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Preventing corruption and promoting integrity in
central governments (top executive functions) and
law enforcement agencies

EVALUATION REPORT

BULGARIA



Adopted by GRECO
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Group of States against Corruption
Groupe d'États contre la corruption

COUNCIL OF EUROPE



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I. EXECUTIVE SUMMARY

1. This report evaluates the effectiveness of the framework in place in Bulgaria to prevent and combat corruption among persons entrusted with top executive functions (Prime Minister, ministers, secretaries general, chiefs of political cabinets, advisers, experts etc., hereafter “PTEFs”) and members of the Police (civil servants of the Ministry of the Interior with law enforcement functions). It aims at supporting efforts by the country to build a solid foundation to prevent corruption through strengthening transparency, integrity and accountability in public life, in line with GRECO standards.

2. Bulgaria’s anti-corruption framework is based mainly on the Law on Countering Corruption and Forfeiture of Unlawfully Acquired Assets in force since 2018 and which contains provisions on the transparency and integrity requirements applicable to public officials, as well as on the institutional framework to supervise implementation. At the time of the adoption of this report, the Anti-Corruption Law and the institutional setup of specialised bodies were in the process of being reformed.

3. The executive power in Bulgaria is exercised by the Council of Ministers, headed by the Prime Minister. To provide a viable and effective anti-corruption response, a number of key issues need to be addressed as regards PTEFs in Bulgaria. The integrity framework applicable to public officials does not cover PTEFs in a sufficient manner: no code of ethics applies to them, and there is no awareness-raising on integrity matters, nor any established mechanism for confidential counselling on ethical issues. The absence of rules on the interaction of PTEFs with lobbyists and other third parties seeking to influence government policies does little service to transparency and the accountability of the executive vis-à-vis the public. Even though declarations of property, assets and interests are submitted by PTEFs, and an authority in charge of verifying them is in place, verification is ineffective as it is limited to a desk analysis and cross-checking against information contained in other state databases. Increased transparency as regards all members of political cabinets, their remuneration and ancillary activities, etc, would appear necessary. A key factor for increasing public trust, would be to prevent impunity at the top executive level by enhancing the effectiveness of the criminal justice response to corruption offences involving PTEFs.

4. As regards law enforcement bodies, it is noted that the Police and the Ministry of the Interior are closely related to each other and that the Minister of the Interior has far-reaching powers over the Police. The operational independence of the Police needs to be strengthened in order to prevent undue political influence over its actions. No dedicated anti-corruption strategy for the police is currently in place, and a comprehensive mapping of corruption risks in various police structures is also lacking. The provisions on ethics and integrity applicable to police officers need to be brought together under a comprehensive code of ethics, which should cover in detail all relevant integrity matters, such as conflicts of interest, gifts, contacts with third parties, outside activities, handling of confidential information etc. Issues such as sponsoring of the police as well as gifts and advantages offered to police officers need to be regulated in detail. Furthermore, ethics and integrity issues need to be more targeted during initial and in-service training, including in respect of officials holding senior ranks. It is also of vital importance to ensure that the promotion procedures within the police are sufficiently transparent and based on merit. Comprehensive legislation needs to be introduced to ensure effective protection of whistle-blowers, as the current provisions only provide subsidiary protection, mostly in the framework of criminal proceedings.

II. INTRODUCTION AND METHODOLOGY

5. Bulgaria joined GRECO in 1999 and has been subject to evaluation in the framework of GRECO's First (in September 2001), Second (in December 2004), Third (in October 2009) and Fourth (in October 2014) Evaluation Rounds. The relevant Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's homepage (www.coe.int/greco). This Fifth Evaluation Round was launched on 1 January 2017.¹

6. The objective of this report is to evaluate the effectiveness of the measures adopted by the authorities of Bulgaria to prevent corruption and promote integrity in central governments (top executive functions) and law enforcement agencies. The report contains a critical analysis of the situation, reflecting on the efforts made by the stakeholders concerned and the results achieved. It identifies possible shortcomings and makes recommendations for improvement. In keeping with the practice of GRECO, the recommendations are addressed, via the Head of delegation in GRECO, to the authorities of Bulgaria, which determine the national institutions/bodies that are to be responsible for taking the requisite action. Within 18 months following the adoption of this report, Bulgaria shall report back on the action taken in response to GRECO's recommendations.

7. To prepare this report, a GRECO Evaluation Team (hereafter referred to as the "GET"), carried out an on-site visit to Bulgaria from 30 May to 3 June 2022, and reference was made to the responses by Bulgaria to the Evaluation Questionnaire ([GRECO\(2016\)19](#)), as well as other information received, including from civil society. The GET was composed of Ms Panagiota VATIKALOU, Presiding Judge, First Instance Court of Chania (Greece), Ms Mari-Liis SOOT, Head of Analysis Division, Criminal Policy Department, Ministry of Justice (Estonia), Mr Carlos PEREIRA, Chief Inspector, National Anti-Corruption Unit, Judicial Police (Portugal) and Mr Dražen Jelenić, Deputy Chief State Prosecutor, (Croatia). The GET was supported by Mr David DOLIDZE and Mr Ylli PECO of the GRECO Secretariat.

8. The GET met the Deputy Minister of Justice, the Deputy Ministers of the Interior, the Secretary General and other representatives of the Presidential Administration, representatives of the Prime Minister's Office and members of the Commission on Countering Corruption and Forfeiture of Unlawfully Acquired Assets. It also interviewed representatives of the Administration of the Council of Ministers, the Ministry of Justice, the Ministry of the Interior, the Ministry of Finance, the Public Prosecutor's Office, the National Audit Office, the Office of the Ombudsperson and the Institute of Public Administration. Finally, the GET held discussions with representatives of the police trade union, civil society organisations and investigative journalists.

¹ More information on the methodology is contained in the Evaluation Questionnaire which is available on GRECO's [website](#).

III. CONTEXT

9. Bulgaria has been a member of GRECO since 1999. It has been subject to four evaluation rounds, focussing on different topics linked to the prevention and the fight against corruption. Overall, Bulgaria has implemented 100% of recommendations of the first and second evaluation rounds), 70% of recommendations of the third evaluation round and 84% of recommendations of the fourth evaluation round².

10. In the Transparency International's 2021 Corruption Perceptions Index, Bulgaria scored 42 out of 100 points (two-points lower than in 2020) and ranked 78 out of 180 countries. According to the Transparency International's Global Corruption Barometer 2021, 48% of the respondents in Bulgaria think that corruption has increased in the previous 12 months, and 19% of the respondents said to have paid a bribe to access public services over the same period. Further, 90% of respondents believe that corruption in Government is a big problem and over two thirds (68%) think that businesses are controlling the Government. Some 67% of the interviewed Bulgarians consider that their Government is "doing badly" in its fight against corruption. The European Commission's 2019 Special Barometer on Corruption suggests that 80% of respondents consider corruption to be "widespread" in Bulgaria (EU average - 71%) and 51% responded that corruption had "increased" in the past three years (EU average - 42%).

11. Allegations of endemic corruption were among the underlying reasons for wide public protests³, set off on 9 July 2020 in Sofia and other cities of Bulgaria. After 282 days of protests, the resignation of the Prime Minister was accepted by the National Assembly on 16 April 2021, and it was followed by three parliamentary elections in the course of April, July and November 2021. No parties were able to obtain sufficient majority to form a government in the first two of these elections, and the third election brought about a coalition government which declared the fight against corruption as one of its top priorities⁴. On 17 March 2022, the police detained the former Prime Minister and a few other senior officials in the framework of an investigation conducted by the European Public Prosecutor's Office (EPPO), releasing them the following day, as no charges were brought by the Prosecutor General's Office⁵. In June 2022, the coalition government had to resign after the vote of no confidence at the National Assembly and, with no other party being able to form a government, a caretaker government has been put in place. Snap parliamentary elections were held on 2 October 2022 and the 48th National Assembly is to hold its first session on 19 October 2022⁶.

² These figures provide a snapshot of the situation regarding the implementation of GRECO's recommendation at the time of the formal termination of the compliance procedure. The country may therefore have implemented the remaining recommendations after the termination of the compliance procedure.

³ For more details, please consult news articles regarding the protests and their origin: <https://www.euronews.com/my-europe/2020/07/18/explainer-why-is-bulgaria-engulfed-in-daily-anti-government-protests>; <https://www.dw.com/en/bulgaria-radev-raids-protests/a-54120080>; <https://www.euronews.com/my-europe/2020/09/02/bulgaria-unrest-voices-from-protests-demand-to-be-heard-in-brussels>

⁴ For more details, please consult news articles regarding the coalition government formed as a result of November 2021 elections, and its priorities: <https://www.reuters.com/world/europe/bulgarias-centrist-pp-party-seals-deal-coalition-government-2021-12-10/>

⁵ For more details, please consult news articles regarding the detention and release of the former Prime Minister and other senior officials: <https://www.reuters.com/world/europe/police-detain-bulgarias-former-pm-borissov-blackmail-investigation-2022-03-18/>

⁶ <https://bnr.bg/en/post/101718432/>

12. The lack of efficient criminal justice response to high-level corruption consistently features amongst key shortcomings of Bulgaria's anti-corruption system, according to numerous reports and surveys published by different organisations⁷. Unsurprisingly, one of the priorities of the National Anti-Corruption Strategy for 2021-2027 is countering corruption crimes; the Recovery and Resilience Plan for Bulgaria, approved by the European Commission in April 2022, includes "*measures for increased accountability of the Prosecutor General and his deputies*", which encompass effective annual reporting of investigations and convictions in corruption cases, indicating the number of high-level corruption cases, number of convictions and acquittals etc. Some challenges to the efficiency of the criminal justice response to corruption involving persons entrusted with top executive functions are discussed in this report.

13. Finally, media freedom in Bulgaria is assessed as fragile and unstable⁸. The high degree of media dependence on income from advertising, where the state holds a major share, and a non-transparent distribution of funds to the media, are yet other tools to influence news reporting. Investigative journalists covering organised crime and corruption are frequently targeted by negative campaigns, strategic lawsuits against public participation (SLAPPs⁹), threats and at times physical assaults, which do not appear to be followed by adequate legal and political responses from the authorities. While the legislative framework for the protection of journalists seems to be in place, efficient tools for safeguarding the media from press freedom violations are lacking.

IV. CORRUPTION PREVENTION IN CENTRAL GOVERNMENTS (TOP EXECUTIVE FUNCTIONS)

System of government and top executive functions

The President

14. Bulgaria is a parliamentary republic (Constitution of Bulgaria, Article 1, paragraph 1) and its Head of State is the President (Constitution, Article 92, paragraph 1)¹⁰, who represents the State in international relations and is the Supreme Commander-in-Chief of the Armed Forces (Constitution, Article 100, paragraph 1). The President of Bulgaria is elected through direct suffrage for a five-year term (renewable once) by more than 50 per cent of votes cast in the first round, provided that more than half of eligible voters have cast their ballots, or by a majority of votes between the top two candidates in the second round. The President and the Vice President cannot be Members of the National Assembly (Parliament) or engage in any other state, public or economic activity, nor can they participate in the leadership of any political party (Constitution, Article 95, paragraph 2).

15. The powers and prerogatives of the President (Constitution, Articles 98 to 103) include *inter alia* scheduling the elections for the National Assembly and the bodies of local self-

⁷ European Commission 2022 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, pages 15-16 https://ec.europa.eu/info/sites/default/files/10_1_193975_coun_chap_bulgaria_en.pdf

⁸ <https://rsf.org/en/country/bulgaria> - World Press Freedom Index by Reporters without Borders.

⁹ See, in particular, a report entitled "SLAPPs against journalists in Europe", published in March 2022, accessible via the following link: <https://www.article19.org/wp-content/uploads/2022/03/A19-SLAPPs-against-journalists-across-Europe-Regional-Report.pdf>

¹⁰ On 21 November 2021, Mr Rumen RADEV has been re-elected as President of Bulgaria for the second term of office; the swearing-in ceremony before the National Assembly took place on 19 January 2022.

government; setting dates for national referenda; addressing the nation and the National Assembly; concluding international treaties; promulgating laws adopted by the National Assembly; on a motion of the Council of Ministers, determining the borders of the administrative territorial units and their headquarters; appointing and removing from office state officials; granting, restoring, relieving from and revoking the Bulgarian citizenship; granting asylum; exercising the right to pardon; cancelling uncollectible debts to the State etc. Following consultations with the parliamentary groups, the President appoints the Prime Minister-designate, nominated by the party holding the highest number of seats in Parliament to form a government. If the formation of a government cannot be reached, the President may appoint a caretaker government, dissolve Parliament and schedule new general elections. The President also chairs the Consultative National Security Council and is entitled to proclaim general or partial mobilisation upon a motion of the Council of Ministers. When the National Assembly is not in session, the President also proclaims a state of war, martial law, or any other state of emergency, which must be endorsed by the National Assembly.

16. The President issues decrees, which must be countersigned by the Prime Minister, or the minister concerned¹¹. As regards relations with the National Assembly, the President may exercise the right to veto a bill, returning it to the Assembly together with his/her motives for further debate. A majority of more than half of all members of the Assembly is required to override the presidential veto, in which case the President is bound to promulgate the bill within seven days from receipt.

17. GRECO agreed that a head of state would be covered in the Fifth Evaluation Round under “central governments (top executive functions)” when s/he actively participates on a regular basis in the development and/or the execution of governmental functions, or advises the government on such functions. These may include determining and implementing policies, enforcing laws, proposing and/or implementing legislation, adopting and implementing by-laws/normative decrees, taking decision on government expenditure, taking decisions on the appointment of individuals to top executive functions.

18. Stemming from the information provided by the authorities, confirmed in the course of the on-site visit by different interlocutors, the GET notes that the President of Bulgaria has procedural/ceremonial functions and has no active participation in the execution of the governmental functions as part of the executive branch of power. The President has no individual legislative initiative in Parliament and the core of his executive decisions are either based on a proposal or need the endorsement of the Prime Minister, a minister concerned, or the National Assembly. The President also has no political cabinet; secretaries of the Presidential Administration pertain to special administration assisting the President in the discharge of duties and do not fall within the definition of persons entrusted with top executive functions. Presidential decrees are mostly legal acts of single application, which expire upon implementation. Consequently, GRECO concludes that the functions of the President of Bulgaria do not fall within the category of “persons entrusted with top executive functions”.

¹¹ Except when a Presidential decree concerns any of the following: the appointment of a caretaker government, the appointment of a Prime Minister-designate, the dissolution of Parliament, the return of a bill to the Parliament for further debate, the organisation and functioning of the President’s office and the appointment of its staff, the scheduling of an election or referendum and the promulgation of a law.

The Government

19. The main executive power in Bulgaria is vested in the Council of Ministers, which is essentially the Government. The Council of Ministers, headed by the Prime Minister and composed of Deputy Prime Ministers and Ministers, is a central collegiate body of executive power with general competence. The Prime Minister directs and coordinates the government policy and is responsible for it. He/she appoints and dismisses deputy ministers (Article 108, paragraph 2, Constitution; Article 23, paragraph 6, Law on Administration). Ministers run separate ministries, which are responsible for their actions. At the time of the on-site visit, the composition of the cabinet was as follows: Prime Minister, five Deputy Prime Ministers (1. Deputy Prime Minister for EU Funds and Minister of Finance, 2. Deputy Prime Minister for Good Governance, 3. Deputy Prime Minister for Economy and Industry and Minister of Economy and Industry, 4. Deputy Prime Minister for Regional Development and Public Works and Minister of Regional Development and Public Works, and 5. Deputy Prime Minister for Climate Policies and Minister of Environment and Waters. The Government consisted of a total of 20 Ministers, of which five were women. In this respect, GRECO draws attention to the Committee of Ministers' [Recommendation Rec\(2003\)3 on balanced participation of women and men in political and public decision making](#), according to which making balanced participation of women and men is taken to mean that the representation of either women or men in any decision-making body in political or public life should not fall below 40%.

20. Decisions of the Council of Ministers are taken by simple majority with a quorum of at least half of the members, whether it be for the adoption of normative acts or other administrative acts. Deputy ministers may participate in the meetings and speak, but are not entitled to vote and are not taken into account for the purposes of the quorum. Ministers are responsible for the preparation of draft acts within the competence of the Government in their respective sectors. The draft acts are submitted for consideration by the minister in charge of the public relations subject to regulation. The Minister is a central body of the executive power with special competence and heads a separate ministry. The Minister directs, coordinates and controls the implementation of the state policy in accordance with his/her powers. The Minister may delegate his powers to a Deputy Minister (Article 26, paragraph 2, Law on Administration).

21. The National Assembly elects and dismisses the Prime Minister and, at his/her proposal, the members of the Council of Ministers. Also, it endorses changes in the government upon the proposal of the Prime Minister (Constitution, Article 84, paragraphs 6 and 7). At the proposal of the Prime Minister, the National Assembly creates, transforms and abolishes ministries.

22. All members of the Council of Ministers are accountable to the National Assembly, which is implemented through parliamentary control and direct hearings of Government members by the National Assembly, or through parliamentary committees and enquiries. Ministers report to both the National Assembly and the Prime Minister. For the development and implementation of a policy for which no ministry has been established, state agencies that are directly subordinated to the Council of Ministers may be established. At the ministries' level, executive agencies may be established for the administrative servicing of individuals and legal entities, as well as for the implementation of activities and services provided by the state authorities and the administration.

Other persons exercising top executive functions

23. In addition to members of the Government, the following functions are considered as political appointees, in the discharge of their respective offices for the duration of the term of the Government:

- Chiefs of the cabinets of the President of Bulgaria, of the Prime Minister, of the Deputy Prime Ministers and Ministers;
- Secretaries General of the President of the Republic and of the Council of Ministers (Government);
- Secretaries General/ Administrative Secretaries at the central government administration.

24. The Prime Minister, Deputy Prime Ministers and ministers operate, under their direct authority, respective political cabinets (Law on Administration, Articles 27 and 28 (1-4)). The Prime Minister, the Deputy Prime Ministers and the Ministers set up a political cabinet under their direct authority (Law on Administration, Article 28). The members of the Prime Minister's Political Cabinet are appointed by order of the Prime Minister. The members of political cabinets of ministers (with the exception of deputy ministers) are appointed by the respective minister. The composition of the political cabinets of the Deputy Prime Ministers, the number and type of positions of employees in the political cabinets, as well as the main tasks of advisors are determined by the Organisational Regulations of the Council of Ministers and its Administration (hereafter "Council of Ministers Regulations", last amended on 20 May 2022). The members of the political cabinet of the Deputy Prime Minister are appointed by the respective Deputy Prime Minister. A political cabinet is an organisational structure with advisory, control and information-analytical functions, which assists the relevant executive body in defining and pursuing government policies in the area of its powers. To implement the Council of Ministers' programme, political cabinets propose to executive bodies strategic priorities, goals and decisions related to their competence, and monitor their implementation. Political cabinets also organise the relations of respective executive bodies with other state bodies and with the public.

25. The Prime Minister's political cabinet includes the Chief of the cabinet, the spokesperson, the parliamentary secretary and the head of the Public Relations Department (Law on Administration, Article 28, paragraph 2), as well as advisors, experts and assistants. The Deputy Prime Ministers' political cabinets currently include the chief of the cabinet, advisors, experts and assistants (Article 19, Council of Ministers' Regulations). The ministers' political cabinets include deputy ministers, chief of the cabinet, the parliamentary secretary, the head of public relations unit, advisers, experts and technical assistants. Exceptionally, the political cabinet of the Minister of Foreign Affairs also includes a spokesperson.

26. The recruitment of members of political cabinets is left to the discretion of the Prime Minister/Deputy Prime Ministers and ministers. According to Article 28, paragraph 5 of the Law on Administration, members and staff of political cabinets discharge their duties on the basis of an employment contract entered into with the authority whose political cabinet they serve. Contracts concluded with members of political cabinets are terminated at the discretion of the respective executive authority (the Prime Minister, Deputy Prime Minister, ministers), or upon termination of the powers thereof. The executive authority may delegate to the chief

of the cabinet specific powers relating to employment of members, advisers, experts and technical assistants of the political cabinet, with the exception of the termination of the contract, and disciplinary sanctions.

27. As per Article 28, paragraph 3 of the Law on Administration, the composition of the political cabinets of the deputy prime ministers, as well as the number and type of the positions of employees at the political cabinets, is to be determined by the Council of Ministers Regulations. The GET notes that. Annex No. 3 of the Council of Ministers Regulations indicates a total number of employees in the administration of the Council of Ministers, including those in political cabinets of the Prime Minister and Deputy Prime Ministers. Further, the number of members of political cabinets of ministers are said to be defined in their respective regulations¹².

28. Pursuant to Articles 16-19 of the Council of Ministers Regulations, all members of political cabinets, including advisers and experts, perform key functions in the executive, directly or indirectly influencing the decisions¹³ taken by these executive bodies; therefore, for the purposes of the current evaluation, the GET is of the view that they fall into the category of “persons entrusted with top executive functions”, i.e. the Prime Minister, ministers and members of political cabinets, including advisers and experts.

29. Alongside political cabinets, secretaries general in different bodies of the executive (the Council of Ministers, ministries, etc.) play a fundamental role in preparing and implementing top executive functions in central government¹⁴. Article 8, paragraph 3 of the Law on Administration stipulates that the chief secretary is appointed by the respective body. The Secretaries General are considered as persons holding managerial positions in the civil service. Therefore, they are recruited under the provisions of the Law on Civil Servants, through a competitive recruitment procedure (Articles 10, 10b, the Law on Civil Servants). Stemming from their prominent role in the organisation of work and decision-making in

¹² Thus, the Council of Ministers Regulations indicate that the Prime Minister’s political cabinet may have up to 17 members, the Rules of Procedure of the Ministry of Justice stipulate that the political cabinet of the Minister may be composed of not more than eight members; and the Rules of Procedure of the Ministry of Finance provide for a 19-member political cabinet.

¹³ In particular the Chief of the Prime Minister's political cabinet draws up the Prime Minister's programme; organises the relations of the Prime Minister with the members of the Council of Ministers, other state bodies and bodies of local self-government, as well as with the leadership of political and public organisations and with citizens; organises the meetings of the political cabinet; ensures coordination of the work of the Prime Minister’s political cabinet with political cabinets of ministers; leads the work of advisers, experts and technical assistants at the political cabinet. Further, the advisers and experts at the Prime Minister’s political cabinet collect, summarise and analyse information necessary for strategic planning and the development of government policies; monitor and prepare analyses regarding the implementation of the government's programme; prepare reports, analyses, expert opinions and other materials on issues under consideration by the Prime Minister's political cabinet. An adviser in the Prime Minister's political cabinet also serves as the secretary of the Security Council. Similar functions are performed by members of political cabinets of Deputy Prime Ministers. In addition, Article 19, paragraph 3 stipulates that the advisers and experts to the political cabinet collect, summarise and analyse information and develop projects of political decisions in areas coordinated by respective Deputy Prime Ministers; prepare reports, analyses, expert opinions and other materials on issues coordinated by respective Deputy Prime Ministers.

¹⁴ According to Article 8 of the Law on Administration, administrative direction of the administration of a body of state power shall be implemented by a chief secretary or by a municipal secretary, respectively. A chief secretary directs the administration by coordinating and controlling administrative units for compliance with statutory instruments and lawful directives of the [competent] body of state power and is responsible for planning and reporting on the implementation of annual objectives of the administration.

executive bodies, in view of the GET, secretaries general fall in the category of persons entrusted with top executive functions, and are regarded as such for the purpose of this report.

30. Apart from political appointees, each ministry and public body of the executive has state administration employees, who are civil servants with their appointment and professional relationship being regulated by the Law on Civil Servants, Law on Administration, Labour Code etc. It is recalled that civil servants have already been evaluated within the framework of GRECO's Second Evaluation Round and these categories are not considered as PTEFs in this regard.

Vetting and publicity

31. As regards the vetting of political appointees prior to their appointment, some guidance as to the criteria to be followed when appointing members of political cabinets can be drawn in the Coalition Agreement concluded in December 2021¹⁵ among the four political entities forming the then-ruling coalition. These include having prior clearance from the National Revenue Agency and National Security Service, clear criminal record, no allegations pending in court, no public payments due by candidates for appointment, or companies in their ownership etc. However, the Agreement only generated political obligation, applicable to its members, limited to the duration of the Government composed of these political entities, and is no longer in force. No legal provisions appear to be in place in this regard. With this in mind, **GRECO recommends introducing rules on incompatibilities and vetting based on integrity criteria in respect of employment of persons hired at the discretion of central government to give advice to persons entrusted with top executive functions or to perform similar functions.**

32. As to the publicity of members of political cabinets, the GET was told that the names of political advisors of the Prime Minister were public, and that the Council of Ministers instructed ministries to publish compositions of their respective political cabinets. However, whether this instruction is consistently followed by all ministries remains unclear. Regarding the salaries, their range for some members of political cabinets is public, but the specific salaries are disclosed only upon request. The ancillary activities of the cabinet members (when they engage in such activities) are not disclosed to the public.

33. **GRECO recommends to regulate that continuously updated information on the names, functions and remuneration - and ancillary activities as appropriate - of the members of the political cabinets involved in top executive functions, are disclosed in a way that provides for easy, appropriate public access on-line.**

Status and remuneration of persons with top executive functions

¹⁵ The Agreement on Joint Management of the Republic of Bulgaria in the period 2021-2025 concluded between the political parties that formed the Government of Bulgaria as a result of the general elections on 14 November 2021, was published online on 10 December 2021. The Agreement, *inter alia*, defined political priorities, as well as short- and medium-term objectives in key policy areas and the modalities for achieving them. One of the main objectives of the Agreement was ensuring that Bulgaria is "the country that sets the model for a successful fight against corruption".

34. The amount of remuneration of the Prime Minister, the Deputy Prime Ministers and the Ministers is determined by the Council of Ministers' Decision No 240 of 6 December 1990 on fixing the salaries of senior executives in State bodies. Salary of members of political cabinet other than the chiefs is not higher than BGN 4 100 (EUR 2 050) (the salary of the Government Spokesperson and the Parliamentary Secretary in the Prime Minister's Office being the highest). The maximum salary for advisers in the Prime Minister's cabinet and minister's cabinets is BGN 3 250 (EUR 1 625) and BGN 2 800 (EUR 1 400) respectively. At present, the basic monthly salaries of persons entrusted with top executive functions are as follows:

<i>Persons with top executive functions</i>	<i>Basic salary (Q3 2022)</i>
Prime Minister	BGN 7975.00 (EUR 4080)
Deputy Prime Ministers	BGN 7547.00 (EUR 3860)
Ministers	BGN 6946.00 (EUR 3550)
Chief of the Prime Minister's Cabinet	BGN 6251.40 (EUR 3200)
Heads of Cabinets of the Deputy Prime Ministers	BGN 5972.95 (EUR 3050)
Heads of Cabinets of the Ministers	BGN 5621.60 (EUR 2870)

35. The Bulgarian legislation does not envisage any special taxation regime for the PTEFs. Public officials, including PTEFs, may rent state-owned dwellings garages and parking lots in properties leased to government agencies¹⁶. The Bulgarian legislation does not provide for benefits or privileges for the PTEF after leaving/removal from office.

36. The Council of Ministers Regulations entitle the Prime Minister, the Deputy Prime Ministers, the Heads of their political Cabinets and the Secretary General of the Council of Ministers to expenditures for representative purposes¹⁷, provided for in the budget of the Council of Ministers. Similar expenditures are foreseen for ministers under budgets of respective ministries. The amount of these expenditures is generally limited to BGN 250 (about EUR 125) per month, with requests being made through the Government Protocol Directorate of the Council of Ministers.

Anticorruption and integrity policy, regulatory and institutional framework

Anticorruption and integrity policy

37. The legislative and institutional measures for preventing and combating corruption, including in respect of the PTEFs, are provided in the current National Strategy for Preventing and Combating Corruption in the Republic of Bulgaria for 2021 - 2027 (hereafter – “National Anti-Corruption Strategy”), adopted by the Council of Ministers on 19 March 2021. It builds upon the previous National Strategy for Prevention and Combating Corruption for 2015-

¹⁶ As provided by Chapter Three entitled “Renting Real Estate - Private State Property” of the Regulation for Application of the State Property Act.

¹⁷ Article 27, paragraphs 2 and 3 of the Council of Ministers Regulations.

2020¹⁸. The National Anticorruption Strategy consists of seven core priorities, each having a set of dedicated measures. The Strategy is accompanied by an implementation roadmap, setting out actions for the implementation of each measures under respective priorities, performance indicators, responsible and participating institutions, financing and implementation deadlines. In view of the GET, the National Strategy highlights important shortcomings and sets key milestones to be achieved in order to strengthen the anti-corruption response in Bulgaria. As a whole, it provides a solid basis for concrete steps to be taken in this respect. The GET encourages the Bulgarian authorities to ensure full and efficient implementation of measures envisaged under the National Anti-Corruption Strategy, along with the evaluation of implementation results, so as to ensure that the next anti-corruption policy document is based on lessons learned and takes into account any new challenges identified. However, a methodology for risk analysis covering persons entrusted with top executive functions is required to this end (see paragraphs 38-39 below).

38. The GET notes that one of the measures envisaged under the National Strategy for Preventing and Combating Corruption for 2021-2027 is introducing an effective system for checking the integrity of employees in the administration holding positions with high corruption risk. This includes establishing effective systems for checking the integrity of employees in these structures, as well as creating effective methodologies for assessing the risk of corrupt behaviour. According to domestic law (Anti-Corruption Law, Articles 30, 32), the risk management of corruption is to be addressed by the Commission on Countering Corruption and Forfeiture of Unlawfully Acquired Assets (hereafter – the Anti-Corruption Commission)¹⁹, the Chief Inspectorate of the Council of Ministers and inspectorates. The GET was told that preparatory work is in the pipeline; however, the gradual introduction of the anti-corruption risk assessment methodology for officials in the administration holding high corruption-risk positions is only envisaged to be completed by 2025. While the National Anti-Corruption Strategy is a valuable policy instrument, and the short-lived Coalition Agreement generated certain political commitments, the GET notes that at present, no risk assessment methodology is in place in Bulgaria as regards identifying and preventing corrupt behaviour, not only as regards PTEFs, but the executive bodies in general.

39. GRECO recommends that a methodology for risk analysis covering persons entrusted with top executive functions' specific integrity risks is adopted as a matter of priority, such analysis be carried out on a regular basis and remedial measures be included in the anti-corruption guidance documents of the Council of Ministers and ministries.

Legal framework, ethical principles and rules of conduct

40. On 12 January 2018 the National Assembly adopted the Law on Countering Corruption and Forfeiture of Unlawfully Acquired Assets (hereafter “Anti-Corruption Law”), which entered into force on 23 January 2018. The Anti-Corruption Law applies to 50 categories of high level public officials, including the President, the Vice President, the Prime Minister,

¹⁸ The text of the National Strategy for Prevention and Combating Corruption for 2015-2020 is accessible via the following link: https://rai-see.org/wp-content/uploads/2015/08/Bulgaria_Anti-corruption_strategy_-_2015.pdf

¹⁹ Through implementing the State policy on corruption prevention, collecting summarising and analysing information on the national anti-corruption measures, consulting draft legislation on the subject of possible corruption risk, identifying and analysing corruption risk zones, developing methodologies for corruption risk assessment, standards of ethical conduct and integrity testing systems and assisting in their application.

Deputy Prime Ministers, ministers, deputy ministers and the chiefs of political cabinets (Article 6, paragraph 1 of the Law). Article 6, paragraph 1, sub-paragraph 26 of the Anti-Corruption Law stipulates that the Secretary General and the Deputy Secretary General of the Ministry of the Interior, as well as the Administrative Secretary, directors general and deputy directors general, the Director of the Internal Security Directorate, regional directors and deputy regional directors of the Ministry of the Interior also fall within the scope of application of this Law. The secretaries general of the Council of Ministers, the National Assembly, the President, and other bodies in the executive administration are also considered as “senior public office holders” under Article 6, paragraph 1, sub-paragraph 28 of this Law, and are therefore subject to transparency and accountability obligations under chapters Five and Eight of the Anti-Corruption Law, and are also covered by administrative penalty provisions under Chapter Fifteen of this Law.

41. In addition, under §2, paragraph 1(4) of the Supplementary Provisions of the Anti-Corruption Law, the rules on declarations, conflicts of interest and sanctions also apply to members of political cabinets other than those specified in Article 6, paragraph 1, including advisers and experts in political cabinets.

42. The first code of conduct for officials of public administration was adopted by the Council of Ministers in 2004. It has been replaced by the new Code of Conduct for State Administration Employees (hereafter “Code of Conduct”), adopted by the Council of Ministers’ Decree No. 57 of 2 April 2020 and in force as of 8 May 2020. The Code of Conduct regulates the behaviour of all the employees in the public administration as well as the employees of local government bodies²⁰, in so far as they are not subject to a special law or decree of the President.

43. While the relatively recent adoption of the Code of Conduct applicable to staff of public administration is a positive development, it would appear that this Code does not cover persons entrusted with top executive functions. The provisions of the Code of Conduct consistently refer to “employees of state administration”, making no mention of senior officials (Prime Minister, Deputy Prime Ministers, ministers, chiefs of political cabinets etc.). Further, the GET notes that pursuant to Article 3 of the Law on Civil Servants, members of political cabinets, advisors and experts in such cabinets, are not considered civil servants, which would suggest that they are excluded from the scope of application of the Code of Conduct. To confirm this conclusion, the GET refers to the National Anti-Corruption Strategy for 2021-2027, which envisages developing a Code of Ethics for persons holding senior public positions in the executive²¹. In the course of the on-site visit, the GET received divergent information from different interlocutors as to the applicability of the Code of Conduct to PTEFs. There appears to be not sufficient awareness among various authorities of this subject. After the visit, the authorities submitted that preparation and adoption of a Code of Ethical Behaviour of Persons Holding Senior Public Positions in the Executive Power was planned to be accomplished by 1 January 2023²². The GET stresses that, bearing in mind the magnitude

²⁰ The Code of Conduct for State Administration Employees consists of seven chapters whereby it sets out the principles to be observed by state administration employees, regulates matters such as relations with individuals, legal entities and other organisations, professional conduct, anti-corruption behaviour, relations with colleagues, and personal conduct.

²¹ Measure 5, Priority 1 of the National Anti-Corruption Strategy for 2021-2027.

²² The leading institution for the development of the Code of Ethical Conduct for persons, holding senior position in the executive power is the Chief Inspectorate of the Council of Ministers. The Anti-Corruption Commission will

of the problem of corruption in Bulgaria, and the need to enhance transparency and accountability in central government, the lack of enforceable rules of conduct for persons entrusted with top executive functions is a serious shortcoming that should be addressed as a matter of priority.

44. Therefore, **GRECO recommends that (i) a comprehensive code of conduct for persons entrusted with top executive functions be adopted, published and complemented with clear guidance regarding conflicts of interest and other integrity related matters (contacts with third parties, gifts and other benefits, ancillary activities, contracts with state authorities, post-employment restrictions etc.) and (ii) this code be accompanied with a credible and efficient supervisory mechanism, envisaging specific sanctions for violations and tools for their enforcement.**

Institutional framework

The National Anti-Corruption Council

45. The National Council on Anti-Corruption Policies (hereafter “NCACP”) was set up in May 2015²³ by the Council of Ministers as an inter-ministerial body with advisory, coordinating and control functions with regard to the development and implementation of policies in the field of prevention and counteraction to corruption. The NCACP is said to monitor the implementation of the strategic and programme documents and organise independent evaluation to this end. In the course of the on-site visit, the GET heard from representatives of different public bodies that in recent years the NCACP has been inactive, with the most recent meeting dating back to January 2019, and its most recent published report – to 2017. It would appear that the NCACP has no secretariat of its own, as these functions are carried out by the Chief Inspectorate of the Council of Ministers²⁴. The GET was left with the impression that the separation of tasks between the NCACP and the Anti-Corruption Commission was not clearly understood by interlocutors interviewed on-site, including representatives of the Anti-Corruption Commission.

The Anti-Corruption Commission

46. The Anti-Corruption Law provides for establishment of a single anti-corruption body (the Commission on Countering Corruption and Forfeiture of Unlawfully Acquired Assets, hereafter the “Anti-Corruption Commission”²⁵) combining the functions on verification of assets declarations of high-level public officials and ascertainment of conflicts of interest and

participate in the working group for the development of the Code of Ethics, envisaged to be set up for this purpose.

²³ Council of Ministers’ Decree No. 136 of 29 May 2015, as amended.

²⁴ The National Anti-Corruption Strategy recognises the need to “form a permanent secretariat to the NCACP composed of civil servants to ensure the specified activity of the NCACP”, as stated under Measure 1 of Priority 1 entitled “Strengthening capacity and increasing transparency of operation of anti-corruption bodies and unit”.

²⁵ The Commission is a successor to the Commission for Prevention and Ascertainment of Conflicts of Interests and the Centre for Prevention and Combating of Corruption and Organised Crime at the Council of Ministers, the Public Register Service at the National Audit Office relating to the activities under the repealed Law on Transparency of Assets of Officials Holding High State and Other positions, the respective specialised Department of the State Agency “National Security” for combating corruption among senior government positions and the Commission for Establishing of Property Acquired from Criminal Activity established by the repealed Law on Forfeiture of Property Acquired from Criminal Activity of 2005.

of the illegally acquired property by high-level public officials. The Anti-Corruption Commission consists of five members: a Chairperson, a Deputy Chairperson, and three members, all having a six-year term of office. Article 8 of the Anti-Corruption Law states that the Chairperson²⁶ of the Commission is elected by the National Assembly on a nomination by MPs. The Deputy Chairperson²⁷ and other members²⁸ of the Commission are elected by the National Assembly upon nomination by the Chairperson of the Commission. The activity of the Anti-Corruption Commission is supervised by the National Assembly through yearly reports, which are also published on the Anti-Corruption Commission's website.

47. The Anti-Corruption Law contains detailed provisions aiming at transparency of the selection process of the Chairperson of the Anti-Corruption Commission. Thus, nominations for Chairperson must be presented to the National Assembly not earlier than three months and not later than two months prior to the expiry of the term of office of the Commission and be published, along with their curriculum vitae, on the website of the Assembly, within two working days from their receipt. They must be accompanied by detailed reasoning regarding the professional standing and moral integrity of the candidates; documentary proof of compliance with the requirements to hold the position. Along with the nominations, the name and reasons of the MP submitting the candidature should also be published. Each candidate must submit to the parliamentary committee preparing the election, within seven days from publication of their respective nominations, a written concept on their work as member of the Commission, a declaration of incompatibility and a declaration of assets and interests, which must be published on the Assembly website. Not later than seven days prior to the hearing, civil society organisations, academic institutions and scientific organisations may submit opinions about candidates to the Commission, including questions to be put to the said candidate. A similar screening process is envisaged for the Vice-Chair and members of the Commission; however, in this case, candidates are nominated by the Chairperson of the Commission, instead of the MPs.

48. The parliamentary committee responsible for combating corruption and conflict of interest conducts the vetting of candidates by cross-checking their possible affiliation to the State Security Service and the intelligence services of the Bulgarian National Army, by requesting relevant information from the Committee on Disclosure of the Documents and Announcing the Affiliation of Bulgarian Citizens with the State Security Service and the Intelligence Services of the Bulgarian National Army. Hearings of each candidate is to be conducted by the parliamentary committee at a public meeting not later than seven days prior to election, and a full record of proceedings is published on the website of the National Assembly. The parliamentary committee prepares a detailed and reasoned report on professional standing and moral integrity of the candidates, which is published on the Assembly website. The National Assembly votes for each of the candidates separately.

49. The GET takes note of the detailed rules setting out the procedure for selecting the Chairperson of the Commission, which appear to provide considerable safeguards for the

²⁶ A Bulgarian citizen of high professional standing and moral integrity, who holds a university degree in law and has practised law for at least ten years, shall be elected Chairperson of the Commission.

²⁷ A Bulgarian citizen of high professional standing and moral integrity, who holds a university degree in economics or in law, has been awarded the educational qualification degree of Master and has at least five years of relevant experience, shall be elected Deputy Chairperson of the Commission

²⁸ Bulgarian citizens of high professional standing and moral integrity, who hold a university degree, have been awarded the educational qualification degree of Master and have at least five years of relevant experience, shall be elected members of the Commission.

transparency of the process, including the vetting of candidates. The screening of candidates to be appointed as Vice-Chair and members of the Commission by the National Assembly follows a similar procedure as that of the Chair of the Commission (Article 9, paragraph 10 of the Anti-Corruption Law). However, the GET notes that candidates are individually chosen by the Chairperson and proposed to the National Assembly, at his/her personal discretion and without any prior selection process. Selecting of candidates to become members of a principal anti-corruption body, with key policy and operational tasks such as promoting integrity, transparency and accountability etc. should not be left to an individual decision, but be subject to higher degree of safeguards and transparency to strengthen public trust in its impartiality and promote the credibility of the anti-corruption system in Bulgaria.

50. In the course of the visit, the GET was presented with a widely shared opinion among representatives of the authorities and civil society that the Anti-Corruption Commission, which has a broad range of competences (e.g., verifying asset and interest declarations, initiating investigations into corruption-related offences and proceedings with asset forfeiture) is largely ineffective. The National Assembly did not approve the 2021 annual report of the Anti-Corruption Commission, but no explanations were offered as to the reasons for this.

51. On 7 October 2022, the authorities informed GRECO that on 30 September 2022, a new draft Law on Countering Corruption among Persons Holding Senior Public Office was made available for public consultations for the period from 30 September to 14 October. The new draft considerably re-vamps the structure, election procedure and mandate of the current Anti-Corruption Commission and introduces the following novelties:

- the Anti-Corruption Commission is split into two independent bodies: the Commission for Countering Corruption and the Commission for Establishing Conflicts of Interest and Confiscation of Illegally Acquired Property;
- the anti-corruption activity will be carried out in two directions: the prevention of corruption and the operative activity to investigate corruption offences; the new Commission for Countering Corruption (“new Commission”) will no longer have the task of establishing conflict of interests and verifying asset declarations;
- the definition of corruption will be replaced by indication of corruption offences in respect of which the new Commission may exercise its powers;
- the range of persons holding high-level public office, in respect to whom the new Commission may start an investigation, will be narrowed down to include 17 categories of persons occupying highest positions at central and local level;
- the rules for electing the members of the new Commission will be amended to the effect that two of the members will be elected by the National Assembly, one appointed by the President of Bulgaria, one by the General Assembly of Judges of the Supreme Court of Cassation and one by the General Assembly of Judges of the Supreme Administrative Court. The new Commission will be chaired on a rotating basis and its members have a five-year mandate, without the possibility to be re-elected;
- the officials of the new Commission will be the investigating authorities for corruption offences, within the meaning of the Criminal Procedure Code (similar to investigating police officers and investigating customs inspectors);

52. To reflect these novelties, the authorities intend to make significant amendments to the Anti-Corruption Law in narrowing its scope to regulate the activities on conflict of interest

prevention, publicity of the assets and interests of a wide range of persons and the confiscation of illegally acquired assets.

53. The GET takes note of the new draft Law on Countering Corruption among Persons Holding Senior Public Office. While some of its provisions appear to constitute improvement to the current modalities regarding the setting up of the Anti-Corruption Commission, the GET is not in a position to provide detailed opinion on the draft at this stage. Much will depend on the evolution of the draft Law during the legislative process, including the public consultation, for which once again the authorities allowed only a very short time (see paragraph 70). In view of the preceding paragraphs, **GRECO recommends (i) that the relations and coordination between the National Anti-Corruption Council and the Anti-Corruption Commission (or its successors) as well as their respective tasks be clarified; (ii) that the selection and appointment process of all the members of the Anti-Corruption Commission be based on merit, transparency and subject to safeguards that prevent undue political influence.**

Awareness

54. As per Article 32, paragraph 1, item 6 of the Anti-Corruption Law the functions of the Anti-Corruption Commission include developing corruption risk assessment methodologies, standards of ethical conduct, systems for checking integrity, and assisting public bodies in their implementation. The senior government officials (including the Prime Minister, Deputy Prime Ministers, Ministers and Deputy Ministers) can obtain information and advice on the integrity rules and relevant legislation from the Chief Inspectorate at the Council of Ministers. Other members of the political cabinets can obtain information and advice on the integrity rules and relevant legislation from inspectorates established in their respective ministries.

55. Activities undertaken by the Anti-Corruption Commission in the implementation of the state anti-corruption policy also include dissemination of information related to counteracting corruption, anti-corruption policies and measures (Article 30, item 3, Anti-Corruption Law). In connection with the fulfilment of these obligations, the Anti-Corruption Commission is mandated to: 1) organise training, seminars and information campaigns with an anti-corruption focus; 2) deliver opinions on requests from interested parties on the implementation of the law in relation to the prevention of corruption; 3) organise opinion polls and analysis. The authorities referred to several training activities organised by the Anti-Corruption Commission for various public bodies, including under the recently concluded memorandum of cooperation between the Commission, the University of National and World Economy (UNWE), the Ombudsman and the Commission for Combating Corruption, Conflict of Interest and Parliamentary Ethics of the National Assembly. However, these activities did not involve any PTEFs.

56. In the course of the on-site visit, the GET was informed that as no specific rules of conduct applicable to PTEFs are in place, no awareness activities were being conducted for PTEFs on integrity matters, nor is there any dedicated mechanism for confidential counselling on ethical issues. Representatives of the Chief Inspectorate of the Council of Ministers and of the Anti-Corruption Commission stated that PTEFs “were free to approach” the Commission and the Chief Inspectorate for advice on integrity matters, but this was a rather informal arrangement, on which no awareness-raising has been carried out. It is also unclear whether and to what extent confidentiality is ensured during such consultations. The GET has concerns over the conflation of roles of the Anti-Corruption Commission to provide confidential advice

on the one hand and institute investigations on the other hand. To avoid any perceived conflicts of interests and apparent lack of impartiality, it may be best if these two distinct functions were assumed by separate bodies or entities, as envisaged in the draft Law on Countering Corruption among Persons Holding Senior Public Office (see paragraph 51).

57. The GET stresses that awareness of applicable integrity rules and the possibility of seeking confidential advice on their substance and application are essential for strengthening integrity in decision-making and guide PTEFs when dealing with ethical dilemmas in their daily activities. Therefore, **GRECO recommends that (i) dedicated awareness-raising/training of persons with top executive functions on integrity related matters, including the future Code of Conduct, be provided, when taking up their positions and at regular intervals thereafter; (ii) effective confidential counselling on integrity related issues be established for PTEFs, and (iii) an effective mechanism be developed to ensure consistency of advice among those responsible for giving advice on ethical matters.**

Transparency and oversight of executive activities of central government

Access to information

58. Access to information is regulated mainly by constitutional provisions and the Law on Access to Public Information of 2000. The Law on Access to Public Information endows Bulgarian nationals, as well as foreigners and stateless persons on its territory, with the right to access public information in accordance with the procedure established in this Law (Article 4). Since 2019 the Council of Ministers operates the Public Information Platform²⁹, bringing together some 587 institutions, including those of the executive power, as well as all municipalities. Further, it is reported that the draft of the Law on Access to Public Information envisages integrating all requests for information submitted electronically into the Public Information Platform. Access to information may be restricted if it relates to information that is classified, or otherwise protected by law as secret information. Further access to administrative public information may be restricted (Article 13, paragraph 2) when it concerns internal preparation of the acts of public authorities, having no relevance on their own, contains opinions and positions in connection with present or future negotiations conducted by public authority. Paragraph 3 of the same article states that access to administrative public information may not be restricted if there is an overriding public interest.

59. The requests for public information may be made orally or in writing, including by means of electronic communication (Article 24) and should indicate the name and last name of the applicant, the description of information requested, preferred form of access to requested information and the applicant's address (Article 25). Unless these requirements are met, the application will be left without consideration. Requests for information must be responded as soon as practicable, and in any case not later than 14 days from the date of registration of the request (Article 28, paragraph 1). The authority to which the request is addressed, must inform the applicant in writing of its decision following the request, including the refusal to provide information (Article 28, paragraph 2). The 14-day period may be extended by not more than ten days, where the information requested is voluminous and its retrieval requires additional time (Article 30, paragraph 1). It may also be extended by up to a

²⁹ Accessible via the following link:

<https://pitay.government.bg/PDoiExt/indexExt.jsf;jsessionid=lwZaUxvNyd2w1qdi-vO5SrqTUE0Mo7zJqOxXDb9x.egp16-app1p>

further fourteen days, where the disclosure of the requested information is subject to consent by a third party, to which this information pertains (Article 31, paragraph 1).

60. The Law on Access to Public Information does not envisage a dedicated public body to supervise its implementation and receive complaints. Any decision regarding access to public information is subject to appeal before the administrative body to which the request for information was addressed, or before administrative courts, according to the procedure established by the Administrative Procedure Code. The Law also envisages various sanctions to be imposed on officials for unlawful refusal to provide information, from 50 BGN (about 25 EUR) to 100 BGN (about 50 EUR) as well as for not following the court decision to grant access to information (from 200 to 2000 BGN, or 100 to 1000 EUR). According to the authorities, the Council of Ministers administration distributed Guidelines on the implementation of the Law on Access to Information, as well as the model of the internal rules to be applied by executive bodies, in order to unify the practice among different executive bodies in implementation of this law. A working group with a similar task was established at the end of 2021 under the Council for Administrative Reform. Further, annual reports on the State of Access to Information are being prepared by Access to Information Programme Foundation.

61. The GET notes that Bulgaria has neither signed nor ratified the Council of Europe Convention on Access to Official Documents (CETS No. 205) and encourages the authorities to do so³⁰. In the course of the on-site visit, representatives of civil society shared the view that in practice, access to information varies from one institution to another, with some being rather open, while others, citing the Prosecutor's Office, are rarely, if ever, responding to information requests. Other examples of "administrative silence" concerned the Ministry of Economy and, lately, the Ministry of the Interior. The GET was also informed of several occasions, when, following an unanswered request for public information, it was appealed to court and was finally granted on the basis of court decision. Representatives of the Office of the Ombudsperson confirmed that a large number of the complaints received on the subject of good administration relate to access to information.

62. The GET was left with the impression that the magnitude of the problem of corruption in Bulgaria is not adequately reflected in the media. In this regard, the GET also refers to the latest World Press Freedom Index by Reporters without Borders, which suggests that political affiliation of the members of the Council for Electronic Media negatively affects the editorial independence of the public media, and the independence of private media is threatened by their owners' interests. Further, intimidation from politicians as well as administrative and judicial pressures against publishers and journalists are a common practice. Independent media and investigative journalists are regularly targeted by Strategic lawsuits against public participation (SLAPPs) of other abusive procedures aiming at silencing them. The investigative journalists interviewed by the GET on-site corroborated the above assessment by confirming that they regularly face threats, at times even physical assaults, as well as SLAPPs aiming to hamper or disable their work.

63. The GET underscores that in a context where media environment is marked with uneven distribution of funds, often used for influencing reporting, with systematic attempts to silence investigative journalists covering organised crime and corruption, and no adequate protection measures taken by the state (see paragraph 13), timely, efficient and broad access

³⁰ The authorities indicated that accession to the CETS no. 205 is envisaged under the 4th National Action Plan under the Open Government Partnership initiative.

to public information is even more important for fostering publicity, transparency and accountability of persons entrusted with top executive functions, as well as law enforcement bodies. In this regard, well-developed practice of the implementation of legislation to access public information of other member States should be considered in Bulgaria, such as development of clear guidelines on processing requests of information and providing timely responses to such requests, establishment of a specialised body to oversee implementation of relevant legislation, effectiveness of appeal mechanisms, etc. In light of the above, **GRECO recommends that an independent assessment of the practical implementation of the legislation regarding access to information and practices of the executive bodies be carried out in order to (i) improve the legislation, including its mechanisms and oversight; and (ii) bring the use of exceptions or derogations to granting the requests for public information to the strict minimum necessary for safeguarding legitimate interests of the State or third parties.**

Transparency of the law-making process

64. According to the Law on Normative Acts, the legislative initiative of the Council of Ministers is implemented on the basis of a legislative programme, and the adoption of by-laws is based on an operational programme, both adopted by the Council of Ministers for a six-month period. The legislative and operational programmes are published on the Public Consultation Portal³¹. The decrees, orders and decisions approved by the Government are published on the Council of Ministers' website - the Legal Information System of the Council of Ministers³². The agenda of meetings of the Council of Ministers is published on the Council's website, while the transcripts of meetings are published on the Council's Legal Information System.

65. The Bulgarian legislation (Law on Normative Acts, Article 26, paragraphs 2-4) requires that in the process of drafting legislative acts, public consultations should be conducted with citizens and legal entities. Prior to submitting a draft regulatory act for adoption, the drafting institution/body must publish it on its website, along with the report and the preliminary impact assessment of the draft, and the reasons for its adoption. When the drafter is an executive body (i.e., Council of Ministers, ministry etc.), this information is to be published on the Public Consultation Portal. The deadline for submitting proposals on draft legal acts should not be less than 30 days. In exceptional cases the deadline may be shorter, but not less than 14 days, the reasons for which must be duly explained in the report accompanying the draft legislation. The outcome of the public consultation should be reflected in a summary of the proposals received, together with explanations on proposals that were rejected, which is also made public.

66. In addition, the Administrative Procedure Code stipulates that preparation of by-laws should be carried out with the observance of principles of accessibility, transparency, openness, accuracy and completeness of information in the administrative procedure (Article 12). In case of procedural violations, newly adopted legislation may be subject to judicial review by the Supreme Administrative Court, which may repeal it, if the by-law in question was adopted in violation of the principles specified in the Law on Normative Acts or Administrative Procedure Code.

³¹ <https://www.strategy.bg>

³² <https://pris.government.bg/prin/login.aspx?ReturnUrl=%2fprin%2fdefault.aspx>

67. Chapter Six³³ of the Council of Minister Regulations³⁴ stipulates that when making and implementing its decisions, the activity of the Council of Ministers is based on the principle of publicity, except when national security, protection of classified information representing a state or official secret, or other important reasons³⁵ require a limitation of this principle. The Regulations reiterate that draft legislation should be published on the public consultations' portal and makes cross-references to the relevant provisions of the Administrative Procedure Code and the Law on Normative Acts.

68. As to the transparency of the budget of central executive bodies and accounts of ministries overseen by the PTEFs, the Law on Public Finances (Article 7, paragraph 1) requires that the Council of Ministers organises and manages the drafting, submission to the National Assembly and implementation of the state budget through the Minister of Finance and the primary budget spending units.

69. Representatives of the Prime Minister's Office informed the GET that in practice, agendas of the meetings are systematically published on the Council of Ministers' website and that media are informed of the items to be discussed in advance of each Council meeting. At its onset, representatives of the media are invited to the opening of the Government session, where the Prime Minister announces the items of the agenda. Thereafter, media are invited to leave the deliberations, and are informed after the Government session by a member of the cabinet, or the Prime Minister, of the summary of the meeting and the most important decisions taken. Information about decisions taken is placed on the website of the Council of Ministers on the same or the following day.

70. As to the public consultations on draft legislation, the GET was informed by several interlocutors that the requirement of conducting 30-day public consultations on draft legislation was generally respected by the executive authorities, when the legislative initiative emanated from the Government. However, this procedure would not be mandatory in respect of draft legislation proposed by members of the National Assembly, in which case a much shorter deadline could be established. The GET received assertions that this path would often be chosen by the executive to circumvent the 30-day period for public consultations and other transparency requirements, which drastically limited the opportunity for a meaningful public consultation on such draft legislation, and risked erasing the legislative footprint as a result. The GET notes that a 14-day consultation period has most recently been provided for a public consultation of the new draft Law on Countering Corruption among Persons Holding Senior Public Office (see paragraph 51 above). Representatives of the Prime Minister's Office and the Ministry of Justice met on-site affirmed that 14-day time limit has indeed been applied in respect of 24% of draft legislation emanating from the current Council of Ministers, which was mainly due to the urgency of bringing Bulgarian legislation in some areas into compliance with

³³ Entitled "Publicity of the work of the Council of Ministers".

³⁴ Adopted by the Council of Ministers' Decision No. 229 of 23 September 2009, with the latest amendment on 25 October 2022.

³⁵ According to the authorities, "other important reasons" is one of the blanket terms used in the Bulgarian national legislation, covering diverse cases within the meaning of each of these laws. In this particular case, the scope of the term is clarified in administrative and judicial practice. Pursuant to Article 73 of the Administrative Procedure Code, where a general administrative act is to be issued urgently... to safeguard the life, health and property of citizens, some of the provisions governing the public consultation procedure on the draft may be waived. That is, along with national security and the protection of classified information, the urgency of adopting a general administrative act in order to secure the life, health and property of citizens may also be an important reason for limiting the principle of publicity in the decision-making of the Council of Ministers.

the EU law, and the need to adopt emergency measures during the Covid-19 pandemic.

71. To increase the transparency of the legislative process, public consultation should be taking place as a rule for all draft legislation initiated by the Government and central executive bodies. At the same time, there appears to be a need to prevent authorities from circumventing the main rule of 30 days for consultations. Therefore, **GRECO recommends that (i) statutory time-limits for public consultations be systematically observed and that measures be put in place to prevent the circumventing of the ordinary consultation period; (ii) a legislative footprint, tracking major external interventions from the beginning of the legislative process be documented and disclosed; (iii) only limited and duly justified derogations from the rule on public consultations be allowed.**

Third parties and lobbyists

72. Currently there is no legislation in place in Bulgaria to regulate relations of the PTEFs or even executive bodies with lobbyists and other third parties seeking to influence legislation and government policies. The authorities indicate that third parties can participate in the process of drafting of some normative acts, for instance, in cases of public procurement contracts, where external contractors are allowed to participate as consultants or as direct contractors when preparing a draft strategy or a normative act reflecting their obligations under the procurement contracts. In such cases, information on successful bidders is published on the website of the Public Procurement Agency. By way of another example, the authorities refer to participation of civil society and other organisations in the process of consultations on draft legislation in the working groups/parties which may be set up by executive bodies for the purpose of preparing a draft legislative act or decision.

73. The GET received confirmation from various interlocutors that contacts of PTEFs with lobbyists and other third parties seeking to influence government's decision-making process are unregulated and are not subject to any statutory transparency requirements. Consequently, no reporting or disclosure of such contacts takes place. While on-site, the GET received assurances of Bulgarian authorities' full awareness of this important lacuna in the anti-corruption system and of their commitment to address it. The GET notes that Measure 4³⁶ of the National Anti-Corruption Strategy for 2021-2027 reiterates key international legal instruments and reports on the regulation of lobbying³⁷, and envisages focussing the authorities' efforts on "*researching good practices, developing and discussing a concept and proposing legislative measures to regulate lobbying activities in the Republic of Bulgaria in relation to national and local authorities, the legislature and the executive*". Further, the Recovery and Resilience Plan for Bulgaria (approved in April 2022), envisages the adoption of legislative measures regulating lobbying activities for the third quarter of 2023. That said, the current absence of any rules on PTEFs interaction with lobbyists and other third parties aiming to influence the legislative process needs to be remedied urgently.

74. The GET recalls that public knowledge and transparency in respect of various interests influencing the decision-making process in government bodies is of paramount importance to

³⁶ Entitled "Research of good practices, development and discussion of a concept and proposal of legislative measures for regulating lobbying activities in the Republic of Bulgaria in the context of public decision-making."

³⁷ Including Council of Europe legal standards on lobbying, GRECO monitoring work, legal standards of the Organisation for Economic Co-operation and Development (OECD), the Report of the European Commission on the Rule of Law for 2020 etc.

prevent undue influence and corruption and generate trust in public institutions and in the legitimacy of the decisions taken. Therefore, **GRECO recommends that (i) rules be introduced on how persons entrusted with top executive functions engage in contacts with lobbyists and other third parties who seek to influence the government's legislative and other activities; and (ii) sufficient information about the purpose of these contacts be systematically disclosed, as well as the identity of the person(s) with whom (or on whose behalf) the meeting(s) took place and the specific subject matter(s) of the discussion.**

Control mechanisms

75. According to Article 62, paragraph 1 of the Constitution, the National Assembly exercises the legislative power and parliamentary control. The Rules on the Organisation and Activities of the National Assembly provide for the possibility of establishing temporary committees on a specific occasion for examining individual issues and for conducting enquiries, which could include decisions taken by the Council of Ministers. In addition, the MPs may submit interpellations to the Prime Minister, Deputy Prime Ministers or ministers on matters of public interest and in the area of their sector of management or affecting the activities of their administration. Interpellations are submitted to the Prime Minister on the common policy of the Government.

76. The supervision of implementation of the programme of strategic goals and priorities approved by the Council of Ministers is the responsibility of relevant executive authorities (including ministries) and their administrations. Apart from the Internal Audit Unit³⁸ directly subordinated to the Prime Minister (Article 61, Council of Ministers Regulations), there is no harmonised internal mechanism in the executive bodies for audit and inspection of the adopted legislative and operational programmes and decisions taken by the Government. Judicial control in respect of administrative acts adopted by the Government is exercised by the Supreme Administrative Court.

77. In addition to the audits carried out by the National Audit Office (see below), units of internal audit can play a pivotal role in the early detection and prevention of irregularities in the executive bodies, and ultimately – of corrupt practices. According to the authorities, internal audit units under direct subordination to the respective minister/head of the executive body have been established in all ministries, with a total of 120 internal auditors appointed in the ministries, and 76 auditors in other executive bodies. The authorities stated that in 2021, internal audits established 758 cases of violations of regulatory acts, of which 109 were relating to violations of the Public Procurement Act. A total of 15 indicators of fraud have been established in five ministries. In spite of this information, in the course of the visit, the GET was told by several interlocutors that in practice internal audits carried out within the executive bodies were not perceived as effective in detecting possible corruption. In view of the divergent, but inconclusive feedback from various sources, the GET encourages the authorities to ensure that internal audit units in each ministry fulfil their vital role in ensuring control on a routine basis at ministerial level and in promoting integrity in the performance and the use of public funds.

Chief Inspectorate and inspectorates

³⁸ The main activity of this audit consists *inter alia* of auditing of structures, programmes, activities and processes in the administration of the Council of Ministers.

78. On 2 November 2018, the Prime Minister approved the Internal Rules on the Activities of the Chief Inspectorate at the Council of Ministers for Implementing the Anti-Corruption Law. The Chief Inspectorate of the Council of Ministers is responsible for investigating breaches and violations relating to conduct of officials and reports directly to the Prime Minister. It also has the task of achieving consistent standards of inspections and provide support to inspectorates in other ministries. In addition, the Chief Inspectorate prepares general reports, which include statistical information on checks initiated, cases examined, priorities identified. These reports are presented to the Prime Minister and, along with summary reports of the results of different inspections, are published on the relevant section of the Council of Ministers' website.

79. Along with the Chief Inspectorate, every ministry has an inspectorate, reporting directly to the relevant minister, in charge of investigating violations and breaches and suggesting measures to resolve them. Where indicators of a possible criminal offence are identified, inspectors must inform the prosecutorial authorities. Investigations by the inspectorates are initiated upon request of the Prime Minister or the minister, and final actions to be taken in cases of breaches are also determined by the head of the relevant executive body, who decides whether to report cases to the Anti-Corruption Commission. The GET was not provided on-site with any further information regarding the substance of the reports of the inspectorates, or whether they have come across possible corrupt conduct, and any follow-up given. However, several interlocutors shared the view that the direct subordination of the inspectorates to ministers may limit to a certain extent their functional independence. **GRECO recommends ensuring sufficient functional independence of internal inspectorates to allow these units to effectively fulfil their role in the prevention and detection of integrity breaches and other irregularities within respective executive bodies, including when such irregularities may involve persons entrusted with top executive functions.**

National Audit Office

80. The National Audit Office (hereafter – NAO) supervises the implementation of the state budget and other public funds³⁹. The primary task of the NAO is to control the reliability of the financial statements of budget organisations, the lawful, effective, efficient and cost-effective management of public funds and activities. The NAO reports its findings and conclusions to the National Assembly. The NAO has no explicit mandate relating to prevention of corruption, but may transmit relevant information to prosecution, if an audit leads to findings suggesting a possible corruption-related offence. Information provided by the NAO would enable the Prosecutor General to initiate investigation into possible criminal offences, including corruption. Such notifications may only be made by NAO once the final audit report is approved; however, they are infrequent in practice.

Ombudsman

81. The institution of the Ombudsman of Bulgaria acts as a National Human Rights Institution and as a National Preventive Mechanism, in conformity with the Optional Protocol to the UN Convention against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment. The Ombudsman is vested with the power of receiving complaints and reports

³⁹ Comprehensive information about the tasks of the NAO is available via the following link: <https://www.bulnao.government.bg/en/audit-activity/>

of violations of citizens' rights and freedoms on the part of state and municipal authorities and their administrations, persons entrusted with the rendering of public services, as well as private entities. Its recommendations are not binding, but are reported to be mostly followed by state authorities. The Ombudsman may also approach the Constitutional Court with a petition to establish unconstitutionality of any law whereby any rights and freedoms of citizens are violated; submit a request for an interpretative decision or interpretative decree to the Supreme Court of Cassation and/or the Supreme Administrative Court. The Ombudsman monitors the implementation in Bulgaria of several international legal acts touching upon fundamental rights and freedoms. The GET was informed that although no complaints relating to possible corruption have been submitted to the Ombudsman in recent years, in 2021 the institution received some 988 complaints relating to the right to good governance and good administration, that is a 0,5% increase compared to 2020. Recently, the Ombudsman drew the attention of the state authorities to the need to improve domestic legal basis on the protection of whistle-blowers (see paragraph 197 below).

82. The GET was told that in 2020 the Ombudsman concluded a memorandum⁴⁰ of understanding with the Anti-Corruption Commission. According to representatives of the Ombudsman's Office, the memorandum sets out reporting channels of possible corruption cases from the Ombudsman, training on anti-corruption for students and other preventive activities in this area. To GET's knowledge, no reports relating to corruption *per se*⁴¹ have been submitted from the Ombudsman to the Anti-Corruption Commission in 2019-2022.

Conflicts of interest

83. The Anti-Corruption Law contains several provisions encompassing the notion of conflict of interests and describing specific situations tantamount to conflict of interests. In particular, conflicts of interest occur where a person, occupying high public position has a private interest, which may influence his/her impartiality and the objective fulfilment of his/her powers or official duties (Article 52). Private interest is defined as any interest which leads to the benefit of material or non-material nature for a person, occupying high public position, or for persons related to him/her (related persons), including any undertaken obligations (Article 53). Benefit is any income in cash or in property, including acquiring shares or assets, as well as provision, transfer or refusal from rights, receiving goods or services free or at prices, lower than the market ones, receiving privilege or honour, assistance, voice, support or influence, advantage, receipt or promise of work, office, gift, award, or promise for avoiding loss, responsibility, sanction or other unfavourable event (Article 54). "Related parties" are defined under §1, paragraph 15 of the supplementary provisions to the Anti-Corruption Law⁴².

⁴⁰ The document is not public, so could not be shared with the GET.

⁴¹ Nine complaints submitted in 2020 initially thought to be of relevance to corruption, finally were on maladministration.

⁴² In particular, it provides that "Related parties" shall be: (a) the spouses or the de facto cohabitants, the lineal relatives, the collateral relatives up to the fourth degree of consanguinity inclusive, the relatives up to the second degree of affinity inclusive; for the purposes of the unlawfully acquired assets forfeiture proceeding, a former spouse wherewith the marriage had been terminated up to five years prior to the commencement of the examination by the Anti-Corruption Commission will likewise be considered a related party; (b) any natural and legal persons with whom the senior public officeholder is in economic or political dependencies that give rise to reasonable doubts about the impartiality and objectivity of the said senior officeholder.

84. Articles 55-62 of the Anti-Corruption Law prohibit senior public officials, while in office: to represent the State or a municipality in the cases where the public official has a private interest in the taking of a particular decision; to vote in a private interest; to use the official status to influence other authorities or persons in a private interest, when any acts are drawn up, adopted, issued or rendered, or when any control or investigating functions are performed; to participate, in favour of a private interest, in the drawing up, debate, adoption, issuance or rendition of any acts, to perform any control or investigating functions or to impose any sanctions; to conclude, in favour of a private interest, any contracts or to carry out any other activities; to dispose of any State or public property, to spend budgetary resources, including from funds belonging to or made available by the European Union to Bulgaria, to issue certificates, authorisations or licences, or to exercise control over any such activities in the interest of any non-profit legal entities, commercial corporations or cooperatives, where the public official, or related persons, are members of a management body or monitoring body, managing directors, partners, or own participating interests or shares etc⁴³. In addition, a senior public official may not engage in consulting any person, affected by the acts and decisions of that official, issued in the exercise of official duties, and may not use his/her senior official status for commercial advertising.

85. The authorities submit that the sole presence of financial interests of the PTEFs is not *ipso facto* a conflict of interests, incompatible with the exercise of official duties. In case of a private interest in the matter falling under the competences of the public office, a public official must recuse him/herself from the performance of official duties, notifying the relevant authority (Article 63, Anti-Corruption Law). A member of a collegiate public body with a private interest in a matter put to deliberation of that body may not participate in the deliberation and may not vote. These restrictions also apply to persons, closely related to the senior public officials (see paragraph 83, footnote 41 above). Should there be no self-recusal, the relevant authority must recuse a senior public official, if there are reasons to believe that he/she has a private interest in connection with the official duty. Self-recusals and recusals are effective immediately, once a private interest is established, or once information about the existence of a private interest has become known. Motions on self-recusals and recusals should be reasoned, indicating the private interest which led to the withdrawal of the official concerned from the exercise of official duty (Articles 63-66, Anti-Corruption Law).

86. Ascertaining cases of conflict of interest in relation to persons occupying high public office positions is the task of the Anti-Corruption Commission. The procedure for establishing a conflict of interests' situation may be triggered upon a notification submitted to the Commission; an *ad hoc* decision of the Commission to examine the case; a request of a senior public official (Article 71 of the Anti-Corruption Law). Such procedures may not be initiated on the basis of an anonymous notification. The proceedings for ascertainment of conflict-of-interest⁴⁴ are to be instituted within six months from their detection, and not later than three years after the violation in question had taken place (Articles 71-79, Anti-Corruption Law). In the course of proceedings, the Anti-Corruption Commission collects information from other

⁴³ A senior public official is also prohibited from carrying out any of the above activities in the interest of any non-profit legal entities, commercial corporations or cooperatives, on which the official concerned has been a member of a management body or monitoring body, managing director, partner or has owned participating interests or shares one month prior to the date of election or appointment to public office, or for the duration of mandate in that office.

⁴⁴ As well as the proceedings in connection with violations of the post-employment restrictions.

public authorities of central and local governments⁴⁵, legal entities and individuals⁴⁶. The draft law on Countering Corruption among Persons Holding Senior Public Office (see paragraph 51) envisages assigning the function of establishing situations of conflicts of interests to the Commission for Establishing Conflicts of Interest and Confiscation of Illegally Acquired Property, which is to be set up following the separation of the current Anti-Corruption Commission.

87. The Anti-Corruption Commission must deliver a reasoned decision⁴⁷ in writing, within two months from the initiation of proceedings. In cases of factual and legal complexity, this time-limit may be extended once by 30 days. The decision is provided to the person concerned, the authority competent to terminate the employment relationship and the District Prosecutor's Office exercising jurisdiction over the head office of the authority competent to terminate the legal relationship.

Prohibition or restriction of certain activities

Incompatibilities, outside activities and financial interests

88. The activities/functions incompatible with senior public offices, applicable to Prime Minister, Deputy Prime Ministers, ministers and deputy ministers are contained in Article 19, paragraph 7 and the Law on Administration and state that these senior officials may not:

- hold another public office;
- engage in commercial activity, be managers, commercial proxies, commercial representatives, procurators, commercial intermediaries, liquidators or trustees;
- be members of a management or control body of a non-profit legal entity, a commercial company or a cooperative;
- practice freelance, with the exception of scientific or teaching activity or the exercise of copyright and related rights;
- be heads of a party's election headquarters, a coalition of parties or an initiative committee.

89. Article 19, paragraph 8 of the Law on Administration states that the Prime Minister, Deputy Prime Ministers, ministers and deputy ministers may participate – without remuneration – in councils, committees, commissions, bodies of management or control of funds, working groups, management or control bodies of companies with State or municipal capital participation, bodies of management or control of funds, accounts and others, which are not legal entities, or bodies of management and control of legal entities established by law or an interdepartmental act.

⁴⁵ These include the Standing Committee of the Competent Municipal Council; the Standing Committee on Ant-Corruption, Conflict of Interest and Parliamentary Ethics Committee of the National Assembly; the electing or appointing authority. The requested information and documents must be provided to the Anti-Corruption Commission within seven days from the receipt of the request.

⁴⁶ All evidence obtained by the Commission in the course of this procedure is made available to the person concerned, who is also heard by the Commission and may lodge an objection within seven days from the provision of the evidence.

⁴⁷ The Anti-Corruption Commission's decision should contain: the factual and legal grounds for rendering the decision; the objections lodged by the person and reasons in case of non-acceptance; an operative part, wherein the existence or non-existence of a conflict of interest is ascertained; the imposition of a fine, its amount, and the decree for forfeiture in favour of the State (if there are grounds for forfeiture); the time-limit for appeal and the appellate authority, as well as the period for voluntary enforcement of the imposed fine.

90. The PTEFs must declare contracts they have concluded with persons that are or have been engaged in activities related to the decisions taken by the PTEF. According to Articles 61 and 62 of the Anti-Corruption Law, the PTEFs are not entitled to perform consultative activities in respect of persons interested in their acts, issued in the exercise of their powers or duties in office and to consent or use their official position for commercial advertising. As per Article 58, first sentence of the Anti-Corruption Law, the PTEFs do not have the right to participate in the preparation, discussion, adoption, issuance of acts, to perform control or investigative functions or to impose sanctions in their private interest.

91. In case of violation of the provisions of Article 59 of the Anti-Corruption Law, the Prime Minister, Deputy Prime Ministers, Ministers, Deputy Ministers and heads of political cabinets may be subject to fined ranging from BGN 5,000 to BGN 10,000 (EUR 2,556 to EUR 5,112) (Article 171 of the Anti-Corruption Law). If the violation is repeated the sanction is from BGN 10,000 to BGN 20,000 (EUR 5,112 to EUR 10,224). Should the above provisions be violated by members of the political cabinets, advisers and experts, the applicable fine would be ranging from BGN 1,000 to BGN 5,000 (EUR 511 to EUR 5,112), and in case of repeat violation – from BGN 2,000 to BGN 10,000 (EUR 1,022 to EUR 10,224).

Contracts with state authorities

92. Article 58 of the Anti-Corruption Law stipulates that PTEFs do not have the right to conclude contracts or perform other activities in the private interest in the performance of their powers or duties in the service.

Gifts

93. According to the Rules for the Implementation of the Law on the State Protocol, during official visits, the Head of State, the Speaker of the National Assembly, the Prime Minister and the Minister of Foreign Affairs, an exchange of gifts is included, as a rule, in official visit programmes⁴⁸. For the purchase of souvenirs for representative purposes, the Director of the Government Protocol Directorate draws up a request, in agreement with the Budget and Finance Directorate, which is approved by the manager. An order No.B-202 was issued on 16 November 2017 by the Secretary General of the Council of Ministers for determining the persons entitled to use souvenir gifts for representative purposes.

94. The Government Protocol Directorate is maintaining⁴⁹ a register of protocol gifts received by the Prime Minister and Deputy Prime Ministers. Within two months of receipt of each gift, it should be submitted to the Government Protocol Directorate and entered in the register, certified by signatures of a representative of the Government Protocol Directorate and the responsible official of the administration of the Council of Ministers. At the end of each calendar year, or upon termination of the Government's term of office, an inventory of gifts received by the Prime Minister and the Deputy Prime Ministers is carried out by the commission selected for this purpose, which draws up a record of the gifts to be evaluated by

⁴⁸ Detailed regulations in this regard are set out in the Internal Rules for Planning, Financing, Expenditure and Reporting of Budget Resources under the Council of Ministers' Budget for Representative and Protocol Activities, which are part of the Internal Rules for Financial Management and Control of the Council of Ministers Administration approved by Order of the Prime Minister No. 206 of 24 February 2011.

⁴⁹ Pursuant to Prime Minister's Order No. B-35 of 17 March 2015.

an external licensed appraiser. The total value of gifts is reflected in the balance sheet of the Council of Ministers' administration.

95. As regards rules on gifts relating to other PTEFs, the GET understands that no specific legal provisions are in place in this regard. The Code of Conduct for State Administration Employees contains some provisions on anti-corruption conduct, which prohibit accepting or requesting gifts, services, money gains or other benefits that may affect the performance of their official duties (Chapter Four, Article 11 of the Code of Conduct). However, as already noted above, this Code is not applicable to PTEFs. Therefore, **GRECO recommends that rules be drawn up on gifts and other benefits for persons entrusted with top executive functions, requiring them to declare gifts and other benefits accepted, and that this information be made available to the public.**

Misuse of public resources

96. According to Article 59 of the Anti-Corruption Law, the PTEFs have no right to dispose of state or municipal property, to spend budgetary funds, including those belonging to or provided by the European Union to Bulgaria, to issue certificates, permits or licenses or to exercise control over those activities in the interest of non-profit legal entities, companies or cooperatives in which they or related persons are members of a management or control body, managers, partners or hold an interest or shares or in which they were members of a management or control body, managers, associates, or held shares one year before the date of their election/appointment, or while in office.

97. Article 171 of the Anti-Corruption Law stipulates that violations of the provisions of Article 60 of this Law will be subject to the same sanctions specified in paragraph 91 above.

Misuse of confidential information

98. According to Article 60 of the Anti-Corruption Law, senior public officials are prohibited from using, or authorising the use for private interests, of any information obtained upon the exercise of their official duties for the duration of their office and one year after leaving office, unless otherwise provided for in special legislation.

Post-employment restrictions

99. Article 68 of the Anti-Corruption Law stipulates that officials who held a senior public office may not, for the duration of one year, conclude employment, consultancy, or other contracts for managerial or controlling functions with commercial companies, individual entrepreneurs, cooperatives or non-profit legal entities in respect of which, in the last year of the exercise of their official duties, they carried out acts of disposition, regulation or control, or conducted contracts with them, being their partners, owing shares, being members of the management or control body of such companies, cooperatives or non-profit legal entities, as well as related companies. Article 69 of the Law states that officials who, during the final year of their official duties, participated in the conduct of public procurement procedures, or procedures related to the granting of funds belonging to or provided by the European Union to Bulgaria are not entitled, during one year from their discharge from office, to participate or represent a natural or legal person in such proceedings before the institution in which they held the office, or before a legal entity controlled by such an institution. This prohibition also

applies to legal entities in which the above persons have become partners, have shares or are managers or members of a management, or control body after their dismissal. Officials found in violation of the above two prohibitions may not hold public office for one year after the decision comes into force (Article 67, Anti-Corruption Law).

100. Article 172 of the Anti-Corruption Law provides that officials holding senior positions⁵⁰, who, after being discharged, violate the restrictions under Article 67, 68 and 69 of the law may be subject to a fine of BGN 5,000 to BGN 15,000 (EUR 2,556 to EUR 7,668). Repeated violation is punishable by a fine of BGN 10,000 to BGN 30,000 (EUR 5,112 to EUR 15,336). For similar violations, other members of political cabinets (i.e., advisers, experts etc.) may face fines from BGN 2,500 to BGN 7,500 (EUR 1,278 to EUR 3,834) and BGN 7,500 to BGN 15,000 (EUR 3,834 to EUR 7,668) for repeated violation. For these violations, the law has also envisages fines for individual entrepreneurs, or legal entities, represented or managed by PTEFs, in the amount of BGN 10,000 to BGN 20,000 (EUR 5,112 to EUR 10,224) and BGN 20,000 to BGN 50,000 (EUR 10,226 to EUR 25,564) for repeated violation.

Declaration of assets, income, liabilities and interests

Declaration requirements

101. The Anti-Corruption Law (Article 35) requires senior public officials to submit the following declarations: declaration for incompatibility; declaration for property and interests; declaration regarding any changes in circumstances already declared as regards incompatibility, property and interests, as well as the origin of means in case of early (pre-term) payment of obligations and credits. As per Article 37, paragraph 1 of the Anti-Corruption Law, high level public officials should declare a broad range of valuables (e.g. real estate, valuables, money assets, investments, securities, shares, incomes etc.) to the Anti-Corruption Commission, as well as any participation in commercial corporations, in management bodies or monitoring bodies of commercial corporations, of non-profit legal entities or of cooperatives, as well as carrying out business as an individual entrepreneur by the date of election or appointment and 12 months prior to the date of election or appointment; contracts with any persons who or which carry out any activity in areas related to the decisions made by the high level public office holder within the range of the official powers or duties thereof; information of any related persons in whose activity the high level public office holder has a private interest.

102. Senior officials must also declare property and incomes of their spouses or of the persons, with whom they are in factual cohabitation, and of their underaged children (Article 37, paragraph 4, Anti-Corruption Law). Senior officials may not declare the property and incomes of their spouses in a factual separation, and of their minor-aged children in respect of whom they do not exercise parental rights (Article 37, paragraph 5). The declarants may request not to publish information about their factual cohabitants, including on their property and incomes (Article 37, paragraph 7 of the Anti-Corruption Law).

103. Article 38, paragraph 1 of the Anti-Corruption Law requires that declarations of assets and interests be submitted:

1. within one-month from the date of taking office by the senior public official;

⁵⁰ Prime Minister, Deputy Prime Ministers, ministers, deputy ministers and heads of political cabinets.

2. yearly, by 15th of May - for the previous year;
3. within one-month from leaving the office;
4. within one-month following one year after the submission of the declaration under paragraph 3 above.

104. Declarations of assets and interests of the high-level officials (the Prime Minister, Deputy Prime Ministers, Ministers, Deputy Ministers, Heads of political cabinets) are to be submitted to the Anti-Corruption Commission (Article 35, paragraph 2 and Article 41, paragraph 2, Anti-Corruption Law). Other members of political cabinets, advisors and experts to political cabinets, submit declarations to their respective appointing authority (e.g., the Prime Minister, deputy prime ministers, ministers etc., as provided under §2, paragraph 2 of the Supplementary Provisions of the Anti-Corruption Law).

105. The Anti-Corruption Commission's Public Registry Department is responsible for the asset disclosure system. The Register of persons occupying high public positions is maintained in the electronic format and contains asset declarations for a period of the last ten years. Declarations of senior public officials are accessible to public on the website of the Anti-Corruption Commission. A list of persons who have not submitted declarations on time is also made public (Article 40, paragraph 2, Anti-Corruption Law). Declarations of the members of political cabinets, other than high level officials mentioned above, and of the advisors and experts to political cabinets are stored by the respective appointing authorities and are public only as regards the declared interests (§2, paragraph 3 of the Supplementary Provisions of the Anti-Corruption Law).

106. According to the authorities, a total of 12,430 declarations of assets and interests were published in 2021, of which 8,641 were annual declarations, 1,759 were declarations relating to taking up a public office, and 2,030 declarations followed the leaving of public office. A total of 883 persons had not filed or have failed to submit declarations within the statutory time-limit.

Review mechanisms

107. The procedure of verification of assets and interest declarations submitted by the PTEFs is set out in Articles 43-46 of the Anti-Corruption Law. The Public Registry Directorate of the Anti-Corruption Commission is a specialised structure responsible for verifying the accuracy and timeliness of declarations submitted by high-level public officials. This Directorate employs a total of 11 people and consists of three departments, that of "Declarations", of "Inspection and Analysis and of "Administrative Criminal Activity and Control". The verification of declarations of advisors, experts and other members of political cabinets, except for the high level officials mentioned above (Prime Minister, ministers etc.), is conducted by the competent inspectorate or a commission of employees set up by the electing or appointing authority for this purpose. According to the authorities, in the course of verifications, the declared information is cross-checked with information received from state authorities, bodies of local self-government and local administration, judicial authorities and other institutions in possession of relevant information⁵¹. The inspectors also have direct access to the electronic databases and registers maintained by the state authorities.

⁵¹ In accordance with the internal rules adopted by the Anti-Corruption Commission for this purpose. However, the GET was left with the impression that this procedure does not envisage the on-site verification of the accuracy

108. Within 6 months from expiry of the terms under Article 38 of the Law (see paragraph 103 above), the inspectors of the Public Registry Directorate verify information contained in the asset and interest declarations of persons occupying high public positions. The verification is performed through direct access to electronic registers, data bases and other information records maintained by other state bodies. Additional information may be required from the State bodies of central and local level, the judiciary and other institutions, which may possess relevant data. The Commission may request a disclosure of bank secret, information from the banks information systems, insurance secret, as well as tax and security information. Information requested by the Commission must be provided within thirty days from the request.

109. The Public Registry Department transmits the results of verification and analysis of declarations to the Anti-Corruption Commission for decision⁵². The verification is concluded either with a conformity report, where no differences are established between the declared facts and the information collected during verification, or a non-conformity report in cases of any discrepancies detected. Should the non-conformity be established, the Commission notifies the relevant person and allows fourteen days to complete the missing information and correct the errors in the declaration. Should the non-conformity be of no less than BGN 5,000 (EUR 2556), the Commission sends the materials to the National Revenue Agency for taking actions under the Tax-Insurance Procedure Code. In case of a detected non-conformity in the amount of not less than BGN 20,000 (EUR 10,224) the Commission decides to perform a check of the property status of the person concerned.

110. Article 173 of the Anti-Corruption Law envisages that a senior public office-holder, who fails to submit a declaration within the deadline specified in law, is to be sanctioned by a fine of BGN 1,000 to BGN 3,000 (EUR 511 to EUR 1,533). When the violation is repeated, the fine is in the amount of BGN 3,500 to BGN 6,000 (EUR 1,790 to EUR 3,066). Under Article 174 of the Anti-Corruption Law, a high public office-holder not having declared, or having declared incorrectly a circumstance subject to disclosure, is to be fined by BGN 1,000 to 3,000 (EUR 511 to EUR 1,533), unless a more severe sanction is provided. When the violation is repeated, the fine is from BGN 3,000 to 6,000 (EUR 1,533 to EUR 3,066).

111. In the course of the on-site visit, the GET was left with the impression that verifications of property, income, asset and interest declarations, whether by the Anti-Corruption Commission, or other authorised bodies (inspectors in the appointing authorities), were not sufficiently comprehensive, which allowed considerable irregularities to pass unnoticed. The GET heard from various interlocutors of the so-called "Apartment-gate"⁵³, occurring in 2019, which led to resignations of several senior officials, including the then Chairperson of the Anti-Corruption Commission, was largely due to underreporting of assets by public officials and insufficient in-depth verification of declarations by specialised anti-corruption bodies. Representatives of the Commission confirmed that even though the Commission may

of the information submitted by declarants and is limited to cross-checking of information contained in declarations with that available from other registries and data bases maintained by different state authorities.

⁵² The Anti-Corruption Commission adopts reasoned decisions by a majority of more than half of all members. The decisions state the facts, the evidence on the basis of which they have been reached and the legal consequences (Article 13, paragraph 2, Anti-Corruption Law).

⁵³ The purchase by high public officials of real estate much below market prices has come to light in 2019 and was widely reported on the Internet media (see, for instance, the following news items: <https://cde.news/enough-is-enough-apartmentgate-home-scandal-proves-to-be-too-much-corruption-for-bulgarian-people/>).

carry out on-site verifications⁵⁴, this was rarely done in practice, as their resources and working methods were primarily allowing for desk research into differences and discrepancies between previous and newly submitted declarations. In addition, no comprehensive statistical information regarding declarations submitted by the PTEFs and verified by the authorised bodies were available. Overall, the current system does not allow for an efficient supervision of income, assets and interest of the PTEFs to ensure transparency and accountability towards the public.

112. In view of the above, **GRECO recommends ensuring that (i) income, asset and interest declarations submitted by persons entrusted with top executive functions be subject to an in-depth, proactive and substantive control mechanism, connected to an enforcement regime; (ii) sufficient human and financial resources be provided to bodies responsible for this task; and (iii) comprehensive statistics on results of this control be established and made accessible to the public.**

Accountability and enforcement mechanisms

Non-criminal enforcement mechanisms

113. In addition to decisions taken in respect of declarations of assets and interests covered in paragraphs 107-110 above, the Conflict of Interest Directorate of the Anti-Corruption Commission is in charge of establishing situations of conflicts of interests involving persons holding senior public office positions. Thus, in 2019 the Commission adopted a total of 264 decisions regarding conflicts of interests, of which in 41 cases a conflict of interests has been established, in 111 no conflict of interests has been proven and proceedings were discontinued in 112 cases. In relation to detected conflicts of interests, the Commission imposed penalties amounting to a total value of BGN 139,287 (EUR 71,216) and ordered forfeiture of BGN 173,512 (EUR 88,715). The proceedings initiated for possible conflict of interests involved the President, the Prime Minister, Ministers, Deputy Ministers and other senior officials. In 2020, the Commission adopted 122 decisions on conflicts of interest, of which in 30 cases a conflict of interests has been established and in 92 cases it was not confirmed, while nine proceedings were discontinued. The total amount of penalties imposed was BGN 17,889 (EUR 9,146) and forfeitures in favour of the State tallied the amount of BGN 592,977 (EUR 303,189). In 2021, the Commission adopted 340 decisions on this matter, out of which in 90 it initiated proceedings, in 122 concluded that there were lack of grounds for instituting proceedings; in 22 cases established conflict of interest, and in 82 no such conflict has been established. In this period, the Commission imposed penalties and forfeitures in favour of the State, with a total value of 804,540 BGN (411,361 EUR).

Criminal proceedings and immunities

⁵⁴ The Commission may carry out an on-site verification of the accuracy and veracity of information contained in the declaration on the basis of a report or complaint by a third party. Should any discrepancies, or reasonable suspicion of unlawfully acquired property or assets emerge from the on-site verification, the inspectors may initiate a formal procedure empowering them to scrutinise the legality of assets acquired several years ago, bank accounts and other relevant data. Should the analyses of documentary verification reveal inconsistencies or suspicious of a violation, the law envisaged initiation of verifications for establishing illegally acquired assets which include on-site inspections and supplementary checks.

114. The PTEFs do not enjoy immunities from criminal proceedings (e.g., inviolability). According to the authorities, in 2019, four criminal pre-trial investigations have been initiated for corruption offences against three ministers and one deputy minister. One indictment was brought to court against a minister. In 2020, six pre-trial proceedings were initiated for corruption offences, of which five were in respect of ministers and one deputy minister, while two ministers and two deputy ministers were acquitted. In 2021, two pre-trial proceedings for corruption offences were initiated against a minister and a deputy minister. The prosecution submitted indictments against three ministers and one deputy minister.

115. Until April 2022, corruption-related criminal offences committed by members of the Council of Ministers and other senior political appointees fell under the jurisdiction of the Specialised Criminal Court and could be appealed against with the Specialised Court of Appeal in the second instance, and ultimately to the Supreme Court of Cassation. The Specialised Prosecutor's Office and the investigating bodies were responsible for the criminal investigation into cases falling within the jurisdiction of the Specialised Criminal Court. However, fundamental changes were enacted on 26 April 2022, when the Specialised Prosecutor's Office, the Appellate Specialised Prosecutor's Office, the Specialised Criminal Court and the Appellate Specialised Criminal Court were abolished following adoption of amendments to the Law on the Judicial System⁵⁵. Under the same amendments, pending cases were transferred to ordinary prosecutors' offices and courts, and judges, prosecutors and investigators from the former specialised prosecutor's offices and courts were offered an opportunity to apply for vacant positions to be announced in other prosecutors' offices and courts⁵⁶. The new provisions took full effect on 28 July 2022.

116. Civil society representatives and investigative journalists met by the GET on-site expressed the view that the prosecution and the judiciary were inefficient in investigating and adjudicating possible corruption cases involving high-level officials, owing to undue influence, particularly as regards the prosecution. Representatives of law enforcement bodies (investigators) cited numerous examples of investigations initiated into possible corruption cases, where evidence has been collected to proceed with the prosecution, but the latter was often refused on formalistic grounds, without any attempt to resolve procedural impediments and resume investigations. The GET also heard from other interlocutors allegations of deficiencies in collecting evidence in criminal cases of corruption. Representatives of the Presidential Administration noted that anti-corruption reforms should target first and foremost the prosecutorial system, especially in light of the failure of the specialised court and

⁵⁵ The authorities refer to the Constitutional Court Ruling No. 7 of 14 July 2022, whereby the Court rejected the request by the Prosecutor General to establish the unconstitutionality of the closure of the Specialised Criminal Court, the Appellate Specialised Criminal Court and their respective specialised prosecutor's offices.

⁵⁶ More specifically, the amendments provide for detailed rules concerning the completion of cases pending before the specialised criminal courts to guarantee the unhindered continuation and resolution of the pending court proceedings. In particular, it is envisaged that criminal cases on which a hearing has already been held before the Specialised Criminal Court (first instance), or the Specialised Criminal Court of Appeal (second instance), are to be assigned to the Sofia City Court, or to the Sofia Court of Appeal. Cases on which no hearing has been held are to be referred to the relevant first instance courts, or relevant courts of appeal. To ensure that cases initiated before the specialised courts are continued to be heard by the same court panel, the amendments provide that the respective judges (where they have not been reassigned to the Sofia City Court or the Sofia Court of Appeal) are seconded to take part in the hearing of these cases, until the conclusion of the proceedings. It is also provided that the judges of the court panel which heard the criminal cases for which verdicts were handed down by the date of entry into force of the amendments be seconded to pronounce decisions in these cases.

specialised prosecutor's office to bring to justice high-profile political appointees possibly involved in corruption in the course of the last ten years.

117. The abolition of the specialised anti-corruption prosecution and courts triggered diverse reactions within and outside Bulgaria. Self-governing bodies and associations of the Bulgarian prosecution notified various international bodies, including GRECO, on possible immediate adverse effects of disbanding these specialised bodies. While the GET recognises the validity of these concerns, it must give due regard to the fact that all local actors met on-site (save for representatives of the prosecution) were supportive of the decision to disband the specialised bodies, quoting the very low number of prosecutions into high-profile corruption cases, absence of convictions and sanctions, and general inefficiency of the specialised bodies, spanning over the years. Indeed, the GET cannot disregard the striking contrast between the perceived level of corruption in the country on the one hand and the very low rate of investigations and convictions for corruption offences involving PTEFs on the other.

118. The very recent adoption of the legal amendments above, and the fact that they had not fully entered into force at the time of the on-site visit, deprived the GET of the opportunity to form a well-substantiated opinion on their effect in practice. Nonetheless, the GET is of a strong impression that the cause of inefficient prosecutions into corruption cases involving PTEFs, is less in the architecture of the relevant prosecutorial services, and more in the overly complex pre-conditions imposed by the prosecution on investigative bodies⁵⁷ and apparent lack of resolve to carry out fully-fledged investigations and bring cases to court, coupled with possible undue influence on and within the prosecution⁵⁸.

119. The GET firmly believes that at present, Bulgaria's criminal justice response to corruption cases involving PTEFs is unsatisfactory and needs to be addressed as a matter of urgency. With this in mind, **GRECO recommends that an effective mechanism be introduced to ensure that (i) pro-active investigations and effective prosecutions of criminal offences of corruption involving persons entrusted with top executive functions systematically take place; (ii) procedural impediments hampering or preventing criminal investigations and proceedings of such cases are eliminated; and (iii) effective and proportionate criminal sanctions are imposed for such offences.**

⁵⁷ By way of example, some of the key findings of the latest MONEYVAL report on Bulgaria, suggest that "the prosecution appears to have overly high expectations as to the volume of operative facts and data required for initiating formal pre-trial proceedings. As a result, most of such referrals are rejected and the LEAs are instructed to gather more information, which results in delays and loss of efforts." Extremely formalistic and bureaucratic features of the CPC pose unreasonable obstacles for the pre-trial authorities particularly as the strict and narrow deadlines and other procedural constraints are concerned.

⁵⁸ On 11 March 2021, the Committee of Ministers of the Council of Europe stressed the importance of reducing the influence of the Prosecutor General within the Prosecutor's Office, any potential influence in the Supreme Judicial Council and within the magistracy, so to allow for the implementation of an effective investigation mechanism, including by extending the judicial review to any prosecutorial refusals to open investigations (Committee of Ministers decision CM/Del/Dec(2021)1398/H46-6).

V. CORRUPTION PREVENTION IN LAW ENFORCEMENT AGENCIES

Organisation and accountability law enforcement/police authorities

Organisation and accountability of selected law enforcement authorities

120. The Police in Bulgaria is a civilian organisation, pertaining to the Ministry of the Interior (Mol). The main legal acts⁵⁹ regulating organisation and work of the Mol are the Law on the Ministry of the Interior (the Mol Law) and the Rules of Procedure of the Mol. The central Mol bodies consist of the General Directorate of National Police, the General Directorate for Combatting Organised Crime, the General Directorate of Gendarmerie, Special Operations and Counter-Terrorism and the General Directorate of Border Police. Police authorities also include the Migration Directorate, the Internal Security Directorate, the International Operational Cooperation Directorate⁶⁰ and the municipal police units. The Directorates General are divided into directorates, territorial units, sections, department and other lower-level units, with a vertical hierarchical subordination⁶¹. At local level, the Mol operates 28 Regional Directorates⁶².

121. The main aims of the Mol/Police are combating crime, protecting national security, public order and fire safety, protection of rights and freedoms of individuals and civil protection. The main activities include operational search; prevention, protection and control; crime investigation; fire safety and protection in cases of disasters and emergencies; provision of access of the citizens to the emergency services through the National system for emergency calls with a common European number 112; information activities; provision of administrative services and imposition of administrative penalties.

⁵⁹ Separate powers of the police authorities are also regulated by other relevant legislation, including the Criminal Procedure Code (CPC), the Law on Special Intelligence Devices, the Law on Combatting Terrorism, the Law on Foreigners in the Republic of Bulgaria, the Law on Entry, Stay and Exit the Republic of Bulgaria of EU nationals and their family members, the Law on Weapons, Ammunition, Explosives and Pyrotechnics, the Law on the Private Protection Services, the Law on the Issuance of the Bulgarian Identity Documents and the Rules of Procedure on the Issuance of Bulgarian Identity Documents, the Law on Road Traffic, the Law on Protection of Children, the Law on Keeping the Public Order during Sports Events, Law on Disaster Protection, the Law on Protection of Field Properties, etc.

⁶⁰ This Directorate unites national contact points for: Interpol, Europol, Schengen information system and the European Travel Information and Authorisation System.

⁶¹ The internal reporting lines are as follows: the Directors General report to the Minister, deputy ministers and the Secretary General; the directors of Regional Directorates report to the Minister, deputy ministers and the Secretary General; the Director of the Internal Security Directorate and the Director of Inspectorate Directorate report to the Minister.

⁶² Regional directorates are managed by a director and deputy director and comprise the following departments/units and groups:

- Criminal Police department; Public Order and Security Department;
- Investigation department;
- Administrative department;
- Special Tactical Actions Unit – in some of Mol regional directorates;
- Migration Unit/Group;
- Bulgarian Identity Documents Unit;
- On-duty operation group;
- local stations – established by an order of the Minister.

122. The number of staff of the MoI, disaggregated by labour relationship⁶³ and gender is as follows⁶⁴:

Sex	Law on the Ministry of the Interior ⁶⁵	Labour contracts	Law on Civil Servants	Total:
men	32,674	2,786	1,205	36,665
women	3,821	6,395	1,651	11,867
Total:	36,495	9,181	2,856	48,532

123. The MoI is governed by political and professional categories of managers. It is headed by the Minister, deputy ministers, the Secretary General and the administrative secretary. The Minister sets priorities, approves strategic objectives and the programme of work of the Ministry, while the Secretary General is responsible for planning, organisation coordination and control of the main activities of Ministry and its main structures. The Secretary General is the highest professional position in the MoI and is appointed by the President's decree, following a proposal by the Council of Ministers. The Directors General, as well as Regional Directors, are appointed by the Minister, following a proposal by the Secretary General, and are subordinated to the Secretary General. The Director of the Internal Security Directorate and the Director of Inspectorate Directorate are directly subordinated to the Minister.

124. The GET notes that the Police in Bulgaria is often referred to as the MoI and vice-versa. It is also noticeable that the Minister of the Interior has far-reaching powers over the Police and that the leadership of the Police is in direct hierarchical subordination to the Minister. While the police is clearly a body of the executive, it is nevertheless important to make an organisational distinction between the ministry in charge of the police and the functions of the Police. Clearly articulating the principle of operational independence of the Police in individual cases is of paramount importance. The GET considers that instructions to the police from the political levels should as a rule be limited to issues such as strategic planning, budget etc, to safeguard the operational independence of the police in carrying out its tasks in individual cases, which should be guided by law. Therefore, **GRECO recommends that (i) sufficient operational independence of the Police vis-à-vis the Ministry of the Interior be**

⁶³ Civil servants employed under the MoI Law, staff employed under labour contracts on the basis of the Labour Code; civil servants employed under the Law on Civil Servants.

⁶⁴ As of 31 December 2021.

⁶⁵ This category are essentially police officers.

provided for in law and ensured in practice; and that (ii) individual instructions to the Police be properly documented in writing, as a main rule.

125. Criminal investigations are carried out by investigating police officers and other police authorities, who must take decisions on the basis of “objective, comprehensive and full investigation of all circumstances related to the crime”. Investigative bodies operate under the guidance and supervision of a prosecutor (Article 52, paragraph 3, sub-paragraph (3) of the Criminal Procedure Code (CPC)).

126. The Mol is funded from the state budget and, as a primary-level budget user, submits monthly and quarterly reports⁶⁶, as well as detailed semestrial and annual reports on the implementation of the budget to the Ministry of Finance. The Mol also submits annual reports to the National Assembly and the Bulgarian National Audit Office (NAO), which are published on the NAO’s and the Ministry’s websites. The NAO audits the financial reports of the Ministry, with audit reports published on websites of both institutions. As to the non-public funding of the Ministry, generally speaking, the Mol Law prohibits concluding contracts for out-of-state-budget donations. However, such donations may be allowed in the cases of implementation of international contracts to which Bulgaria is party, or when the donor is a municipality; a State structure involved in the execution of State power; a State facility or commercial company with 100% State participation; an international organisation, foreign state authority, the institution or a body of the EU; a legal or natural person, who donates books, scientific literature and study materials, necessary for training of the Mol officials. The terms and conditions for conclusion of contracts for donations, the receipt and management of donations are regulated by the internal rules approved by the Minister’s order. Draft contracts for donations are subject to approval by the Permanent Central Commission in the Mol, and a public registry of the donation contracts is maintained on the Mol website⁶⁷.

127. The GET notes that even though some rules are in place regarding non-public donations to the Mol, there is not sufficient clarity in practice as to their implementation. Interlocutors met on-site referred to several examples when extra-budgetary donations to local police by municipalities were in some cases attempted to be used as a tool to obtain a more favourable attitude from the Police. Further, representatives of the Mol expressed rather diverse opinions regarding limitations on extra-budgetary donations to the police, and the current practice. Overall, greater clarity is needed on the applicable rules governing private donations, to safeguard against undue influence on various police directorates and units in their performance of official duties. Therefore, **GRECO recommends that (i) a broad analysis be carried out of the legal framework and practice of non-budgetary (including private) sponsorship and donations to the Ministry of the Interior/Police and its various structural entities and that, in light of its findings, clear rules be established to abandon private donations and/or, as a minimum, to eliminate the risks of conflicts of interests and corruption in this respect; (ii) information regarding donations and sponsorship received by the Police, indicating the nature and value of each donation, as well as the identity of the donor be systematically published.**

128. The GET notes a considerably low representation of women in the Mol structures, especially at the managerial positions. In the course of the on-site visit, the GET was told that

⁶⁶ The provisions on financial accountability of the Mol are set out the Accountability Law, the Public Finances Law, and the accounting standards approved by the Minister of Finance.

⁶⁷ <https://www.mvr.bg/министерството/достъп-до-информация/правила-дарения>

no woman has ever been appointed to the post of the Secretary General, Director General or other similar position. The GET notes observations of local interlocutors that women mostly prevail in central administrative positions, while regional police offices are largely staffed by men; there has also been a moderate but stable increase in women joining the MoI, which is also reflected in police units. However, the reasons for a very small proportion of women in the Bulgarian police have not been looked into in a systematic manner.

129. The police must be representative of society as a whole. With this in mind, steps need to be taken in Bulgaria to advance the representation of women in the police, including in managerial and policy-making positions. The GET believes that achieving gender equality in the police can bring about substantial improvements in day-to-day work and routines⁶⁸ and can contribute to preventing groupthink and in turn corruption. Consequently, **GRECO recommends that dedicated measures be taken to strengthen the representation of women at all levels in the Police, including in senior positions.**

Access to information

130. Reference is made to the provisions of the Law on Access to Public Information, endowing all persons in Bulgaria with the right to access to public information (see paragraph 58 above), with the restrictions, such as access to classified information, or access to another type of protected secret, as defined by law. In the MoI, access to public information is said to be provided on the basis of a written application, including via electronic means, or an oral request. The law provides for up to 14 days from the registration of the request for information for the authorities to respond to it, that is to grant the request, or deny access to the requested information and inform the applicant accordingly, in writing. Annual reports summarising requests for information dealt with by the MoI, as well as other relevant data can be found on the MoI website⁶⁹. The authorities also state that information regarding measures to prevent and counteract corruption in the MoI is regularly provided to the media. In cases of officials suspected of corruption or other crimes, briefings are organised jointly with the Prosecutor's Office to inform the public about the progress in investigations.

131. In the course of the visit, the GET heard that at times requests for information addressed to the MoI were not responded to within the time-limits established by law, or not at all. Civil society representatives shared the view that the transparency and accessibility in the communication with the MoI has been declining in the recent period. GRECO refers to the recommendation regarding the need to improve access to information (see paragraph 63 above), which is equally applicable to law enforcement bodies.

Public trust in law enforcement authorities

132. The GET has not been made aware of any recent national surveys or studies in Bulgaria to evaluate public trust in institutions, which would include the MoI or the Police. According to the Special Eurobarometer 502 on Corruption⁷⁰, regarding the question "Do you think that the giving and taking of bribes and the abuse of power for personal gain is widespread among

⁶⁸ E.g., in contacts with the public, in creating a more heterogeneous environment in some parts of the police which could counter a possible code of silence, further developing multiple-eye routines, etc.

⁶⁹ www.mvr.bg/информационен-център/достъп-до-информация/достъп-до-обществена-информация

⁷⁰ "Special Eurobarometer 502: Corruption", accessible via the following link: <https://europa.eu/eurobarometer/api/deliverable/download/file?deliverableId=72877>

any of the following” the perception of corruption in areas involving officials is higher in Bulgaria than overall in Europe. The survey suggests that police and customs are among the categories in which a far higher number of respondents than the EU average think of corruption as being widespread (61% of respondents in Bulgaria vs. 26% in the EU as a whole). The most recent Eurobarometer 523 on Corruption⁷¹ suggests that in this regard the situation in Bulgaria has worsened, with 67% of respondents mentioning police and customs as areas having widespread corruption.

Trade unions and professional organisations

133. A total of 10 professional union organisations established by staff of the MoI/Police are currently active in Bulgaria. A Council for Social Partnership established in the MoI unites the following six of these trade unions: the National Police Union, the National union of the civil administration, the National union of the fire-fighters and rescuers “Firefighter”; the Union federation of the Ministry’s employee, the Union of the Ministry’s employees and the Union Security Alliance in the Ministry of the Interior. The other four trade unions are the National Union Police, the Union Protection, the Central Police Union and the Union of the officers within the Ministry of the Interior for equality and integration.

Anti-corruption and integrity policy

Anti-corruption strategy and implementation

134. At present, no dedicated anti-corruption strategy for the MoI/Police is in place. Some of the priorities of the National Strategy for Prevention and Counteraction to Corruption for 2021-2027⁷² and its implementation Roadmap envisage activities with the involvement of the MoI⁷³. Thus, the MoI is to contribute to the implementation of measures to improve interaction between the authorities tasked with investigating corruption offences, namely through increasing the capacity of investigating police officers to work on cases of corruption. Within the MoI, an Inter-ministerial Coordination Council for the fight against corruption, headed by the Deputy Minister, has been set up as the Minister’s advisory body on planning, coordination, control, report and analysis of the anti-corruption activities in the Ministry. The MoI is said to adopt and implement annual anti-corruption plans, which are published on its website, along with the implementation reports⁷⁴.

⁷¹ “Special Eurobarometer 523: Corruption”, accessible via the following link: <https://europa.eu/eurobarometer/api/deliverable/download/file?deliverableId=82846>

⁷² The previous National Strategy for Prevention and Counteraction to Corruption for 2015 – 2020 followed a sectoral approach, providing for the development of anti-corruption plans in high-risk sectors such as tax and customs administration, agriculture, health care, etc. and setting out legal and practical measures for preventing corruption in each respective sector, along with a mechanism for reporting implementation results. Preventing and combating corruption in the judiciary, the MoI and in the bodies of state-control were among the priorities of this national strategy.

⁷³ Including activities in such areas as strengthening the capacity and increasing the transparency in the work of the anti-corruption bodies and units; counteraction to corruption crimes; strengthening the capacity and improving the work of the bodies with control and sanctioning powers in the administration; increasing transparency and accountability of the local government; freeing citizens from “petty” corruption; creating an environment for public intolerance of corruption; developing and implementing a methodology for evaluating the implementation of anti-corruption policies.

⁷⁴ <https://www.mvr.bg/министерството/за-министерството-на-вътрешните-работи/съвети-и-комисии/вксбк/документи>

135. While the overall National Strategy for Prevention and Counteraction to Corruption for 2021-2027 is in place, which includes the MoI/Police to some extent, there is no dedicated anti-corruption strategy for the Police *per se*. The GET sees this as a lacuna which needs to be remedied. Having its own corruption prevention strategy would also emphasise the organisational identity of the police in Bulgaria. **GRECO recommends that a dedicated anti-corruption strategy (or an equivalent document) be established for the Police as a complement to the National Strategy for Prevention and Counteraction to Corruption, accompanied by an action plan for its implementation.** (See also paragraph 142)

136. The Anti-Corruption Commission carries out the analysis of compliance of anti-corruption plans of different ministries and public bodies with the Guidelines for Anti-corruption Plan Preparation adopted by the NCACP. The results of this analysis are reflected in the annual reports of the Commission. The conclusions of the Commission regarding the compliance of the MoI annual anti-corruption plan, reflected in the most recent report adopted in 2021, are limited to examining whether the measures, indicators and responsible officials have been identified in the MoI annual plan in the manner prescribed by the Guidelines. However, the conclusions do not offer an in-depth analysis as to the implementation of these measures in practice, or any concrete recommendations in this regard.

Risk management measures for corruption prone areas

137. Risk management is one of the compulsory elements of financial management and control in the provision of Article 10, Paragraph 1, Item 2 of the Law on the Financial Management and Control in the Public Sector. Article 12, paragraph 2 of this Law states that *“risk management involves identification, assessment and control of perspective events and situations, which can have a negative impact on achieving the goals of the organisation and is intended to provide reasonable believe that the goals will be achieved.”* The Strategy for Risk-Management in the MoI⁷⁵ requires that each structure within the Ministry develops appropriate risk-management measures⁷⁶, setting out the stages of risk management process, awareness raising, method applied and main requirements for the development of risk-management-based organisational culture.

138. Since 2015, the MoI is implementing an anticorruption measure entitled “Automated information system CCTV of security activities and traffic control”, which aims at limiting and eliminating irregularities by the Traffic Police units by means of external video cameras, body cameras and microphones. According to the authorities, following successful preventive effect of these measures, their use has been expanded to the Security Police. In addition, a Centre for active monitoring in the MoI has been established at the end of 2021, scaling up the scope of checks with regard to staff of the MoI as a result (over 600 checks have been carried out through automated systems since the Centre has become operational).

⁷⁵ Approved by the Minister of the Interior’s Order No 81213-934 of 18 July 2017.

⁷⁶ The main goals of risk management should include detection and mitigation, in a timely manner, of major risks threatening the implementation of the immediate and strategic tasks and goals of the organisation; adequate allocation of human resources according to the significance of the risks identified; establishment of effective links between various structural units, division of responsibilities of the personnel, order for reporting and levels of authorisation; timely adaptation and refreshing of risk management policies on the basis of assessment of implementation effectiveness.

139. Further, as of 2019, the Mol is implementing a project entitled “Remain clean, say no to corruption”, in partnership with the Anti-corruption Directorate of Romania and the National Anti-corruption Centre of Moldova. The objective of the project is to encourage the citizens transiting the Border Check Points through provision of advertisement materials (stickers, inquiry leaflets, leaflets with information about the project, etc.) to use anonymous contact channels to notify possible corruption involving the staff of the Mol.

140. Checks for mandatory insurance of vehicles, fines for violations and other acts are performed electronically, with fines and other notifications being printed on mobile printers and handed to individuals on the spot. Electronic services have also been introduced and credit card payment terminals were installed in the Mol premises providing payable administrative services. In the area of border control, measures have been introduced to reduce corruption risks, including the rotation of staff, automatic vehicle locator system to control patrols in real-time, video surveillance in booths, lanes and border crossing point zones. A telephone hotline and an email address have been set up for reporting problems, incidents and inappropriate behaviour, or corruption practices.

141. Notwithstanding the preventive targeting specific sectors of the Mol, in the course of the on-site visit the GET heard that the most recent comprehensive corruption-risk mapping within the Mol dates back to 2015, and no such exercise has been done since then. Currently, risk areas within the Mol are said to be identified and updated within the ministry by the Internal Council on Prevention and Counteraction to Corruption.

142. The GET takes note of the annual anti-corruption plans and the follow-up given to their implementation by the Mol/Police, published on the website. It also notes a variety of steps taken to reduce corruption risks by introducing real-time audio-visual control tools in different sections of the Mol and facilitating automated access to payable services provided by the Ministry. That said, there is clearly a lack of a comprehensive mapping of corruption risks in various structures of the Mol, which is expected to be inspired by the harmonised risk-assessment methodology, in preparation with the Anti-Corruption Commission for some time now (see paragraph 38 above). Finally, mapping of corruption risks should also cover senior officials of the Mol, as this currently does not appear to be the case. **GRECO recommends that a comprehensive risk assessment of corruption prone areas and activities be undertaken in the Ministry of the Interior to identify problems and emerging trends, and that the results of the assessment serve as a basis for the design of a dedicated anti-corruption strategy of the Police.** (See also paragraph 135).

Handling undercover operations and contacts with informants and witnesses

143. The rules and procedures for the use of specialised investigative techniques in the context of criminal investigations is set out in Article 172 of the CPC and in the Law on Special Intelligence Means. According to Article 172 paragraph 1 of the CPC, pre-trial investigative bodies may use the following special investigative techniques: observation, interception, shadowing, penetration, marking and verification of correspondence and computerised information, controlled delivery, trusted transaction and investigation through an undercover officer. Paragraph 2 of the same Article states that such means may be used for the investigation of serious, intentional criminal offences, where relevant circumstances cannot be established in any other way. Details and time-frames of granting the authorisation for the

use of special investigative techniques, as well as the duration of its validity, are set out in Articles 173-177 of the CPC, and the Law on Special Intelligence Means.

Ethical principles and rules of conduct

144. Apart from the MoI Law and the Rules of Procedure and Organisation of the MoI, the key document containing ethical principles and rules of conduct in the police is the Code of Ethics of civil servants of the MoI⁷⁷, published on the Ministry's website. According to the authorities the Code of conduct for the MoI civil servants is specifically aimed at the MoI officials with police functions. The Code of Ethics defines the ethical principles for the behaviour of the civil servants, namely: rule of law, protection of human life, respect of the dignity and the rights of the citizens; loyalty; honesty and conscientiousness; competence; responsibility; confidentiality, etc. and stipulates the manner in which these principles should be applied in practice. The Code of Ethics also sets the standards of conduct of the civil servants in the Ministry with regard to the society, the citizens, the judiciary and the interaction with other civil servants, the rights of the civil servants, etc.

145. Any breach of the ethical rules reflected in the above code is considered a serious violation of work discipline, punishable by disciplinary sanctions, including those set out in the Law on Civil Servants and the Labour Code. Serious violations of ethical rules, damaging the prestige of the service⁷⁸ can lead to dismissal from office. A Standing Committee on Human Rights and Police Ethics has been set up in the Ministry, with the task of monitoring the implementation of the standards in the field of human rights and respect for the professional ethics in the police.

146. It would appear that the civil service of the MoI has a code of ethics which also covers police officers (in addition to fire brigades, civil protection officers etc.). However, again, the GET is concerned that there is no dedicated code for the Police and its particular functions. Some of these functions are already covered, but there is a need to establish areas that are lacking and bring all relevant provisions regarding police ethics and integrity under a comprehensive code of ethics for the police. Such a code should also be accompanied by dedicated guidance for its implementation in practice and enforcement. **GRECO recommends that the code of ethics applicable to the Police covers in detail all relevant integrity issues for the Police (such as conflicts of interest, gifts, contacts with third parties, outside activities, handling of confidential information etc.) and that it be complemented by tailor-made practical guidance and an enforcement mechanism.**

Advice, training and awareness

147. Initial training, which includes mandatory corruption prevention courses, is carried out in the Academy of the MoI, offering four-year professional education to future police officers.

⁷⁷ The Code of Ethics was approved by the Minister's order No. 81213-348 of 25 July 2014, and has been amended four times in 2014, 2016, 2017 and 2018.

⁷⁸ Concerning "prestige of the service", the authorities refer to the Interpretative Decree No. 3 of the Supreme Administrative Court of Bulgaria, adopted by the latter on 7 June 2007, which states as follows: "the prestige of the service should be understood as the authority of the police in the eyes of society, which it serves to protect the life, health and property of citizens, to preserve public order, to counter crime in strict compliance with the law, to respect the fundamental rights and freedoms of citizens and to promote the rule of law. Failure to observe professional ethics, disrespect for the established public order may result in a reduction or loss of public confidence in the police, leading to a lack of public support for the overall police activity."

New police recruits with higher education undergo a specialised induction training, which covers *inter alia* sessions on corruption offences, factors stimulating corruption, and measures taken by the MoI to counteract them. The rules on ethical conduct, covering the MoI Code of Ethics and the Code of Conduct for employees of State Administration, are part of the curricula of induction and in-service training for the MoI staff. A separate non-mandatory course entitled “ethics” by Public and Legal Studies Department covers 12 topics under 30 hours of lectures and includes professional ethics, culture of relations with other ethnic groups, control and prevention of corruption. In addition, staff of the Internal Security Directorate take part in specialised training entitled “Countering corruption”.

148. Training in the MoI is conducted mostly by permanent lecturers, within the limits of the annual budget, including co-financing of international training, when these take place. No separate funds are envisaged in the MoI for training purposes. The authorities indicate that measures taken in response to the COVID-19 pandemic considerably reduced training possibilities, which had to be limited to online sessions. However, these restrictions have been lifted. In the course of 2022, the MoI Academy conducted a training course entitled “Corruption and corrupt behaviour. Countering Corruption”, with participation of 10 MoI officers and a training course “Current Issues of Anti-Corruption”, with participation of 24 officers. Police officers also participate in international training activities. Overall, a total of 102 MoI officials attended various training sessions in 2022. Regular training of management staff is said to be provided through four-week advanced training for the “Managerial position”, which includes the topic “Ethical aspects in the behaviour of managers” and a five-week course for the improvement of professional qualification for a managerial position, covering *inter alia* the topic “Code of Ethics for Civil Servants in the Ministry of Interior, Code of Conduct for Civil Servants in the Public Administration”. Thus, in 2021, training was organised for 133 officers holding managerial positions; in 2022 – for 120 officers in managerial positions.

149. The duration of training and types of courses are determined in accordance with the Schedule for the Vocational Training of the MoI employees, approved annually by the Secretary General of the MoI. According to the authorities, the topics of integrity/ethics are part of the professional training provided in the MoI Academy and training centres for specialisation and professional training, as well as on-the-job training. In the MoI Academy, the subject entitled “Ethics” is part of the curriculum as an optional subject for the bachelor’s degree in the specialty “Crime Prevention and Protection of Public Order” dedicating a total of 30 hours. Further, the subject of “Police Ethics” is part of the initial professional training for trainees who have won competitions for executive positions (“intelligence officer”, “police inspector” and “investigating police officer”) and covers topics such as system, concept and principles of professional police ethics; ethics and professional conduct; international and national police ethical standards; tools for the application of the Code of Conduct for Civil Servants in the MoI; ethical dimensions of the police. The number and periodicity of the different types of courses depend on the needs, as determined by the Human Resources Directorate. Training on specific topics such as combating corruption, conflicts of interest, professional ethics issues and high-risk operations are planned and conducted periodically and within the official academic year at the workplace of the MoI and its different structures.

150. The GET heard from representatives of the Office of the Ombudsperson that in practice, training on corruption prevention and ethical conduct for the police is sporadic, with no regular system in place. The Ombudsperson has recommended the MoI to introduce

regular training on these topics, and in response the Ministry informed that preparation of such training programme was in progress.

151. In the course of the on-site visit, the GET received no conclusive information as regards regular corruption prevention and professional ethics' training for senior officials in the MoI. Representatives of the MoI met on-site advanced a hypothesis that the Secretary General, directors and other senior officials in the MoI would have passed relevant training, including on corruption prevention and the applicable ethical rules, in the context of their career advancement. However, no concrete information or examples were provided in this regard. Further, representatives of trade unions underlined that in their view, training offered to police on corruption prevention and ethical conduct was rather a formality and was not conducted systematically. The GET takes the view that more should be done to ensure that ethics and integrity issues are kept in the spotlight during initial and in-service training of staff in the MoI structures. **GRECO recommends enhancing the induction training and providing for regular in-service training of police officers (including the Secretary General, directors and all senior officials) on integrity matters, ethics and anti-corruption.**

152. The GET furthermore notes that at present no provisions are in place to offer confidential advice to staff of the MoI. According to interlocutors met on-site, staff of the MoI, including the police, are told to approach their immediate superiors for any advice relating to issues of professional conduct and ethics, but no specific procedure and no dedicated unit has been put in place to this effect, with all such contacts taking place informally. The GET was also told that the Internal Security Directorate, or the Human Resources Directorate would also be competent to provide advice.

153. Furthermore, the current absence of any procedure for the MoI staff to obtain confidential counselling on integrity matters, with no trained persons of trust to be approached in confidence in order to obtain information on integrity issues, is a significant gap and should be addressed. This would be particularly important in cases of staff wanting to report possible misconduct, for example, in respect of direct superiors. The GET heard that police officers may seek advice directly from officials/organisational units who also have competences in disciplinary matters. Having in mind the fact that a breach of the Code of Conduct is considered a serious disciplinary violation, police officers in need of advice on ethical issues would be discouraged from approaching these units. In view of the above, **GRECO recommends establishing a system of dedicated persons of trust available to provide confidential counselling on ethical and integrity matters to police officers.**

Recruitment, career and conditions of service

Appointment procedure

154. The MoI employs the following categories of staff: police, fire safety and civil protection officials; administrative civil servants; and persons working under labour contracts (with technical and support tasks). The status of the police, fire safety and civil protection officers is regulated by the MoI Law. The contractual and other relations with administrative civil servants are governed by the Law on Civil Servants, with some of the provisions of the MoI Law being also applicable, and the status of employees working under labour contracts is regulated by the Labour Code and the MoI Law. The procedure for appointment to civil service in the MoI is regulated in the MoI Law, Ordinance for the appointment to civil service in the

Mol, Chapter 2 of the Law on Civil Servants, and the Ordinance for competitions for civil servants.

155. The appointment in the police, fire safety and civil protection bodies carried out on the basis of a competition, consisting of three elimination phases⁷⁹ (physical test, psychological assessment and structured interview), announced by the Minister's order. The competition announcement is preceded by consulting the main structures of the Mol regarding their needs for human resources, on the basis of which the Minister receives reasoned proposals for vacant posts to be filled in through competition. The competition is announced on a specialised web page or a job search portal and on the Ministry's website.

156. Apart from the requirements specific to the respective vacant position, Article 155 of the Mol Law requires that applicants to vacant posts in the Mol be Bulgarian nationals only; not have a conviction for premeditated felony, regardless of it being expunged; not be summoned as a defendant, or under a trial for premeditated felony; comply with age, education, physical and mental fitness requirements and the medical requirements for work at the Mol. In addition, the Mol Law stipulates that cadets graduating from the Mol Academy and high military schools, trained for the needs of the Mol service, are recruited without a competition (Article 156, paragraphs (2) and (3)), even though they must meet similar entry requirements and security checks when entering the Mol Academy or military schools.

Promotions

157. The Mol Law establishes the following four hierarchical categories of positions of police, fire safety and civil protection officers in the Mol: high level management, management, operative and junior operative. Career development is said to be achieved through transition into higher types of position, according to a procedure regulated by the Mol Law and the Ordinance for the terms and conditions for competitions for transition of the civil servants in the Mol into higher positions⁸⁰. Article 163 (2) of the Mol Law states that no competition shall be held for the senior management positions – Secretary General, Deputy Secretary General and Director General. Pursuant to Article 36, paragraph (3) of the Mol Law, Secretary General of the Mol is appointed by a Presidential decree, upon proposal of the Council of Ministers. The Deputy Secretary General is appointed by the Minister of the Interior. As per Article 41, paragraph (1), directors general are appointed by the Minister upon proposal of the Secretary General. Senior officials are appointed to their positions for indefinite duration and may only be removed from office on the basis of provisions for termination of employment set out under Article 226 of the Mol Law including, *inter alia*, the person's will, reaching of retirement age, inability to exercise functions, presence of a conflict of interest, commission of a grave criminal offence, systematic inability to exercise functions etc. The Ordinance regulating the conduct of competitions for higher positions in the Mol contains detailed provisions regarding the announcement of competitions for vacant positions, the application for such positions, requirements of candidates, composition and

⁷⁹ Each phase is carried according to a methodology approved by an Ordinance of the Minister of the Interior No 8121z-344 of 25 July 2014 on the appointment in the Mol. Depending on the specific requirements for certain positions, other examination phases may be required, (e.g., a written examination in form a presentation, test or case study). For instance, competitions for the positions of investigating police officers include written tests and case studies.

⁸⁰ Ordinance NO. 8121h-406 of 14 April 2015, on the Terms and Conditions for Conducting a Competition for Advancement to a Higher Type of Position for Civil Servants in the Ministry of the Interior.

powers of competition commissions and the modalities of conducting competitive examinations.

158. The GET notes the detailed provisions regarding the procedure of promotions, set out in the Ordinance of the Minister of the Interior of 14 April 2014. The GET was told that a candidate for appointment as Secretary General must have at least ten years' experience, of which half should be in managerial positions in the Mol structures, while the Deputy Secretary General – at least five years of managerial experience. In the course of discussions on-site it transpired that appointments to most senior professional positions in the Mol (e.g., Secretary General, directors general, directors etc.) take place without open, or even internal competitions, as no such requirement is stipulated in law. It has not been made clear to the GET, whether any vetting requirements apply in this process.

159. As for promotions on other, lower positions, while the above Ordinance provides for candidates wishing to apply for vacant positions to do so, representatives of the Mol met on-site stated there was no such possibility. Instead, proposing candidates for appointment to higher positions was the prerogative of a direct supervisor, if he/she considered that the candidate met the necessary qualifications. What is more, the GET was informed that competitions may be announced for positions of regional director, but this has not been followed in practice. It was reported that promotions based on a competition mostly took place when a junior operative would wish to become an operative, or a senior officer.

160. The GET is seriously concerned by the fact that the current practice does not seem to systematically follow the existing procedures for promotions to ensure that in practice decisions on promotions within the Mol are transparent and based on merit. As to the most senior positions, appointments seem to be conducted in lack of transparency and involve exclusively political bodies – the President (through co-decision with the Government), the Council of Ministers and the Minister. As the Secretary General and directors general have very broad discretionary powers in the Mol, their current appointment arrangements create the risk of undue political influence on the functioning of law enforcement in Bulgaria, and should be remedied. Further, the possibility to apply to other higher vacant positions by interested staff members should be broadly promoted and systematically implemented in practice, and access to such positions should not be subject to the immediate superiors' discretion, as this deprives the process of transparency and fairness and exposes working relations to favouritism and undue influences. In view of the above, **GRECO recommends that (i) objectivity and transparency of promotion procedures in the Ministry of the Interior be enhanced to ensure they are based on merit pertinent for the police profession, and that (ii) open competitions be effectively used for all recruitments to, and promotions within the Police.**

161. As regards vetting, specific checks are said to be performed in order to grant police officers clearance to access confidential, secret and top secret information⁸¹. Should such clearance be refused, the officer cannot apply for a position requiring the respective clearance for one year. A leak of classified information will lead to rescinding the clearance for the

⁸¹ The checks for positions requiring access to classified information include security clearance procedures, carried out in accordance with the Law on Protection of Classified Information and its Implementing Rules. There are three types of security clearance procedures for access to classified information, depending on their level, as follows: "confidential", for which the security clearance is valid for five years; "secret" with a four-year security clearance; and "top secret" with a three-year security clearance.

duration of three years. In the course of the on-site visit, representatives of the MoI informed the GET that there is no formalised vetting procedure on the subject of integrity of candidates for employment in the MoI. The extent and rigor of vetting are said to be determined by the director or another superior in charge of a promotion, who requests from the Human Resources all necessary documentation and information about the candidate for appointment to a higher position. It is also said to be within the discretion of the superior appointing official which other structures of the MoI to approach, such as the Internal Security Directorate, in the context of verifying the integrity of candidates.

162. GRECO recommends that the security check system in the Police be strengthened, including by ensuring that integrity checks take place before recruitment and at regular intervals during the careers of police members, depending on their exposure to corruption risks and the required security levels.

Performance evaluation and promotion to a higher rank, transfers

163. The performance evaluation of the police and fire safety officers is carried out in accordance with the Ordinance⁸² on the Terms and Conditions for Forming Additional Remuneration for the Achieved Results in the Professional Activity of the Employees of the MoI. The evaluation is performed every six months by an evaluating manager, with the supervision of a controlling manager, who may be approached by employees disagreeing with their initial evaluation result. Employees disagreeing with the evaluation results may appeal to the controlling manager, whose decision is final.

164. Transfer of police officers takes place on the basis of a personal request, or if the needs of service so require. In the latter case, a transfer may only take place to positions requiring the same level of qualifications and the rank already carried by the police officer in question. Such transfer can be carried out at the same or another place of work, but cannot be longer than six months, or until the absent police officer returns to work.

165. Termination of service is regulated under Chapter Ten of the MoI Law. The service relationship with the MoI is terminated upon reaching retirement age (60 years for the MoI), for health reasons, in the event the person is no longer able to perform the assigned duties owing to illness, upon the person's wish, in case of abolishing the position, in case of a failure to submit a declaration of assets and interests, if an imprisonment sentence has been delivered by court in respect of the person, in case of scoring the lowest overall record during the performance evaluation, if a clearance for access to classified information has been denied or withdrawn, if an unresolved incompatibility has been established, in case of a disciplinary sanction of dismissal, in case of a decision of the Anti-Corruption Commission ascertaining a conflict of interests, acquiring of citizenship of another state, death of the person etc. (Article 226 of the MoI Law). The order on termination of service may be appealed under the procedure set forth by the Administrative Procedure Code; however, the appeal alone does not suspend the enforcement of such order.

Rotation

⁸² Reg. No. 8121z-254/ of 13 December 2017.

166. The rotation of MoI/Police staff working in high corruption risk areas is among the anti-corruption measures implemented in the MoI. The rotation is carried out in the central structures of the Ministry, the Sofia Directorate of the MoI and in regional directorates - in different spheres of activity, identified as carrying a high corruption risk, such as traffic control, customs and border control (land borders, airports etc. – according to the particularity of work and the volume of traffic). The rotation is based on organisational orders of the directors according to the specific features of the respective unit and/or activity. According to the authorities meet on-site, rotation takes place solely within the same police units (e.g., the same police officer during his/her shift on the border checkpoint is rotating from controlling documents of passengers, to the administrative work in the office). It would appear that no rotation takes place among deferent police units, neither in operational sense (i.e., from traffic police unit to border police unit) nor in territorial sense. Therefore, the completion of risk assessment recommended above (see paragraph 142), could be followed up by introducing an improved rotation system within police units most exposed to corruption risks.

Salaries and benefits

167. The gross remuneration in the Police is comprised of a salary for the concrete position, additional remuneration and social security contributions. The salary for different positions in the MoI is determined in accordance with the education requirements and is higher for positions requiring higher education⁸³. For each year of work on the aforementioned positions, a 2% increase is added to the basic salary, but not more than above 40% of the salary for the position. The gross annual remuneration for the junior level police officer, is approximately BGN 24,000 (EUR 12,271). The gross annual remuneration for the police inspector, is approximately BGN 31,000 (EUR 15,850). The gross annual remuneration for one of the highest management positions - Director of General Directorate is approximately BGN 85,000 (EUR 43,460).

168. According to the MoI Law, the compulsory social and health insurance of civil servants is covered by the state budget. The MoI staff have mandatory insurance against death, temporary incapacity for work or permanent loss or reduced working capacity as a result of an accident. In the performance of their duties, the MoI staff are entitled to free of charge travel in public urban transport; those admitted to the Academy of the MoI for full-time education may receive scholarships. The MoI pays compensation to civil servants for rent of housing, upon conditions determined by the Council of Ministers. Following termination of service, staff members are entitled to compensation equalling monthly remuneration multiplied by their years of service, but not exceeding 20. For termination of employment for health reasons after 10 or more years of service, the amount of the compensation may not be less than 15 months' remuneration.

169. When relocated to work in other places for more than six months, staff are paid a lump sum compensation of 50% of the gross monthly remuneration for the new position. When the spouse and children of the employee move to the same place, for each of them a lump sum compensation of 25% of the gross monthly salary is added, with transportation costs covered by the MoI. The employees having suffered personal injury during, or in connection with the performance of their duties, are paid a compensation of 10 months' remuneration in case of

⁸³ For junior positions, secondary education is required (police officer, firefighter) and for the other positions - executive and managerial, higher education is required (police inspector, inspector, Director of General Directorate)

grievous bodily injury and 6 months' remuneration in the case of moderate bodily injury. Spouses, children and parents of service persons of the Mol who lose lives during or on the occasion of performing their official duties, receive a lump sum compensation in the amount of 12 monthly salaries for each family member. In addition, medical assistance to staff of the Mol is provided by the Medical Institute of the Ministry⁸⁴.

170. In the course of the on-site visit, the GET was informed by representatives of the Mol and police trade unions of the unsatisfactory working conditions and inadequate remuneration in several sectors of the Mol. In some cases, a police officer at the initial stage of employment reportedly receives a monthly salary of around EUR 500, including when stationed in Sofia. In this specific context, the amount in question would not be considered adequate in the face of expenses incurred, as the majority of entry-level police officers come from outside the city and their needs also include accommodation costs. Interlocutors met by the GET indicated that low remuneration in the police translates into a steady outflow of police officers to private sector, particularly visible with every increase of salaries in the private sector, and the lack of interest to seek employment in the Mol among young people. The GET takes this situation seriously. Very low salaries may trigger a need for side activities, which in turn can lead to conflicts of interest and/or departures from the Police. In view of the above, **GRECO recommends improving the employment conditions in the police by reviewing the scale of remuneration, so as to establish more attractive wages for the lower ranks, whilst maintaining a stimulating margin for progression throughout the career.**

Conflicts of interest

171. The definition of conflicts of interest contained in the Anti-Corruption Law (see paragraph 83 above) is also applicable to staff of the Mol. According to Article 154 of the Mol Law, civil servants of the Mol must declare any private interest which they have in connection with the functions of the structural unit wherein they work. They must refrain from participation in the discussion, preparation and making of decisions in which they, or persons related to them, may have an interest, or when they maintain such relations with the interested parties which may give rise to serious doubts as to their impartiality. Upon learning of a conflict between their private interests and the public interest, the Mol employee must immediately withdraw from executing official duties related to potential conflict of interests and inform their authority, as provided under the Anti-Corruption Law.

172. The verification and the establishment of a conflict of interest is regulated in the Anti-Corruption Law, the Ordinance on the Organisation and Procedure for the Verification of Declarations and the Establishment of a Conflict of Interest, and the Internal Rules for the Organisation and the Procedure for verifying the declarations and for establishing conflicts of interest in the Mol.

⁸⁴ The Medical Institute provides free medical assistance to:

- employees of the Ministry of the Interior;
- employees of the Ministry of the Interior who, upon termination of their service or employment relationship have acquired a pension right and have worked for more than 10 years in the Ministry of the Interior, with the exception of employees whose employment has been terminated due to disciplinary dismissal or conviction of a deliberate crime of general nature;
- family members and parents of the above two groups of employees;
- and cadets from the Academy of the Ministry of Interior.

173. According to statistical information provided by the authorities, for the period from 1 January 2019 to 11 April 2022 the Inspectorate Directorate verified 2,553 declarations of incompatibility submitted by Ministry of the Interior officials. In the course of the verification, 301 reports were prepared and 2,553 employees of the Ministry of the Interior were checked as follows: 2,080 civil servants in the police, fire protection and protection of the population bodies (Article 142, paragraph 1, item 1 of the Law on the Ministry of the Interior); 461 civil servants (Article 142, paragraph 1, item 2 of the Law on the Ministry of the Interior, and civil servants with the status pursuant to the Law on Civil Servants); 12 persons working under labour contracts (Article 142, paragraph 1, item 3 of the Law on the Ministry of the Interior).

174. When verifying the declarations by the review committees, no discrepancies were found between the declared facts and the information received in accordance with Article 27, paragraph 3 and paragraph 4 of the Internal Rules with the exception of two declarations in which two discrepancies were found between the declared facts (in 2020 incompatibility under Article 153, paragraph 3, item 1, proposal first by the Ministry of Interior Act and in 2021 a discrepancy, which has been eliminated within the statutory one-month period). From 11 April to 8 November 2022, the MoI verified 16 declarations of incompatibility and established no cases of non-compliance. In the same period, discrepancies were found in one declaration of assets and interests, which have been eliminated within the statutory period.

Prohibition or restriction of certain activities

Incompatibilities, outside activities and post-employment restrictions

175. The MoI/Police officials may not belong to political parties, engage in political activities, express political views and engage in other actions in official capacity, whereby their political neutrality might be compromised (Article 146, paragraph 3, the MoI Law). Staff of the MoI may not hold elected office (President, Vice-President, member of the National Assembly, member of the European Parliament) and may not be members of political parties.

176. Further, the following situations and circumstances would be incompatible (as per Article 153, paragraph 3 of the MoI Law) during the service in the MoI: being in a direct hierarchical relationship of leadership and control with a spouse or a person in actual cohabitation, a relative in a straight line, in a collateral line - up to the fourth degree, or a relative by marriage - up to the second degree; being an individual entrepreneur, unlimited liability partner in commercial company, manager, commercial proxies, commercial representatives, procurers, commercial intermediaries, liquidators or syndics, members of the management or control bodies of commercial companies or cooperatives; carrying out commercial activity; working under an employment relationship or under a civil contract, except for carrying out scientific, teaching activities or exercising of copyrights, in accordance with terms determined by the Minister of the Interior. Ownership of shares, participation in privatisation through privatisation vouchers and in cooperatives - with agricultural land or forests with restored ownership are not considered commercial activities and are therefore not incompatible with working for the MoI.

177. Possible incompatibilities are screened upon officials' entry into service in the MoI structures. During the service, any reports received about an incompatibility are subject to examination. Any change of the initial circumstances of the MoI employee, which may lead to

incompatibilities, must be notified within seven days and verified. Violations of incompatibility rules may lead to administrative or criminal responsibility, depending on the severity of the violation.

178. For the period 2015-2021, 16 disciplinary proceedings were initiated (Article 207 of the Law on the Ministry of the Interior) against police officials, who were in direct hierarchical relation of management and control with spouse or person with whom they were in actual cohabitation, a relative in a straight line, in a collateral line - up to the fourth degree, or a relative by marriage - up to the second degree including, who had not filed a declaration within seven days of the occurrence of these circumstances. Four disciplinary proceedings were completed leading to the imposition of disciplinary punishment of “dismissal” (two in managerial positions and two in executive positions). In the remaining 11 proceedings there was no evidence of hierarchical relation, but other violations of the discipline were found, and six employees were given a “ban on promotion for one year” or “reprimand”. Five of the disciplinary proceedings were terminated, as evidence of disciplinary violation had been insufficient. One disciplinary proceeding has not been completed yet.

179. There are no general rules on post-employment for police officers. That said, pursuant to the Anti-corruption Law, upon leaving their positions the MoI staff are banned for one year to work in the areas which related to their previous police work. Violations of any post-employment restrictions are to be notified to the Inspectorate Directorate of the MoI. The GET was informed of one case where a Ministry official was employed in violation of restrictions, which resulted in a fine.

180. The GET recalls that according to several interlocutors, police officers in Bulgaria often seek employment elsewhere, most often in the private sector, for higher remuneration. The GET is mindful that the skills and knowledge acquired during the law enforcement service can be of value in the private sector and can thus lead to employment opportunities. Such moves, however, may entail a number of risks, such as the misuse of information gathered during law enforcement service, influence on the proper exercise of police officer’s official duties by an expectation of future employment in the private sector, or using private contacts with former colleagues in law enforcement for the undue advantage of the new employer. In this regard, reference is made to Council of Europe Recommendation No. R (2000) 10 on Codes of Conduct for Public Officials, which includes special guidelines on leaving the public service (Article 26). The magnitude of this issue is not clear, nor to what extent it requires further regulations. Therefore, **GRECO recommends that a study be conducted concerning the activities of police officers after they leave the service and that, if necessary, in the light of the findings of this study, rules be established to ensure transparency and limit the risks of conflicts of interest.**

Gifts

181. The Bulgarian legislation does not contain any provisions relating to receipt, refusal and registering of gifts permissible for staff of the MoI/Police. Section III of the MoI Code of Ethics stipulates that MoI civil servants may not accept any benefit or promises of a benefit for performing or not performing an official duty, neither mediate for another person to receive a benefit in order to perform or not an official duty. The GET notes that in these provisions, the prohibition to solicit and/or accept benefits is linked to the performance (or non-performance) of official duties. No rules are in place to register gifts received without any connection with the performance of official duties and therefore no such instances are

declared and registered. This situation is clearly unsatisfactory unless there would be a total ban on receiving gifts. Therefore, **GRECO recommends establishing a robust set of rules and guidelines on gifts and other advantages for the Police, including obligations to report and, as appropriate, register gifts, services, gains or other benefits.**

Misuse of public resources

182. Legal provisions establishing liability of officials in relation to the misappropriation of budget funds, damage to or destruction of property are contained in Chapter Nine of the MoI Law, Chapter Five, Section III of the Law on Civil Servants, Chapter Eleven, Section II of the Labour Code and in the Law on Liability for Damages Incurred by the State and the Municipalities. Misappropriation is also a criminal offence under Article 201 of the Criminal Code.

Third party contacts, confidential information

183. One of the principles of activity of the MoI is the protection of information and the sources from which it is obtained (Article 3, paragraph (1), sub-paragraph 6 of the MoI Law). The confidentiality is among the principles of conduct anchored in the MoI Code of Ethics, which states that it is a “conduct in conformity with the international data protection principles and the national legislation which guarantees the privacy of citizens by protecting the facts and/or information which have become available to the civil servant during or in connection with the execution of his or her official duties”. Further, Section VI of the Code of Ethics, entitled “Civil servant and the internal institutional information”, provides that the internal institutional information must not be used for self-serving purposes, or disclosed to persons other than the legal procedure.

Declaration of assets, income, liabilities and interests

Declaration requirements

184. Upon entry into service and subsequently on an annual basis, the MoI/Police officers must submit declarations of property and interests⁸⁵ (Article 37, paragraph 1, Anti-Corruption Law). Information to be included in such declarations covers property and incomes of spouses or persons in factual cohabitation under marital grounds, and of children under 18 years of age. Declarations are submitted on paper and electronic forms to the relevant section of the MoI, and thereafter annually by 15 May at the latest, covering the previous calendar year. The employees must notify any change in the previously declared circumstances within one month of its occurrence.

⁸⁵ More specifically, declarations contain the following information:

- names and position of the person submitting the declaration;
- registry number, date and type of declaration;
- the declaration for incompatibility and
- the declaration for change of declared circumstances in the declaration for incompatibility, as well as the declaration of change of already declared circumstances.

The following types of declarations are submitted by the MoI staff with law enforcement functions:

- declaration for incompatibility – on entry into service;
- declaration for assets and interest - on entry into service and subsequently – annually;
- declarations for change in already declared circumstances under the previous two declarations.

185. Declarations are recorded in a register of declarations of the MoI officials, which is public, except for information concerning the staff of the Directorate General for Combating Organised Crime, Internal Security Directorate, Special Operations and Counter-Terrorism Directorate at Directorate General of Gendarmerie, Special Operations and Counter-Terrorism. As to the declarations on assets and interests of other MoI officials, the following parts of their declarations are public: (i) participation in companies, management or control bodies of companies, non-profit legal entities or cooperatives; pursuit of business as individual entrepreneur at the date of the election or appointment and 12 months before the date of election or appointment; (ii) contracts with persons engaged in activities in the areas connected to decisions taken by the official in relation with his powers or duties; (iii) persons involved in activities in which the declarant has a private interest. The personal data is protected in accordance with the General Data Protection Regulation. Declarations are published within two months from the expiry of the deadlines for their submission.

Review mechanisms

186. The legal framework regarding the supervision over the accuracy and timeliness of declarations is set out in the Anti-Corruption Law, the Ordinance on the Organisation and Procedure for the Check of Declarations and the Establishment of a Conflict of Interest, and the Internal Rules for the Organisation and the procedure for verifying the declarations and for establishing conflicts of interest in the MoI. Declarations of senior managerial staff of the MoI concerning incompatibilities are examined by the MoI Inspectorate Directorate, while their declarations on assets and interests are to be verified by the Anti-Corruption Commission. The timeliness of submission of declarations by other staff members of the MoI on assets and interests, as well as on incompatibilities, is verified by commissions of officials empowered by the MoI for this purpose.

187. In case a report on possible corruption-related offence or conflict of interests has been submitted in respect of the declarant, or an evidence of a corruption offense or conflict of interests has been discovered in the course, for instance, of disciplinary proceedings, or if a high corruption risk has been detected, in-depth verification is carried out with the aim of establishing the completeness and authenticity of the facts declared. Information published in online or other media may be considered as a signal, which can trigger an in-depth verification. Anonymous notifications are however not taken into account neither under the Administrative Procedure Code, nor under the Anti-Corruption Law. Similar provision is replicated in the Rules on the Organisation of work of the MoI. By contrast, the Instruction on the Organisation of the Activity for Establishing Disciplinary Offenses and Imposing Disciplinary Penalties, Collecting and Processing Information on the State of the Discipline and Disciplinary Practice in the MoI stipulates that information submitted anonymously may lead to further checks, if the information provided contains sufficient factual data regarding possible violation, such as the time, place and the specific alleged misconduct, allowing a reasonable suspicion that a disciplinary violation has been committed by the MoI official. The GET stresses that systematic checks of anonymous notifications containing sufficient factual information may serve as a strong tool for preventing corruption and misconduct. In this regard, the legal and practical situation in Bulgaria appears to be inconsistent and calls for clarification.

188. Should the verification establish a discrepancy between the facts declared and the information received from other sources, the official concerned should be notified in writing

and be allowed to fill in any missing information and/or correct the inaccuracies within a fixed time-limit. Verification is concluded with a report on compliance, or non-compliance. Finally, no verifications or other actions will be initiated in relation to violations committed more than two years ago.

189. According to statistical information provided by the authorities, in the period from January 2019 to April 2022, the Inspectorate Directorate conducted checks of 2,553 declarations of incompatibility of the MoI officials' senior positions, with 301 reports drawn up as a result. Only two of the examined declarations revealed discrepancies. In the same period, a total of six checks of assets and interests' declarations were conducted (two in 2019 and four in 2020) and none led to a non-compliance. Within the same period, a total of 474 MoI officials have not submitted their assets and interests' declaration within the deadline. Out of them 392 have submitted declarations after the deadline, while 82 have still not done so⁸⁶. As regards checks of reports regarding for conflicts of interest, from January 2019 to April 2022, nine such checks were carried out in the MoI, resulting in the initiation of proceedings to ascertain conflicts of interest situations. One in-depth check led to establishing a conflict of interests situation, upheld by the court of first instance, while another concluded that there was no conflict of interests due to the absence of private interest of the official concerned.

190. The GET was told that at present nearly 70 commissions in charge of verifying declarations are operating in different structures of the MoI. It would appear that these commissions are composed of officers of the same directorates appointed internally, and that their task is reduced to checking the timelines of submission of declarations.

Oversight and enforcement

Internal oversight and control

191. Internal control within the law enforcement is primarily the responsibility of the immediate superior of the officer (or civil servant/employee) concerned. The Internal Security Directorate of the MoI, reporting directly to the Minister, performs operational-search and information-analytical activities for the prevention and detection of criminal offences committed by the MoI officials. As of 31 December 2021, the Directorate employs 141 officials and is divided into eight departments, five of which perform operational and search activities and activities for corruption prevention. When investigating criminal offences, the Directorate operates under direct supervision and control of the relevant prosecutor's office.

External oversight and control

192. The Office of the Ombudsperson of Bulgaria (see paragraph 81 above) receives complaints from individuals regarding violations of rights and interests against state bodies, including the MoI/Police. Thus, according to the Ombudsperson's Annual Activity Report for 2021⁸⁷, during the reporting period complaints were mainly received on "rude treatment" by employees of the MoI; refusal to provide information; and non-performance of official duties.

⁸⁶ It was reported that the majority of those not having submitted declarations on time were on different types of leave (maternity, sick leave, unpaid leave).

⁸⁷ The Annual Report of the Ombudsperson, in English, is accessible via the following link: https://www.ombudsman.bg/storage/pub/files/20220729171046_ANNUAL%20REPORT%202021_OMBUDSMAN%20OF%20BULGARIA.pdf

Most of the complaints related to initiation of proceedings, the appeal procedure, non-service of the citizens of the issued penal decrees under the respective order. Some of the alerts contained reports on violation of citizens' rights during controls by law enforcement bodies. The Ombudsperson's report suggests that most of the alerts received led to initiation of inspections by the Inspectorate Directorate of the MoI. Representatives of the Ombudsperson's Office met on-site informed the GET that in the course of 2021, some 47 complaints were received against law enforcement bodies, predominantly the traffic police.

Complaint system

193. Any citizen may signal his/her dissatisfaction with the actions of law enforcement officials to the structures of the MoI, the Prosecutor's Office, the Ombudsman, the reception of the Council of Ministers, or the Office of the President. Depending on its content, such alerts are directed to the competent authority for verification and follow up. The Administrative Procedure Code allows reporting abuse of power and corruption, mismanagement of State or municipal property and other actions or omissions of administrative authorities and officials, affecting State or public interests, rights or legitimate interests of other persons. Reporting of illegal acts involving the officials of the MoI/Police is possible through the dedicated telephone hotline of the Internal Security Directorate, its website, sending a report by regular mail, or delivering it in person. The telephone number for reporting illicit acts, including possible corruption, is posted on the website of the Ministry. Complaints are received and dealt with in accordance with Article 109 of the Regulations on the Structure and Activities of the MoI, as well as the Administrative Procedure Code. Article 121 of the APC stipulates that a decision on such signals must be taken within two months of its receipt at the latest, which can be extended for up to one month further in case of important reasons making such extension necessary. If a complaint is not dealt with in a timely manner, and the complainant is not notified, the matter may be brought before the competent authority for disciplinary action against employees responsible. Such proposals and signals received by the MoI structures, as well as actions taken in their regard, are recorded in the register of the MoI entitled "Alerts and proposals under the APC" operating within the Centralised Information System for Document Workflow.

Reporting obligations and whistle-blower protection

Reporting obligations

194. All unlawful acts committed by or against employees of the MoI/Police, and other acts affecting the functioning of the MoI, must be immediately reported in writing to the superior officer, and to the relevant human resources unit of the employee concerned together with evidence. As to reporting corruption offences, the CPC sets out an obligation on any person, including officials, to notify the commission of a crime to the pre-trial procedure bodies⁸⁸.

⁸⁸ In particular, Article 205 of the CPC states that "(1) Where they come to know about a perpetrated publicly actionable criminal offence, the citizens shall be publicly obligated to notify forthwith a pre-trial authority or another state body. (2) Where they come to know about a perpetrated publicly actionable criminal offence the officials must notify forthwith the body of pre-trial proceedings and take the necessary measures for the preservation of the general setup and data about the crime. (3) In cases under Paragraphs 1 and 2 pre-trial authorities shall immediately exercise their powers to institute criminal proceedings."

195. Further, Article 51 of the MoI Code of Ethics states that *“a civil servant shall oppose to and is obliged to inform his/her superiors or any relevant authorities of any act of corruption which has come to his/her knowledge.”* The GET notes that under this provision, the obligation to report is limited to acts of corruption only, and does not entail an obligation to report other misconduct, including violations of the Code of Ethics. **GRECO recommends establishing a clear requirement for Police officers to report all integrity-related misconduct they may come across in the service.** This should go hand in hand with introducing comprehensive measures to protect whistle-blowers (see recommendation in paragraph 198 below).

Whistle-blower protection

196. At present, the Bulgarian legislation does not contain specific legislation focussing on the protection of persons reporting corruption and related wrongdoing. Some provisions relevant to whistle-blower protection are found in Article 123 of the CPC, limiting them to the protection of witnesses in criminal cases, including those initiated for corruption offences. Further, the identity of those providing information to the MoI through available reporting channels (see paragraph 193 above) should be kept confidential⁸⁹, if the person providing information so requires. Some further provisions of relevance to whistle-blower protection are contained in the Administrative Procedure Code, the Anti-Corruption Law, the Labour Code, the Law on Civil Servants and the Code of Conduct for Employees in the State Administration.

197. The GET notes that the provisions of the CPC are mostly limited to protection accorded to witnesses in criminal procedure, but not those reporting corrupt acts outside of the penal law context. No provisions appear to be in place to ensure protection from retaliation at workplace, for instance. Recently, the Ombudsperson has highlighted the need to address this legislative gap, focussing on the prohibition of retaliation and support measures including comprehensive and independent information and advice, easily accessible to the public and free of charge, on procedures and remedies available, on protection against retaliation, and on the rights of whistle-blowers.

198. During the on-site visit, it transpired that the authorities were mindful of the need to introduce comprehensive legislation for an effective protection of whistle-blowers. Some measures are planned under the National Anti-Corruption Strategy, its implementation roadmap, and the National Recovery and Resilience Plan. However, at present, the protection of whistle-blowers in Bulgaria clearly falls short of the requirements of the Recommendation CM/Rec(2014)7⁹⁰ or the European Union directive on whistle-blower protection⁹¹. In view of the above, **GRECO recommends adopting and implementing whistle-blower protection measures in the law and integrating modules on whistle-blower protection into training programmes on integrity, conflicts of interest and corruption prevention.**

Enforcement procedure and sanctions

⁸⁹ As stipulated in the Rules for the Organisation of Work for Receiving and Initial Processing of Alerts Received on the Telephone Lines and the Ministry of Interior's Alerts Website.

⁹⁰ Recommendation CM/Rec(2014)7 on the Protection of Whistleblowers, adopted by the Committee of Ministers of the Council of Europe on 30 April 2014, accessible via the following link: <http://rm.coe.int/16807096c7>

⁹¹ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law.

Disciplinary and other administrative proceedings

199. Provisions regarding disciplinary responsibility of staff of the MoI is provided under Chapter Eight of the MoI Law, entitled “Disciplinary Liability”. It contains a list of disciplinary violations⁹², disciplinary sanctions⁹³ that can be imposed, as well as the statutes of limitations⁹⁴. Article 194, paragraph (3) of the MoI Law stipulates that staff bear disciplinary liability, regardless of the fact that their act may also constitute grounds for another type of liability. As per Article 197, paragraph (2), only one disciplinary sanction may be imposed for the same offence. Chapter Eight goes on to specify which sanctions are applicable for which violation.

200. Article 204 determines the competent disciplinary sanctioning bodies, depending on the position of staff member under disciplinary proceedings. Thus, the Minister, or an official empowered by the Minister, imposes disciplinary sanctions on high-level management, management and operative positions, except for the sanction of “dismissal” in respect of the Secretary General of the MoI. The Secretary General is competent to impose disciplinary sanctions for all civil servants of the MoI; the heads of structural subdivisions of the MoI – for the employees in junior operative positions and trainees to be appointed to such positions, and for employees on high level management, management and operative positions in these structures. Articles 205-210 of the MoI Law set out rules on the conduct of disciplinary proceedings, procedural rights of the defendant, termination of disciplinary proceedings, as well as the order of imposition of disciplinary sanctions. According to Article 211 of the MoI Law, a temporary suspension from service and the corresponding disciplinary sanction may be appealed against before the relevant administrative court, in accordance with the procedure established by the Administrative Procedure Code. The appeal does not suspend enforcement of a disciplinary sanction. Judgements of the administrative court for disputes for imposition of all disciplinary sanctions except “dismissal” Article 197 (1), items 1, 2, 3, 4, 5 of the MoI Law may not be appealed in administrative cassation court.

201. Further detailed rules on the implementation of disciplinary proceedings, investigations and sanctions are contained in the MoI Instruction on Discipline and Disciplinary Practice in the Ministry of the Interior⁹⁵, promulgated on 16 July 2021. This Instruction consists of four main chapters setting out, *inter alia*, activities to prevent disciplinary violations, carrying out of inspections to investigate whether a disciplinary violation has been committed, the exercise of disciplinary authority, and processing of information about the conducted disciplinary proceedings and sanctions imposed. The Instruction serves as a guidance to implement the relevant provisions of the MoI Law.

⁹² According to Article 194, paragraph (2) of the MoI Law, disciplinary violations are: 1. non-fulfilment of the provisions of this Act and of the by-laws based thereon, of the orders and instructions of the Minister of Interior, the Deputy Ministers and the MoI Secretary General and of the direct supervisors; 2. non-performance of official duties; 3. failure to adhere to official powers; 4. failure to fulfil the rules of the Code of Ethics regarding the conduct of civil servants in the MoI.

⁹³ Article 197, paragraph (1) of the MoI Law stipulates the following disciplinary sanctions: 1. reprimand; 2. written warning; 3. censure; 4. prohibition of promotion in position for a term from one to three years; 5. notice for dismissal; 6. dismissal.

⁹⁴ According to Article 195 of the MoI Law, a disciplinary sanction must be imposed not later than two months after discovering the violation, and not later than one year after it has been committed. In case of a serious violation, it will be sanctionable for up to two years from its commission. The countdown of these terms is suspended when the person concerned is on leave, has been taken into custody, or placed under house arrest.

⁹⁵ Instruction No. 8121z-877 of 6 July 2021 on Discipline and Disciplinary Practice in the Ministry of the Interior.

202. According to the authorities, in the course of during 2015-2021, disciplinary proceedings against police officers have been initiated in 16 cases, for violation of incompatibility restrictions (becoming in a direct hierarchical relation of management and control with a spouse or a person with whom they are in actual cohabitation, a relative in a straight line, in a collateral line – up to the fourth degree, or a relative by marriage – up to the second degree including, and not reporting on the occurrence of these circumstances within seven days). Four disciplinary proceedings resulted in dismissal from office of the civil servants (two managerial and two executive positions). Other violations were established in the remaining 11 proceedings and six employees were punished with a “ban on promotion for one year” or “reprimand”. Five disciplinary proceedings were terminated owing to insufficient evidence of a disciplinary violation and one disciplinary proceeding was on-going. In 2022, two disciplinary proceedings were initiated against police officers for violations of incompatibility restrictions (entering into a direct hierarchical relationship with a spouse/family member). One officer has been dismissed (the most stringent disciplinary sanction) and in the other case no sufficient evidence of misconduct has been found; the proceedings have therefore been terminated.

203. The GET notes that allegations of police brutality are not uncommon in Bulgaria. Reports of physical violence⁹⁶ of the police against journalists⁹⁷ and demonstrators in the course of 2020 public protests are the most recent stark examples of police violence, which have become known to public. It would appear that the perpetrators of these acts have not been sanctioned, and in some cases not even identified. According to the authorities, following these events, disciplinary proceedings against eight police officers have been initiated. Six officers have been dismissed on the grounds of the established serious violations, and no violations have been found in respect of the other two officers. Further, a disciplinary procedure was opened for unlawful arrest of a journalist on 2 September 2020, which has been concluded with a reprimand for one official. In the course of the disciplinary investigations into this case, the information for excessive use of police force against journalists and other media representatives have not been confirmed. Three officers were issued with a reprimand for other violations. As of the beginning of 2022, the MoI introduced an obligation to send a copy of any report containing information on unlawful use of weapons, auxiliary means, physical force or unlawful detention to the Internal Security Directorate.

Criminal proceedings and immunities

204. There is no immunity or other procedural privileges for law enforcement officers in Bulgaria. Criminal offences involving staff of the MoI would be investigated, prosecuted and sanctioned in accordance with the penal legislation in place (Criminal Code, Criminal Procedure Code etc.).

Statistics

⁹⁶ <https://www.politico.eu/article/police-violence-video-triggers-uproar-in-bulgaria/>

⁹⁷ Statement of the Council of Europe Commissioner for Human Rights of 3 September 2020: <https://www.coe.int/en/web/commissioner/-/bulgaria-must-investigate-police-violence-against-journalists>

205. The authorities provided the following statistical information regarding violations detected and sanctions imposed within the MoI:

Type of sanction	Year	Number of staff by post				
		Managerial	Executive	Junior Executive	Persons under Labour Code	Total
Pre-trial proceedings initiated	2022	7	16	34	5	62
	2021	12	17	67	3	99
	2020	7	31	61	-	99
	2019	18	41	54	4	117
	2018	24	20	63	4	111
	2017	11	15	45	3	74
Disciplinary Dismissal	2022	1	1	2	-	4
	2021	1	4	6	2	13
	2020	3	7	12	5	27
	2019	4	4	6	-	14
	2018	13	7	10		30
	2017	7	8	12	-	27
Other disciplinary sanctions	2022	-	3	145	-	148
	2021	4	6	354		364
	2020	9	7	296		312
	2019	18	15	313	3	349
	2018	17	20	124	15	176
	2017	34	18	113	3	168

VI. RECOMMENDATIONS AND FOLLOW-UP

206. In view of the findings of the present report, GRECO addresses the following recommendations to Bulgaria:

Regarding central governments (top executive functions)

- i. introducing rules on incompatibilities and vetting based on integrity criteria in respect of employment of persons hired at the discretion of central government to give advice to persons entrusted with top executive functions or to perform similar functions (paragraph 31);**
- ii. to regulate that continuously updated information on the names, functions and remuneration - and ancillary activities as appropriate - of the members of the political cabinets involved in top executive functions, are disclosed in a way that provides for easy, appropriate public access on-line (paragraph 33);**
- iii. that a methodology for risk analysis covering persons entrusted with top executive functions' specific integrity risks is adopted as a matter of priority, such analysis be carried out on a regular basis and remedial measures be included in the anti-corruption guidance documents of the Council of Ministers and ministries (paragraph 39);**
- iv. that (i) a comprehensive code of conduct for persons entrusted with top executive functions be adopted, published and complemented with clear guidance regarding conflicts of interest and other integrity related matters (contacts with third parties, gifts and other benefits, ancillary activities, contracts with state authorities, post-employment restrictions etc.) and (ii) this code be accompanied with a credible and efficient supervisory mechanism, envisaging specific sanctions for violations and tools for their enforcement (paragraph 44);**
- v. (i) that the relations and coordination between the National Anti-Corruption Council and the Anti-Corruption Commission (or its successors) as well as their respective tasks be clarified; (ii) that the selection and appointment process of all the members of the Anti-Corruption Commission be based on merit, transparency and subject to safeguards that prevent undue political influence (paragraph 53);**
- vi. that (i) dedicated awareness-raising/training of persons with top executive functions on integrity related matters, including the future Code of Conduct, be provided, when taking up their positions and at regular intervals thereafter; (ii) effective confidential counselling on integrity related issues be established for PTEFs, and (iii) an effective mechanism be developed to ensure consistency of advice among those responsible for giving advice on ethical matters (paragraph 57);**
- vii. that an independent assessment of the practical implementation of the legislation regarding access to information and practices of the executive bodies be carried out in order to (i) improve the legislation, including its mechanisms and oversight; and (ii) bring the use of exceptions or derogations to granting the requests for public**

information to the strict minimum necessary for safeguarding legitimate interests of the State or third parties (paragraph 63);

- viii. that (i) statutory time-limits for public consultations be systematically observed and that measures be put in place to prevent the circumventing of the ordinary consultation period; (ii) a legislative footprint, tracking major external interventions from the beginning of the legislative process be documented and disclosed; (iii) only limited and duly justified derogations from the rule on public consultations be allowed (paragraph 71);
- ix. that (i) rules be introduced on how persons entrusted with top executive functions engage in contacts with lobbyists and other third parties who seek to influence the government's legislative and other activities; and (ii) sufficient information about the purpose of these contacts be systematically disclosed, as well as the identity of the person(s) with whom (or on whose behalf) the meeting(s) took place and the specific subject matter(s) of the discussion (paragraph 74);
- x. ensuring sufficient functional independence of internal inspectorates to allow these units to effectively fulfil their role in the prevention and detection of integrity breaches and other irregularities within respective executive bodies, including when such irregularities may involve persons entrusted with top executive functions (paragraph 79);
- xi. that rules be drawn up on gifts and other benefits for persons entrusted with top executive functions, requiring them to declare gifts and other benefits accepted, and that this information be made available to the public (paragraph 95);
- xii. ensuring that (i) income, asset and interest declarations submitted by persons entrusted with top executive functions be subject to an in-depth, proactive and substantive control mechanism, connected to an enforcement regime; (ii) sufficient human and financial resources be provided to bodies responsible for this task; and (iii) comprehensive statistics on results of this control be established and made accessible to the public (paragraph 112);
- xiii. that an effective mechanism be introduced to ensure that (i) pro-active investigations and effective prosecutions of criminal offences of corruption involving persons entrusted with top executive functions systematically take place; (ii) procedural impediments hampering or preventing criminal investigations and proceedings of such cases are eliminated; and (iii) effective and proportionate criminal sanctions are imposed for such offences (paragraph 119);

Regarding law enforcement agencies

- xiv. that (i) sufficient operational independence of the Police vis-à-vis the Ministry of the Interior be provided for in law and ensured in practice; and that (ii) individual instructions to the Police be properly documented in writing, as a main rule (paragraph 124);

- xv. that (i) a broad analysis be carried out of the legal framework and practice of non-budgetary (including private) sponsorship and donations to the Ministry of the Interior/Police and its various structural entities and that, in light of its findings, clear rules be established to abandon private donations and/or, as a minimum, to eliminate the risks of conflicts of interests and corruption in this respect; (ii) information regarding donations and sponsorship received by the Police, indicating the nature and value of each donation, as well as the identity of the donor be systematically published (paragraph 127);
- xvi. that dedicated measures be taken to strengthen the representation of women at all levels in the Police, including in senior positions (paragraph 129);
- xvii. that a dedicated anti-corruption strategy (or an equivalent document) be established for the Police as a complement to the National Strategy for Prevention and Counteraction to Corruption, accompanied by an action plan for its implementation (paragraph 135);
- xviii. that a comprehensive risk assessment of corruption prone areas and activities be undertaken in the Ministry of the Interior to identify problems and emerging trends, and that the results of the assessment serve as a basis for the design of a dedicated anti-corruption strategy of the Police (paragraph 142);
- xix. that the code of ethics applicable to the Police covers in detail all relevant integrity issues for the Police (such as conflicts of interest, gifts, contacts with third parties, outside activities, handling of confidential information etc.) and that it be complemented by tailor-made practical guidance and an enforcement mechanism (paragraph 146);
- xx. enhancing the induction training and providing for regular in-service training of police officers (including the Secretary General, directors and all senior officials) on integrity matters, ethics and anti-corruption (paragraph 151);
- xxi. establishing a system of dedicated persons of trust available to provide confidential counselling on ethical and integrity matters to police officers (paragraph 153);
- xxii. that (i) objectivity and transparency of promotion procedures in the Ministry of the Interior be enhanced to ensure they are based on merit pertinent for the police profession, and that (ii) open competitions be effectively used for all recruitments to, and promotions within the Police (paragraph 160);
- xxiii. that the security check system in the Police be strengthened, including by ensuring that integrity checks take place before recruitment and at regular intervals during the careers of police members, depending on their exposure to corruption risks and the required security levels (paragraph 162);
- xxiv. improving the employment conditions in the police by reviewing the scale of remuneration, so as to establish more attractive wages for the lower ranks, whilst maintaining a stimulating margin for progression throughout the career (paragraph 170);

- xxv. that a study be conducted concerning the activities of police officers after they leave the service and that, if necessary, in the light of the findings of this study, rules be established to ensure transparency and limit the risks of conflicts of interest (paragraph 180);**
- xxvi. establishing a robust set of rules and guidelines on gifts and other advantages for the Police, including obligations to report and, as appropriate, register gifts, services, gains or other benefits (paragraph 181);**
- xxvii. establishing a clear requirement for Police officers to report all integrity-related misconduct they may come across in the service (paragraph 195);**
- xxviii. adopting and implementing whistle-blower protection measures in the law and integrating modules on whistle-blower protection into training programmes on integrity, conflicts of interest and corruption prevention (paragraph 198).**

207. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of Bulgaria to submit a report on the measures taken to implement the above-mentioned recommendations by 30 June 2024. The measures will be assessed by GRECO through its specific compliance procedure.

208. GRECO invites the authorities of Bulgaria to authorise, at their earliest convenience, the publication of this report, and to make a translation of it into the national language available to the public.

About GRECO

The Group of States against Corruption (GRECO) monitors the compliance of its member states with the Council of Europe’s anti-corruption instruments. GRECO’s monitoring comprises an “evaluation procedure” which is based on country specific responses to a questionnaire and on-site visits, and which is followed up by an impact assessment (“compliance procedure”) which examines the measures taken to implement the recommendations emanating from the country evaluations. A dynamic process of mutual evaluation and peer pressure is applied, combining the expertise of practitioners acting as evaluators and state representatives sitting in plenary.

The work carried out by GRECO has led to the adoption of a considerable number of reports that contain a wealth of factual information on European anti-corruption policies and practices. The reports identify achievements and shortcomings in national legislation, regulations, policies and institutional set-ups, and include recommendations intended to improve the capacity of states to fight corruption and to promote integrity.

Membership in GRECO is open, on an equal footing, to Council of Europe member states and non-member states. The evaluation and compliance reports adopted by GRECO, as well as other information on GRECO, are available at: www.coe.int/greco.
