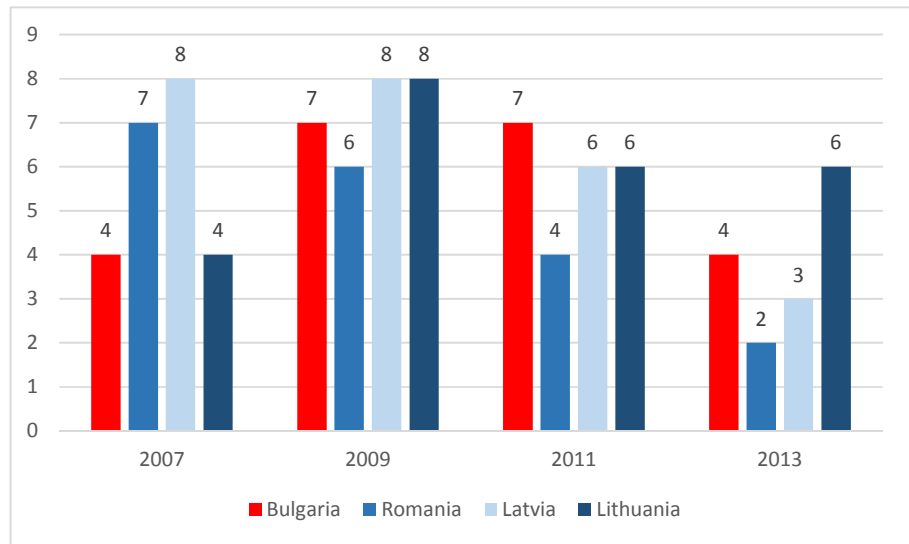
The decline from the previous high incidence of everyday police corruption is a definite step in the right direction. However, the main threat remains the corruption at the senior levels of law enforcement and the political pressure that they experience. While after the start of the EU accession process in 2001, important institutional and legal changes have been introduced limiting police misconduct at medium and senior levels, conflicts of interests and corruption on both local and national levels of the police continue to present a serious challenge. One factor behind this change was that the two main topics of EC criticism, namely organised crime and corruption, were closely linked to the corrupt practices within Bulgaria's law enforcement. The Inspectorate of the MoI received additional powers and focused its activities on corruption among police officers. In 2002, a specialised unit was established within the National Service for Combating Organised Crime (NSCOC) with two subunits: one targeting corruption within the MoI, and another specialised in corruption within national and local public administration.

At the same time, high profile corruption continued after the accession of Bulgaria in EU in 2007. An interior minister was dismissed over accusations of illicit contacts between the deputy-chief of a specialised police service and an alcohol producer, in addition to investigations of corrupt behaviour of regional police chiefs.

The combined effect of the growing political criticism from the EU and the internal political conflicts led Bulgaria to introduce foreign best practices and establish an independent anticorruption institution

(outside the MoI). In 2008 was introduced a new 'supra- structure' for intelligence and counter-intelligence - the State Agency for National Security (SANS). SANS targets corruption and especially corrupt practices among senior civil servants,

**Figure 1. Pressure for bribes in the last 12 months in the EU member states with highest reported corruption rates (% of the population)**



ministers, and in the legislative and judicial branches, in addition to the traditional priorities in safeguarding the national security. However, from the very beginning it became clear that a rivalry between SANS and the MoI would impede the effective operation of both institutions. At the beginning of 2010 SANS police powers were taken away. To avoid further conflicts between SANS and MoI, an Internal Security Directorate (ISD) was set up at MoI.

**III. ANTI-CORRUPTION: INSTITUTIONAL FRAMEWORK**

IAD paved the way for creating a body with greater autonomy. Its officers are subordinated directly to the head of the Directorate and the Director reports directly to the Minister of Interior. The IAD is the first service of its kind since 1990 that has offices throughout the whole territory of the country. Simultaneously, for the first time a MoI directorate

specialised in countering offences within the ministry received wide powers combining covert methods with police powers.

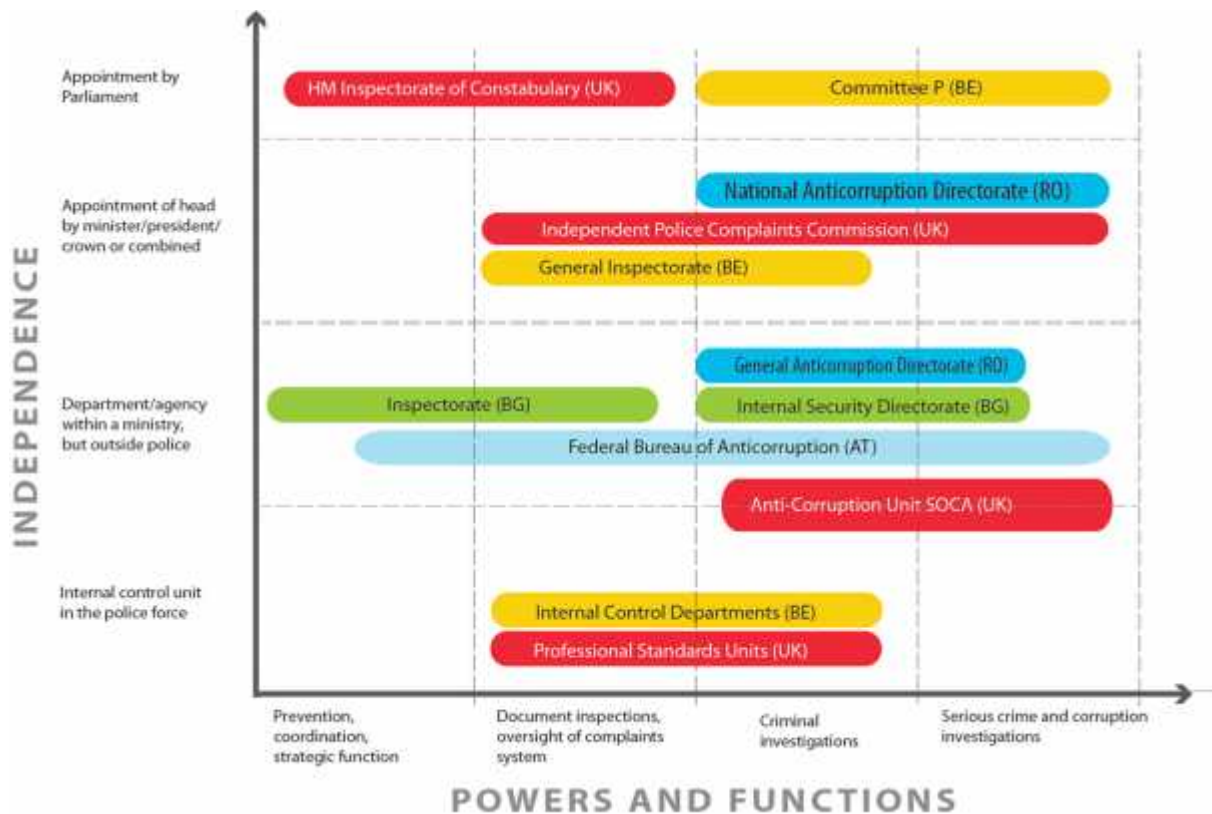
The IAD is structured in 4 territorial departments (covering all the 27 regions of the country), in addition to an analytical and logistics department.

It has some functions similar to the Inspectorate: undertaking screening inspections, participating in the assessment of corruption risks in the MoI, participation

- The use of informers;
- The use of surveillance techniques - audio, video and physical surveillance, monitoring of telephone and internet communications, technical surveillance, etc.

The IAD can undertake proactive measures, another first in this kind of service. The Directorate is actively seeking and collecting evidence of corruption of MoI staff on the basis of risk analysis

**Figure 2. Comparison of bodies combatting police corruption in terms of their independence and powers**



along with other MoI divisions in the follow-up on signals, participation in disciplinary proceedings, etc.

For the first time since 1990 the service specialised in countering police abuses within the MoI is capable of examining complaints by applying the following intelligence methods:

- The use of a network of undercover agents;

even when no complaints have been submitted.

In order to better coordinate the police anti-corruption policies between these two MoI services, an internal Interdepartmental Council to combat corruption was established.

Pursuant to MoI internal regulations, immediately after receiving information or complaints about

corruption, the heads of the main directorates within the Ministry should refer all the materials to:

- The director of the MoI Inspectorate - in case where the information was received from overt sources or complaints;
- The director of Internal Security Directorate –

Quantitative data about complaints and inspections are indicative of the level of efforts undertaken by the two institutions, the Inspectorate and IAD. The first line of action is to work with the complaints. In 2001, the number of the staff that were subject to inspections sharply grew reaching up to 700 persons,

**Table 1. Number of signals on police corruption received by IAD and sanctions applied**

| Signals and sanctions   | 2008       | 2009       | 2010       | 2011       | 2012       | 2013       | 2014       |
|---|------------|------------|------------|------------|------------|------------|------------|
| Cases involving conflict of interest  |            |            |            | 5          | 4          |            | 2          |
| Cases initiated by IAD  |            |            |            |            | 115        | 86         | 59         |
| Disciplinary proceedings  | 121        | 115        | 135        | 130        | 100        | 65         | 32         |
| Number of fired officers  | 77         | 64         | 65         | 97         | 68         | 38         | 12         |
| Number of other sanctions imposed   | 35         | 15         | 29         | 16         | 15         | 17         | 3          |
| Number of transferred officers (removed from the corrupt environment)                   | 9          | 10         | 14         | 6          | 49         | 27         | 10         |
| Number of people referred to the prosecution based on evidence of various criminal acts | 57         | 85         | 76         | 72         | 63         | 26         | 14         |
| Number of pre-trial investigations  | 27         | 58         | 73         | 67         | 103        | 71         | 27         |
| <b>Number of signals about corruption</b>   | <b>491</b> | <b>562</b> | <b>549</b> | <b>495</b> | <b>372</b> | <b>319</b> | <b>217</b> |

in cases where the information was received through operational methods.

Compared with other EU member states, the two anti-corruption institutions within MoI, the Inspectorate and the IAD are positioned close to the middle on the scale for powers and independence (see Figure 2).

#### IV. ANTI-CORRUPTION EFFORTS AT BULGARIAN LAW-ENFORCEMENT INSTITUTIONS

In recent years a set of measures and preventive mechanisms has been created. One of the most important steps was the introduction - by way of the *Conflict of Interest Prevention and Ascertainment Act* - of mandatory assets declarations for MoI officials who are 'public office holders'. These declarations are published on the MoI internet site, in addition to a separate register containing the names of staff found to have breached conflict of interest provisions.

but afterwards fell to around 300 cases per year. The IAD also experienced a peak of activity in its initial years (2008-2011, see Table Number of signals on police corruption received by IAD and sanctions applied), with over 500 signals investigated per year. In 39% of the signals the checks involved overt methods, while the balance was checked with operative methods. The latter confirmed that 60% of the signals were justified.

During the political crisis that began in 2013 both the Inspectorate and the IAD experienced serious turmoil. After the merging of SANS with the National Service for Combating Organised Crime most observers registered a collapse of efforts to curb corruption. In the second half of 2013 and throughout 2014 anti-corruption activities came practically to a stop in law enforcement institutions, driven by lack of political will at the most senior levels.

Following the change in government in May 2013, the staff of the Inspectorate of Mol was reduced, despite expert recommendations that in order to perform effective checks on misconduct signals the staff needs to be increased four to five times. The department in charge of corruption signals was transferred to the IAD (renamed to Security Directorate), and later practically ceased functioning, after most of its employees resigned.

The Security Directorate is in ever worse state. Out of total staff of 90 employees, in the period 2013-2014 twenty-five people have been transferred to other directorates of Mol, three have retired and three have been fired. Within the last year, the former IAD officers have been replaced with people with no experience in the field of internal security and anti-corruption measures. While before the minimum requirement for IAD employees was 6 years of experience at operational level, the new recruits have not met even this criterion. As a result of these changes, the number of cases targeting police officers and other Mol employees has been reduced seven times. Since the second half of 2013 the activities of the Security Directorate have been limited to old cases.

The political crisis in the spring of 2014 triggered early parliamentary elections which brought to power a new coalition government. As a result, partial efforts were made to restore the former capacity of the Internal Security Directorate. The interim government tried to re-activate the Inspectorate of Mol and the IAD, focusing their activities on mitigating the corruption risks created by the immigration wave. The newly elected government offered new forms of control of traffic and security police force. At the same time, the role of SANS and the institutional reforms at Mol are still unclear.

## V. RECOMMENDATIONS FOR MODERNISING THE ANTI-CORRUPTION SYSTEM

The Center for the Study of Democracy, in partnership with Mol, reviewed the experience of several EU member states in countering police corruption and suggested a number of ideas for modernising the anti-corruption institutions and policies in Bulgaria. Several priority issues were highlighted to be addressed by policymakers:

- Development of an anti-corruption infrastructure on several levels both within the police (targeting minor offences) and by independent institutions. The most serious cases are investigated by independent centralised bodies, for instance those appointed by the parliament or the president/minister, as is the case of the Belgian Committee P (Permanent Oversight Committee on the Police Services), or the Independent Police Complaints Commission and Her Majesty's Inspectorate of Constabulary in the UK.
- **The independence of the institutions.** Direct political control of police forces exercised by the ministries of interior and interferences by ministers and senior management in on-going investigations compromise the independence anti-corruption departments need. Investigations, especially those targeting senior police officers, often have political repercussions. As a result, senior police management is rarely investigated and the cautiousness of anti-corruption teams easily turns to negligence when superiors are involved. There are a number of approaches taken by other European countries to protecting anti-corruption institutions from undue influence: introducing dual subordination (for example to the Mol and to the Ministry of

Justice); establishing information systems independent from those of the MoI while enjoying full access to the latter; and establishing their own surveillance units, since without such units it would be difficult to investigate, for instance, corrupt officers of the specialised surveillance divisions of the interior ministries. A number of measures could be applied in Bulgaria in order to achieve greater independence for the investigative bodies. One such measure would be the establishment of an inspectorate with investigative powers that should remain outside the MoI structures while subordinated to the minister of interior. A more radical step would involve the additional subordination of such a body to the minister of justice. In Bulgaria, the division of responsibilities between the Internal Security Directorate and the Inspectorate in the MoI, although warranted by a number of factors in the past, is not justified in the long run. The merging of the two bodies, and in particular of their information databases, would create the precondition for a more comprehensive approach in countering corruption.

- **Professional standards:** these cover a large array of issues that directly or indirectly impact the integrity of the police and the levels of public support and trust in them. The anti-corruption approach follows the so-called *slippery slope* theory: when left unsanctioned, small infringements lead to more serious offences. Hence the need for zero-tolerance policies by senior officers. The usual practice in Bulgaria is not to register minor offences. This gives leverage to lower level supervisors to exercise pressure and use discretion in the management of their subordinates. The enforcement of

professional standards links control and the application of quality criteria in assessing everyday police operations to disciplinary proceedings. The introduction of mandatory registration of all offences, and subsequent control by the Inspectorate of MoI would have positive effect. At a later stage, all these data can be stored in a centralized electronic database.

- **Institutions exercising control and oversight at various levels:** differentiating minor offences from serious corruption crimes at the initial stage of investigation. Serious crimes are investigated by specialised services outside the police or by independent commissions, appointed by the parliament. Minor infringements are dealt with at the level of internal control and local professional standards departments by following transparent rules. The emergence of this complex anti-corruption infrastructure is the result of applying the principle of independence, checks and balances among the institutions. This structure aims to foil potential attempts to interfere with investigations. These institutions have sufficient resources at their disposal and guarantees of autonomy at operational and organisation levels.
- **Expanded regional structures.** The experience in other European countries indicates the need for a more immediate presence of internal control departments in the police. In Bulgaria, establishing such departments at the district MoI directorates could further enforce compliance with professional standards while also introducing the method for distinguishing between minor and serious corruption cases. Such a two-tier control

mechanism would eliminate the informal approach in dealing with complaints about lesser corruption practices, thus allowing additional human resources to focus on countering more serious crimes.

- **Developing a system to deal with complaints.** Complaints by members of the public are still not considered a primary source for information leading to investigations. The lack of an effective and independent mechanism for verifying these complaints on both local and regional levels (including with investigative methods) erodes public trust in the police.
- **Human resources.** The lack of a state-of-the-art system for human resource management hampers and slows down anti-corruption investigations, creating risks of information leakages. Despite the implementation of a EU-funded project on human resource management, MoI lacks not only an electronic HR system but also basic coordination among the HR department, the Security directorate and the Inspectorate. There is no analysis of the link between the disciplinary sanctions imposed by departments like Disciplinary Matters, on the one hand, and the analysis of professional gaps. Such an analysis could facilitate efforts to devise the analysis of corruption risks and the investigations undertaken by the Internal Security Directorate in Bulgaria.
- **Anti-corruption enforcement based on risk analysis and assessment.** In the UK, the system of professional standards is largely shaped by the model of intelligence-led policing where the identification, analysis and management of current or expected risks and problems provide guidelines to

enforcement measures, not vice-versa. Thus, the entire set of controlling institutions at central and local levels, whether independent or within law enforcement bodies, concentrate significant resources and efforts in assessing corruption threats and risks as the basis for strategic and management decisions. In Belgium, the assessment of the threats and risks and the monitoring of the organisational processes are a significant component of the internal control system. In the UK, the professional standards departments are not confined to simply acting on complaints but rather collect evidence through targeted intelligence.