Example of Bulgaria’s action to promote public ethics

WORKING GROUP ON PUBLIC ETHICS
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- **What are the challenges?**
The main challenge is to reduce the current level of corruption and to increase transparency and anticorruption activities on all level of governance and public society.

- **What are the objectives?**
The main objectives are defined in the National Strategy for prevention and counteracting corruption in Republic of Bulgaria 2015-2020.

- **Which policies, regulatory and institutional frameworks are developed and implemented?**

**Strategy to prevent and counter corruption**

In 2015 the Bulgarian Government adopted a five-year national strategy to prevent and counter corruption in a bid to tackle the key issue at all levels (a National Strategy for prevention and counteracting corruption in Republic of Bulgaria 2015-2020)

The strategy contains 33 specific measures in six primary areas, with the fight against corruption at the highest governmental levels a top priority.

The other five target areas include establishing an effective anti-corruption system; combating political corruption; preventing corruption in the judiciary, ministry of the interior and supervisory authorities; eliminating "petty" corruption in everyday life; and creating an environment of public intolerance to corruption.

In particular, the strategy proposes a reform of the institutional framework for preventing and combating corruption, aimed at greater efficiency and better coordination between existing bodies and departments, and the establishment of a single authority which would analyze and investigate assets and conflict of interest of persons occupying high state positions.

According to the strategy, by 2020, Bulgaria hopes to be a country where petty corruption is at European Union average levels, high-level corruption does not remain unpunished, anti-corruption institutions work efficiently and have a real deterrent effect, and perceptions and experiences of individuals and companies regarding the level of corruption in Bulgaria are significantly reduced.
Counteracting corruption

In the beginning of this year the Bulgarian National Parliament adopted a new legislation in the field of public ethics - Act on counteracting corruption and on seizure of illegally acquired property (called hereinafter Anti-corruption Act (AA)). In addition, the AA creates a single commission to enforce the law from the various commissions that existed before.

The new Act on counteracting corruption shall provide for:

- the measures for counteracting corruption;
- the conditions and procedure for seizure in favor of the state illegally acquired property;
- the statute and functions of the Commission for counteracting corruption and for seizure of illegally acquired property;
- the interaction of the Commission with other state bodies and the international cooperation.

The act shall aim at protection of the society interests through:

- effective counteracting corruption;
- creation of guaranties, that persons, occupying high public positions perform their powers or obligations honestly and fairly, while observing the Constitution and the laws;
- prevention of possibilities for illegal acquisition of property and disposal of it.

Counteracting corruption in the new Act on counteracting corruption and on seizure of illegally acquired property shall be realized through:

1. preventive activities under Chapter Four (“Corruption prevention”) and the operative-searchable activity under Chapter Nine (“Counteraction to corruption through disclosure of actions of persons, occupying high public positions”);
2. declaring incompatibility;
3. declaring property and interests of the persons, occupying high public positions and the related to them persons;
4. providing public access to declarations;
5. check of declarations;
6. check, analysis and assessment of the property status;
7. finding conflict of interests and imposing sanctions and other measures in case of found conflict of interests;
8. publication of the names of persons, who have not submitted declarations, or in whose declarations incompliance has been found, and the names the persons, for whom conflict of interests has been found;
9. referring the competent bodies in the cases, provided by this act;
10. other ways and means, provided by this act.
Definition of corruption and anti-corruption measures

The AA is not criminal law, and does not supersede existing criminal law on bribery in the Criminal Code. Instead, the AA provides an autonomous definition of corruption, which defines it as abuse of power, breach of powers, or failure to exercise powers by any high-ranking public official whereby the official or another party receives, directly or indirectly, undue pecuniary or non-pecuniary gain.

The AA features a long and extensive list of governmental officials that should qualify as “high ranking official” under the AA, which include (more than 50 positions): president, prime minister, ministers, Members of Parliament, and members of all three branches of government, including judges, prosecutors, local administration, members of most executive agencies, National Revenue Agency, and various sector watchdogs, etc. The list covers most high-ranking officials in the country.

Corruption-prevention measures in the AA include requirements to declare both conflict of interest and property status, mandates to investigate conflict of interest, mandates to investigate property status, and oversight of the various competent bodies charged with seeking action, including the Prosecution Office and Revenue Agency.

Anti-corruption commission

The Anti-corruption and Forfeiture of Illegally Acquired Assets Commission has wide ranging powers under the AA. A collective body of five members appointed by parliament, the Commission is entitled to request assistance from the Prosecution Office, National Revenue Agency, Customs Office, Supreme Judicial Council, Ministry of the Interior, and various law enforcement bodies. Annual declarations by high-ranking officials of conflict of interest and property status are to be submitted to the Commission, which will be responsible for the following: overseeing all investigations issuing sanctions for conflict of interest, analysing and adopting new anti-corruption measures, and commencing proceedings for confiscation of illegally acquired assets.

In practice, the Commission enjoys wide-ranging powers of investigation, which can be launched at the behest of any third party, or on its own volition. Anonymous notices by third parties are not allowed. The whistle blowers providing information to the Commission will not be identified in public.

Conflict of interest
A high-ranking official is not allowed to represent the state or a municipality in cases where he or she has personal interests in a particular decision. In addition, high-ranking officials are not allowed to: vote in decisions where they hold private interests, or influence other authorities and third parties to promote their private interests. In these cases, ranking officials should recuse themselves from making such decisions, and should be restricted from entering into any contractual arrangements with third parties whom the official has been dealing with in his or her government capacity during the previous year. Any breaches to the rules on conflict of interest are subject to pecuniary sanctions from the Commission.

**Forfeiture of Assets**

The Commission is empowered to bring forfeiture proceedings for illegally acquired assets if it can be proven that certain assets were unlawfully acquired. Such a proceeding can take place if an investigation by the Commission establishes a significant discrepancy – that is to say, a discrepancy that exceeds BGN 150 000 (EUR 75 000) – in the property status of an individual. The Commission is obliged to commence proceedings against a person if criminal prosecution has been launched against him for a wide range of crimes, including property and bribery crimes.

A procedure will also be launched if a person is sanctioned for an administrative violation where an asset of at least BGN 50 000 (EUR 25 000) is gained. The Commission can request interim measures for property freezing, and any transfers to third parties aware of the illegal source of assets are not valid in the eyes of the Commission and may be annulled.

- **Which categories of public officials are concerned?**

Act on counteracting corruption and on seizure of illegally acquired property has concerned the persons, occupying high public positions – 50 different positions which concerned above 1000 persons. The provision of Chapters Five (“Declarations”), Eight (“Conflict of interests”) and Fifteen (Administrative – penal provisions) of the above Act shall apply correspondingly to all civil servants at all levels of the State (local, regional, national) – above 139 665.

Till 2018 all civil servants had to declare annually only 2 things: real estate and incomes apart from those for the occupied position. Persons, occupying high public positions had to submit an annually declaration in which they should declare following 5 things:
1. real estate;
2. motor vehicles, water and aircraft vehicles
3. cash amounts, including deposits, bank accounts and receivables of total value above 2 500 €, including foreign currency;
4. available securities, shares in companies with limited liability and limited partnerships
5. incomes apart from those for the occupied position, received during the previous calendar year, exceeding 1000 €.

According new Act on counteracting corruption **persons, occupying high public positions and all civil servants, with the exception of those, obliged under the Judiciary System Act**, shall submit before the Commission an annually declaration on property and interests in the country and abroad, in which they shall declare following 14 things:

1. real estate;
2. motor vehicles, water and aircraft vehicles, as well as other vehicles, which are subject to registration under the law;
3. cash amounts, including deposits, bank accounts and receivables of total value above BGN 10 000 (5 000 €), including foreign currency;
4. investments in investment and pension funds and equivalent forms of savings and investments, if their total value exceeds BGN 10 000 (5 000 €);
5. available securities, shares in companies with limited liability and limited partnerships and financial instruments under Art. 3 of the Markets of Financial Instruments Act;
6. obligations and credits above BGN 10 000 (5 000 €), including credit cards, if the absorbed credit limit during the previous calendar year in local or foreign currency exceeds BGN 10 000 (5 000 €);
7. labor incomes, received during the previous calendar year;
8. incomes apart from those for the occupied position, received during the previous calendar year, exceeding BGN 1000 (500 €);
9. someone else’s real estate and someone else’s motor land, water vehicles and aircraft in the value above BGN 10 000 (5 000 €), which the person, or his/her spouse, or the person, with whom he/she is on factual cohabitate on marital grounds, permanently uses, notwithstanding of the reasons for that and of the conditions of use;
10. given collateral and made costs from them or in their favor, or in favor of the persons under Para. 4 with their agreement, where they are not paid with own means, with public means or with means of the institution in which they occupy the position, for:
   a) training;
   b) travelling;
   c) other payments with a single price above BGN 1000 (500 €);
11. costs for training apart from the cases under p. 10, including in favor of the persons under Para. 4, whose single value exceeds BGN 1000 (500 €);
12. participation in commercial companies, in bodies of management and control of commercial companies, of non-profitable legal persons, or of cooperatives, as well as performing activity as a sole trader on the date of the election or appointment and 12 months before the date of election or appointment;
13. contracts with persons, who carry out an activity in areas, related to receivables by the person, occupying high public position, decisions in the sphere of his powers or obligations under the office;
14. data about related persons, to the activity of which the person, occupying higher public position, has private interest.

- **Which levels of the State (local, regional, national) are concerned?**

The National Strategy and the Act on counteracting corruption and on seizure of illegally acquired property concerns all levels of the State (local, regional, national).

- **What results have been achieved?**

The National Assembly shall perform control over the Commission activity. The Commission shall yearly by 31 March present to the National Assembly a report on its activity. Within the same term the report shall be presented to the President of the Republic and to the Council of Ministers and shall be published on the Commission Website. In this regard, the first results will be reported in 2019.