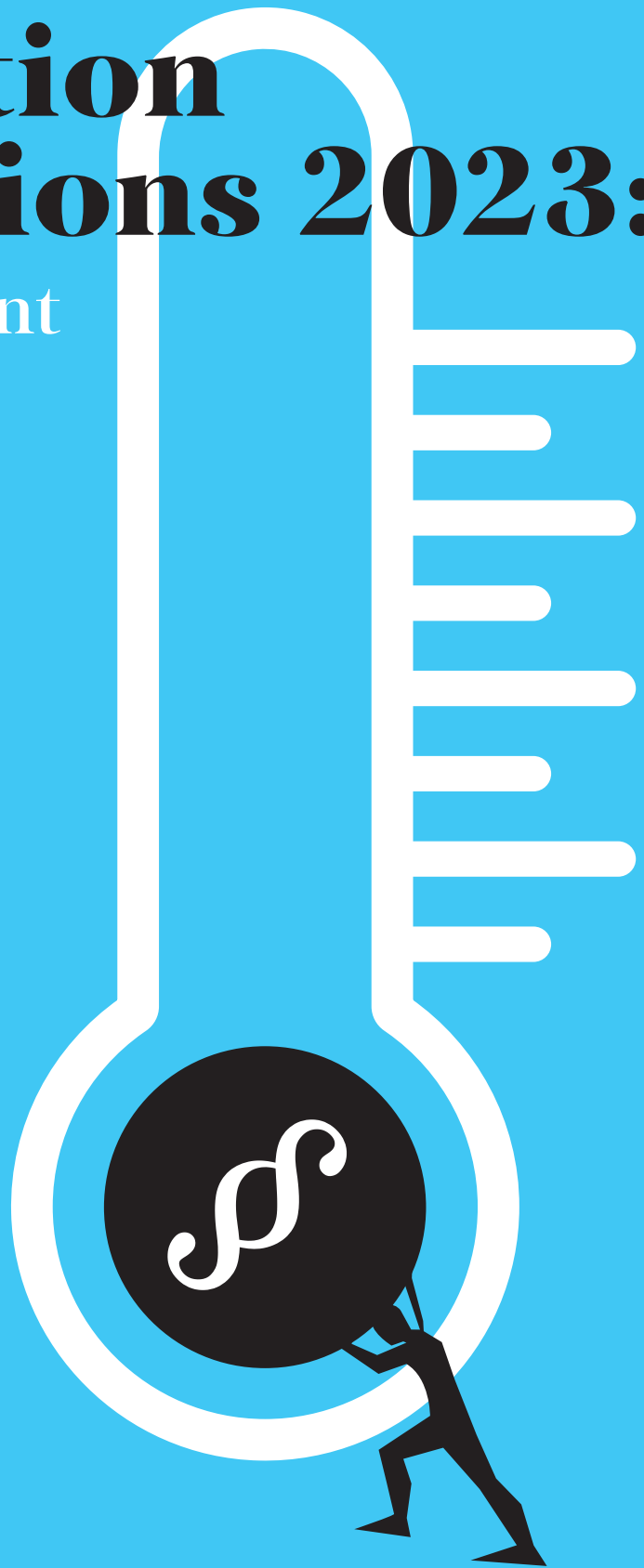


Anti-Corruption Institutions 2023: a Freezing Point



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Sofia, 2024

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Abbreviations

AC

Court of Appeal

ACF

Anti-Corruption Fund Foundation

AFIAPA

Anti-Corruption and Forfeiture of Illegally Acquired Property Act

APC

Administrative Procedure Code

APFC

Act on Preventing and Fighting Corruption

APO

Appellate Prosecutor's Office

APSCC

Appellate Specialized Criminal Court

ASPO

Appellate Specialized Prosecutor's Office

CAFIAP

Commission for Anti-corruption and the Forfeiture of Illegally Acquired Property

CC

Criminal Code

CCC

Commission for the Counteracting of Corruption

CFIAP

Commission for the Forfeiture of Illegally Acquired Property

CIPAA

Conflict of Interest Prevention and Ascertainment Act

CPACI

Commission for the Prevention and Ascertainment of Conflicts of Interest

CPC

Criminal Procedure Code

CSA

Civil Servants Act

CVM

Cooperation and Verification Mechanism

DPO

District Prosecutor's Office

EC

European Commission

ECHR

European Convention on Human Rights and Fundamental Freedoms

FIAPA

Forfeiture of Illegally Acquired Property Act

FFSPACAA

Forfeiture in Favor of the State of Property Acquired from Criminal Activity Act

GDNP

General Directorate National Police

JA

Judiciary Act

LLSGLA

Law on Local Self-Government and Local Administration

MCA

Military Court of Appeal

MoJ

Ministry of Justice

NBCSSM

National Bureau for Control over Special Surveillance Means

NCAP

National Council for Anti-Corruption Policies

OECD

Organization for Economic Co-operation and Development

PC

Prosecutorial Collegium of the Supreme Judicial Council

PORB

Prosecutor's Office of the Republic of Bulgaria

PPA

Public Procurement Act

SAC

Supreme Administrative Court

SANS

State Agency for National Security

SCAC

Sofia City Administrative Court

SCC

Sofia City Court

SCPO

Sofia City Prosecutor's Office

SCtC

Supreme Court of Cassation

SJC

Supreme Judicial Council

SMDPO

Sofia Military District Prosecutor's Office

SpCC

Specialized Criminal Court

SPO

Specialized Prosecutor's Office

SPOC

Supreme Prosecutor's Office of Cassation

SSM

Special Surveillance Means

Summary

1/ Prosecuting high-level corruption

The present analysis summarizes for the fifth time the findings of the independent civic monitoring of the most significant investigations of alleged high-level corruption crimes in Bulgaria carried out by the Anti-Corruption Fund (ACF).

The first issue of this report, *Anti-Corruption Institutions: Activity Without Visible Results*, examined 40 criminal proceedings initiated in the period from 2014 to 2019. The next three issues — *Anti-Corruption Institutions: Escalating Problems*, *Anti-Corruption Institutions: A Zero Year*, and *Anti-Corruption Institutions 2022: Eyes Wide Shut* — added 16 more criminal cases from 2020 to 2022. The latest issue of this report adds one more criminal case from 2023 and provides updates on the ongoing proceedings from previous years.

For a fourth year in a row, we also continue the additional monitoring of criminal investigations against high-ranking representatives of local authorities — mostly against regional governors and municipal mayors — which do not show different trends than those observed on the national level.

In 2023, none of the legal proceedings monitored for the purposes of this report ended with convictions, therefore the ratio of final convictions to acquittals remains unchanged: **the number of final acquittals (15) remains considerably higher than the number of final convictions (four)**. This represents a considerable discrepancy with the data released by the Prosecutor's Office: 226 convictions to 40 acquittals in 2023. The same discrepancy is evident in the data concerning high-level corruption crimes (as defined by criteria outlined by the Prosecutor's Office) which also includes criminal proceedings against forestry officers, directors of municipal cultural centers, and other public servants of similar ranks. The Prosecutor's Office has reported 33 convictions to 11 acquittals. The latter clearly demonstrates that the Prosecutor's Office's ef-

fectiveness diminishes when the criminal proceedings involve high-level officials.

The past year has confirmed that the real picture of high-level corruption in the country remains hidden because the criminal proceedings initiated by prosecutors do not reflect the actual levels of corrupt behavior among high-ranking public officials. Based on the outcomes of only these proceedings, it would appear that no high-level officials in the country have committed corruption crimes.

A new trend for 2023 is the increase in the number of proceedings which failed to reach the court stage.

Because of this factor and others, 2023 is synonymous with the Prosecutor's Office's distancing from investigations of high-level corruption crimes. The only exception from the general trend was evident during a few weeks in May and June 2023 when an attempt was made to discharge the Prosecutor General, Ivan Geshev, before the end of his mandate. During this period, the Prosecutor's Office took action, although without success, against those calling for Geshev's early removal from office.

Ms. Geshev was removed from his post when GERB and the Movement for Rights and Freedoms (MRF), the parties which had been supporting him, withdrew their support during the negotiations for a new government conducted with the pro-reformist coalition between "We Continue the Change" and "Yes Bulgaria" which had been calling for his resignation. In contrast with his predecessor, the acting Prosecutor General, Borislav Sarafov, was not criticized by the political parties which constituted the governing majority. Consequently, until the end of 2023, the Prosecutor's Office appeared to have forgotten the issue of political corruption. A number of criminal proceedings directly or indirectly linked with individuals from the political majority (or persons linked with them) — including the proceedings initiated at the end of Ivan Geshev's mandate — were either terminated or no longer active.

It was not until 2024, after the dissolution of the governing majority comprised of “We Continue the Change” – “We Bulgaria” and GERB (MRF), that the Prosecutor’s Office resumed its traditional role, using its well-known tactic of politically motivated and widely-publicized criminal proceedings on the grounds of suspected corruption crimes.

The short-lived and diverse governing majority introduced some legislative changes concerning the criminal justice system and the effort to counteract high-level political corruption with the tools of criminal law. The most significant steps in this regard were the amendments to the Constitution of the Republic of Bulgaria, the amendments to the Criminal Procedure Code, and the new Act on Preventing and Fighting Corruption. A major share of these reforms was initiated in the absence of a pre-determined and overall concept. What was missing was an analysis of what necessitated the changes and what were the intended results. The tabled legal texts lacked detailed reasons for and objectives of the adoption. In addition, within the legislative process, there was significant uncertainty about the final versions of the legal texts eventually supported by the majority.

Despite all the criticism against these new legal initiatives, they still represent a small, timid step forward in reforming Bulgaria’s criminal justice system. However, lasting change in the way public authority is exercised in Bulgaria can be created by the cumulative impact of robust legislation and its effective and impartial implementation which applies to all parties equally and respects the comprehensive goals and the full meaning of the legislative texts. In this regard, the latest reforms are yet to be implemented in a comprehensive manner – something which is new in Bulgaria’s still fragile democracy – and have so far remained something that exists on paper.

2/ Ascertainment of conflict of interest

The second segment of the report analyzes the challenges related to ascertaining /not ascertaining conflicts of interest, and the cases of forfeiture of illegally acquired property as part of the activities conducted by the Commission for Anti-corruption and the Forfeiture of Illegally Acquired Property (CAFIAP), as well as the new Commission for the Counteracting of Corruption (CCC). The selection of the outlined conflict of interest cases was based on a number of criteria: 1) emphasis on the affected public interest/material parameters of the damage inflicted during the enactment of official duties; 2) the public attention the case attracted; 3) identification of tendencies in the commission's practices, its approach to the analysis of infringements, and the connection between individuals.

Even though a new Act on Preventing and Fighting Corruption that enacted an institutional reform of CAFIAP was passed in 2023, improvements in the established shortcomings of the commission's practices over the past several years could not be observed. On the one hand, the procedure to elect independent leadership of the new commission envisioned in the recently adopted law, is yet to be initiated. Consequently, the "reformed" institution is still presided over by its old members. On the other hand, the reform has not been carried out in its entirety and to a level of completion that would guarantee the expected results, including the fact that the section on conflicts of interest is identical to the already existing texts, which contain more than a few deficiencies.

The commission does not carry out corruption prevention and counteraction on its own initiative, but rather primarily works on material provided by whistleblowers and jurisdiction-based transfers from other law enforcement agencies. The commission's decisions do not attest to a high level of effectiveness when ascertaining conflicts of interest and the corresponding corruption prevention/counteraction.

Each of the two 2023 yearly reports regarding the activities of CAFIAP and CCC in the conflict-of-interest category presents extremely sparse details. Nevertheless, it becomes clear that 102 cases were reviewed, and a conflict was ascertained in only 11 of them.

The negligibly small number of cases where misconduct was prosecuted was additionally exacerbated by the fact that there is no judicial control over the decisions with which the commission does not ascertain wrongdoing. When the commission does not ascertain a conflict of interest, the administrative act is favorable to the investigated individual and it is not followed by an appeal from the defendant's side or the prosecution empowered to protest the non-ascertainment of a conflict, thus making the commission's decision final. This is precisely the type of situation that requires an effective system of checks and balances, as the present form represents public interest poorly.

The commission continues to apply a formalist approach to conflict of interest cases. The proceedings do not reveal whether there was a threat to public interest, or if there were doubts surrounding the impartial and objective execution of official duties, which could clarify the connections and dependencies hidden behind the facts that placed certain individuals in a privileged position, and potential private interests. All this appears to represent an absence of determination to objectively identify corruption and sanction the perpetrators.

The conclusions of the ACF's 2020 report remain just as valid¹. It pointed out that in order to increase trust in institutions, it is important to not only conduct thorough and exhaustive investigations, but also create the public perception that laws are being applied equally to everyone, irrespective of their material, social, or institutional status.

1. A. Yankulov, A. Slavov, Anti-Corruption Institutions: Activity without Visible Results, Sofia: ACF, 2020: https://acf.bg/wp-content/uploads/2020/06/ACF_ENG_2020-1.pdf

Introduction

One year, two faces of the anti-corruption institutions

The year 2023, the subject of this report, will be remembered as the year revealing two opposed faces of the Bulgarian anti-corruption institutions. In a matter of just a few weeks, the Prosecutor's Office switched from its typical defensive regime to politically laden hyperactivity bordering institutional aggression, and, following a brief moment of turbulence, reverted to its usual inactive state, freezing still. The reason behind this abrupt change is too important to forget: it is the unprecedented replacement — also justifiably labeled “dismissal” and “political orchestration” — and ending of the term of the Prosecutor General, Ivan Geshev, who, up to that moment, had managed the Prosecutor's Office in the familiar fashion of ignoring all the political factors linked to his original appointment.

The reason behind the reason is also noteworthy, as it relates directly to the issue of the independence of the judiciary, and especially of the Prosecutor's Office; it is the summarily formed political consensus regarding the replacement of Ivan Geshev that was aimed at establishing a new ruling coalition in the National Assembly. Following the first statements in that direction, the institution's criteria changed entirely in a matter of days, and sensitive cases, such as Barcelonagate and The Eight Dwarfs, were suddenly brought to the surface. It was then all over in an instant, as a vast majority of the SJC members voted decisively in favor of immediately ending the term of Ivan Geshev on hurriedly established grounds and proceeded to appoint his deputy, Borislav Sarafov, as acting Prosecutor General, without considering any possible alternative. The photos of Sarafov with Petyo “The Euro” Petrov were forgotten, and the sensitive cases were thrown back into the familiar state of stillness, and some were even closed.

This short and turbulent period witnessed the debunking of another myth about the Bulgarian Prosecutor's Office alongside the myth about its political

independence: the myth about the merely symbolic role of the Prosecutor General, actively promoted by the Prosecutor's Office itself. Although the Prosecutor General was until recently labeled just “an administrative head of other administrative heads,” it became clear how certain cases can be advanced at the snap of one's fingers following his public statements, without any written trail, but resulting in palpable consequences, including of a political nature.

The third myth about the Bulgarian Prosecutor's Office that was proven wrong in 2023 is related to “the new Prosecutor's Office in the context of a judicial reform.” The most apparent evidence is the leak of documents from the hacked email account of Alexander Babakov, a Russian politician directly linked with the Kremlin, and the energy pipeline projects involving Bulgaria, such as South Stream and TurkStream. Despite the serious arguments in favor of conducting an investigation, all documents pointing to the commitment of serious violations of Bulgarian legislation were disregarded as usual and left to fade away as nothing more than “digital noise.”

During the past year, the most sensitive political cases once again remained outside the focus of the anti-corruption institutions. Neither “Miss Bikini 2006,” Borislava Yovcheva, who is investigated for money laundering, nor Petyo “The Euro” Petrov, the former head of the Sofia Investigative Service who turned from a magistrate into a restaurant owner, fall in the scope of high-ranking public officials. The number of initiated and completed investigations of high-level corruption carried out by the Prosecutor's Office once again reveals, as it has in previous years, the overall state of combating corruption in the country, characterized by total restraint about any politically powerful actors and anything potentially associated with them, and by moderate activity at the lower “safe levels” exercised as leisurely as possible.

The situation is similar to that of another key anti-corruption institution in the country, CAFIAP. For a second consecutive year, the CAFIAP has been operating with incomplete personnel, and notably, in the absence of a chairman following Sotir Tsatsarov's resignation in March 2022, the functions of whom are currently exercised by the Deputy Chairman, Anton Slavchev. Aside from the fact that the legitimacy of his term is questionable at best, at the end of 2023, Slavchev won a competition to become a prosecutor at the Sofia City Prosecutor's Office. This gives rise to further questions about his motivation to run an institution with a leading role in combating the country's corruption. The Commission keeps working on autopilot without any indication of aspiring to reform its formalistic approach or use its powers to investigate conflicts of interest proactively. The 47th, 48th, and 49th National Assemblies could not find the will and consensus to fill in the crucial post of CAFIAP Chairman despite the vocal promises for a comprehensive reform of the Commission.

The statistics regarding the work of the two anti-corruption institutions, which shy away from the topics discussed in a real anti-corruption media monitoring report, once again reveal an unbridgeable gap between their agenda and that of the Bulgarian people. Bulgaria's formally independent anti-corruption institutions keep acting as if they are under the control of the politically powerful of the day. The data relating to the anti-corruption investigations represent systematically prepared, statistically correct evidence supporting that fact.

I/

Prosecuting high-level corruption

Andrey Yankulov

Methodology

The present analysis continues ACF's annual independent civic monitoring of the development (respectively, the closing) of the most important cases of criminal justice response by the competent state bodies to corruption crimes done at the highest levels of power in the Republic of Bulgaria, or to allegations of such. The references to 'corruption crimes' in this text shall include not only those crimes confirmed with a final court decision but also cases where allegations of committed crimes had been brought forward but did not result in subsequent criminal proceedings, cases where the criminal proceedings are ongoing, cases where the proceedings have been terminated, or have concluded with final acquittals.

The main annual monitoring systematizes and analyzes — where possible and mainly concerning completed proceedings — the available public information about corruption crimes. The main objective is to present a comprehensive overview of the efforts to combat high-level corruption. This overview is not based on dry statistics only (as is the case with the annual reports of public institutions) but also on references to the development and the intermediate or final outcomes of particular criminal proceedings or preliminary inquiries.

The study is a continuation of ACF's four previous reports: *Anti-Corruption Institutions: Activity Without Visible Results*², *Anti-Corruption Institutions: Escalating Problems*³, *Anti-Corruption Institutions: A Zero Year*⁴, and *Anti-Corruption Institutions: Eyes Wide Shut*⁵. These analyses track the development and summarize the outcomes (where available) of the most significant investigations of high-level corruption crimes during the period from 2014 to 2022. The reports employ a broad definition of 'corruption crimes' that includes not only bribery but also embezzlement, fraud, mismanagement of public funds, credit offenses, money laundering, tax evasion, malfeasance in office, offenses against public administration, offenses against the administration of justice, document fraud, and all other crimes that can be considered to involve an element of corruption given their particular circumstances.

The criteria used for the selection of cases are as follows (the first being the main one and the other two being auxiliary):

1/ the (alleged) perpetrator is a public official occupying a post of responsibility within an important institution in the legislative,

2. A. Yankulov, A. Slavov, *Anti-Corruption Institutions: Activity without Visible Results*, Sofia: ACF, 2020: https://acf.bg/wp-content/uploads/2020/06/ACF_ENG_2020-1.pdf

3. A. Yankulov, N. Kiselova, *Anti-Corruption Institutions: Escalating Problems*, Sofia: ACF, 2021: https://acf.bg/wp-content/uploads/2021/07/ACF_ENG_Online_Jul15-1.pdf

4. A. Yankulov, A. Kashumov, *Anti-Corruption Institutions: a Zero Year*, Sofia: ACF, 2022: https://acf.bg/wp-content/uploads/2022/07/ACF_Report_ENG_2022_interactive2.pdf

5. A. Yankulov, D. Peneva, *Anti-Corruption Institutions: Eyes Wide Shut*, Sofia, ACF, 2023 https://acf.bg/wp-content/uploads/2023/06/ACF_Report2023_EN_web.pdf

executive, or judicial branch, and the culpable act is carried out in, or in relation to, the exercise of the official's public duties, irrespective of the damages caused

or

2/ the (alleged) crime has resulted in unusually severe consequences affecting important public interests or has seriously impinged on important public funds, even if the official does not occupy a post of high responsibility

or

3/ the (alleged) malfeasance in office is exceptionally culpable from a moral standpoint given the manner of execution, the persons involved, the vulnerable population groups directly or indirectly affected, the criminal goals pursued, etc. and has thus attracted serious public attention in Bulgaria or abroad.

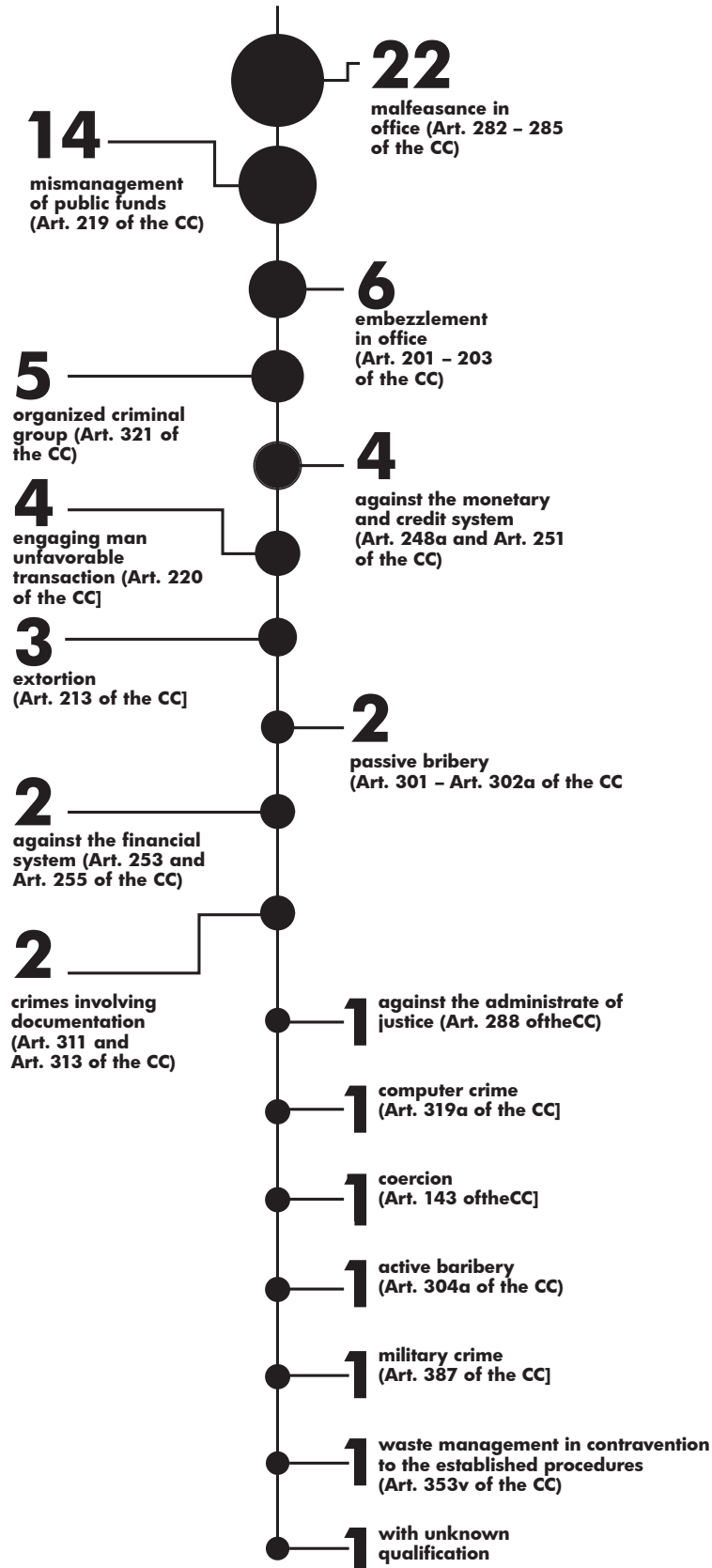
The present analysis has applied the above criteria to include one new case from 2023, while also tracing the development of pending cases from previous years.

For the fourth consecutive time, the report includes an additional section on corruption crime investigations at the local level. Once again, we have focused on a monitoring period of five years, applying criteria such as the post occupied by the alleged perpetrator and the degree of importance of the public interests affected, in order to analyze a representative sample of the most significant investigations (typically against municipal mayors and regional governors) of high-level corruption crimes at the level of regions and municipalities.

The section provides updates on the ongoing proceedings against local authority representatives and contains information about four new cases from 2023.

71

crimes in 57 cases, of which...



Summary Analysis of the Examined Cases

0.1 Completed cases

In 2023 no final court decisions were issued concerning any of the legal proceedings monitored for the purpose of this report.

Thus, for all the monitored cases concerning suspected high-level corruption crimes, the ratio of final convictions to acquittals remains four convictions to 15 acquittals.

In addition, five of the monitored cases never reached the court stage. In all the five cases, the grounds behind the decisions not to initiate legal action remain unknown as the Prosecutor's Office has not provided any official documents.

One of the terminated proceedings had been initiated following a report of suspected extortion attempts directed against Vasil Bojkov, a businessman with links to gambling companies. The proceedings were initiated against the former Prime Minister, Boyko Borisov, as well as Vladislav Goranov, and Menda Stoyanova⁶.

The other criminal investigation against an influential politician that was initiated in 2022 also failed to deliver results. In that case, the proceedings had been initiated against the former Minister of Finance, Asen Vassilev⁷.

Another well-publicized investigation that was later on terminated by the Prosecutor's Office involved

the presidential advisor, Ilya Milushev⁸. With this, both criminal proceedings initiated against two of the President's advisors, Uzunov⁹ and Milushev, were then terminated by the Prosecutor's Office itself. It was because of these two investigations that, in 2020, the Prosecutor's Office carried out an operation in the building of the Bulgarian Presidency which was cordoned off by armed officers of the Protection Bureau of the Prosecutor General. The operation provoked a heated public reaction and protests by civil society.

The following conclusions can be made based on all of the proceedings that have been terminated or completed:

- **the share of final convictions is very low, both compared to the overall number of completed or terminated proceedings (four to 36) and compared to the total number of final convictions (four to 19);**
- **there are no new final convictions;**
- **13 out of the 15 acquittals were issued because the charges against the defendants were initially unfounded;**
- **growing number of criminal proceedings (17) terminated by prosecutors.**

6. Cases 53-55
7. Case 56

8. Case 45
9. Case 44

#	Name	Position	Status of the Proceedings
1 2	Hristo Biserov – A Hristo Biserov – B	Deputy Chairman of the Bulgarian National Assembly, 2009 – 2013	A – The criminal proceedings are terminated by the Prosecutor's Office B – The proceedings have been completed with an acquittal
3	Simeon Dyankov	Deputy Prime Minister and Minister of Finance, 2009 – 2013	The proceedings have been completed with an acquittal
4	Traycho Traykov	Minister of Economy, Energy and Tourism, 2009 – 2012	The proceedings have been completed with an acquittal
5 6	Tsvetan Tsvetanov – A Tsvetan Tsvetanov – B	Deputy Prime Minister and Minister of Interior, 2009 – 2013	A – The proceedings have been completed with an acquittal B – The proceedings have been completed with an acquittal
7	Miroslav Naydenov	Minister of Agriculture and Food, 2009 – 2013	The criminal proceedings are terminated by the Prosecutor's Office
8	Delyan Dobrev	Minister of Economy, Energy and Tourism, 2012 – 2013	The criminal proceedings are terminated by the Prosecutor's Office
9	Rumen Ovcharov – A	Minister of Economy and Energy, 2005 – 2007	The criminal proceedings are terminated by the Prosecutor's Office
10	Peter Dimitrov	Minister of Economy and Energy, 2007 – 2009	The proceedings are at the pre-trial phase or at an unknown stage
11 12	Nikolay Nenchev – A Nikolay Nenchev – B	Minister of Defense, 2014 – 2017	A – The proceedings have been completed with an acquittal B – The proceedings have been completed with an acquittal
13	Daniel Mitov	Minister of Foreign Affairs, 2014 – 2017	The proceedings have been completed with an acquittal
14 15	Hristo Angelichin – A Hristo Angelichin – B	Deputy Minister of Foreign Affairs, 2014 – 2017	A – The proceedings have been completed with an acquittal B – The proceedings have been completed with an acquittal
16	Peter Moskov	Minister of Health, 2014 – 2017	The proceedings are at the trial stage
17	Adam Persenski	Deputy Minister of Health, 2014 – 2017	The proceedings are at the trial stage
18	Rumen Ovcharov – B	Minister of Economy and Energy, 2005 – 2007	The proceedings are at the pre-trial phase or at an unknown stage
19	Anna Yaneva	Deputy Minister of Economy and Energy, 2005 – 2007	The proceedings have been completed with an acquittal
20	Vladislav Goranov – A	Minister of Finance, 2014 – 2017	Criminal proceedings were denied
21	Veselin Pengezov	President of the Military Court of Appeal, 2004 – 2009	The proceedings have been completed with an acquittal
22	Petko Petkov	President of the Military Court of Appeal, 2009 – 2014	The proceedings have been completed with an acquittal
23	Vladimira Yaneva	President of the Sofia City Court, 2011 – 2015	The proceedings have been completed with a conviction
24	Rosen Zhelyazkov	Gen. Secretary of the Council of Ministers, 2009 – 2013	The proceedings have been completed with an acquittal
25	Angel Semerdzhiev	Chairman of the State Energy and Water Regulatory Commission, 2009 – 2013	The proceedings have been completed with an acquittal
26	Svetla Todorova	Chairman of SEWRG, 2014 – 2015	The criminal proceedings are terminated by the Prosecutor's Office
27	Stanimir Florov	Director of the Chief Directorate for Combatting Organized Crime, 2009 – 2013	The criminal proceedings are terminated by the Prosecutor's Office
28 29	Kircho Kirov – A Kircho Kirov – B	Director of the National Intelligence Service (NIS), 2003 – 2012	The proceedings are at the trial stage The proceedings are at the trial stage
30	Philip Zlatanov	Chairman of the Commission for Prevention and Ascertainment of Conflicts of Interest, 2011 – 2013	The proceedings have been completed with a conviction
31	Lubomir Velkov	CEO of NEK, 2005 – 2009	The proceedings are at the pre-trial phase or at an unknown stage
32	Mardik Papazian	CEO of NEK, 2005 – 2009	The proceedings are at the pre-trial phase or at an unknown stage
33	Rumen Simeonov	Assistant Director at the Bank Supervision Department of BNB from 2007 to 2013	The proceedings are at the trial stage
34	Tsvetan Gunev	Assistant Director at the Bank Supervision Department of BNB from 2013 to 2014	The proceedings are at the trial stage
35	Todor Kostadinov	Director of the Internal Security Department at the Mol, 2013-2014	The proceedings have been completed with a conviction
36	Pavel Alexandrov	Director of the Fund for Treatment of Children Abroad (FTCA), 2010 – 2015	The proceedings are at the pre-trial phase or at an unknown stage
37	Lazar Lazarov	Chairman of the Management Board of the Road Infrastructure Agency, 2014 – 2015	The proceedings are at the trial stage
38	Desislava Ivancheva	Mayor of the Mladost District within the Sofia Municipality, 2016 – 2018	The proceedings have been completed with a conviction
39	Petar Haralampiev	Chairman of the State Agency for Bulgarians Abroad, 2017 – 2018	The proceedings are at the trial stage
40	Anton Ginev	Director of the National Railway Infrastructure Company (NRIC), 2007 – 2009	The proceedings are at the trial stage

#	Name	Position	Status of the Proceedings
41	Boyko Borisov – A	Prime Minister, 2017 – 2021	Criminal proceedings were denied
42	Neno Dimov	Minister of Environment and Water, 2017 – 2020	The proceedings are at the trial stage
43	Krasimir Zhivkov	Deputy Minister of Environment and Water, 2017 – 2020	The proceedings are at the trial stage
44	Plamen Uzunov	President's Secretary on Legal Affairs and Anti-corruption, 2017 – present	The criminal proceedings are terminated by the Prosecutor's Office
45	Iliya Milushev	President's Advisor on Matters of Defense and Security, 2017 – present	The proceedings are terminated by the Prosecutor's Office
46	Ivan Geshev	Prosecutor General 2019 – June 2023; at the moment of alleged perpetration – a prosecutor in the Sofia City Prosecutor's Office	Criminal proceedings were denied
47	Delyan Peevski	member of Parliament, 2009 – present	Criminal proceedings were denied
48	Ilko Zhelyazkov	deputy chair of the National Bureau for Control of Special Surveillance Means, 2018 – 2021	Criminal proceedings were denied
49	Hristo Terziyski	Senior director of the Head Directorate of the National Police – Ministry of Internal Affairs, 2015 – 2020	The proceedings are at the pre-trial phase or at an unknown stage
50	Alexander Nikolov	Minister of Energy, 2021 – 2022	The proceedings are at the pre-trial phase or at an unknown stage
51	Danail Nikolov	Minister of Energy, 2021 – 2022	The proceedings are at the pre-trial phase or at an unknown stage
52	Lyudmil Yotsov	Executive Director of Bulgargaz EAD, 2022	The proceedings are at the pre-trial phase or at an unknown stage
53	Boyko Borisov – B	Primer Minister, 2017 – 2021	The proceedings are terminated by the Prosecutor's Office
54	Vladislav Goranov – B	Minister of Finance, 2017 – 2021	The proceedings are terminated by the Prosecutor's Office
55	Menda Stoyanova	Chairperson of the Parliamentary Committee on Budget, 2017 – 2021	The proceedings are terminated by the Prosecutor's Office
56	Asen Vassilev	Deputy Prime Minister and Minister of Finance, 2021 – 2022	The proceedings are terminated by the Prosecutor's Office
57	Borislav Sarafov	Deputy Prosecutor General, 2013 – 2023, acting Prosecutor General thereafter	The proceedings are at the pre-trial phase or at an unknown stage

0.2 Ongoing cases currently at the trial stage of proceedings

In 2023, the Prosecutor's Office filed an indictment against Krasimir Zhivkov, former Deputy Minister of the Environment and Waters¹⁰. Because of procedural errors the file was returned to the prosecution which removed them and submitted the indictment again.

The number of cases under consideration that were at **the trial stage of proceedings by the time of the conclusion of this analysis is now eleven**. Of them, there are five cases in which the sentence has not yet entered into force and six which are heard by first-instance courts with no sentences issued yet.

The legal proceedings against the former Minister of Health, Petar Moskov¹¹ and his deputy Adam Persenski¹², initiated because of a swap of vaccines with Turkey, were completed in October 2021 when a first-instance court acquitted both defendants. The trial is now heard by a second-instance court.

For several years already, there is no progress in the two trials against Kircho Kirov, formerly Director of the

National Intelligence Service. The lack of progress is due to the health condition of the defendant. He has been sentenced by the Supreme Court of Cassation and the Military Court of Appeal, but the sentences are still to enter into force¹³. It is highly unlikely that final decisions will be issued.

The criminal proceedings against Anton Ginev, former director of the National Railway Infrastructure Company, have reached the Supreme Court of Cassation¹⁴ in 2022 and a decision is still pending.

First-instance courts are yet to issue sentences in the proceedings against two executive managers of the Bulgarian National Bank (and a number of other defendants)¹⁵, initiated following the bankruptcy of the Corporate Commercial Bank (KTB). Sentences are also pending in the proceedings against Lazar Lazarov¹⁶, former chairperson of the Management Board of the Road Infrastructure Agency, against Petar Haralampiev¹⁷, former chairperson of the State Agency for Bulgarians Abroad, and Neno Dimov¹⁸, the former Minister of Environment and Waters.



4.5

years is the average timespan between the commission of the alleged corruption crimes and the filing of criminal charges in court (based on all the cases filed in court)



2.5

years is the average timespan between the filing of the final indictment (if the case was returned) and the issuing of a final verdict (based on all the cases with final verdicts)



5.8

years is the average timespan between the commission of the corruption crime and the issuing of a final verdict (based on all the cases with final verdicts)

10. Cases 43

11. Case 16

12. Case 17

13. Cases 28 and 29

14. Case 40

15. Cases 33 and 34

16. Case 37

17. Case 39

18. Case 42

0.3 Ongoing cases at the pre-trial stage of proceedings or with unknown development

A total of ten cases under monitoring by ACF are currently either at the pre-trial stage of proceedings or with unknown development.

Due to the expiry of the limitation period, the mega-case regarding the Belene NPP has collapsed. The defendants included several former ministers of energy and chief executive officers of the National Electricity Company. However, it is still impossible to confirm whether the proceedings against Petar Dimitrov¹⁹, Lyubomir Velkov and Mardik Papazian²⁰ have been closed, following the return of the indictment from the court to the Prosecutor's Office. The public prosecution continues to refuse to provide any information about the course of the proceedings or their outcome. The fact that proceedings against Rumen Ovcharov²¹ and Delyan Dobrev²² had been closed was confirmed by ACF in the annual report from 2022. Thus, this supposed mega-case, **initiated against three former ministers and two former chief executive officers of the National Electricity Company and featuring allegations of damages to the state budget worth more than half a billion BGN, has crashed ingloriously and in complete silence.**

In 2022, the Prosecutor's Office initiated another proceedings on the basis of suspected violations and abuses in the energy sector. The suspects are former Minister of Energy, Alexander Nikolov, his deputy, Danail Nikolov, and Lyudmil Yotzov²³, former executive director of Bulgargaz EAD. According to the

Prosecutor's Office, they had caused harm to the company following the discontinuation of natural gas deliveries under its contract with Russian gas company Gazprom. **For over a year, the Prosecutor's Office has not provided any information about these proceedings.**

The criminal proceedings, initiated back in 2016 against the former director of the Fund for the Treatment of Children Abroad, Pavel Aleksandrov²⁴ are still at the pre-trial phase.

Information is still lacking about the outcome of a 2020 investigation of the Directorate of Internal Security of the Ministry of Interior. Some aspects of the investigation did become public knowledge at the time, including the existence of evidence suggesting that Hristo Terziyski²⁵, the then director of the Head Directorate of National Police (and later Minister of Interior and Member of Parliament), had participated in an organized criminal group together with other high-ranking officials from the Directorate.

In 2023, Bulgaria implemented the long-awaited mechanism for independent investigation of the Prosecutor General and his deputies. The appointed Special Prosecutor is investigating the acting Prosecutor General, Borislav Sarafov, on suspicions of links with a criminal network with ties to magistrates, known as "The Eight Dwarves"²⁶. The network's suspected leader is former Sofia chief prosecutor, Petyo Petrov "The Euro".

19. Case 10

20. Cases 31 and 32

21. Case 9

22. Case 8

23. Cases 50, 51 and 52

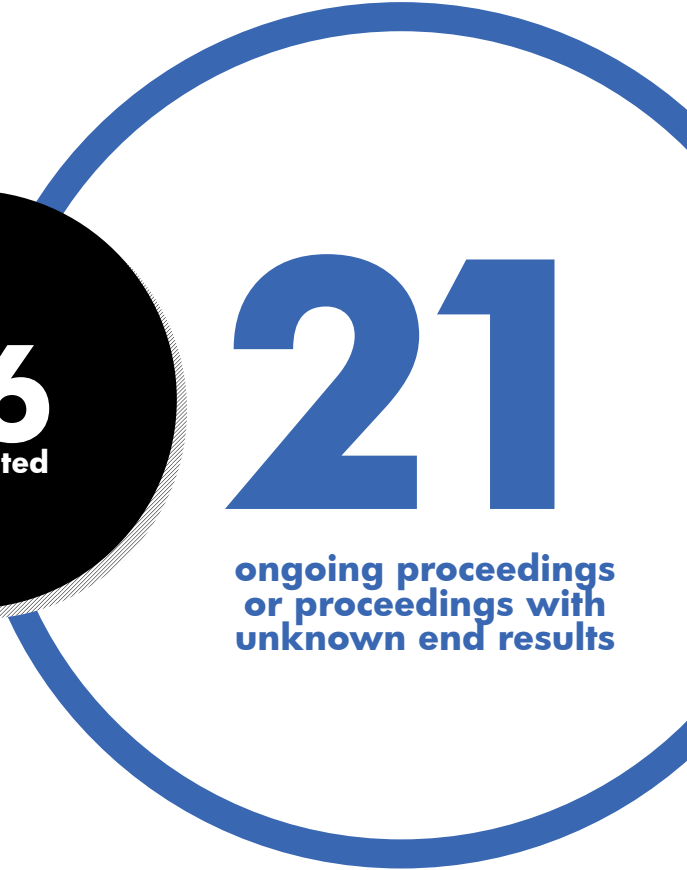
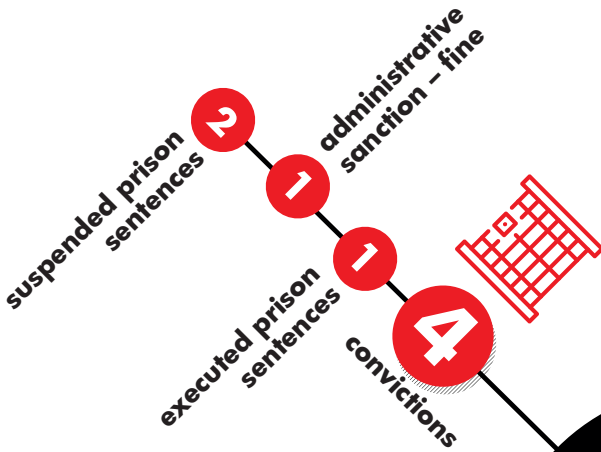
24. Case 36

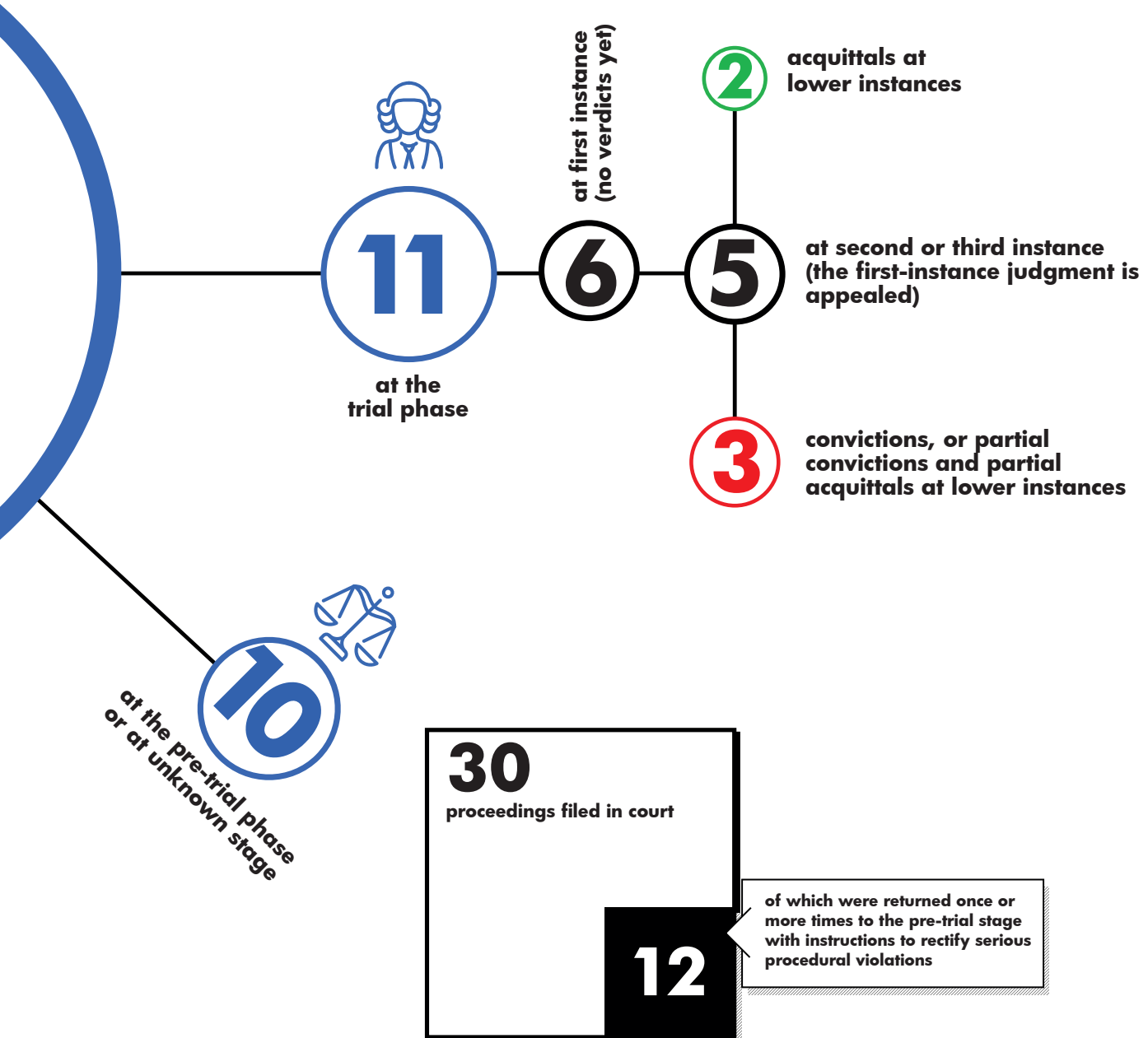
25. Case 49

26. Case 57

57
criminal cases

 against **49** individuals for **71** crimes





0.4 Conclusions

The criminal proceedings targeting high-level corruption have continuously failed to deliver and little is done to address the low effectiveness of the Prosecutor's Office.

In 2023, the low effectiveness of the criminal proceedings against high level corruption continues to be a major challenge. This issue was already flagged in the four previous monitoring reports by the *ACF: Anti-Corruption Institutions: Activity Without Visible Results*²⁷, *Anti-Corruption Institutions: Escalating Problems*²⁸, *Anti-Corruption Institutions: A Zero Year*²⁹, and *Anti-Corruption Institutions 2022: Eyes Wide Shut*³⁰.

During the period covered by this latest study, no new court decisions have entered into force. This preserves the status quo with final acquittals vastly outnumbering convictions. The ratio of final acquittals to convictions has remained unchanged since last year (15 acquittals to four convictions). Furthermore, judging by the development of the criminal proceedings still at the trial stage, significant changes to the above-mentioned ratio are not expected.

The figures mentioned above diverge significantly with the data provided by the Prosecutor's Office about the ratio of convictions to acquittals (226 convictions to 40 acquittals)³¹ concerning all suspected corruption crimes in 2023. The total number of criminal proceedings targeting suspected corruption crimes in 2023 is 2,857.

According to the recent amendments of the Judiciary Act, the Prosecutor's Office should publish a formal report about its actions related to criminal proceedings concerning corruption crimes of high public interest. According to the most recent report, in 2023, a total of 33 individuals were convicted and eleven received final acquittals for corruption crimes which meet the Prosecutor's Office's criteria for high level of public interest³². The total number of ongoing criminal pro-

ceedings concerning corruption crimes of high public interest during 2023 was 622.

It is clearly visible that the level of success of the Prosecutor's Office diminishes in cases involving high-ranking officials. The percentage of convictions in criminal proceedings in Bulgaria as a whole is typically close to 100%. This percentage is lower in proceedings concerning only corruption crimes (five final convictions to one acquittal). The ratio diminishes further in criminal proceedings concerning corruption crimes of high public interest – as defined by criteria outlined by the Prosecutor's Office – with three final convictions to each acquittal. When ACF's criteria is applied and only proceedings concerning high-level corruption are considered, then the ratio is 4:1 but in favor of the unsuccessful attempts to bring justice (there are four final acquittals³³ to each final conviction).

The actual state of affairs concerning high-level corruption in Bulgaria remains hidden.

The conclusion that was established in the previous rounds of monitoring remains unchanged. Namely, that the statistics mentioned above, clearly demonstrate that **the real picture of high-level corruption in the country remains hidden**. It is obvious that the criminal proceedings initiated by the Prosecutor's Office on grounds of suspected corruption crimes do not reflect the actual level of corrupt behavior among high-ranking public officials because on the basis of these proceedings, it turns out that practically no corruption crimes were committed by high-level officials in the country.

Increase in the number of criminal proceedings terminated by prosecutors

A new trend for 2023 is the increase in the number of criminal proceedings terminated by prosecutors at the pre-trial stage. With the addition of five new such cases³⁴ last year, the number of proceedings that

27. A. Yankulov, A. Slavov, *Anti-Corruption Institutions: Activity without Visible Results*, Sofia: ACF, 2020: https://acf.bg/wp-content/uploads/2020/06/ACF_ENG_2020-1.pdf

28. A. Yankulov, N. Kiselova, *Anti-Corruption Institutions: Escalating Problems*, Sofia: ACF, 2021: https://acf.bg/wp-content/uploads/2021/07/ACF_ENG_Online_Jul15-1.pdf

29. A. Yankulov, A. Kashumov, *Anti-Corruption Institutions: a Zero Year*, Sofia: ACF, 2022: https://acf.bg/wp-content/uploads/2022/07/ACF_Report_ENG_2022_interactive2.pdf

30. A. Yankulov, D. Peneva, *Anti-Corruption Institutions: Eyes Wide-shut*, Sofia, ACF, 2023 https://acf.bg/wp-content/uploads/2023/06/ACF_Report2023_EN_web.pdf

31. Appendix 4, Report on the implementation of the law and on the activities of the prosecutor's office and of the investigating authorities in 2023, Prosecutor's Office of the Republic of Bulgaria, https://prb.bg/bg/pub_info/dokladi-i-analizi

32. Report on the activity of the prosecutor's office in combating corruption crimes in 2023 published on the website of the Bulgarian National Assembly, https://www.parliament.bg/bg/ns_acts/ID/16528

33. Among the individuals with high public ranks, who have received final convictions of final acquittals in the proceedings reported by the Prosecutor's Office as meeting the criteria for high public interest, include a district court judge, a prosecutor from a Regional Prosecutor's Office, two mayors, and one member of a municipal council. Most of the individuals are officials and officers from the Ministry of Interior. Among the targets of the proceedings are a forestry officer, the director of a municipal cultural centre and others.

34. Cases 45, 53-56

failed to reach the court stage reached 17 (out of a total of 36 completed criminal proceedings).

The fact that prosecutors terminate criminal proceedings does not, in itself, represent a problem. Without a doubt, in cases where no crimes have been committed or prosecutors are unable to collect sufficient evidence proving criminal behaviour, the approach that best serves the individuals under investigation as well as the public interest is to terminate the proceedings without filing charges. The opposite approach creates another scenario that this report has already noted: courts acquit the defendants, ruling that the charges against them lack legal basis. However, the acquittals are issued after years of litigation. This causes more harm to the defendants who had been charged despite the lack of evidence that they had committed crimes and on whose behalf the state is then called to provide remedies (via mechanisms holding the state accountable for groundless charges against individuals).

It should be noted, however, that some of the subsequently terminated criminal proceedings reviewed for the purpose of this report did appear groundless from the very start. A typical example are the two investigations into the presidential advisors Uzunov and Milushev which were initiated with the disclosure of ambiguous information and questionable steps by prosecutors³⁵. It is within the remit of these two investigations that, in 2020, the Prosecutor's Office initiated an operation in the building of the Bulgarian Presidency which was cordoned off by armed officers of the Protection Bureau of the Prosecutor General. The operation, which generated a strong public reaction and protests by citizens, was organised at a time when Ivan Geshev, the Prosecutor General, and President Radev were engaged in a bitter public dispute. Later on, when the differences between the two appeared to be smoothed out, the criminal proceedings against Uzunov were terminated and those against Milushev – completely forgotten. At the end, the proceedings against Milushev were terminated, too, despite belatedly and under a new (acting) Prosecutor General.

In 2022, the Ministry of Interior, led by a Boyko Rashkov, who had been appointed minister by “We Continue the Change” party, initiated criminal proceedings against three influential members of GERB: party leader, Boyko Borisov, as well as Vladislav Goranov and Menda Stoyanova³⁶. Meanwhile, the Prosecutor's

Office, under the leadership of Prosecutor General Ivan Geshev, supported by the GERB party, initiated proceedings against Asen Vassilev, one of the leaders of “We Continue the Change”³⁷. The following year, both proceedings were terminated, demonstrating a larger trend for a clear attempt by the Prosecutor's Office not to engage in investigations into political corruption.

The passivity of the Prosecutor's Office exhibited during 2023 with regards to high-level corruption can be explained with the political events that happened that year.

The cases mentioned above are just two examples justifying the conclusion that 2023 should be deemed as a year when the Prosecutor's Office **completely distanced itself from the effort to investigate high-level corruption**. There is just one exception to that rule. For a period of several weeks, just before the early termination of the mandate of Prosecutor General Ivan Geshev, the Prosecutor's Office did spring into action, although with no lasting results.

It is not possible to explain these events without providing the context since the **turbulent events in the political sphere** have influenced the high ranks of the judiciary and especially, the Prosecutor's Office.

The results of the parliamentary elections in October 2022 made it impossible to create a majority within the National Assembly, capable of forming a stable government. During the following round of elections, there was a consensus that another round of early elections was to be avoided. Indeed, following the parliamentary elections in April 2023, the first two political groups in the National Assembly, GERB and “We Continue the Change” – “Yes Bulgaria”, did form a majority and reached an agreement for a coalition government. Despite the two parties' declared pro-Western alignment and similar foreign policy views, they are diametrically opposed on key internal issues, for example public sector governance. Having clearly labelled themselves as a pro-reformist movement, “We Continue the Change” – “Yes, Bulgaria” expressed a willingness to revamp key public institutions including the judiciary and especially the

35. Cases 44 and 45

36. Cases 53-55

37. Case 56

Prosecutor's Office. Meanwhile, GERB, as was to be expected, tried to hold on to their serious presence in the public sector, accrued after many years in power and formally shared almost exclusively with the MRF. In fact, for a number of years, GERB and the MRF have informally shared power, pursuing joint interests.

These key differences emerged clearly in the attitude of the two coalition partners towards the Prosecutor General Ivan Geshev. Until the coalition government was formed, he had enjoyed the support of GERB (and MRF) and had been severely criticized by "We Continue the Change" – "Yes, Bulgaria".

At the end of 2019, as he assumed the key post within the Prosecutor's Office, Ivan Geshev initiated a course of confrontation with civil society, the political parties which had been calling for reforms in the public sector, and the President – all opponents of the entities that supported his bid for the post of Prosecutor General. Over time, his level of activity, and that of the Prosecutor's Office, decreased. In spite of this more passive role, the new formal or informal political majority which included "We Continue the Change" – "Yes, Bulgaria" and GERB had to free itself from the burden that Geshev's persona represented. In the aftermath of the civil protests from 2020 against the duo Borisov – Geshev and considering Borisov's participation in the new government, Geshev was no longer needed. He was also clearly unacceptable for the majority of engaged citizens because of his profile as a key champion of the Specialized Prosecutor's Office which was criticized because of its excessive repressive measures contrasted with a lack of tangible results, suspicions of corruption³⁸, and arbitrary application of the law. Geshev is also known for his quick ascending through the ranks of the Prosecutor's Office which followed his involvement in the investigation into the bankruptcy of KTB. As the prosecutor overseeing the case, he ignored important factors, linked with high-level political circles, that undermined the financial stability of the bank. Thus, the two most senior officials under investigation were the two deputy-governors of the Bulgarian National Bank³⁹ while politicians with many links to the bank – such as Delyan Peevski – were not even questioned as witnesses.

On 1 May 2023, there was an explosion next to Geshev's car. All the circumstances surrounding the incident, in addition to the explosive device's potential to

cause harm, remain unclear. Ten days later, the political leadership of GERB and MRF, who had continuously supported the Prosecutor General, called for him to leave the post.

The top levels of the Prosecutor's Office engaged in a bitter struggle ensued between Geshev and his deputy, Borislav Sarafov, who positioned himself as an opponent of his boss and his alternative, although this repositioning only took place following the changes in the positions of GERB and the MRF. Until that point in time, Sarafov had never publicly distanced himself from Geshev. The majority within the Supreme Judicial Council, which had also firmly supported Geshev, also withdrew its support and, on 12 June 2023, he was released early from the post. On 16 June, Sarafov was elected acting Prosecutor General. These events unfolded just days after, on 6 June, the National Assembly approved the members of the new cabinet with the votes of all MPs from GERB and "We Continue the Change" – "Yes, Bulgaria", in addition to two key votes from the MRF: those of the then chairperson Mustafa Karadayi and Delyan Peevski, a key figure.

In the short period of time between the withdrawal of the support of GERB and MRF and his eventual dismissal, Geshev refused to leave quietly and took steps showing his intent to deal with his former political supporters like Boyko Borisov and his former colleagues like Borislav Sarafov.

Dormant investigations of GERB politicians – for example the case, publicly known as Barcelonagate^{40, 41} which was never formally linked with Boyko Borisov but was still on hold – were all of a sudden reactivated and placed on a 'magic carpet' of urgent investigative actions. Geshev even requested that the National Assembly vote to strip Borisov of his parliamentary immunity so he could be charged on suspicions of money laundering, however the new political majority was not in favor. Meanwhile, the Sofia Regional Prosecutor's Office initiated criminal proceedings against Borislav Sarafov⁴². These moves followed the well-known approach of activating public prosecutors on political grounds. The only difference was that, this time, the procedural actions had new and unusual targets.

Despite all this, Ivan Geshev had neither the internal and external support, nor the time to achieve anything.

38. The popular ACF investigations The Eight Dwarves (2020) and List of Quick Control (2021) present detailed information about corruption in the Specialized courts and Prosecutor's Office.

39. Cases 33 and 34

40. Concerning information in the media that Boyko Borisov had used proxies to purchase a luxury home in Barcelona for one of his intimate partners.

41. See also 23 and 24 from the local authorities cases

42. Case 57

43. The reason for the procedure against Geshev was the fact that, during a public event, he had used the offensive phrase 'political garbage'. This, despite the fact that, in previous years, the same members of the Council had refused to take action on motions filed by two ministers of justice, citing much more detailed grounds: expressing opinions and taking sides concerning ongoing criminal proceedings, selective disclosure of information on ongoing investigations, using the Prosecutor's Office for political objectives.

He was unable to find allies within the Prosecutor's Office where many were already aware of the shift in the balance of power. He was also unable to find support within other institutions. His mandate was terminated early by the SJC on a minor procedural point⁴³. The day after the President signed the decree for Gershev's removal, he was replaced by Borislav Sarafov, his former deputy. Sarafov was elected by the Prosecutorial Collegium of the SJC even though, from a legal point of view, it is questionable whether just the PC or the full council is authorized to make such a decision. Essentially, Sarafov was elected to the highest post in the Prosecutor's Office with the votes of eight former and future prosecutors, members of the SJC. This is in stark contrast to the European standard where the governance of the public prosecution is the responsibility of a collective body, composed of diverse members and not just former and future subordinates of the elected Prosecutor General.

Even as Ivan Geshev failed to spur the Prosecutor's Office into meaningful action during his last days in office, he helped raise the curtain about the political deals shaping the top levels of the judicial system. He released records of conversations that he had had with Borislav Sarafov and Yordan Stoev, a member of the PC of the SJC, conveying the message that he no longer had the support of his former political allies. Apparently, that support had gone to Sarafov and the message was being passed on to Geshev so he would leave quietly.

As he assumed the top post, the new Prosecutor General Sarafov took full advantage of the authoritarian culture of the Prosecutor's Office and the full support of the PC of SJC to deal with those prosecutors that he deemed to be loyal to Geshev. This included some of the individuals who had participated in the criminal proceedings against him initiated by the Sofia Regional Prosecutor's Office. Thus, the Sofia City Prosecutor's Office initiated an investigation into whether prosecutors from the regional Prosecutor's Office had committed abuses of office by initiating the proceedings against Sarafov. As a result, one of the four prosecutors supervising the proceedings, Konstantin Sulev from the Sofia Regional Prosecutor's Office, is charged with abuse of office.

While "We Continue the Change" – "Yes, Bulgaria" were formally against the election of the acting Prosecutor General – there was also an unsuccessful attempt by Minister of Justice Atanas Slavov to petition the

courts – for the remainder of the year, there were no political attacks against Sarafov by any representative of the governing majority.

The Prosecutor's Office reciprocated. **Until the end of 2023, the topic of political corruption was literally forgotten and many criminal proceedings, including those targeting directly or indirectly political figures from the ruling parties (or people close to them) initiated on tenuous grounds at the very end of Geshev's mandate, were either terminated or, as is often the case with such investigations, forgotten⁴⁴.**

It was not until the following year when the ruling majority between "We Continue the Change" – "Yes, Bulgaria" and GERB (MRF) was dissolved when the Prosecutor's Office reverted to its typical and already well-known tactics of leveraging criminal proceedings on alleged suspicions of corruption for political and media attacks⁴⁵.

Legislative changes adopted in 2023 to counteract high-level corruption

The short-lived and diverse ruling majority took a number of legislative changes, promoted as being in line with the political objectives of "We Continue the Change" – "Yes, Bulgaria", namely reforming the manner in which public authority is exercised.

The most significant steps in this regard were the amendments to the Constitution of the Republic of Bulgaria, **the amendments to the Criminal Procedure Code, and the new Act on Preventing and Fighting Corruption**. These initiatives were supported by GERB, "We Continue the Change – Yes, Bulgaria", and the MRF.

A major share of these reforms was initiated in the absence of a pre-determined and overall concept. What was missing was an analysis of what necessitated the changes and what were the intended results. The tabled legal texts lacked detailed reasons for and objectives of the adoption. In addition, within the legislative process, there was significant uncertainty about the final versions of the legal texts eventually supported by the majority. Major changes were being proposed between the first and second reading stages of adoption of the legal acts with no

44. In addition to the case known as Barcelonagate (closed by the Acting Prosecutor General, Borislav Sarafov), further examples are outlined in cases 53-56; and local authority cases 23 and 24. Another example are the proceedings, which Ivan Geshev initiated, closed, and then reopened just before exiting his post, concerning a declaration with supposedly false information that Kiril Petkov, one of the leaders of "We Continue the Change", had submitted prior to

assuming the post of Minister of Economy. An investigation into a picture allegedly of Boyko Borissov's bedroom, showing wads of cash and bars of gold had the same procedural fate. Both proceedings were terminated following Borislav Sarafov's election as Prosecutor General.
45. A case in point is the criminal proceedings against the director of the National Customs Agency but since the investigation started in 2024, it will be described in the next issue of this report.

justification provided as to why important texts were removed at the last minute or were being added.

Despite all the criticism against these new legal initiatives which does have its basis, **they still represent a small, timid step forward in reforming Bulgaria's criminal justice system** and the effort to counteract high-level corruption.

However, lasting change in the manner in which public authority is exercised in Bulgaria can be created by the cumulative impact of robust legislation and its effective and impartial implementation which applies to all parties equally and respects the comprehensive goals and the full meaning of the legislative texts. In this regard, **the latest reforms are yet to be implemented in a comprehensive manner – something which is new in Bulgaria's still fragile democracy – and have so far remained something that exists on paper.**

Constitutional changes relevant to the judicial branch

Among the adopted changes to the Constitution of the Republic of Bulgaria, those concerning the governance of the Prosecutor's Office – which is one of the key anti-corruption institutions – are most relevant to the effort to counteract corruption.

The powers of the Prosecutor General were reduced, and he is no longer authorized to supervise the work of other lower-ranking prosecutors in terms of whether their actions are in accordance with the law. Following the changes, the Prosecutor General is only responsible for representing the Prosecutor's Office and for being in charge of the Supreme Prosecutor's Office of Cassation. His mandate has been reduced from seven to five years. Furthermore, the mechanism for independent investigation of the Prosecutor General by a judge who is temporarily appointed as a prosecutor, which was already established in amendments to the CPC, was also outlined in the constitutional amendments. If the revisions would indeed have the desired effect of limiting the powers of the Prosecutor General, the question arises why it is necessary to introduce a special investigative mechanism, typically required in exceptional cases when the concerned officials have special statute and excessive authority.

The changes further divided the SJC by introducing special prosecutorial and judicial councils. The former

is mainly composed of members elected by Parliament, while the latter – mostly of judges elected by their peers. These specific ratios are becoming a cornerstone of the constitutional changes, despite the fact that the European standard on the composition of oversight bodies in the judicial system, outlined by the Venice Commission of the Council of Europe, does offer different configurations in terms of the professional and political representation.

The proposal for amendments to the Constitution contained such sparse argumentation that specific grounds were practically lacking. This is not a mere technical detail. Rather, it reveals the lack of an overall concept on key issues such as the role of the Prosecutor General, the structure and governance of the public prosecution, and the hierarchical relationships within the institution. The lack of an overall concept was evident in the political rhetoric on the topic of constitutional reform as the amendments were being adopted. Until the very end of the process, it was unclear how the final texts, which needed 160 votes in favor, would look like. Eventually, this majority was secured with the votes of MPs from GERB, “We Continue the Change – Yes, Bulgaria”, and the MRF.

In conclusion, even though they do represent a step forward, the recently adopted constitutional changes do not address the most critical statutory issue within the criminal justice system and respectively within the effort to counteract corruption with the toolbox of criminal justice. This key issue is the complete monopoly of the Prosecutor's Office over the decision to investigate and indict individuals, which is not typical for the criminal justice systems of European countries. This monopoly excludes even the possibility of judicial control over the decisions of prosecutors to issue indictments or not. The ACF has published a detailed concept for criminal justice reform which also discusses constitutional changes⁴⁶.

Furthermore, the concepts outlined in the amendments to the Constitutions should have been further developed through amendments to the Judiciary Act. However, until its dissolution in early 2024, the governing majority was unable to adopt such amendments.

Thus, the responsibility for reforming the Prosecutor's Office under the new provisions of the Constitution should lie with a new Prosecutor General elected by a newly formed Prosecutorial Collegium, remains with the acting Prosecutor General, Borislav Sarafov, who has been part of the leadership of the institution since

46. “Какво трябва да се промени в наказателното правосъдие”, ACF, March, 2023
https://acf.bg/wp-content/uploads/2023/03/reforma_web-1.pdf

2013 and was elected by the unreformed PC of the SJC.

Changes to the Criminal Procedure Code

In 2023, in the early days of the newly elected Parliament, a number of sound proposals for amending the CPC were tabled, even though they were to a degree limited by the narrow constitutional frame. The proposals aimed to streamline criminal proceedings via the introduction of mechanisms for stricter judicial control over the actions of prosecutors. Another objective was to guarantee the institutional, hierarchical, and practical independence of the entities responsible for monitoring or investigating the Prosecutor General.

Besides the mechanisms for independent investigation of the Prosecutor General and his deputies, the proposal put forward a number of additional changes: judicial control in cases when public prosecutors refuse to initiate criminal proceedings; procedures to protect the rights of victims during the pre-trial proceedings; introducing a legal concept of a person who informs the authorities about suspected violations and providing them with the right to petition the court if the decisions made by prosecutors hamper the criminal proceedings (or when prosecutors fail to issue a decision). As per the proposal, these rights would be exercised in cases when the criminal act under investigation has not caused harm to a particular individual who is then entitled to alert the law enforcement authorities and who could appeal the decisions of public prosecutors. This is a key provision with significant impact on criminal proceedings concerning corruption crimes since, in many cases, such crimes do not cause harm to specific individuals which, in turn, eliminates the possibility that an individual could alert the courts to exercise external control over the decisions of prosecutors. This means that the only entity capable of exercising control over the lawfulness of such decisions is the Prosecutor's Office itself.

Eventually, the only amendments that were adopted were those allowing for judicial control over a significant share of the Prosecutor's Office's refusals to initiate criminal proceedings, as well as the mechanism for independent investigation of the Prosecutor General. The other amendments were not adopted with no grounds provided for this decision. In the end, the necessary step towards reforming the CPC turned out to be too timid.

Despite the drawbacks, the governing majority declared that the adopted changes were a great success, especially because of the newly introduced mechanism for independent investigation of the Prosecutor General. The practical implementation of these legislative changes, however, was hampered at the very start of the process. First, the PC of the SJC simply refused to fulfill its duty and to appoint as prosecutor the career judge that was supposed to be responsible for investigating the Prosecutor General. Then, the appointment was being blocked on the grounds of technicalities. This blocked the implementation of the investigative mechanism for months.

Thus, Judge Daniela Taleva, from the Sofia City Court, who was elected as the special prosecutor responsible for investigating the Prosecutor General and his deputies in July 2023, was only formally appointed in October. She eventually assumed her duty in December 2023, five months after being elected. This has caused delays and a potential risk of compromising the evidence related to a specific investigation concerning the acting Prosecutor General, Borislav Sarafov.⁴⁷

The new Act on Preventing and Fighting Corruption

The latest attempt to reform the anti-corruption institutions was announced in October 2023, less than six years after the previous round of reforms. They seem to be part of a cycle: reform → formalistic proclamations of success → lack of tangible results accompanied by public scandals and questionable appointments because of suspicions for political involvement → lack of analysis of errors and deficiencies by the public institutions → reform (the current stage) →...

The newest revamp dismantled the Commission for Counteracting Corruption and the Forfeiture of Illegally Acquired Property (CAFIAP) which was created in 2018. Without any analysis of its achievements or an outline of expected future results, this anti-corruption mastodon was split into two: Commission for the Forfeiture of Illegally Acquired Property and **Commission for the Counteracting of Corruption which, for the first time, has been delegated additional powers and authorized to investigate corruption crimes under the provisions of the CPC.**

47. Case 57

Thus, the detection and investigation of corruption crimes, which have many similarities and pursue similar goals, fall within the umbrella of one institution. Undoubtedly, this is a positive development, but it appears **insufficient as a means of achieving the stated goal of reversing the longstanding problems in the fight against high-level corruption** by increasing the number of high-ranking officials convicted for corruption crimes.

Increasing the effectiveness of the effort to counteract corruption cannot be achieved by singular steps such as the creation of new investigative bodies. **What is required is for public institutions to develop an overall concept for criminal justice reform which effectively addresses all key problems. Such a concept is currently lacking.**

At the same time, the new legislation concerning the detection and investigation of corruption crimes is demonstrating specific problems which are already well-known from the past as well as new ones⁴⁸.

Essentially, this latest round of legislative reforms stalled in the early stages of implementation. The new Act on Preventing and Fighting Corruption sets out a deadline (early 2024) for the election of the three individuals in charge of the newly established Commission for the Counteracting of Corruption. They are supposed to be elected by Parliament with certain provisions ensuring their independence from political parties. However, no rules had been adopted about the election process. Eventually, it became obvious that the governing majority, in its current form, would not be able to elect a new leadership of the CCC.

As was the case with the reforms in the Prosecutor's Office, the practical implementation of dividing the old CAFIAP into two and enabling the new CCC to investigate corruption crimes (a completely new activity for the commission) was left to the old temporary leadership of CAFIAP, represented by its deputy chairperson, Anton Slavchev.

48. For more details: https://acf.bg/wp-content/uploads/2023/10/ZPK_web.pdf, ACF, October, 2023

0.5 Recommendations

The creation of professional, independent anti-corruption institutions which strive to apply the law equally (instead of acting in an arbitrary manner, applying the full level of their authority with regards to some targets and looking the other way when dealing with others) is the only step which could strengthen the efforts to counteract political corruption in Bulgaria.

Without **meaningful change** in the manner in which anti-corruption institutions exercise their authority all the specific legal requirements or technical recommendations, even if they are formally adopted, will remain just on paper.

A case in point is the formal adoption of the recommendation that the Prosecutor's Office monitor criminal proceedings concerning corruption crimes considered to be of significant interest to the public. The recommendations on how to boost the effort to counteract high-level corruption made by ACF in previous monitoring reports should be repeated in their entirety as the issues identified in previous reports have not been addressed. Taking active steps to introduce reforms in the criminal justice system will help remedy the situation.

ACF has published a document, outlining in detail what the needed reform entails, and our concept also contains proposals for amendments to the Bulgarian Constitution.⁴⁹

The legislative changes adopted in 2023, which were reviewed for the purpose of this report⁵⁰ represent a small, timid step to reform the criminal justice system. However, they are still to be implemented in a meaningful way.

One of the main obstacles – if not the main legal obstacle – for the current state of affairs is **the lack of adequate control over the manner in which the Prosecutor's Office is exercising its principal function** of initiating and conducting criminal proceedings.

It is necessary to introduce **new forms of external procedural control, as well as to reinforce public control** over the arbitrary manner in which criminal proceedings are conducted. This concerns the decisions whether, whom, when, and on what charges to prosecute which should be monitored strictly.

The external procedural control should be carried out by courts at the pre-trial phase of proceedings and should encompass both the cases where the Prosecutor's Office has decided to prosecute and the cases where it has decided not to. The introduction of a mechanism that enables courts to exercise control over the conduct of criminal proceedings would create better conditions to achieve a better functioning Prosecutor's Office and, in turn, help to create a more just and effective criminal justice system. Such an approach will yield better results than the creation of any other, even if theoretically perfect, mechanism for institutional control over the Prosecutor's Office.⁵¹

The recommendations regarding the need for increased transparency in combating high-level corruption, first outlined in the 2020 report, remain valid. In this respect, **public scrutiny shall be reinforced by:**

49. See https://acf.bg/wp-content/uploads/2023/03/reforma_web-1.pdf, March, 2023

50. Section Legislative changes adopted in 2023 to counteract high-level corruption of this analysis

51. For more details: https://acf.bg/wp-content/uploads/2020/11/kontrol_nakazatelno_EN_WEB.pdf, Exercising Control over the Prosecution Function – the Necessary Criminal Justice Reform, ACF, November, 2020

Developing criteria for corruption cases of high public interest: This measure was adopted with the amendments to the JA, however, as evident from the first report issued by the Prosecutor's Office (which uses data from 2023), the applied criteria are again formalistic. The report includes a large number of proceedings with many not of high public interest. Thus, the analysis mixes cases involving corruption at the highest levels of government are with hundreds of others which concern corruption investigations against forestry officers, the directors of municipal cultural centres, and many other public officials of similar rank. This compromises the idea of analysing the development and outcomes of the smaller pool of cases involving investigations into corruption at the highest levels of government.⁵²

Transparency regarding the status of criminal proceedings on corruption cases of high public interest: The Prosecutor's Office should drastically increase the transparency of its actions on cases of high public interest, while taking heed of the presumption of innocence and the confidentiality of pre-trial criminal proceedings. Once it has been established that releasing information to the public would not impede the investigation of the case or disproportionately affect the rights of the investigated individuals, the Prosecutor's Office should publish regular updates regarding the course of the proceedings. This approach should apply to all cases and not be adopted selectively.

The Prosecutor's Office continued to be inconsistent in disclosing information about the criminal proceedings monitored for the purposes of this report. ACF's requests for information were sometimes honored and sometimes not. At the same time, it was not clear what had motivated the decisions to provide information and what had motivated the refusals. Lack of transparency was one of the key issues facing the now-defunct Specialized Prosecutor's Office which almost never favored ACF's requests for information. Now, history is repeating concerning the proceedings, initiated by the Specialized Prosecutor's Office, currently under the jurisdiction of the Sofia City Prosecutor's Office. With some exceptions, the branches of the Prosecutor's Office offices throughout the country are much more transparent and more willing to share information about the criminal proceedings initiated by them.

52. Report on the activity of the prosecutor's office in combating corruption crimes in 2023, published on the website of the Bulgarian National Assembly; as well as the section Conclusions of the present analysis

Summary Analysis of the Monitored Cases Involving Representatives of Local Authorities

In 2023, ACF identified four new cases concerning alleged corrupt behavior by high-ranking representatives of local authorities. We will continue monitoring these cases which involve criminal proceedings, still in the pre-trial phase, against the mayors of Omurtag, Sungurlare, Varna, and General Toshevo⁵³.

For the first time, this report includes a criminal investigation by the European Public Prosecutor's Office on charges of corruption at the local level, namely the proceedings against the mayor of General Toshevo⁵⁴.

The proceedings against the mayors of Varna⁵⁵ and Sungurlare⁵⁶, both connected with the GERB, were initiated at the time when the former Prosecutor General, Ivan Geshev, was at odds with GERB, following the party's public call for him to resign. Following Geshev's removal from the post by the PC of the SJC, the Prosecutor's Office has been silent about these criminal proceedings. ACF's requests for information were also ignored.

Out of the proceedings initiated in previous years, one has been completed following the decision of the court to **acquit** the mayor of Chelopech, Aleksi Kesnyakov⁵⁷. Two of the proceedings are entering the trial phase after indictments were filed against Ralyo Ralev, a former district mayor of Plovdiv⁵⁸, and Varna's Ivan Portnih⁵⁹ (there is a second investigation against him that ACF is analysing for the purposes of this report). **There are no new final convictions.**

For the first time, the Prosecutor's Office has shared information about the criminal proceedings against the former mayors of Pernik, Ilinka Nikiforova and Ivan Ivanov.⁶⁰ The Pernik District Prosecutor's Office, which has assumed responsibility for the investigations following the closure of the Specialised Prosecutor's Office, has informed ACF that, following the assignment of a new prosecutor in charge of the proceedings, the two former mayors have been charged with mismanagement and the investigation is ongoing.

The investigations, initiated in 2022, against the mayor of Stamboliiski, Georgi Maradzhiev⁶¹, and the mayor of Belogradchik, Boris Nikolov⁶² are ongoing.

Information continues to be missing about the investigation against the mayor of Bojurishte, Georgi Dimov⁶³, following the repeated refusals of the Sofia District Prosecutor's Office to provide ACF with information.

Several investigations continue to be at the trial stage: the criminal proceedings against Sevdalina Kovacheva⁶⁴, former mayor of Pernik, who is held liable together with the former Minister of Environment and Water, Neno Dimov, for causing the water crisis in Pernik; the proceedings against Mincho Kazandzhiev⁶⁵, former mayor of Lovech; against Marin Rachev⁶⁶, former mayor of Septemvri; and against Stoyan Beshirov⁶⁷, former mayor of Nedelino.

53. Cases 22-25 concerning corruption at the local level
54. Case 25
55. Case 24
56. Case 23
57. Case 14

58. Case 18
59. Case 21
60. Case 5 and 6
61. Case 19
62. Case 20

63. Case 13
64. Case 4
65. Case 7
66. Case 11
67. Case 16

II/

Ascertainment of conflict of interest

Daniela Peneva

1/ Legislative reforms

In the course of 2023, the 49th National Assembly passed an Anti-corruption law⁶⁸, which was published in the State Gazette 84/2023 and took effect on October 6th, 2023. Chapter eight of the law pertains to conflict of interest as an instrument to counteract corruption. Regardless of the stated intention of different groups of members of parliament to conduct an institutional reform of the Anti-Corruption commission, the new law virtually reproduced the definitions of conflict of interest already established in previously existing legislation. The principal factor behind the lack of established violations is the imperfect construction of the definition of the concept of conflict of interest, which includes a limited scope for the term connected individuals.

The current members of the commission continue to apply the law in a manner that results in very low effectiveness when resolving conflict of interest cases, which consists in the lack of any established wrongdoing. The potential improvement of the legal framework would limit its formalistic application and would increase objectivity and the necessity to provide thorough motivation when no infringement was found. Consequently, the revision of laws that regulate conflicts of interest is still of paramount importance and very much on the agenda.

The ACF's previous yearly reports have on multiple occasions provided recommendations regarding the commission's conflict of interest cases. Alongside our other suggestions for the commission, the proposals concerning the term conflict of interest in our previous reports⁶⁹ were as follows:

- To refine the definition of “connected individuals”, so it does not include a list of a finite number of hypotheses and allows for an examination of whether there is a connection/relationship/relations between the parties that would motivate treating specific parties preferentially
- Establish a provision that limits the ability of public office holders to receive gifts and benefits as a result of their position, without having exercised specific authority in private interest or having had any real influence on decision-making.
- Clarify the prohibitory provisions so as to clearly distinguish cases in which it is required that the person has actually exercised a power of office from cases in which it is sufficient to establish objectively a condition or situation in which the holder of a senior public office has fallen with his consent or acquiescence.

68. Act on Preventing and Fighting Corruption, State Gazette, 84/2023, <https://www.parliament.bg/bg/laws/ID/164884>

69. A.Yankulov, D.Peneva, “Anti-corruption institutions 2022 – eyes wide shut”, ACF, 2023, p.50

With the present report we bring forth the additional recommendation to fully review the terms contained in the concept conflict of interest⁷⁰. The term has been formulated in a complex manner with multiple definitions contained in different texts, including supplementary texts of the law. In comparison, the term conflict of interest in the Recommendation of the Council on OECD Guidelines for Managing Conflict of Interest in the Public Service⁷¹ is concise, clear and to the point, while it provides a solution to the essence of the problem when dealing with conflict-of-interest cases:

A 'conflict of interest' involves a conflict between the public duty and private interests of a public official, in which the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities.

At first glance, the provision that defines the term conflict of interest in the Bulgarian law seems to have adopted the approach utilized in international standards. The issues, however, appear with the definition of 'personal interest'⁷², which corresponds to 'private interest' in the OECD guide, as well as the term 'connected individuals'⁷³ included in the Bulgarian law. These are precisely the segments that have a restraining character, which reduces the possibility of a conflict of interest to a finite number of individuals.

The limited content of 'personal interest' is not only contrary to the realities, but also presents a loophole and opportunity to circumvent the law, an additional consequence being the exoneration of individuals holding senior public positions.

The OECD Guidelines for Managing Conflict of Interest in the Public Service provides a paragraph with guidelines regarding the content and broad interpretation of the term private interest⁷⁴.

In this definition, 'private interests' are not limited to financial or pecuniary interests, or those interests which generate a direct personal benefit to the public official. A conflict of interest may involve otherwise legitimate

private-capacity activity, personal affiliations and associations, and family interests, if those interests could reasonably be considered likely to improperly influence the official's performance of their duties...

Additionally, the Commission Notice Guidance on the avoidance and management of conflicts of interest under the Financial Regulation 2021/C 121/01 and Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union:

For the purposes of paragraph 1, a conflict of interests exists where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 1, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest.

The example shows the broad enumeration of interests that could affect the exercise of powers and functions of the officials/participants. Considering the aforementioned, it is possible to put forward the following summary and recommendations.

The correct legislative approach would be to define the concept so as to not limit the identification of situations in which a conflict of interest could arise. 'Private interest' is any interest that could reasonably be expected to improperly interfere with official authority. Thus, it is not required additional clarification in order to avoid placing restrictions on a possible interpretation. Based on this, the guiding principle in resolving a conflict of interest should not seek a potential beneficiary, as the person holding a senior public office, his close or distant relatives or third parties, but whether the impartial and objective exercise of powers has been jeopardized.

It must be proceeded in the first place, to be established whether there are actions which are detrimental to public interest, and only if there are such indications examine whose private interest has been affected.

70. Art. 70 of the Act on Preventing and Fighting Corruption: A conflict of interest arises when an individual holding public office has private interest which may influence the impartial and objective performance of their official duties.

71. Recommendation of the Council on OECD Guidelines for Managing Conflict of Interest in the Public Service, May 2003, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0316>

72. Art. 71 of the Act on Preventing and Fighting Corruption: A personal interest is any interest that results in a benefit from a material or immaterial nature to a person holding public office or to persons connected with them, including any obligation entered into.

73. Par. 1, Art. 9 of the Act on Preventing and Fighting Corruption: The following are considered connected individuals:

a) spouses or persons in a de facto conjugal relationship, lineal relatives, by consanguinity up to and including the fourth degree, and by affinity up to the second degree inclusive; for the purposes of proceedings for the establishment of illegally acquired property for a related person shall also be deemed to be a former spouse whose marriage was dissolved up to 5 years before the beginning of the Commission's investigation.

b) private or legal entities with which the holder of public office is in economic or political dependencies which raise reasonable doubts as to his impartiality and objectivity.

74. Para. 14 of the Recommendation of the Council on OECD Guidelines for Managing Conflict of Interest in the Public Service, May 2003, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0316>

2/

Institutional changes

In the course of 2023, the 49th National Assembly passed the Act on Preventing and Fighting Corruption (APFC)⁷⁵, which was published in the State Gazette 84/2023 and took effect on October 6th, 2023. The new law invalidated the Anti-Corruption and Forfeiture of Illegally Acquired Property Act (AFIAPA), which in turn split CAFIAP into two separate entities – the Commission for the Counteracting of Corruption (CCC) and the Commission for the Forfeiture of Illegally Acquired Property (CFIAP). The individuals in charge of CAFIAP would continue their mandate as CFIAP members, while simultaneously overseeing the CCC until its own members are selected.

The management of the new commission CCC is to be appointed following a selection procedure. The APFC stipulates that a special nomination commission would review reasoned proposals and perform an eligibility selection. Following a public hearing and discussion of a report with proposed members, it would submit the report to the National Assembly to elect the members by a qualified majority⁷⁶. Up to the present time (mid-2024), there is yet to be a procedure for the selection of new and independent leadership of the CCC.

Ruling on conflict-of-interest proceedings is one of the CCC's responsibilities. In view of the fact that the commission has retained its previous leadership, conflict of interest cases have been handled in a manner identical to that of the last few years. The legislative reform of the commission is yet to deliver any results. All the challenges, tendencies and conclusions in regard to its effectiveness remain just as valid.

As of March 2022, after the chairman of the commission Sotir Tsatsarov resigned and retired from the post, four members with decision power remain, while Tsatsarov's post is still vacant. Nonetheless, there are zero indications of decision-making difficulties, and this affirms the impression of a synchronized activity.⁷⁷ At the end of 2023, the deputy chairman of the committee Anton Slavchev participated in a competition for a prosecutor's position in the Sofia City Prosecutor's Office and came in second.⁷⁸ The timing of his decision coincides with the CFIAP reform and the obligation to participate in the leadership of the two committees until new members are elected. Regardless of the reasons for his choice to resign from the leadership of the CCC⁷⁹ precisely when there are attempts to reform it in mid-2024, Slavchev remains a member of both commissions. In effect, there has been no actual reform of the institution, no review or report of the activities conducted by its present members since 2018.

75. <https://www.parliament.bg/bg/laws/ID/164884>, Act on Preventing and Fighting Corruption, State Gazette, 84/2023.

76. Art. 8 of the APFC

77. A.Yankulov, D.Peneva, "Anti-corruption institutions 2022 – eyes wide shut", ACF, Sofia, 2023, p.31

78. <https://offnews.bg/temida/vremenniat-shef-na-antikoruptionnata-komisija-anton-slavchev-stava-pro-814802.html> – Acting chief of the CCC Anton Slavchev has become a prosecutor in the SCPO, 23.12.2023, Offnews

79. Anton Slavchev's resignation from CFIAP is a symptom of a stalled reform, Capital, October 16th 2023, https://www.capital.bg/politika_i_ikonomika/bulgaria/2023/10/16/4540126_orteglianeto_na_anton_slavchev_ot_kpkonpi_e_simprom_zal

3/ Conflict of interest proceedings

The commission prepared two reports for its activities in 2023: the CAFIAP's 2023⁸⁰ report and the CCC's report for the period 6.10.2023 to 31.12.2023⁸¹, submitted to the national Assembly on 29.03.2024.^{82, 83}

Due to the early termination of the mandate of the ruling government, the appointment of a new caretaker government on 09.04.2024 and the interruption of parliamentary activity, representatives of the Anti-Corruption commission have not been heard by the Assembly and its yearly report was not accepted.

According to the CAFIAP's 2023⁸⁴ report, its Conflict-of-interest department received 230 complaints for the period from 01.01.2023 to 05.10.2023. The commission reviewed a total of 80 cases and established 12 instances of a conflict of interest in 8 rulings and did not establish any conflict of interest in 72 cases.

According to the CCC's Activity report for the period 6.10.2023 to 31.12.2023⁸⁵ its Conflict-of-interest department received 74 complaints. The commission reviewed a total of 22 cases and established 5 instances of a conflict of interest in 3 rulings and did not establish any conflict of interest in 19 cases.

Summarizing the data from both reports shows that a total of 102 cases were reviewed in 2023. From them, a conflict of interest was established in 11 instances, while none was found in 91 cases. Compared to the previous year, there was a decrease in both the number

of complaints received by the commission and the number of decisions that actually established a conflict of interest.⁸⁶

The numbers do not attest to a high effectiveness when establishing a conflict of interest and preventing or counteracting corruption. The reasons for that are clarified in the analysis of the commission's ruling trends presented in this and the previous ACF reports.

The two annual reports by the CAFIAP and CCC for 2023 provide extremely limited details on conflict-of-interest cases. Conflict of interest investigations were only initiated after a complaint was filed, and there is no data for any investigations initiated on the commission's own accord. This tendency has been prevalent since the establishment of the CAFIAP in 2018, recently divided.

For comparison, the proceedings started by the commission following media publications numbered a total of two for the year 2022.

An analysis of the published 101 decisions that did not establish a conflict of interest separates the cases in two groups.

The majority of the cases reviewed (57), involved officials on a local level: in the system of local self-government, local authority or local administration.

The remaining 44 decisions concerned individuals that held positions in **central government**, in the

80. https://www.cacaf.bg/web/files/documents/5/files/Doklad_KONPI_2023.pdf

81. https://www.cacaf.bg/web/files/documents/5/files/Doklad_KPK_2023.pdf

82. <https://www.parliament.bg/bg/nsActs/ID/165458>

83. <https://www.parliament.bg/bg/nsActs/ID/165459>

84. CAFIAP 2023 report, p.15

85. CCC 2023 report, p.7

86. There were 384 complaints in 2022. 124 of them were reviewed, with 25 establishing a conflict and 99 decisions not establishing a conflict. A.Yankulov, D.Peneva, "Anti-corruption institutions 2022: eyes wide shut", ACF, Sofia, 2023, p.34

state administration (including entities with local jurisdiction), members of the boards of state-owned enterprises, or deans of state universities.

The complaints filed mainly concern violations related to the appointment/selection of connected individuals, award of public contracts/tender procedures with connected individuals or companies, voting in one's own interest (for the lease of land, premises, etc.), or other incompatibilities with the position held. **The vast majority of cases are of low public interest,** even though they involve senior public officials.

4/

Tendencies and conclusions

The deficiencies established in the commission's practices do not appear to have been overcome in 2023. A review of the conflict-of-interest decisions on the merit leads to the following conclusions:

1/ The preeminent and most important flaw regarding the Anti-corruption Commission's effectiveness is **the absence of the inquisitorial principle**, or with other words – investigations are only initiated as a result of tip-offs, as opposed to the initiative of the controlling institution. This **clearly indicates an absence of will to effectively counteract corruption and uncover violations**.

The inquisitorial principle implies an obligation for the administrative organ to ensure the lawful completion of the administrative procedure. This is imposed by the fact that the executive branch's function is to defend the public interest, and not a particular, private one. The procedure must begin on the initiative of the relevant institution⁸⁷, when the prerequisites listed in the law are met. In this context, the institution charged with the obligation to protect public interest through effectively counteracting corruption through the creation of guarantees that the individuals holding senior public office are carrying out their duties fairly and honestly⁸⁸, must by default observe and initiate conflict of interest investigations with the aid of all the legal tools at its disposal. Effectiveness can be achieved, even in terms of prevention, only when the institutions are proactively defending the public interest.⁸⁹

On the one hand, there is a pronouncedly passive position when initiating conflict of interest investigations. On the other hand, there is **the formalist approach**

applied to the law. As a result, the rulings are almost entirely on the side of exoneration from any violation.

This gives the impression of not just a lack of effectiveness and independence, but also a selectiveness in its approach, and the appearance of being used as a tool for political intimidation.

2/ The negligibly small number of cases where violations were prosecuted is additionally kept low by the fact that **there is no judicial control over the commission's decisions that establish an absence of a conflict of interest**. When no conflict of interest is established, the decisions are not appealed by the investigated individual in whose favor the decision went, and thus the commission's ruling takes effect. It is precisely this scenario that requires an effective checks and balances system, since it poorly represents public interest.

The Anti-Corruption and Forfeiture of Illegally Acquired Property Act (repealed), as well as the APFC⁹⁰, only allow the prosecutor to file a protest and exercise judicial oversight. Notwithstanding, according to the information published on the commission's website⁹¹ regarding conflict-of-interest rulings, there is no evidence of judicial control initiated by the prosecution in the cases where a conflict of interest was not established. This suggests the conclusion that **the prosecution is not in the habit of appealing rulings that do not establish a conflict of interest.**

The execution of judicial control precisely over the commission's rulings that do not establish a con-

87. Article 24, section 1 of APC: "Proceedings for issuing an individual administrative act shall be initiated by the competent authority or at the request of a citizen or an organization, and in the cases provided for by law – of the public prosecutor, the ombudsman, the superior or other public authority."

88. Article 2 of APC: "The law aims to protect the interests of society by:

1. effectively countering corruption.
2. ensuring that persons holding high public office perform their powers or duties honestly and with integrity in accordance with the Constitution and the law.

3. to prevent opportunities for the illicit acquisition and disposal of property".

89. A.Yankulov, D.Peneva, "Anti-corruption institutions 2022 – eyes wide shut", ACF, Sofia, 2023, p.34-35

90. Art.94, L.2 of APFC: The prosecutor can protest the decision in court within one month of the ruling that did not establish a conflict of interest.

91. <https://www.cacaf.bg/konflikt-na-interesi/resheniya-na-kpk-kpkonpi/resheniya-po-chl-13-al-1-t-4-ot-zpkonpi>

conflict of interest could be a mechanism to thwart the lack of effectiveness and formalism when applying the law. A potential trial could further overcome the incomplete exercise of evidence gathering powers. The commission's practice has been to show a tendency to establish facts based exclusively on the claims and statements of the investigated individuals, without additionally verifying the facts when possible.⁹² Judicial oversight exercised by other interested parties such as the authors of the complaint, could help smooth over the deficiencies in the administrative procedure, as well as achieve a better level of transparency and public awareness.

3/ A predominantly formalist approach can once again be observed in the analysis of facts and the manner in which conclusions are reached by the CAFIAP and CCC in their rulings during 2023. One manifestation of this formalist approach is that the commission applies a mechanism of utilizing formal criteria to eliminate the possibility of a conflict of interest. The commission follows the letter of the law but fails to investigate real relationships. When forming legal opinions, it does not prioritize establishing whether the public official's ability to impartially and objectively exercise their duties was threatened. To the contrary, the process employed by the commission is to eliminate one of the legal prerequisites on a formal basis and exonerate the individual because of an:

- Absence of personal interest
- Absence of family ties
- Absence of economic or political ties
- Absence of exercised powers

3.1./ When examining whether there is personal interest, the commission's practice is to inquire whether the individuals are connected according to Section 1, p. 9 of the Additional provisions of the APFC. The commission verifies the legal prerequisites and formally excludes the possibility of connected individuals but does not investigate existing relationships and dependencies that could give rise to personal interest. The imprecise construction of the law exacerbates this, since it only provides for a limited number of possibilities and is narrowly applied to the letter. The law is seldom, if ever, interpreted more broadly, even in cases where there is an indisputable connection outside of the scenarios described in the law.

In that sense, it becomes apparent that the commission seeks to – before anything else – to eliminate the possibility of any family ties or economic dependencies in order to not establish personal interest. One example from 2023 saw an individual's groomsman⁹³ or mother-in-law⁹⁴ fall outside of the legal definition of connected individuals, which presupposed a ruling that did not establish a conflict of interest.

3.2./ In a number of conflict-of-interest cases from 2023, there are instances⁹⁵ where no conflict of interest was established in the execution of official duties on formal grounds, due to the fact that the cases involved complex factual sequences that **consisted of multilayered procedures that were not comprehensively examined by the commission.** As such, it was not analyzed that the execution of a series of official duties in their entirety led to a desired result. One such case was examined by the Supreme Administrative Court (SAC) on administrative case number 6311/2023, Decision number 4135 from 04.04.2024:

In the present case, when carrying out an investigation under the AFIAPA, the Commission did not take into account and did not analyze in totality the specifics of the case, which led to the impairment of the procedure and, accordingly, of the decision issued by it... In this case, the Commission did not only fail to examine and consider these specifics, but also did not find it necessary to make such an assessment whatsoever, insisting that the conflict of interest was established only on formal grounds. This undoubtedly marred the administrative act procedure, as the first instance court correctly held.

One example of separately executed official duties in a complex sequence is the case⁹⁶ in which the mayor of Tsarevo proposed to the municipal council the sale of a municipal property plot of 3 864 square meters with a determined market value of 258 888 BGN without VAT. The municipal councilors voted on the decision and gave their consent. The mayor issued a directive to hold a public auction and appointed members of a commission to organize a bid. The procedure was held in dubious circumstances regarding the official procedure. It is telling that only two entities participated in the auction, while one of them failed to provide a security deposit, and was in turn disqualified from participating. The only real participant won the bid and signed a contract for the purchase of the

92. A.Yankulov, D.Peneva, "Anti-corruption institutions 2022 – eyes wide shut", ACF, Sofia, 2023, p.36

93. Decision number RC-284-23-01 from 11.10.2023

94. Decision number RC-478-23-06 from 08.11.2023

95. Decision number RC-10714-22-023 from 20.03.2023, Decision number RC-685-22-05 from 01.11.2023, Decision number RC-387-23-10 from 23.11.2023

96. Decision number RC-225-23-17 from 04.12.2023

municipal property plot for the sum of 343 532.16 BGN without VAT.

Two months later, the company that purchased the real estate sold it to a newly registered association whose sole proprietor was a municipal councilor that voted in favor of the sale. In spite of this, the commission concluded that the official duties of the mayor and councilor were not executed to the benefit of personal interest. For each power exercised separately, the commission did not establish personal interest in both the mayor's action and the councilor's vote in favor of the sale, arguing that "sale by public auction with secret bidding implies the possibility of participation by an unlimited number of bidders, and could not lead to an advantage or disadvantage to any of the persons who have applied". The dubious circumstances under which the auction was held were not taken into consideration, and neither were the totality of actions that led to the sale of the property.

Simultaneously, in another case, an individual acting as replacement director of the Regional office of the General Directorate Execution of Penalties in the city of P. (GDEP) did, according to the commission's decision⁹⁷, execute her official duties in the personal interest of an individual connected to her. She signed a proposal to change the obligation of a convicted individual (her son) to register his current address twice a week, and instead register it just once a month. The proposal submitted by her to the Probation council represented an initiative to change the probation conditions of the convicted person. As a result, the commission established a conflict of interest, since the acting director participated in the preparation of an act that served personal interests.

It is worth noting that in this case of remarkably little public interest, the commission very uncompromisingly and with sound arguments ruled that there is a violation. This gives **an impression of selectiveness and unequal application of the law, since much more significant cases are found to not be in violation with the contrary legal arguments**. An example would be the case in Tsarevo, where the official duties executed were analyzed out of context and the sale of nearly 4 000 square meters by the Black Sea coast was deemed to not serve any personal interest since it was theoretically open to an unlimited number of participants.

3.3./ Another set of cases⁹⁸ from 2023 show a formal exclusion of a conflict of interest. The commission alleges that the employment relationship of a senior official that executed office powers to the benefit of their employer did not constitute a connection and therefore concluded there was no benefit. Once again, the commission does not investigate whether duties were executed impartially and objectively, but rather looks into the concrete manifestation of personal interest – an economic connection that arose from an existing employment relationship. In this sense, the commission repeatedly ruled that the existence of an employment relationship did not require the presence of economic dependence, insofar as it concerned the receipt of remuneration in exchange for merely work performed under a legal relationship that could be terminated upon the realization of clearly formulated preconditions in an employment contract. Such a conclusion could only be reached if the employment relationship is taken out of context, and the totality of the facts not taken into account in order to formally exclude one of the prerequisites and thus establish no conflict of interest.

3.4./ In another group of cases from 2023, the powers of office are executed by the senior official's direct or indirect subordinates, employees in a subordinate state or municipal entity/commission appointed by the individual.⁹⁹ Considering that in these cases there is no family, economic, or political connection that leads to the official that executed powers, the challenge to uncover a conflict of interest is even greater. These scenarios generally imply a hidden agreement that is often impossible to prove. For that reason, the analysis of the facts requires even more pressingly to first establish whether the lawful and objective execution of powers was jeopardized, as well as to take proactive measures to qualitatively collect evidence of non-regulated influence. What is worrying in the commission's approach is that it always establishes the absence of exercise of powers by the person related to the beneficiaries, while it also excludes a connection to the person that exercised powers.

For instance,¹⁰⁰ the case of a company owned by the wife and son of a mayor that won an anonymous auction to purchase real estate owned by the municipality, where all the contracts were signed by the deputy mayor instead of the mayor himself. The permits extended to the new owners to place temporary structures on

97. Decision number RC-117-23-065 from 02.08.2023

98. Decision number RC-152-23-031 from 25.04.2023, Decision number RC-52-23-036 from 03.05.2023, Decision number RC-120-23-068 from 23.08.2023, Decision number RC-118-23-072 from 05.09.2023, Decision number RC-492-23-19 from 13.12.2023

99. Decision number RC-814-22-022 from 29.03.2023, Decision number RC-558-22-033 from 25.04.2023, Decision number RC-71-23-035 from 25.04.2023, Decision number RC-9656-22-049 from 01.06.2023, Decision number RC-868-22-054 from 21.06.2023, Decision number RC-3709-23-066 from 02.08.2023

100. Decision number RC-71-23-035 from 25.04.2023

the premises were issued by the municipality's chief architect under article 56 of the Territorial Planning Act. In this case there is no direct application of executive powers, but there is also a lack of an investigation into the permits and the auction procedure in order to clear the doubt that individuals close to the mayor, or officials that were pressured by him were awarded a benefit at the expense of public resources because of undue influence.

3.5./ The last group of cases represents instances where the commission displayed a **shocking degree of formalism** when establishing that an individual does not hold public office at all.

One of the cases is a conflict-of-interest investigation concerning Kiril Petkov¹⁰¹. A decision of the Constitutional court (CC) ruled unconstitutional Presidential decree number 129 from 10.05.2021 that appointed Petkov as provisional minister of the economy. The commission incorrectly ruled that as a consequence of the CC's ruling, Petkov was not a senior public official at the time. According to

Bulgarian law, as long as all the powers executed by him have not been challenged and declared void by a Bulgarian court, they remain legally valid as acts performed in his capacity as provisional minister of the economy. It would follow for the commission to truly investigate whether official acts could be connected to personal interest, etc., instead of annulling the proceedings on the formal grounds that there is an inherent discrepancy in Petkov's appointment as minister, and therefore he 'was never in the capacity of a senior public official'.

Another curious case¹⁰² involves the chief architect of a municipality. Since he was subcontracted as a private contractor, and did not have an employment contract, the commission ruled that the architect did not execute any powers in that capacity and was not a senior public official. Even the fact that the General Labor Inspectorate conducted an inspection and issued a Confirmation of employment relationship to the architect did not deter the commission from concluding in its formal decision that it would follow to close the proceeding instead of examining the executed powers in detail.

101. Decision number RC-515-22-051 from 08.06.2023

102. Decision number RC-747-22-075 from 07.09.2023

5/

Selection of cases that illustrate the tendencies in the CAFIAP and CCC's practices in 2023

5.1 CAFIAP's ruling¹⁰³ that did not establish a conflict of interest in the case of Eli Spasova-Peneva and Korneliya Ninova

The complaint alleged that the Ministry of industry and the economy (MIE) with minister Korneliya Ninova has contracted the same law firm to represent the majority of state-run commercial associations and companies. One of the partners of the firm in question, Stankov, Todorov, Hinkov & Spasov, Attorneys-at-Law, Peter Spasov, is the son of Eli Spasova-Peneva. The latter was chief of cabinet of Korneliya Ninova, deputy prime minister and minister of industry and the economy in Kiril Petkov's government (formed on 13.12.2021 by the 47th National Assembly and dissolved on 02.08.2022).

The tip-off alleged that in the period between December 2021 and August 2022 the law firm signed contracts with state-owned companies and companies under the MIE such as Kintex and the State consolidation company (DKK) for over 400 000 BGN. It also pointed out that Ninova also used the law firm in her personal dealings. It stated that the majority of contracts were signed on the principle of direct negotiation, many of them with substantial early termination penalty clauses. A total of 16 contracts with the law firm worth 180 000 BGN were for legal assistance in specific cases,

while the companies paid monthly retainers, regardless of work volume. The companies under the MIE took on similar obligations, and the total sum was around 20 000 BGN per month, or nearly a quarter million BGN per year.

The commission did not establish a conflict of interest

The commission found that the law firm, represented by the manager Petar Spasov, son of Eli Spasova-Peneva, had indeed concluded a series of contracts with the companies under the MIE. The commission, however, did not establish a conflict of interest regarding Eli Spasova-Peneva with the motive that the contracts were not signed by her, but by the executive directors of the corresponding companies, and the minister's chief of cabinet did not have any levers to influence them. The commission also ruled that any undue influence was to have been exercised, not merely a possibility.

The commission also accepted that no powers of office were exercised, and that the chief of cabinet could not

103. Decision number RC-9656-22-049 from 01.06.2023

by definition influence the Deputy prime minister and the Minister of industry and the economy, in as much as the hierarchy runs in the opposite direction – Ms. Spasova-Peneva is in a subordinate position.

The commission did not establish a conflict of interest with respect to Korneliya Ninova on the grounds that she is not related to the son of her chief of staff, nor any of the other law firm partners. It also pointed out that the fact that the law firm represented her in her personal affairs does not establish affiliation, including economic affiliation, and Ninova did not sign the contracts with the law firm, as this was done by directors of the respective companies under the MIE.

Comment



In the cases described above, the senior public officials were declared free of liability on formal grounds. The commission's conclusions that the chief of cabinet could not have used their position to influence other entities or individuals to enter a contract with the law firm where her son is a partner are incorrect. Even if she did not personally exercise the power of authority, the fact that her son was the subject of actions resulting in financial benefit should be a strong indicator of caution in examining how public resources are spent. Even if the cabinet chief Spasova-Peneva did not have any influence on minister Ninova, who is the person with managerial functions, decision-making and control in the department entrusted to her and the bodies subordinate to it, we cannot ignore the fact that the commission did not examine all the facts in their entirety but considered them separately and in isolation. No attempt was made to effectively gather evidence regarding contracting and expenditure approval. In addition, the following was not analyzed: was there personal interest in entering into this particular transaction, was the cost of the service and the agreement provisions consistent with market prices for this particular type of service, was there collusion between individuals in order to benefit the particular company, given that the mother of one of the partners is a trusted employee of the decision-maker. The commission even overlooked the possibility that there was an unfair transaction or other official misconduct and to direct the case to the investigative authorities.

5.2 CCC decision¹⁰⁴ on the absence of a conflict of interest in the case of Ivan Shikov and Georgi Chavdarov

The tip-off alleges that Ivan Shikov, in his capacity as director of the Bulgarian food safety agency (BFSA) appointed the best man from his wedding¹⁰⁵ Dr. Chavdarov as the director of the Regional Food Safety Agency – Plovdiv (RFSA-Plovdiv), with the assignment of performing certain tasks in relation to two companies that Chavdarov is alleged to have close connections with. It is also alleged that Chavdarov, together with Shikov, forced the staff of the Agency’s Healthcare department to issue a certificate and pay compensation for destroyed animals to a livestock farmer, as well as cover up for companies that did not pay their state taxes, even though there were a number of reports from the Director of the Financial department.

The CCC did not establish a conflict of interest.

The CCC did not establish a conflict of interest regarding Shikov’s appointment of Chavdarov as the director of the RFSA-Plovdiv with the motive that **their relationship did not fall within the category of connected individuals, which therefore excluded the possibility of any private interest when performing official duties.**

In his capacity as director of the RFSA-Plovdiv, Chavdarov issued two compensation payment orders for the sums of 43 957.10 BGN for slaughtered chickens and 224 823.15 BGN for destroyed eggs to a particular merchant, and another one for 1 569 024.54 BGN to a different company. Since there was no indication of a connection to the company owners, the commission did not establish any personal interest in the execution of duties.

The tip-off also alleged that in his capacity as director of the RFSA-Plovdiv, Chavdarov failed to collect fees owed to the agency by a company. The commission ruled that negligence does not constitute a conflict of interest.

Comment

The latter case was the first one reviewed by the “new” Anti-corruption commission – the CCC. Notwithstanding, there seems to be no difference in the way conflict of interest cases are handled. Once again, the investigation of the most important question – whether the execution of official duties was objective, impartial and in the public interest – never occurred. The limited scope of the term connected individuals was conveniently used without ever considering following the commonsense logic that being a best man presupposes closeness and a relationship of trust, which in turn is a risk of improperly providing a benefit, including the unconditional performance of tasks assigned to the trustee. The section of the complaint that alleges coercion or influence on other officials was never examined, and there is no evidence that the CCC notified the prosecutor’s office or other units tasked with detecting and investigating possible corruption offenses related to abuse of power. It is infinitely insufficient to conclude that there is no conflict of interest just by eliminating the possibility of kinship ties, and much less determining whether other kinds of violations or crimes were committed.

104. Decision number RC-284-23-01 from 11.10.2023

105. in Bulgarian culture, this grants near-kinship status, and it often denotes lifelong friendship.

5.3 CAFIAP decision¹⁰⁶ on the absence of a conflict of interest in the case of Plamen Mollov and Atanaska Teneva

The procedure was initiated to investigate professor Dr. Plamen Mollov, president of the University of Food Technology (UHT) in Plovdiv, and Dr. Atanaska Teneva, university vice president and the person authorized under the Public Procurement Act (PPA) to organize and award public contracts. The complaint alleges that in 2020 the university used the company Lupean Ltd. for the supply of goods and services valued at more than 30 000 BGN, such as for instance a contract to produce a graphic logo of the university, supply of disinfectants and gloves for prepress preparation. Additionally, in mid-2020, the vice president Atanaska Teneva, after an unsuccessful procedure under the PPA for construction works valued at 165 000 BGN without VAT (due to lack of candidates), sent an invitation for direct negotiation to the company Lupean Ltd. According to the documentation, the contractor was required to be engaged in construction and renovation activities. Lupean Ltd., however, was never registered for such activities. Data from the Electronic budget payment system (EBPS) indicates that since 2020, Lupean Ltd. received an additional 71 851.68 BGN from the university. Lyuben Yochkov is listed as the proprietor and manager of the company. He also, however, co-owns two other companies together with Nedelcho Mollov (son of Dr. Plamen Mollov), while Petya Mollova (wife of Dr. Plamen Mollov) is also a co-owner in one.

The commission did not establish a conflict of interest

The commission established that Dr. Plamen Mollov, in his capacity as president of the University of Food Technology in Plovdiv, performed the following official duties: issued an order declaring a competition for the selection of a university slogan and appointed a committee to review and evaluate the slogan pro-

posals; approved the committee's report; awarded a public procurement contract with Lupean Ltd. for the graphic logo of the University; participated in the adoption of an of Academic council decision; signed an expenditure request from 15.07.2020 for the amount of 4800 BGN; approved a report requesting funds for disinfectants, hand gel and gloves; signed a contract with the Ministry of Tourism for the 'Preparation and gradual implementation of the professional selection of traditional Bulgarian dishes and wines, united in a National menu; approved a proposal to print National menu brochures ; signed an expenditure request dated 16.09.2020 for the amount of 7320 BGN; signed expenditure requests, on 21.09.2020 for the amount of 5490 BGN, and on 09.10.2020 for the amount of 1830 BGN; approved a proposal for the purchase of 25 000 disposable masks, with an attached offer from Lupean Ltd; signed an expenditure request dated 04.11.2020 for the amount of 15 000 BGN; signed an expenditure request dated 16.11.2020 for the amount of 14 700 BGN in favor of Lupean Ltd., etc.

Atanaska Teneva only exercised powers in relation to a public procurement call for tenders for 'Construction and repair works on UHT buildings'.

The proprietor of Lupean Ltd. Lyuben Yochkov co-owns another two companies with Nedelcho Mollov and Petya Mollova – son and wife of Dr. Plamen Mollov. Regardless, the commission ruled that the presence of connected individuals did not constitute a conflict of interest in itself and there are no economic ties between Plamen Mollov and Atanaska Teneva, Lupean Ltd, and company's owner Lyuben Yochkov.

The commission did investigate if there were economic or financial ties between the companies but did not establish any. Its argument was that there was no evidence of a link between the commercial activities of the three companies and it cannot be regarded as a material fact within the scope of the conflict of interest that

the individuals related to Dr. Mollov are partners in other companies with the sole owner of the capital of Lupean Ltd. Partnership with Lyuben Yochkov could not signify economic dependencies between Dr. Mollov and Lupean Ltd. that could raise doubts in regard to his objectivity and impartiality. Regarding the fact that the registered office of Lupean Ltd. is located on a property owned by Mollov and his wife, and transferred at a later stage to his son, the commission did not find a conflict due to the lack of contractual relations and financial ties between the individuals.

It was established that ‘Even the existence of a partnership between those associated with Dr. Mollov and the owner of Lupean Ltd. Lyuben Yochkov, could provoke doubt in the objectivity and impartiality of Dr. Mollov in the exercise of his official powers in relation to Lupean Ltd, there is no evidence which would establish beyond reasonable doubt the existence of an economic and financial relationship between Dr. Mollov and Lupean Ltd. which would motivate him to exercise his powers. The evidence collected did not prove economic ties between Dr. Mollov and Lupean Ltd, which establishes a lack of connection between them per §1, p.15, b. “b” of the Additional provisions to AFIAPA.’

The commission’s conclusions on Atanaska Teneva are analogous.

Comment

Mollov’s name gained publicity in 2022, when a recording was leaked in which he allegedly offered the director of the Bulgarian food safety agency (BFSA) a bribe to continue the activities of the company Eulolab 2011 on the border crossing Kapitan Andreevo. Mollov is a former BFSA director from the time of the Oresharski cabinet and is one of the founders of Stefan Yanev’s political party Bulgarian surge.

Pre-trial proceedings were initiated after the recording, but the prosecutor’s office terminated them in 2022.

There are numerous indicators that public funds were spent in significant amounts along with reasonable suspicion that public procurement legal requirements were violated. Once again, however, the commission was not interested to find whether official duties were legally exercised, or whether there were violations after the same company was contracted on multiple occasions for a wide variety of services, which in turn raise reasonable doubts as to their capacity to provide them. Even the strong indicators that the company could be acting as a front for Dr. Mollov himself or his son (given that the registered office of the company is on a property owned by the Mollov family, and the company’s owner partners Mollov’s son and wife in another two companies) could not motivate the commission to reach a different conclusion. In yet another case, the commission did not find it necessary to investigate if there is a possibility of a disadvantageous deal or another official violation and alert the competent authorities.

5.4 CAFIAP decisions^{107,108} on the absence of a conflict of interest in the case of Vesela Lecheva

The first signal against Vesela Lecheva, in her capacity as provisional minister of sports and youth, was because she signed an order for the issuance of a license to an association,

whose president Vasil Antonov, just like Lecheva, was also a long-standing member of the National Council of the Bulgarian socialist party (BSP), as well as a member of the National youth and sports council of the BSP. Additionally, on 18.08.2022, Lecheva hosted the individual in question in her office along with other sports officials for a media photo session, while at the same time Antonov's association was in the process of registering. A total of five associations were candidates for the license, which mandates the development of chess as a sport and awards large government subsidies granted by the Ministry of sports and youth (MSY) and minister Lecheva. It is alleged that with her decision, minister Lecheva awarded the license to the chess association newly created by the former BSP national assemblyman, to the disadvantage of other candidates.

The second complaint alleged an incompatibility between Lecheva's position as minister and member of a governing body of a non-profit legal entity, commercial company or cooperative that exercises commercial activity or is a manager in the following legal entities: "Bulgarian Rifle Union" Association (BRU), Olympic Truce Foundation, Bulgaria Forever Association, Bulgarian Tennis Federation Association, Iliyantsy Stroy Group Ltd, Correct Trans Ltd. and Profita Ltd.

It was alleged that following a proposal by Lecheva, the Council of ministers approved a decision to change the status of a state-owned public property – namely the Geo Milev shooting range complex, part of the MSY – to a state-owned private property and transfer it to National sport base JSC, also owned by the MSY. The complex is contracted by the MSY to being used by the BRU, which Lecheva presides over. The Council of ministers approved the transfer of 3 million BGN for

the renovation of the complex from the central budget to the MSY, and subsequently to National sport base JSC, in effect handing the control over spending to Lecheva. As such, the Council of ministers assigned the supervision of the renovation expenditure of a property used by an association of which she happens to be the president.

The commission did not establish a conflict of interest

In the first case, the commission investigated a possible connection between Lecheva and Antonov per §1, p.15, b. "b" of the AP to AFIAPA (repealed). It did not establish the existence of an economic dependency, since the individuals are not partners in commercial companies and do not participate jointly in management bodies of companies and/or non-profit entities. The fact that they are both members of the National council of the BSP, as well as the National youth and sports council of the BSP, could not justify political dependence, since the individual would need to be the party leader of the individual holding office following the party's hierarchy, and even in that case the specific structure and subordination would have to be studied. Antonov was not Lecheva's senior in the party, which determined the lack of political dependency according to the commission.

As for the second case concerning the Council of Ministers' decision to change the status of a state-owned public property to a state-owned private property and transfer it in the capital of National sport base JSC, the commission did not establish Lecheva's presence in the managing entities of National sport base, and consequently excluded the possibility of economic dependency and respectively a connection between her and the company. They did not establish any family ties between Lecheva and members of the board of directors of National sports base JSC and ruled out the possibility of personal interest.

107. Decision number RC-927-22-020 from 22.03.2023

108. Decision number RC-818-22-029 from 12.04.2023

Regarding Lecheva's participation in the decision to have the sum of 3 million BGN transferred from the central budget to the capital of National sport base, the commission ruled that the funds were entirely to the benefit of National sport base, which is entirely owned by the state. Therefore, there could be no personal interest in Lecheva's execution of her powers of office, and as one of the prerequisites for a conflict of interest, it determined the impossibility of its realization.

In connection to the rental agreement of National sport base with the MSY, represented at the time by Radostin Vasilev in his capacity as minister, and signed by Lecheva in her capacity as president of the BRU, the commission ruled that at the time Lecheva was not a senior public official and as such she could not have a conflict of interest. The landlord and tenant relationship is contractual and it largely depends on the will of both parties.

Comment



The first case relates to the lack of funding for the development of chess in Bulgaria, due to the mis-handling of public funds belonging to the Bulgarian Chess Federation in 2014. As a result, five different associations were formed to present their candidacy for a government license. The commission motivated its decision with the lack of a political connection between Vesela Lecheva and Vasil Antonov, who are both of the same party and longstanding members of its National council and National youth and sports council, without ever mentioning that Lecheva hosted Antonov as a representative of the association applying for a license at an event to celebrate the Olympic success of the Bulgarian chess team. Subsequently, that same association was granted a license and the corresponding government funding to develop chess on a national level.

In the second case, the commission did not examine the factual sequence in its entirety, which could have led to a conclusion of whether there was personal interest or benefit. The commission's conclusion does not correspond to the facts that Lecheva, in her capacity as president of the BRU and renter of a public state property, proposed that the property's status be changed to private state property and be transferred to National sport base, which was in turn the property of the MSY, of which Lecheva was the head. Lecheva then proceeded to increase the sport base's capital by 3 million BGN for the renovation of the shooting complex.

6/ Recommendations

The tendencies in the practices of CAFIAP and the new CCC make apparent the fact that the legislative reforms that aimed to create an effective anti-corruption institution have not achieved their aim. The EC's 2023 Rule of Law Report, published on July 5th 2023¹⁰⁹, made a recommendation to 'Ensure an improved effectiveness of investigations and a robust track-record of prosecution and final judgments in high-level corruption cases including through the institutional reforms of the Anti-Corruption Commission.'

In that regard, in spite of the adoption of a new Act on Preventing and Fighting Corruption, yet another institutional reform of the commission has not been performed in its entirety, and to a point of completion that would guarantee the expected results, namely, to provide a dependable system for the investigation of violations or crimes and hold the responsible individuals accountable. It must also be pointed out that the Anti-corruption commission (CCC) is only part of the system to uncover corruption at the highest levels of government, and it cannot not be expected that solely its institutional reformation could achieve complete success and effectiveness, unless the independence of the judiciary and prosecutor's office are in place to guarantee the rule of law.

Considering what has been detailed, this analysis conveys the necessity of further legislative reform with the aim of correcting some of the inconsistencies inherited from the previous law. The following recommendations could be derived, which confirm and complement those of previous reports:

To define the term conflict to interest so it is not limited to listing situations that could constitute a conflict of interest. The leading connotation of the term must be that "personal interest could be any interest that could be reasonably assumed to negatively affect the execution of official duties.

Considering the aforementioned recommendation, it would follow that the additional definition of "connected individuals" should also be discarded, as it has a limiting effect on the identification of conflict-of-interest cases. If there is a necessity to define the term, it should be specified in a manner that does not list a finite number of possibilities and allow for an investigation of whether there is a connection between individuals that could facilitate placing a person in a privileged position.

To put in place guarantees that the institution in charge of effectively counteracting corruption initiates conflict of interest investigations on its own initiative (ex officio).

To repeal Art. 37, p. 2 of the Law on Local Self-Government and Local Administration (LLSGLA, State gazette, 70/2020), according to which town councilors can discuss and vote on the municipality's budget without falling under the APFC and AFIAPA conflict of interest provisions. The necessity to repeal this exception becomes even greater when considering that town councilors are not banned from executing commercial activities and this is not considered incompatible with holding office. This creates unlimited opportunities to legally develop practices through which councilors could benefit companies or individuals connected to them. The legislative logic behind excluding the possibility to investigate individuals when they pursue personal over public interests is no less than perplexing.

To clarify the prohibitive provisions so as to clearly delineate the situations in which it is required that the individual actually executed official powers, from the cases where it is enough to objectively establish a scenario in which the senior public official found themselves by agreement or implicit agreement.

Establish a provision to limit the ability of public office holders to receive gifts or benefits for having exercised specific powers in their personal interest or having their decisions influenced.

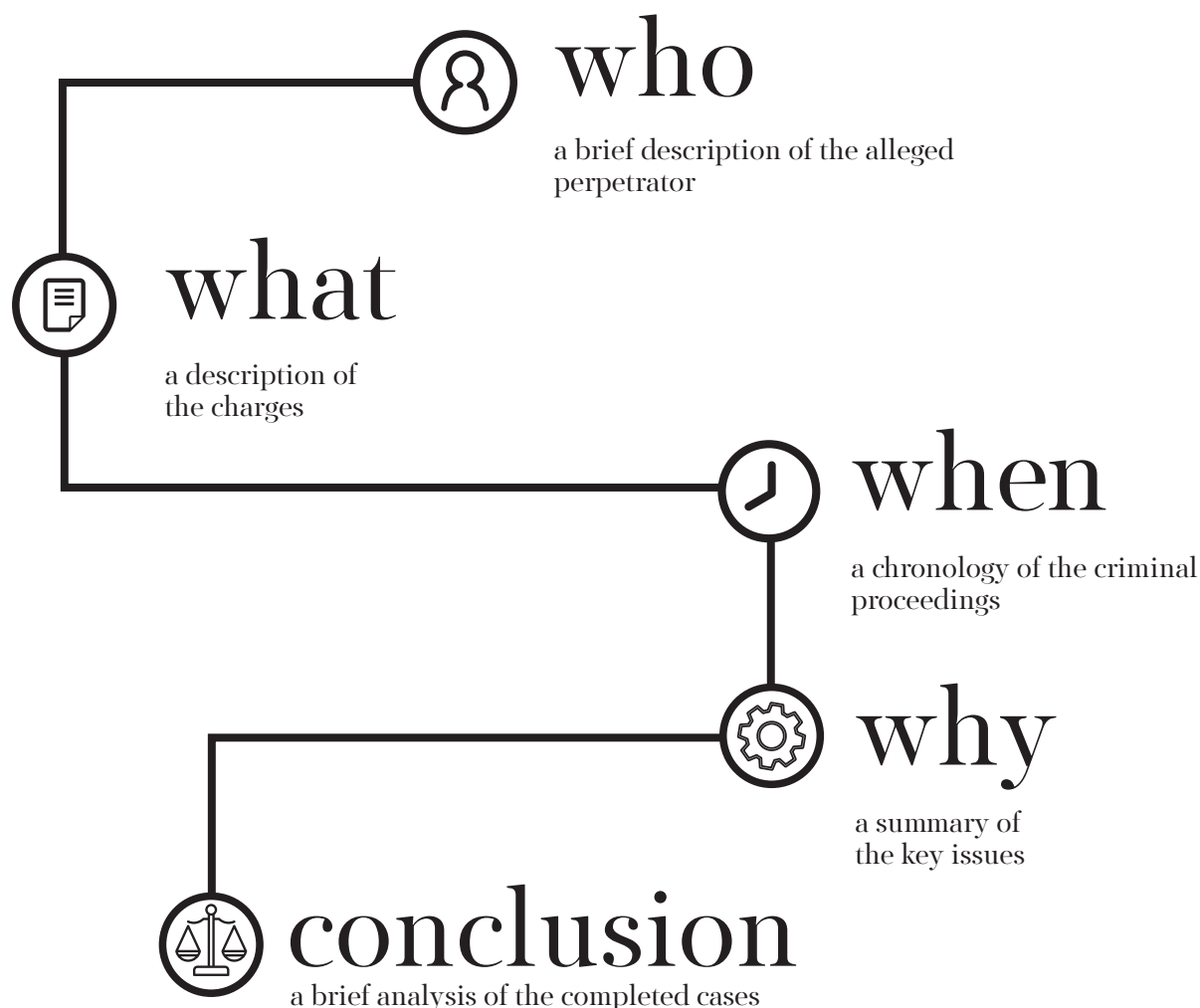
To provide for the possibility to file anonymous tip-offs, as well as a specific possibility for civil society organizations that exercise public control over institutions to file tip-offs.

Annex One

Results of the Criminal Prosecution of High-Level Corruption

Andrey Yankulov

All the cases in this annex are structured in the following identical manner:



Sources of information:

The description of all case facts is based on information from public sources: court rulings available on the webpages of the relevant courts, indictments on cases at the trial stage, press releases by the Prosecutor's Office, media publications, as well as information provided by judicial bodies. The charges have been presented as authentically as possible, notwithstanding certain minor redactions and insignificant abridgments aimed at making them more digestible for the general public.

The cases have been divided into the following categories:

- cases concerning officials in the legislature and the government – from 1 to 20
- cases concerning representatives of the judiciary: – from 21 to 23
- cases concerning other officials in the executive and in local government – from 24 to 40
- cases from 2020 – from 41 to 45
- cases from 2021 – from 46 to 49
- cases from 2022 – from 49 to 56
- case from 2023 – 57

case 01



HRISTO BISEROV / A

Deputy Chairman of the Bulgarian National Assembly,
2009 – 2013, from the Movement for Rights and Freedoms



The case was analyzed as completed in the ACF Annual Monitoring Report from 2020.

For its detailed presentation, see A. Yankulov, A. Slavov, “Anti-corruption institutions: activity without visible results“, Sofia: ACF, 2020



case 02



HRISTO BISEROV / B

Deputy Chairman of the Bulgarian National Assembly,
2009 – 2013, from the Movement for Rights and Freedoms



The case was analyzed as completed in the ACF Annual Monitoring Report for 2020.

For its detailed presentation, see A. Yankulov, A. Slavov, “Anti-corruption institutions: activity without visible results“, Sofia: ACF, 2020



case 03



SIMEON DYANKOV

Deputy Prime Minister and Minister of Finance, 2009 – 2013,
together with the defendant under item 4 and four other defendants



The case was analyzed as completed in the ACF Annual Monitoring Report from 2021.

For its detailed presentation, see A. Yankulov, N. Kiselova, “Anti-corruption institutions: escalating problems,” Sofia: ACF, 2021



case 04



TRAYCHO TRAYKOV

Minister of Economy, Energy and Tourism, 2009 – 2012,
together with the defendant under item 3 and four other defendants



The case was analyzed as completed in the ACF Annual Monitoring Report for 2021.

For its detailed presentation, see A. Yankulov, N. Kiselova, “Anti-corruption institutions: escalating problems,” Sofia: ACF, 2021



case 05



TSVETAN TSVETANOV / A

Deputy Prime Minister and Minister of Interior, 2009 – 2013



The case was analyzed as completed in the ACF Annual Monitoring Report from 2020.

For its detailed presentation, see A. Yankulov, A. Slavov, “Anti-corruption institutions: activity without visible results“, Sofia: ACF, 2020



case 06



TSVETAN TSVETANOV / B

Deputy Prime Minister and Minister of Interior, 2009 – 2013



The case was analyzed as completed in the ACF Annual Monitoring Report for 2020.

For its detailed presentation, see A. Yankulov, A. Slavov, “Anti-corruption institutions: activity without visible results“, Sofia: ACF, 2020



case 07



MIROSLAV NAYDENOV

Minister of Agriculture and Food, 2009 – 2013

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The case was analyzed as completed in the ACF Annual Monitoring Report for 2020.

For its detailed presentation, see A. Yankulov, A. Slavov, “Anti-corruption institutions: activity without visible results“, Sofia: ACF, 2020
└

case 08



DELYAN DOBREV

Minister of Economy, Energy and Tourism, 2012 – 2013

┌
The case was analyzed as completed in the ACF Annual Monitoring Report for 2022

For its detailed presentation, see A. Yankulov, A. Kashumov, “Anti-corruption institutions: zero year“, Sofia: ACF, 2022
└

case 09



RUMEN OVCHAROV

Minister of Economy and Energy, 2005 – 2007,
together with the defendants under items 10., 31. and 32.

┌
The case was analyzed as completed in the ACF Annual Monitoring Report for 2022

For its detailed presentation, see A. Yankulov, A. Kashumov, “Anti-corruption institutions: zero year“, Sofia: ACF, 2022
└

case 10



PETAR DIMITROV

Minister of Economy and Energy, 2007 – 2009 together with the defendants under items 9., 31. and 32.

what



when



Charged with intentional mismanagement of public funds:

On an unidentified date in the period January 2007 – 13 December 2007, as a representative of the sole owner of the capital of the Ministry of Economy in NEK EAD, he deliberately failed to exercise sufficient control over the work of Lyubomir Velkov and Mardik Papazyan (Chief Executive Directors of NEK EAD). The latter two persons were responsible for managing the NEK EAD public assets in the context of a Framework Agreement for the Delivery of Equipment from the Belene Nuclear Power Plant. Dimitrov's failure to exercise control led to significant damages in the amount of EUR 77,172,475. His actions represent an especially serious crime under Art. 219, par. 4 in conj. With par. 3 and par. 2 of the CC.

Dimitrov was charged by the Sofia City Prosecutor's Office in October 2016 – the SCPO filed a bill of indictment in February 2021 (criminal case 246/2021) – returned for procedural violations by the Specialized Criminal Court to the Specialized Prosecutor's Office in June 2021, the case being at a pre-trial stage since or has been terminated in the meantime at an unknown date.

conclusion



why



There is no information about whether the proceedings are over. However, even if they continue, it is objectively impossible for them to end with a guilty sentence.

Dimitrov was charged at the pre-trial stage of proceedings nine years after the alleged crime had been committed, even though the crime concerns a transaction, the parameters of which had been publicly known. In other words, there was no complicated criminal scheme in this case that would have required considerable time to disentangle. The bill of indictment was filed more than 13 years after the alleged crime had been committed.

It is noteworthy that Dimitrov was accused of failing to exercise control over the work of NEK's executive directors, Velkov and Papazyan, in relation to the signing of an agreement in 2007, other than the agreement for which they were brought to trial, which was signed in 2006 (see cases 26 and 27, Dimitrov was not even Minister in 2006). Velkov and Papazyan were initially charged at the pre-trial phase of proceedings on account of the framework agreement of 2007 that is specified in Dimitrov's bill of indictment, but these charges were not included when the case was brought in court. It remains unclear how the failure to exercise control over certain actions can be deemed a crime, while at the same time the very actions that were left unchecked do not amount to criminal behavior.

After the case was returned by the Specialized Criminal Court to the Specialized Prosecutor's Office for procedural violations, its destiny is unknown. Information regarding its progress has not been provided either by the Specialized Prosecutor's Office or – after the latter was closed – by the Sofia City Prosecutor's Office.

The absolute limitation period for prosecution in this case is 15 years and it expired on 13 December 2022, i. e., the criminal proceeding should have been terminated but this fact cannot be verified due to refusal on the part of the prosecutor's office to provide information.

case 11



NIKOLAY NENCHEV / A

Minister of Defense, 2014 – 2017



The case was analyzed as completed in the ACF Annual Monitoring Report for 2020.

For its detailed presentation, see A. Yankulov, A. Slavov, “Anti-corruption institutions: activity without visible results“, Sofia: ACF, 2020



case 12



NIKOLAY NENCHEV / B

Minister of Defense, 2014 – 2017



The case was analyzed as completed in the ACF Annual Monitoring Report for 2021.

For its detailed presentation, see A. Yankulov, N. Kiselova, “Anti-corruption institutions: escalating problems,” Sofia: ACF, 2021



case 13



DANIEL MITOV

Minister of Foreign Affairs, 2014 – 2017, together with the defendants under items 11 and 15.



The case was analyzed as completed in the ACF Annual Monitoring Report for 2020.

For its detailed presentation, see A. Yankulov, A. Slavov, “Anti-corruption institutions: activity without visible results“, Sofia: ACF, 2020



case 14

**HRISTO ANGELICHIN / A**

Deputy Minister of Foreign Affairs, 2014 – 2017



The case was analyzed as completed in the ACF Annual Monitoring Report for 2021.

For its detailed presentation, see A. Yankulov, N. Kiselova, “Anti-corruption institutions: escalating problems,” Sofia: ACF, 2021

**case 15**

**HRISTO ANGELICHIN / B**

Deputy Minister of Foreign Affairs, 2014 – 2017



The case was analyzed as completed in the ACF Annual Monitoring Report for 2020.

For its detailed presentation, see A. Yankulov, A. Slavov, “Anti-corruption institutions: activity without visible results“, Sofia: ACF, 2020



case 16



PETAR MOSKOV

Minister of Health, 2014 – 2017, together with the defendant under item 17 and three other defendants

what



when



Charged with malfeasance in office, entering an unfavorable transaction, and intentional mis-management of public funds:

On 9 July 2015, in his capacity of Minister of Health, together with the accessory Deputy Minister Adam Persenski, Moskov violated and failed to exercise his official duties under the Health Act, the Medicinal Products in Human Medicine Act, and the Rules on the Structure of the Ministry of Health (MoH). In particular, Moskov accepted 100,000 doses of a pentavalent combination vaccine for children, produced in the Republic of Turkey, and 100,000 doses of Hepatitis B vaccine, produced in the Republic of Korea. The use of both vaccines is prohibited in the Republic of Bulgaria. The motivation behind Moskov's actions was to procure a benefit for a third party — namely Turkey's Ministry of Health — consisting in the receipt of a donation of 5,000,000 doses of tuberculosis vaccine in order to help fulfil Turkey's immunization schedule. Moskov's actions resulted in considerable negative consequences for the MoH: pecuniary damages in the amount of BGN 325,233.87 representing payments for VAT, customs and transportation services; and non-pecuniary damages, consisting in harming the MoH's reputation, preventing effective government control of the policies concerning the use of drugs, and provoking distrust in the public with respect to the vaccination of children. The case was considered especially serious and Moskov was charged under Art. 282, par. 3 in conj. with par. 2 and par. 1, in conj. with Art. 20, par. 2 and 1 of the CC.

On 27 November 2015, in his capacity of Minister of Health and together with Deputy Minister Adam Persenski, Moskov aided and abetted the principal perpetrator L.A.D. — Manager of Bul Bio NTZPB EOOD — to enter into an unfavorable transaction. In particular, Moskov used his ministerial power to sign an agreement for the donation of BCG vaccines with L.A.D. This resulted in damages of considerable proportions for Bul Bio NTZPB EOOD, amounting to BGN 427,788.31 /the value of 5 million doses of tuberculosis vaccine, coupled with insurance and transportation costs/. Moskov was charged under Art. 220, par. 1 in conj. with Art. 20, par. 4 and par. 1 of the CC.

In the period 20 June 2016 – 1 July 2016, in his capacity of Minister of Health and in spite of his duties as Principal of Bul Bio NTZPB EOOD (state-owned enterprise), Moskov failed to exercise control over the work of two subordinates responsible for the management of public funds, namely the Director and Director ad interim of Bul Bio NTZPB EOOD — L.A.D. and R.V.A., respectively. In particular, Moskov failed to exact economic, financial, and accounting information related to the production of vaccines by the enterprise. He further failed to supervise the Director, perform inspections or appoint officials to perform inspections. As a result, the enterprise incurred significant damages amounting to BGN 110,003.46, which represented expenses for the production and storage of TETADIF vaccines by Bul Bio NTZPB EOOD without the required permission of the Bulgarian Drug Agency. Moskov's actions constituted an especially serious crime and led to damages of considerable proportions. He was charged under Art. 219, par. 4 and par. 2 of the CC.

Moskov was charged in November 2016 – the Sofia City Prosecutor's Office filed a bill of indictment with the Specialized Criminal Court in March 2018 – the Specialized Criminal Court issued an acquittal (criminal case 664/2018) in October 2021 – the case is currently pending before the Sofia Court of Appeal (appellate criminal case 778/2023) on appeal by the Prosecutor's Office.

case 16

why



conclusion



It should be noted that the first charge against Moskov is for violating and failing to exercise official ministerial duties by accepting doses of a pentavalent combination vaccine for children and Hepatitis B vaccine from the Republic of Turkey, both vaccines banned for use in Bulgaria. However, with a view to satisfying the requirement of intent, it is claimed that by donating 5,000,000 doses of Bulgarian-produced tuberculosis vaccine, the defendant intended to procure a benefit for Turkey's Ministry of Health. It is stated in the charges that the value of the vaccines given by Turkey to Bulgaria was BGN 1,725,040, whereas the value of the vaccines given by Bulgaria to Turkey was BGN 427,788. Therefore, Turkey made a much bigger donation than the one it received. On another hand, the pecuniary damages partially consist in the payment of VAT to the state budget. The second charge is formulated using an innovative approach: the defendant Moskov is charged with aiding and abetting the crime of entering into an unfavorable transaction (donation agreement, in this case), by signing the donation agreement on behalf of the receiving party, while it is claimed that the donating party was the one that incurred damages. In essence, it is asserted that a state-owned enterprise incurred damages by donating its own property to a ministry. After more than three years of judicial proceedings in the first instance, Moskov and all other defendants on the case were acquitted.

The proceeding is still pending.

In its reasoning for the issued acquittal, the first-instance court held that the prosecuted acts set out under each of the charges did not constitute violations of criminal law.

With regards to the charge of malfeasance in office, the court held that Moskov's and Persen-ski's (his accessory) acceptance of 100,000 doses of a 0.5 ml pentavalent combination vaccine for children sold under the brand of Pentaxim and of 100,000 doses of Hepatitis B vaccine sold under the brand of Euvax B did not amount to unlawful behavior. It was held that the acceptance in question had happened in accordance with an international agreement between Bulgaria and Turkey, which the Minister had to fulfill by accepting the vaccines gifted by Turkey and providing the necessary number of BCG vaccines to be gifted by Bulgaria to Turkey. In addition to stating the absence of unlawful behavior in the case, the court ruled that there had been no violation of, nor failure to exercise, official duties in the case, nor were there any significant negative consequences resulting from such violation or failure on the part of the defendant, as alleged in the bill of indictment. The only fact that the court considered as categorically established in the course of the court proceedings was that at the date when the indicted act had been committed, 9 July 2015, Moskov had indeed occupied the office of minister.

According to the court, in the context of a global crisis caused by a shortage of vaccines (pentavalent and hexavalent vaccines), the defendant did everything in his power, alongside his team at the Ministry of Health, to procure the necessary vaccines and ensure the implementation of the National Immunization Calendar.

With regards to the charge of aiding and abetting the conclusion of an unfavorable transaction, the court decisively held that no unfavorable transaction had been concluded between Bul Bio NTZPB EOOD and the MoH, not least because the company was 100% state-owned and under the control of the Minister of Health, and, therefore, no damages could be incurred by the company as a result of a transaction with the MoH. In consequence, since there was no unfavorable transaction in the first place, there could be no aiding and abetting in this regard, either.

With regards to the charge of intentional mismanagement of public funds, the court held that since the manager and acting manager of Bul Bio NTZPB EOOD, L.A.D. and R.V.A., had not engaged in the mismanagement of funds alleged by the Prosecutor's Office, it was by default impossible that the defendant Moskov engaged in such mismanagement, which would consist in omitting to exercise sufficient control over them.

case 17



ADAM PERSENSKI

Deputy Minister of Health, 2014 – 2017, together with the defendants under items 16., and three other defendants

what



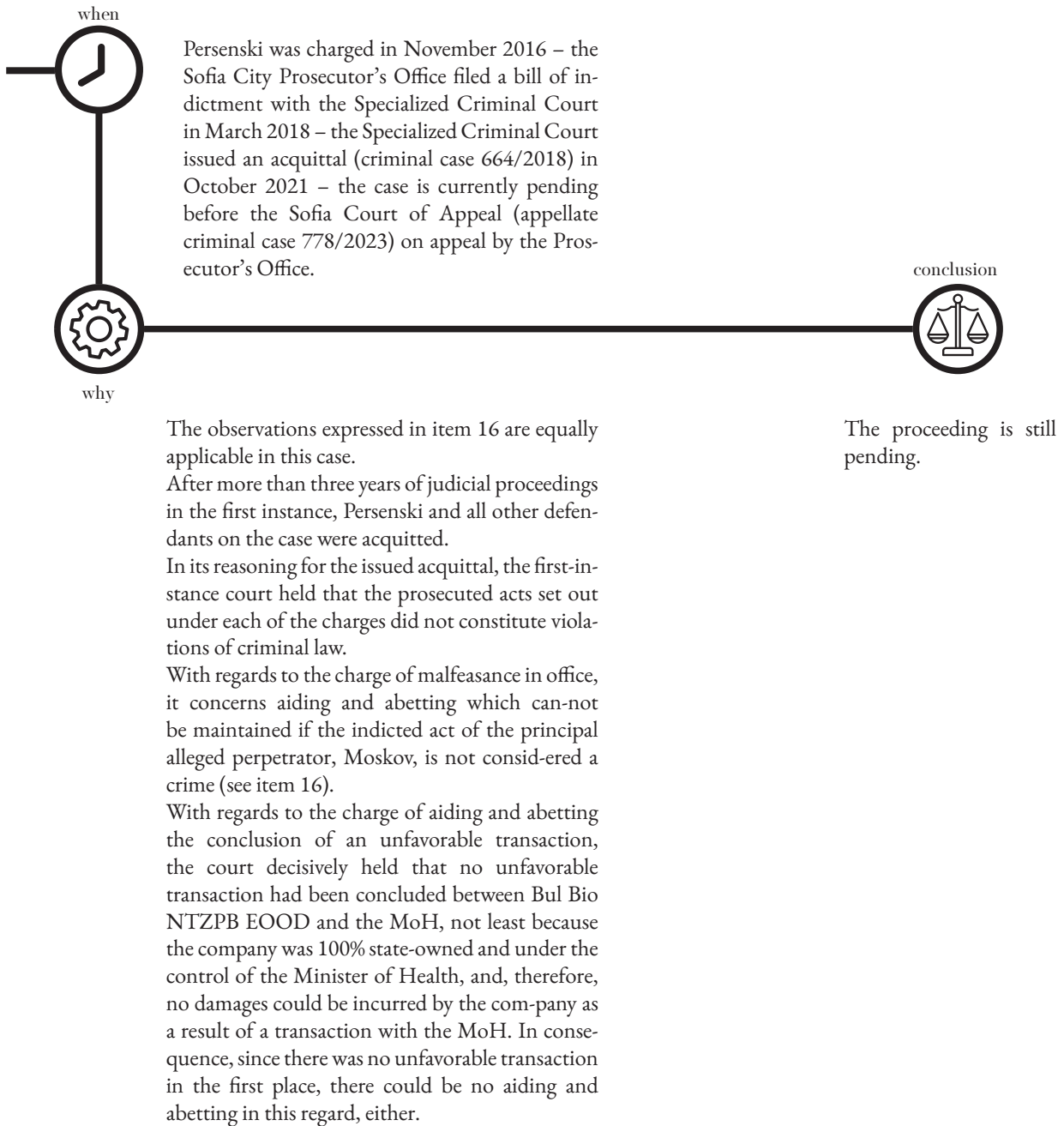
Charged with malfeasance in office and entering an unfavorable transaction:

On 9 July 2015, in his capacity of Deputy Minister of Health, Persenski aided and abetted the principal perpetrator, Petar Moskov, to violate his official duties under the Health Act, the Medicinal Products in Human Medicine Act, and the Rules on the Structure of the Ministry of Health (MoH). The culpable act was carried out with the aim to procure a benefit for a third party — Turkey’s Ministry of Health — by agreeing to receive a donation of 5,000,000 doses of tuberculosis vaccine, and thus helping Turkey fulfill its immunization schedule. In particular, Persenski organized meetings with representatives of the Republic of Turkey, took part in working groups, submitted reports, etc., thus enabling Moskov to accept 100,000 doses of pentavalent combination vaccine for children, produced in Turkey, and 100,000 doses of Hepatitis B vaccine, produced in the Republic of Korea. The use of both vaccines is prohibited in the Republic of Bulgaria. Persenski’s actions resulted in considerable negative consequences for the MoH: pecuniary damages in the amount of BGN 325,233.87, representing payments for VAT, customs and transportation services; and non-pecuniary damages consisting in harming the MoH’s reputation, preventing effective government control of the policies concerning the use of drugs, and provoking distrust

in the public with respect to the vaccination of children. The case was considered especially serious and Persenski was charged under Art. 282, par. 3, par. 2, and par. 1, in conj. with Art. 20, par. 4 and 1 of the CC;

On 27 November 2015, in his capacity of Deputy Minister of Health and together with Petar Moskov, Persenski aided and abetted the principal perpetrator L.A.D. – Manager of Bul Bio NTZPB EOOD – to enter into an unfavorable transaction for the donation of vaccines. In particular, Persenski gave oral instructions to the Head of the Department of Regulatory Legislation and Public Procurement in Health to draft the donation agreement for the vaccines. The agreement was then signed by Persenski and other ministerial officials, after which Persenski told his secretary to call the Manager of Bul Bio NTZPB EOOD, L.A.D., and give him the signed agreement, saying the following: “Deputy Minister Persenski left this agreement for you to sign. He said that everything was fine and that there would not be any problems.” Persenski’s actions resulted in damages of considerable proportions to Bul Bio NTZPB EOOD, amounting to BGN 427,788.31 /the value of 5 million doses of tuberculosis vaccine, coupled with insurance and transportation costs/. Persenski was charged under Art. 220, par. 1 in conj. with Art. 20, par. 3, par. 4 and par. 1 of the CC.

case 17



case 18



RUMEN OVCHAROV/B

Minister of Economy and Energy, 2005 – 2007, together with the defendant under item 19., there is one more defendant

what



when



Charged (finally) with intentional mismanagement of public funds:

In the period 25 May 2006 – 18 July 2007, Ovcharov was Minister of Economy and Energy, and in this capacity, he was responsible for exercising the government's rights as a sole shareholder in Mini Bobov Dol EAD. In violation of his obligations under the Rules on the Structure of the Ministry of Economy and Energy (RSMEE) and the Rules on Exercising the State's Shareholder Rights in State-Owned Enterprises (RPESRSOE), Ovcharov intentionally did not exercise sufficient control over the work of P.S.E. — Board Member and CEO of Mini Bobov Dol EAD — and the work of Anna Yaneva — Deputy Minister of MEE — in relation to the negotiation, conclusion, and execution of a contract (dated 9 June 2006) for lending assets of Mini Bobov Dol EAD to Oranovo EOOD. Ovcharov's culpable behavior (consisting of three omissions to act, jointly constituting a continuing crime) caused damages of considerable proportions to Mini Bobov Dol EAD — BGN 24,455,475.80. The culpable act did not fit the characteristics of the more severe form of the alleged crime but was considered an especially serious case due to the transfer of Mini Bobov Dol EAD's exclusive rights to mine, transport, and sell coal, to O. EOOD. The transfer of rights was in violation of the Underground Resources Act and the Concessions Act. Mini Bobov Dol EAD went into insolvency. Ovcharov was charged under Art. 219, par. 4, par. 3, and par. 2 in conj. with Art. 26, par. 1 of the CC.

Ovcharov was charged in October 2017 — the Sofia City Prosecutor's Office filed an indictment with the Specialized Criminal Court in March 2018 — the case was remitted due to procedural violations in April 2018 — the Specialized Prosecutor's Office filed an indictment with the Specialized Criminal Court in April 2019 — the Specialized Criminal Court issued a conviction (criminal case 1635/2019) in July 2020 (the defendant was sentenced to a suspended prison term of two years with 3 years of probation and barred from exercising certain rights) — the conviction was upheld by the Appellate Specialized Criminal Court (appellate publicly prosecutable criminal case 515/2020) in June 2021 (the defendant was sentenced to a suspended prison term of two years with 4 years of probation and barred from exercising certain rights) — the conviction was set aside by the Supreme Court of Cassation (cassation case 100/2022) in September 2022 and the case was returned for reconsideration at the appellate instance — the Sofia Court of Appeal (appellate publicly prosecutable criminal case 985/2022) returned in January 2023 the case for reconsideration to the Sofia City Court — the Sofia City Court (criminal case 362/2023) returned the case in March 2023 to the Sofia City Prosecutor's Office due to procedural violations (upheld by the Sofia Court of Appeal (appellate privately prosecutable criminal case 399/2023) — the proceeding is presently pending before the Sofia City Prosecutor's Office or has been terminated at an unknown time.

case 18

why



conclusion



The defendant Ovcharov was brought to court almost 11 years after the alleged crimes related to the lending of assets of Mini Bobov Dol EAD to Oranovo EOOD had been committed. However, the nature of the alleged crimes does not justify their delayed detection by the investigation authorities. After the SpCC remitted the case to the SpPO with instructions to rectify identified procedural violations, the alleged damages were amended from BGN 9 mil. to BGN 24 mil. The Prosecutor's Office took one year to bring the case to court for a second time. The total amount of damages reflects the sum of the damages caused by the three omissions to act, altogether constituting the continuing crime: BGN 977,063.10 representing the difference in value between the coal sold by Oranovo EOOD in the examined period, and the acquired coal for prices determined in an annex to the loan agreement; BGN 19,293,323.82 representing the sum of the unpaid rent due under an annex to the loan agreement and the unpaid utility bills, for the period 10 June 2006 – 7 June 2007; BGN 4,185,088.78 representing the sum of the unpaid rent due under an annex to the loan agreement and the unpaid utility bills, for the period 8 June 2007 – 3 September 2008. The crime "mismanagement of public funds" requires the damage, destruction or squandering of existing property, or other significant damages of a similar nature that have been interpreted to only include actual incurred losses both in the theory and in the practice (see item 3).

The SpCC held that Ovcharov had fulfilled both the objective and the subjective element of the alleged crime but ruled that the incurred damages amounted to BGN 16,566,344.68, rejecting the amount claimed by the Prosecutor's Office. The SpCC found that there was no evidence to show that Deputy Minister Yaneva had been assigned obligations to manage, dispose of, or account for public property; therefore, the defendant had had no obligation to exercise control over Yaneva in connection with such property.

The Appellate Specialized Criminal Court has diminished additionally the amount of damage, accepting as such 2 659 040,60 leva that are the value of unpaid overalls like explosion works, food products, electricity, delivered nitrogen and oxygen, telephone calls. According to the appellate court, as to the lending price, the action is not a crime since it is an established tenet in judicial practice that the amount of damages of mismanagement of funds under Art. 219 CC only includes actual losses but not missed benefits. The ASCC acquitted Ovcharov also for the charge that the action was committed in the conditions of a continuing crime, as well as for a part of the period of commission as charged.

According to the Supreme Court of Cassation, the appellate court ruled outside the framework of the bill of indictment, allowed a contradiction between the operative part and the reasoning of the sentence, placing the criminal defendant in a situation where he learnt only from the appellate sentence what crime exactly he had committed. The appellate instance has committed according to the Supreme Court of Cassation other offences too: the reasoning to the sentence do not contain an overall examination and evaluation of the sources of evidence, which clarify the incriminated behavior of the criminal defendant and the causal link with the criminal result; the appellate court built its conclusions on the facts on unsuitable sources as well as on only a part of the case evidence; it has not stated considerations why certain evidence is preferred to other evidence contradicting it. The supreme magistrates find that the judicial act of the appellate court reveals internal logical inconsistencies, which ultimately lead to impossibility to understand the true will of the court with respect to significant circumstances relevant to the objective and subjective presence of the corpus delicti in the acts of the criminal defendant.

After the return of the case by the Supreme Court of Cassation, it went all the way back to the Sofia City Prosecutor's Office, so it could rectify the bill of indictment.

However, the absolute limitation period for criminal prosecution is 15 years and expired in July 2022. The criminal proceeding continues upon request of the criminal defendant Ovcharov – he cannot be convicted due to the expiration of the limitation period but can be acquitted by the court or the case can be terminated by the prosecutor at the pre-trial phase on a rehabilitation ground – because the act he is charged about has not been committed or does not represent a criminal offence.

There is no evidence that the proceeding has been terminated, but conviction cannot be issued in it.

case 19



ANNA YANEVA

Deputy Minister of Economy and Energy, 2005 – 2007, together with the defendants under item 18., there is one more defendant



The case was analyzed as completed in the ACF Annual Monitoring Report for 2022.

For its detailed presentation, see A. Yankulov, D. Peneva, “Anti-Corruption Institutions: Eyes Wide Shut”, Sofia: ACF, 2023



case 20



VLADISLAV GORANOV

Minister of Finance, 2014 – 2017



The case was analyzed as completed in the ACF Annual Monitoring Report for 2021.

For its detailed presentation, see A. Yankulov, N. Kiselova, “Anti-corruption institutions: escalating problems,” Sofia: ACF, 2021



case 21



VESELIN PENGEZOV

President of the Military Court of Appeal, 2004 – 2009, together with the defendant under item 22., and other criminal defendants



The case was analyzed as completed in the ACF Annual Monitoring Report for 2021.

For its detailed presentation, see A. Yankulov, N. Kiselova, “Anti-corruption institutions: escalating problems,” Sofia: ACF, 2021



case 22



PETKO PETKOV

President of the Military Court of Appeal, 2009 – 2024, together with the defendants under item 21., and other criminal defendants



The case was analyzed as completed in the ACF Annual Monitoring Report for 2021.

For its detailed presentation, see A. Yankulov, N. Kiselova, “Anti-corruption institutions: escalating problems,” Sofia: ACF, 2021



case 23



VLADIMIRA YANEVA

President of the Sofia City Court, 2011 – 2015, together with the defendants under item 35



The case was analyzed as completed in the ACF Annual Monitoring Report for 2020.

For its detailed presentation, see A. Yankulov, A. Slavov, “Anti-corruption institutions: activity without visible results“, Sofia: ACF, 2020



case 24



ROSEN ZHELYAZKOV

Secretary General of the Council of Ministers, 2009 – 2013



The case was analyzed as completed in the ACF Annual Monitoring Report for 2020.

For its detailed presentation, see A. Yankulov, A. Slavov, “Anti-corruption institutions: activity without visible results“, Sofia: ACF, 2020



case 25



ANGEL SEMERDZHIEV

Chairperson of the State Energy and Water Regulatory Commission (SEWRC), 2009 – 2013



The case was analyzed as completed in the ACF Annual Monitoring Report for 2022

For its detailed presentation, see A. Yankulov, A. Kashumov, “Anti-corruption institutions: zero year“, Sofia: ACF, 2022



case 26



SVETLA TODOROVA

Chairperson of the State Energy and Water Regulatory Commission (SEWRC), 2014 – 2015



The case was analyzed as completed in the ACF Annual Monitoring Report for 2022.

For its detailed presentation, see A. Yankulov, D. Peneva, “Anti-Corruption Institutions: Eyes Wide Shut”, Sofia: ACF, 2023



case 27



STANIMIR FLOROV

Director of the General Directorate for Combating Organised Crime, 2009 – 2013



The case was analyzed as completed in the ACF Annual Monitoring Report for 2020.

For its detailed presentation, see A. Yankulov, A. Slavov, “Anti-corruption institutions: activity without visible results“, Sofia: ACF, 2020



case 28 and 29



KIRCHO KIROV

Director of the National Intelligence Service (NIS), 2003 – 2012

what



when



He was charged with various counts of embezzlement:

/28 In the period 1 January 2007 – 31 December 2011, in his capacity of Director of NIS, Kirov em-bezzled NIS funds under his supervision, using the employee J. Z. G. who acted unknowingly. Ki-rov embezzled levs (BGN), euros (EUR), dollars (USD), and pounds (GBP) in the total amount of BGN 4,720,196.53. In order to facilitate the embezzlement, Kirov committed a second crime which, however, does not lead to a more serious punishment — under Art. 311, par. 1 in conj. with Art. 26, par. 1 of the CC. To elaborate, in the period 1 January 2007 – 31 December 2011, in the course of his official duties, Kirov once again used the employee J. Z. G., this time to cre-ate official documents — 252 advance receipts and 889 advance financial reports — that con-tained false statements (that the amounts stated therein were necessary operational expenses and were spent in accordance with the relevant procedures). Kirov intended to submit the doc-uments to the Accounting Department of NIS. The embezzlement of funds was of considerable proportions and was considered an especially serious case. Kirov was charged with committing a continuing crime under Art. 203, par. 1 in conj. with Art. 202, par. 1, item 1, in conj. with Art. 201, in conj. With Art. 26, par. 1 of the CC.

/29 In the period 2007 – 2011, in his capacity of Direc-tor of NIS and in conspiracy with his subordinate, D. I. L., Kirov embezzled NIS funds in EUR and USD, amounting to BGN 5,100,000. In order to facilitate the embezzlement, Kirov committed another crime which, however, does not lead to a greater punishment — document forgery. Kirov was charged with committing a continuing crime of consid-erable proportions under Art. 203, par. 1 in conj. with Art. 202, par. 1, item 2, in conj. with Art. 202, par. 1, item 1, in conj. with Art. 201, in conj. with Art. 26, par. 1 of the CC.

/28 Kirov was indicted before the Sofia Military Court (SMC) in July 2013 — the SMC issued a con-viction in August 2015 (10 years imprisonment, partial confiscation of property, barred from exercising certain rights for 15 years) — the Military Court of Appeal (MCA) amended the ver-dict in May 2016 (to a lesser form of embezzlement that excludes the document forgery; the MCA repealed the part of the verdict establishing that the crime was committed through the use of another person, and reduced the bar on exercising certain rights to 13 years) — the ver-dict was re-pealed by the SCtC and the case was remitted to the MCA in November 2016 (owing to procedural violations at the second-instance phase) — the verdict of the first-instance court was amended for a second time in July 2018 (to a lesser form of embezzlement that excludes the document forgery; the MCA repealed the part of the verdict establishing that the crime was committed through the use of another person, and reduced the bar on exercising certain rights to 13 years) — the case is currently pending before the SCtC (cassation case 1045/2018) on the basis of appeals and a protest and has been suspended several times on account of the health condition of the criminal defendant, the last suspension being in January 2023.

/29 (The case is confidential) Kirov was charged in June 2016 — a bill of indictment was filed before the SMC at the beginning of 2017 — the SMC issued a conviction in January 2018 (15 years' imprisonment, confiscation of half of owned property) — the ver-dict was appealed before the MCA and the case has remained there since May 2018 without any further information about its progress; the proceedings may have been suspended due to illness of the defendant.

case 28 and 29

why



/28 The defendant was found guilty by the first-instance court two years after being brought to court, but following that, the case has been tossed between the MCA and the SCtC for the better part of five years. Both panels of the MCA that have heard the case so far amended the verdict to a lesser crime but did not reduce the period of imprisonment. On the other hand, they reduced the period of rights deprivation, which cannot exceed the period of imprisonment by more than three years. The SCtC repealed the MCA judgment and remitted the case for re-trial, holding that the appellate court rejected the defendant's statements on the charges lightly, without making proper references to the circumstances of the case. The defendant had claimed that he had expended the funds in the public interest, not in a personal one, and according to the SCtC, these claims were not verified and considered during the first hearing of the case at the second instance. During the second hearing of the case before the SCtC, the proceedings were suspended due to an illness of the defendant. The latter's presence in court is not required, but he has the right to attend. In December 2020, the proceedings were resumed. Only one hearing was held in 2021 and the case was again adjourned. Only one hearing was held in 2022 too and in January 2023 the case was suspended again. Another hearing was held in June 2023, and the case was once again adjourned. Considering the development of the process in the last years a final court order on the merits is very unlikely to be issued ever. The case is pending before the Supreme Court of Cassation for almost six years now.

/29 The charges relate to embezzlement of funds, claimed to have been used for payments to six Bulgarian intelligence agents around the world. However, it is claimed that the work of the agents, paid for with the funds in question, had been terminated in 1999. Nevertheless, an amount equivalent to over EUR 2,5 million has been taken out in their names. This case is also very unlikely to end up with a final court order on the merits. The case is pending before the Military Court of Appeal for more than six years.

conclusion



/28 The proceedings are still pending.
/29 The proceedings are still pending.

case 30



PHILIP ZLATANOV

Chairperson of the Commission for Prevention and Ascertainment of Conflicts of Interest, 2011 – 2013



The case was analysed as completed in the ACF Annual Monitoring Report for 2020.

For its detailed presentation, see A. Yankulov, A. Slavov, “Anti-corruption institutions: activity without visible results“, Sofia: ACF, 2020



case 31 и 32



LYUBOMIR VELKOV AND MARDIK PAPAZYAN

Chief executive directors of NEK, 2005 – 2009, together with the defendants under items 9. and 10.

what



Charged at the pre-trial proceeding phase with entering into an unfavorable transaction under the conditions of joint perpetration:

On 28 November 2007, acting jointly as CEOs of Natsionalna Elektricheska Kom-pania EAD (NEK EAD), the defendants entered into an unfavorable transaction — a Framework Agreement for the supply of equipment from the Belene Nuclear Power Plant in Bulgaria for the price of EUR 205 million — with the head of the unlisted company Atomstroyexport based in the Russian Federation. This resulted in significant damages for NEK EAD in the amount of EUR 77,172,475, thus constituting an especially serious case. Both CEOs were charged under Art. 220, par. 2 and par. 1 in conj. with Art. 20, par. 2 and par. 1 of the CC.

Indicted for joint intentional mismanagement of public funds:

On 29 November 2006, acting jointly as CEOs of Natsionalna Elektricheska Kom-pania EAD, the defendants failed to exercise due care in the fulfillment of their official duties, as they signed an agreement for the construction of the Belene Nuclear Power Plant with the Russian company Atomstroyexport AD, without consulting and obtaining permission from the single shareholder of NEK EAD. According to the agreement, the company was tasked with creating the full conceptual design for the facility and with drafting the technical specifications for the power plant’s units. However, the agreement was executed before an investor for the Belene Project had been selected and before the conclusion of a financing agreement, respectively. This caused significant damage amounting to EUR 193,189,000 — the fee charged by the Russian company. The defendants’ actions do not contain elements of a more serious crime and represent an especially serious violation — crime under Art. 219, par. 4 in conj. with par. 3 and par. 1, in conj. with Art. 20, par. 2 of the CC (for both defend-ants).

case 31 и 32

when



The Sofia City Prosecutor's Office pressed charges in October 2016 – a bill of indictment was filed to the Specialized Criminal Court (criminal case 246/2021) by the Sofia City Prosecutor's Office in February 2021 – it was returned on account of procedural violations by the Specialized Criminal Court to the Specialized Prosecutor's Office in June 2021, and since then the case is at the pre-trial stage or might have been terminated in the meantime at an unknown moment.

why



The defendants were charged at the pre-trial stage of proceedings nine years after the alleged crimes had been committed, even though the latter related to a transaction, the parameters of which had been publicly known. In other words, there was no complicated criminal scheme in this case that would have required considerable time to disentangle.

However, the bill of indictment contains different charges than those pressed at the pre-trial stage of proceedings. It is noteworthy that in both cases the alleged crimes relate to the conclusion of a transaction, but the invoked provisions of the Criminal Code are different. The probable explanation for this discrepancy is that the punishment for the crime under Art. 219, par. 4 of the CC is up to 12 years of imprisonment, while the punishment for the crime under Art. 220, par. 2 of the CC is up to 10 years of imprisonment. Accordingly, the limitation period for prosecution is also longer in the first case. Nevertheless, at the time when the alleged crimes were committed — in 2006 — the punishment for the crime under Art. 219, par. 4 of the CC was also maximum 10 years of imprisonment, which means that the absolute limitation period in this case will be the same, irrespective of the adopted legal qualification.

After the case was returned by the Specialized Criminal Court to the Specialized Prosecutor's Office on account of procedural violations, its destiny is unknown. Information for its development has not been submitted either by the Specialized Prosecutor's Office or – after the closing of the latter – by the Sofia City Prosecutor's Office.

The absolute limitation period for criminal prosecution is 15 years and expired on 29 November 2021, i.e. the criminal proceeding should have been terminated but this fact cannot be confirmed due to the refusal on the part of the Prosecutor's Office to provide information.

conclusion



There is no evidence that the proceedings have been concluded. However, even if they are still pending, it is objectively impossible that they will end up with a conviction.

case 33 и 34



RUMEN SIMEONOV AND TSVETAN GUNEV

Deputy Governors of the Bulgarian National Bank in charge of the Banking Supervision from 2007 to 2013 and from 2013 to 2014, together with 16 other criminal defendants under the case

what



Charged separately with malfeasance in office — a crime under Art. 282, par. 3, par. 2, and par. 1 of the CC — for violating or failing to perform their official duties related to the supervision of Corporate Commercial Bank AD (CCB AD), specified in various legislative acts, among which the Bulgarian National Bank Act and the Credit Institutions Act. Simeonov and Gunev did this in order to procure a benefit for a third party /the shareholders of CCB AD/. Their actions resulted in serious damages to the banking system.

when



The defendants were charged in June 2014 — the SpPO filed a bill of indictment with the SpCC in July 2017 — the case is currently pending before the first-instance court — the Sofia City Court after the closing of the Specialized Criminal Court

conclusion



The proceedings are still pending.

why



This is a case of great complexity, as it involves a large number of defendants, witnesses, and expert opinions, as well as plenty of other documentation. The subject of the case is the conduct of the alleged defendants that led to the bankruptcy of CCB AD, caused harm to many of the bank's stakeholders, and posed challenges to the banking system as a whole. According to the Prosecutor's Office, as regards the supervision of CCB AD, the officials responsible for the bank's functioning and the implementation of supervisory measures — the Assistant Managers in charge of BNB's Bank Supervision Department — violated or failed to perform their official duties related to the identification of poor banking practices and to the implementation of adequate supervisory measures. According to the Prosecutor's Office, the supervision of CCB AD was carried out only on paper, while in reality, the identified violations were concealed by the officials in charge of the inspections, and the officials in charge of implementing supervisory measures — the defendants — simply refrained from fulfilling their official duties.

The Prosecutor's Office has stated that "the main problem with the supervision of BNB was the failure to identify and regulate, through supervisory measures and recommendations, the corrupt practice of giving out credit loans to related parties, which was indulged in to such an extent that the loans became a mere cover for the appropriation of public funds for private use and possession." Given the file volume and the legal complexity of the case, it is unlikely that there will be a judgment in the near future.

case 35



TODOR KOSTADINOV

Director of the Internal Security Directorate of the Ministry of Interior, 2013 – 2014, together with the defendant under 23.



The case was analyzed as completed in the ACF Annual Monitoring Report for 2020.

For its detailed presentation, see A. Yankulov, A. Slavov, “Anti-corruption institutions: activity without visible results“, Sofia: ACF, 2020



case 36



PAVEL ALEKSANDROV

Director of the Fund for Treatment of Children Abroad (FTCA),
2010 – 2015

what



Together with three other FTCA employees, Aleksandrov was charged with conspiring to misappropriate and unlawfully expend FTCA funds. The funds in question were spent on: sending doctors from various hospitals on business trips, where they would participate in international seminars or accompany sick children; entering into contracts with a company for assisting the treatment of children abroad, without conducting the required public procurement orders, as a result of which the company was paid BGN 223,252 from the FTCA budget in 2014 and BGN 230,096 in 2015. The payments continued even after the Ministry of Health had ordered their termination due to violations of PPA. In addition, contracts were also concluded for the financing of a two-year-long English and German learning course for FTCA employees, given that the job requirements for their posts included knowledge of these languages/. Aleksandrov was also charged with transferring FTCA debt, owed to the National Health Insurance Fund, and with malfeasance in office. That is all the available information regarding the charges.

when



The defendants were charged in April 2016 – the SpPO filed a bill of indictment with the SpCC in August 2017 – the case was remitted to the SpPO for rectification of serious procedural violations in August 2017 – the SpPO filed a bill of indictment with the SpCC for the second time in March 2018 – the case was remitted to the SpPO for rectification of serious procedural violations in April 2018 – SPO filed a bill of indictment with the SpCC in March 2021 – remitted to the SpPO for rectification of serious procedural violations in April 2021 SPO filed a bill of indictment with the SpCC in 2021 – remitted to the SpPO for rectification of serious procedural violations in March 2022 – the investigation is currently ongoing and led by the SCPO (case file 16345/2022)

conclusion



The case is currently at the pre-trial phase of proceedings.

why



The Prosecutor's Office has not provided a copy of the charges against Aleksandrov. After the case was returned to the pre-trial phase on four occasions for clarifying ambiguities and inconsistencies in the charges, the investigation is still ongoing in the absence of formulated charges against Aleksandrov, as per the information provided by the SCPO.

case 37



LAZAR LAZAROV

Chairperson of the Management Board of the Road Infrastructure Agency (RIA), 2014 – 2015, two other agency officials being also criminal defendants in the case

what



Charged with intentional mismanagement of public funds:

In the period 7 August 2014 – 17 February 2015, in his capacity of Chairman of the Road Infrastructure Agency Management Board, Lazarov intentionally did not exercise sufficient care in performing his duties related to the construction of the Maritsa Highway. This resulted in damages of considerable proportions to the Ministry of Transport and Information Technology, amounting to BGN 30,813,647. The case was considered especially serious, and Lazarov was charged under Art. 219, par. 4, par. 3, and par. 1 of the CC

when



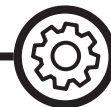
The investigation began in September 2016 — the defendant was charged in June 2017 — the SCPO filed an indictment with the SpCC in April 2018 — the case was transferred to the SCC on jurisdictional grounds — the case was remitted to the SCPO for rectification of serious procedural violations in November 2018 — the SCPO filed a bill of indictment with the SCC in June 2019 — the case was remitted to the SCPO for rectification of serious procedural violations in January 2020 — the SCPO filed a bill of indictment with the SCC for the second time in April 2020 — the case is currently pending before the SCC (criminal case 1328/2020).

conclusion



The proceedings are still pending.

why



The alleged crime is related to the financing of additional construction works on a segment of the Maritsa Highway. In a nutshell, the charges contain allegations that the defendant failed to commission an inspection of the documentation, submitted by the contractor company in support of the need to perform additional construction works that would require additional financing. Thus, he failed to identify that there was in fact no need for additional works, and no basis for the additional financing, which constituted damage to the state budget. The case was remitted to the SCPO for rectification of inconsistencies and ambiguities in the charges and is currently pending before the first-instance court, six years after the first indictment had been filed.

case 38



DEISLAVA IVANCHEVA

mayor of the Mladost district within the Capital (Sofia) municipality, 2016 – 2018, together with other criminal defendants



The case was analyzed as completed in the ACF Annual Monitoring Report for 2022.

For its detailed presentation, see A. Yankulov, D. Peneva, “Anti-Corruption Institutions: Eyes Wide Shut”, Sofia: ACF, 2023



case 39



PETAR HARALAMPIEV

Chairperson of the State Agency for Bulgarians Abroad, 2017 – 2018, together with three other defendants

what



In the period July 2017 – 29 October 2018, in his capacity of public official, Haralampiev was the leader of an organized crime group. In particular, the defendant requested and received bribes in exchange for issuing certificates of Bulgarian origin to foreigners in violation of the applicable law. He even provided express orders (sometimes within a single working day). According to the Prosecutor’s Office, Haralampiev also committed the crime of trading in influence: he threatened the Deputy Chairman of the State Agency with penalties and discharge from office and pressured him into signing the orders for issuing the certificates, as well as the certificates themselves and all other required accompanying documents.

when



Haralampiev was charged in October 2018 — the SpPO filed a bill of indictment with the SpCC in September 2020 – the case is presently pending before the Sofia City Court after the closing of the Specialized Criminal Court (criminal case 2634/2020)

conclusion



The proceedings are still pending.

why



In view of the fact that there are four defendants on the case, who are claimed to have engaged in diverse criminal activities, it cannot be argued that the two-year term in which the pre-trial proceedings were completed was unreasonable. The case is pending before the court of first instance for almost four years now.

case 40



ANTON GINEV¹¹⁰

Director of the National Railway Infrastructure Company, 2007 – 2009, together with two other defendants, one of whom has also occupied a senior public office, but his alleged criminal conduct was considered unrelated to his professional capacity

what



when



Charged with **intentional mismanagement of public funds**:

In the period 22 October 2007 – 6 September 2009, in his capacity of a public official (CEO of NRIC), Ginev intentionally did not exercise due care with respect to the management and preservation of property, entrusted to him, in terms of the signing and execution of three contracts between NRIC (as a procuring party) and three private companies (as contractors). This resulted in damages to NRIC of considerable proportions (BGN 4,240,356.46), and the case was considered an especially serious one. Ginev was charged with committing two criminal acts, constituting a continuing crime, under Art. 219, par. 4, par. 3, and par. 1 in conj. with Art. 26, par. 1 of the CC.

The investigation began in June 2016 – the SCPO filed a bill of indictment with the SCC in January 2017 – the SCC issued a conviction (criminal case 2362/2017) in March 2019 (11 months' imprisonment and ban on the exercise of certain rights for three years) – the SCA modified the verdict (case 611/2019) in May 2020 (the punishment was increased to two years' imprisonment but was suspended with a probation term of five years) – cancelled by the SCtC (cassation case 780/2020) and the case was remitted to the SCA in May 2021. – a judgment of the Sofia Court of Appeal (appellate publicly prosecutable criminal case 524/2021) for alteration of the sentence of the court of first instance in January 2022 (the imprisonment punishment was increased again to 2 years and the execution thereof was suspended for a trial period of 5 years) – the case is presently pending before the Supreme Court of Cassation (cassation case 541/2022) on the basis of appeals from the criminal defendants.

¹¹⁰. At the moment of bringing of the charge, Anton Ginev was a Deputy Minister of Transport and Informational Technologies and Communications.

case 40

why



It is noteworthy that Ginev was charged at the pre-trial phase of proceedings almost seven years after the alleged crime had been committed. The proceedings before the first-instance court were concluded within two years, which is a reasonable term considering the nature of the case.

The first-instance court held that the defendants I. and Ginev were acquainted, which was the reason why the latter facilitated the participation of companies — represented by various persons, but in reality, owned by I. — in public procurement orders for repair works on sections of the railway infrastructure. Ginev also ensured the success of their bids and their appointment as contractors for the assigned activities. The two main benefitting companies were T. EOOD and R. EOOD; they were usually assigned “appropriate” tasks, allowing them to receive the funds allocated by NRIC for the respective activities without performing the actual work. Furthermore, it was arranged that the companies would conduct the activities using NRIC resources, but the relevant documentation would show that they used resources of their own. According to the court, Ginev selected the Ruse railway station and a railroad section between the Morunitsa and Byala stations (on main rail track IV) as suitable sites. The procurement orders conducted by Ginev had a predetermined outcome (regardless of the decision of the respective procurement commission), as all participating companies were owned by the same person — the defendant I. After that, the agreed commitments were not fulfilled, and any construction works were carried out with the resources of NRIC. However, NRIC made all payments under the signed contracts. The first-instance court acquitted Ginev with regards to certain amounts and actions specified in the charges — he was convicted of causing damages in the amount of BGN 2,015,590.77, instead of the alleged BGN 4,240,356,46 — but the legal qualification of the crime remained unchanged.

The SCA modified the verdict only with regards to the determined punishment, increasing the prison sentence to two years, but also suspending it and applying the maximum probation period of five years.

The SCtC canceled the verdict because of substantial procedural violations in the appellate considering of the case. According to the supreme instance, the appellate court in its verdict has not answered basic arguments substantiated in detail by the defense and the Prosecutor’s Office, due to which a large part of the objections raised by the defense with regard to the superficial analytic activity of the appellate court are valid and the verdict is to be abrogated. In the re-consideration of the case, the Sofia Court of Appeal rendered a judgment that was in the same sense as the prior judgment of another panel of judges from the same court.

The case is again pending before the supreme court instance as of 2022, and no judgment has been delivered yet.

conclusion



The proceedings are still pending.

case 41



BOYKO BORISOV

Prime Minister, 2017 – 2021



The case was analyzed as completed in the ACF Annual Monitoring Report from 2021.

For its detailed presentation, see A. Yankulov, N. Kiselova, “Anti-corruption institutions: escalating problems,” Sofia: ACF, 2021



case 42



NENO DIMOV

Minister of Environment and Water, 2017 – 2020, a criminal defendant together with the Mayor of Pernik Sevdelina Kovacheva

what



when



Charged with **intentional mismanagement of public funds**:

In the period 1 January 2018 – 17 November 2019, Dimov intentionally issued Toplofikatsiya–Pernik and the metallurgic enterprise Stomana with permits to draw excessive amounts of water from the Studena Reservoir for their industrial needs. Dimov was warned that the reservoir will be depleted on several occasions but did not pay attention to the warnings and the provided information. As a result, he squandered millions of liters of water, valued at over BGN 11 million, and caused a water crisis in Pernik and the surrounding region.

Dimov was also investigated for violating his official duties in connection with the concession agreement for the Bansko Ski Zone.

Dimov was charged in January 2020 – the SPO filed a bill of indictment to the SpCC in July 2021, the case is pending before the Sofia City Court after the closing of the Specialized Criminal Court (criminal case 2369/2021 of the SCC — SpCC abolished)

conclusion



The proceedings are still pending.

why



The pre-trial investigative proceedings have been going on for about a year and a half which is still within the reasonable time limit. Qualifying the provision of water resources to enterprises for their industrial needs as mismanagement of public funds is an innovative approach. Crucially, the enterprises were paying for the water, so there was no financial harm, as the water supplier was getting good consideration in return for the water. On the other hand, ‘mismanagement of public funds’ is a crime against the economy which requires the damaging, destruction, or squandering of public property, or other serious damages to the enterprise or the economy. The damages are economic in nature and their contemporary dimensions represent capital losses for the owner of the expended assets.

case 43



KRASIMIR ZHIVKOV

Deputy Minister of Environment and Water, 2017 – 2020,
together with other defendants under the case

what



Charged with heading an organized criminal group:

In the period March 2016 – 28 May 2020, in his capacity of Deputy Minister of MEW, Zhivkov was in charge — together with A.S.B. — of an organized crime group that involved six other persons, and which operated on the territories of the Sofia, Pleven, Montana, and Shumen prov-inces. The crime group was created with the aim of obtaining funds illegally by committing coor-dinated crimes under Art. 282, 311, 353b, 353c, and 353d of the CC. The crime group involved public officials — a crime under Art. 321, par. 3, item 1 and par. 1 of the CC.

Zhivkov was also charged with handling hazardous waste in violation of the established proce-dures:

In the period 25 April 2016 – 29 May 2020, at identified and unidentified locations on the ter-ritory of the Republic of Bulgaria, Zhivkov aided and abetted the individual V.V.K. in handling 2,665.420 tons of hazardous waste in violation of the procedures established in the Waste Man-agement Act. Zhivkov committed 71 separate criminal acts under Art. 353c, par. 1, par. 2, and par. 3 of the CC, jointly constituting a continuing crime, which resulted in serious damages to the environment and posed severe risks for public health and the health of the environment. He was charged under Art. 353c, par. 3 and par. 1 in conj. with Art. 26, par. 1, in conj. with Art. 20, par. 3, par. 4, and par. 1 of the CC.

when



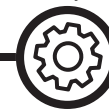
Zhivkov was charged in May 2020 — the SPO filed a bill of indictment with the SpCC in February 2021 – remitted to the SPO by the SpCC for rectification of serious procedural violations (confirmed by the ASCC) in February 2022. The case was repeatedly filed with the court but then again returned for rectification of procedural violations by the Sofia Court of Appeal (after the closing of the specialized judicial institutions) to the Sofia City Prosecutor's Office in December 2022 – the SCPO filed a new bill of indictment (case 16952/2022 in the SCPO register) with the SCC in April 2024.

conclusion



Proceedings have not ended.

why



Based on information provided by the SCPO, the case was submitted to court again in April 2024. The initial hearing on the case is still pending.

Thus, the trial phase of the proceedings is expected to begin, more than three years after the filing of the first bill of indictment.

case 44



PLAMEN UZUNOV

President’s Secretary on Legal Affairs and Anti-corruption, 2017 – presently, together with one more defendant



The case was analyzed as completed in the ACF Annual Monitoring Report for 2022.

For its detailed presentation, see A. Yankulov, D. Peneva, “Anti-Corruption Institutions: Eyes Wide Shut”, Sofia: ACF, 2023



case 45



ILIYA MILUSHEV

President’s Advisor on Security and Defense, 2017 – presently, together with other defendants under the case

what



when



Charged with establishing an organized crime group and malfeasance in office:

In the period June 2019 – July 2019, Milushev conspired with two officials from the State Intelligence Agency (SIA), M.K. and A.Z., to commit crimes under Art. 357 of the CC, and in particular, to disclose information classified as state secret which had been revealed to them in connection with the performance of their official duties.

In the period June 2019 – July 2019, in the capacity of abettor to the principal perpetrator, M.K., Milushev intentionally impelled M.K. to violate her official duties by disclosing to him information, classified as a state secret. Milushev told M.K. that he would convey the information to the President with a view to causing harm to the Chairman of the SIA through disciplinary proceedings, etc. Milushev’s actions could have injured the reputation of the SIA and thus caused serious harm to the institution.

Milushhev was charged by the Sofia Military District Prosecutor’s Office in July 2020 – the SMDPO terminated the proceedings in June 2023 (case 1773/2022 in the SMDPO register)

conclusion



The proceedings have been terminated by the Prosecutor’s Office.

why



There is less publicly available information concerning this investigation than the one against Uzunov. The circumstances surrounding the pressing of charges against the two individuals are equally relevant to this case — see item 44.

For the purposes of the present analysis, the SMDPO provided information that the criminal proceedings were terminated because no crime had been committed. The decision to terminate the proceedings has not been appealed, nor subjected to internal review by a superior unit of the Prosecutor’s Office.

case 46

**IVAN GESHEV**

Prosecutor General, 2019 – June 2023, at the moment of alleged
perpetration – a prosecutor at the Sofia City Prosecutor's Office



The case was analyzed as completed in the ACF Annual
Monitoring Report from 2022.

For its detailed presentation, see A. Yankulov, A.
Kashumov, “Anti-corruption institu-tions: zero year“,
Sofia: ACF, 2022

**case 47 и 48**

**DELYAN PEEVSKI**

Member of Parliament, 2009 – presently

ILKO ZHELYAZKOV

Deputy Chairperson of the National Special Intelligence
Means Control Bureau, 2018 – 2021



The cases were analyzed as completed in the ACF
Annual Monitoring Report for 2022.

For their detailed presentation, see A. Yankulov, D.
Peneva, “Anti-Corruption Institutions: Eyes Wide
Shut”, Sofia: ACF, 2023



case 49



HRISTO TERZIYSKI

Directorate General of the General Directorate National Police – Ministry of Interior, 2015 – 2020

what



Inquiry for participation in an organized criminal group:

According to media publications, an investigation of the Directorate of Internal Security in the Ministry of Internal Affairs in 2020 obtained evidence about Terziyski's participation, along with other high officials of the Head Directorate of the National Police, in an organized criminal group. This conclusion was reported to the then Minister of Internal Affairs, Mladen Marinov, the State Agency for National Security, and the SpPO.

when



An inquiry of the Directorate of Internal Security in the Ministry of Internal Affairs in 2020 – SpPO refused to initiate pre-trial proceedings in January 2021 – confirmed by the ASpPO in March 2021 – canceled by the SPOC in January 2022 r. – no information on the case development since.

conclusion



There is no evidence of the inquiry being completed.

why



The nature and sufficiency of the evidence in the inquiry, respectively the motivation of the SpPO and the ASpPO to deny the initiation of pre-judicial proceedings are unknown.

The SPOC has canceled the orders of the SpPO and the ASpPO because it found that the decision to deny initiating an investigation was taken under unclarified in full factual circumstances regarding the case, which has led to an incorrect legal conclusion.

The Sofia City Prosecutor's Office, where the case must have been transferred after the closing of the Specialized Prosecutor's Office, did not provide us with any information about the development of the case.

case 50, 51 и 52**ALEXANDER NIKOLOV**

Minister of Energy, 2021 – 2022

DANAIL NIKOLOV

Deputy Minister of Energy, 2021 – 2022

LYUDMIL YOTSOV

Executive Director of Bulgargaz EAD, 2022

what



Investigated for and charged with various malfeasances in office that resulted in an alleged damage for Bulgargaz in the amount of more than BGN 88 million, as follows:

Alexander Nikolov was charged with intentional mismanagement of public funds on account of failing to exercise sufficient control of the former director of Bulgargaz Lyudmil Yotsov.

The deputy of Nikolov – Danail Nikolov was charged with malfeasance in office. According to the investigators, he exceeded his powers and rights for the purpose of obtaining a benefit for the business company M. EAD.

The charge against Yotsov is also for mismanagement of public funds.

when



An investigation was commenced by the Sofia City Prosecutor's Office in August 2022 – charges were brought by the Sofia City Prosecutor's Office in February 2023.

case 50, 51 and 52

why



According to the initial statements of the prosecutor's office, as a result of the intentional mismanagement of public funds and the malfeasance in office, the fulfilment of the obligations of Bulgargaz EAD in accordance with the license for public supply of natural gas in the territory of the Republic of Bulgaria was put at risk and, thus, the fulfilment of the licensee's obligations to ensure constant and quality supply of natural gas and the security of the supply with natural gas was put at risk.

According to Nikolov's defense, he was charged due to the rejection of Gazprom's requirement to pay for gas supply in rubles.

According to subsequent clarification statements made by the prosecutor's office, after learning about the new circumstances, i.e., the requirement to pay in rubles, the respective officials did not take the necessary actions to ensure alternative supplies from traders of natural gas at freely agreed prices on the organized exchange market and over the counter. This activity was only started on the day of the cut-off of the gas supplies – i.e., on 26 April 2022 – for the subsequent days until the end of April 2022, as well as for May 2022, which have put at risk the fulfilment of Bulgargaz EAD's obligations to ensure uninterrupted and quality supply of natural gas and the country's secure supply of natural gas. The subsequently concluded gas supply contracts were at considerably higher prices, which caused damage to Bulgargaz EAD, and the initial source of the performed supplies of gas from alternative suppliers was again Gazprom.

However, the criminal offence of mismanagement of public funds requires the occurrence of damages, destruction or spillage of available property or other significant damages of a similar nature, which have always been understood in the theory and practice only as sustained losses.

It is also disputable whether in case of supplies of a resource such as natural gas, in which political decisions in a complex and fast-changing international situation are primarily involved, the occurrence of a potential harmful result could be argued only via a comparison of the prices of different suppliers.

This case resembles case 12 – at least externally.

The Sofia City Prosecutor's Office did not provide us with further information about the charges and the progress of the investigation.

For over a year, there has been no update on the status of the pre-trial proceedings.

conclusion



The proceedings are pending.

case 53, 54 and 55



BOYKO BORISOV

Primer Minister, 2017 – 2021

VLADISLAV GORANOV

Minister of Finance, 2017 – 2021

MENDA STOYANOVA

Chairperson of the Parliamentary Committee on Budget, 2017 – 2021

what



Investigated after a report for extortion of the businessman engaged in gambling activity Vasil Bozhkov, a criminal defendant under another pre-trial proceeding

when



The Ministry of Interior started an investigation in March 2022 – the SCPO terminated the proceedings in December 2023.

why



In May 2020, various media outlets published a SMS correspondence alleged to be between the businessman Vasil Bozhkov and the Minister of Finance Vladislav Goranov, subsequently sanctioned by the US under the Global Anti-Corruption Magnitsky Act. The content of the alleged correspondence could indicate committed corruption crimes and possible involvement of officials holding high-level public offices in activities that damaged the state budget amounting to hundreds of millions of BGN.

The confirmation of the authenticity of the messages, which is alleged by the accused businessman and is not denied by the Minister of Finance (and is even indirectly confirmed in his public statement that he communicated with the businessman), would imply that:

- the agreed meetings between the two of them precede sessions of the State Commission on Gambling at the Ministry of Finance, which are of key importance for the businessman's gambling business.
- the minister has reported to the businessman instructions given to a former chairperson of the State Commission on Gambling.
- the minister has reported to the businessman an advice given to a former chairperson of the State Commission on Gambling to not take action obstructing the routine operation of the businessman's companies during inspections concerning their activity.

This information should not be considered on its own but in the context of:

- the statements of the accused businessman that he communicated for his gambling business exclusively with the Minister of Finance.
- the position of the Minister of Finance that he has nothing to do with the payment of BGN hundredths of million less than the fees due for the activity of the businessman's companies, for the allowing of which other officials have already been charged as parties accused of committing criminal offences.

Subsequently, in June 2020, Bozhkov made public allegations that he had paid the amount – initially specified as more than 60, a subsequently precisely specified as BGN 67 million – to Boyko Borisov and Vladislav Goranov through their nominees (one of them being Borisov's PR Sevdalina Arnaudova). As regards the cash withdrawals, he has shown bank account statements. According to Bozhkov, he gave in to extortion on the part of the governing officials Borisov, Goranov and Stoyanova in order to save his business.

case 53, 54 и 55

Whether these allegations were checked by the Prosecutor's Office after their announcement remains unknown. However, on 17 March 2022, Borisov, Goranov, and Arnaudova were detained by a police order for a period of 24 hours within pre-trial proceedings focused on the investigation of the above circumstances. The police order was issued in the conditions of urgency by an investigating police officer, whereupon the houses of the said persons were checked and searched. On the next day, the case was reported to the Sofia City Prosecutor's Office, which refused to bring charges against the persons, and they were released as their retention was not extended. Initially, information appeared that the investigation had been coordinated with the Bulgarian office of the European Prosecutor's Office and had to be reported there, but this was never confirmed.

The pre-trial proceedings started under the conditions of procedural violations. The investigation of criminal offenses alleged to be committed by members of the Council of Ministers must be carried out by an investigator as an investigating authority, i.e., its conduction by an investigative police officer would mean the investigation was performed by an incompetent authority and hence – in violation of the procedural law. The argument of urgency in this particular case could also hardly be justified in procedural terms. The fact that the case started with an interrogation in the capacity of a witness exactly of the then Primer Minister Kiril Petkov reveals a very alarming political nuance of the investigation and the detention of political actors from the opposition.

Subsequently, all detentions were declared unlawful by the administrative court.

For more than a year there is no information from the Sofia City Prosecutor's Office on the course of the investigation. It is alleged by the Prosecutor's office that Bozhkov cannot be interrogated in the capacity of a witness because he is in the United Arab Emirates, where the request for legal assistance for the conduction of an interrogation was not complied with. However, according to the information of the prosecutor's office itself, such a request was only filed in April 2022, even though Bozhkov's statements were publicly known from as early as May 2020.

In the meantime, in February 2023, the US sanctioned Vladislav Goranov under the Global Anti-Corruption Magnitsky Act on account of his participation in a corruption scheme that led to the payment of tens of millions of euro to Bulgarian officials in exchange of legislation in favor of the gambling industry.

Following Bozhkov's return to Bulgaria in August 2023, he can now be interrogated, and all the evidence necessary for deciding the case can be gathered.

In December 2023, the Prosecutor's Office issued a press release stating that the criminal proceedings have been terminated because the investigated crimes could not be proven despite the conducted objectively possible and necessary investigative actions.

More specifically, the Prosecutor's Office accepted as proven Bozhkov's allegations that he visited Goranov's office carrying large amounts of money on him. These allegations have been confirmed by testimonies of other witnesses in addition to Bozhkov's. The actual withdrawal of the amounts in cash from his bank accounts has also been proven beyond reasonable doubt following the disclosure of bank secrets.

For his part, Goranov admits to the meetings with Bozhkov, but claims that he never received money from him and that their conversations were on topics related to gambling legislation, including the standardization of the gambling tax regime. According to the Prosecutor's Office, none of the two versions of the facts can be credited: *"With respect to the established facts of the case, one the one hand are Bozhkov's allegations that he handed over money to Goranov, and on the other hand are Goranov's allegations that he did not take any money. There are two diametrically opposed versions, and despite the efforts made in the course of the investigation, it is not possible to categorically refute one at the expense of the other, since no other evidence has been found to help resolve the conflict between the two extremely contradictory sets of testimonies."*

Regarding the amounts of money that Bozhkov carried on him during his visits to the Minister of Finance, the SCPO concluded that *"it is not possible to ascertain how Bozhkov disposed of the money he was carrying, including whether he gave it to Goranov."*

conclusion



The proceedings have been terminated by the Prosecutor's Office because the investigated crimes could not be proven. It remains unclear whether the issue of what happened with the millions of leva withdrawn in cash by Bozhkov was duly examined in the course of the investigation. Since the Prosecutor's Office maintains that there is not enough evidence to conclude that the money in question was handed over in the form of bribes, that money must have gone somewhere, as it cannot have vanished from existence. It seems that the clarification of this matter did not intrigue the prosecutors in charge in the slightest, even though it could potentially reveal other serious crimes besides bribery, such as money laundering, financing of terrorism and others.

Bozhkov made a public announcement that he will not appeal the decision to terminate the proceedings, stating that in the event of a change in the leadership of the Prosecutor's Office, the investigation could be reopened and result in a different outcome.

case 56



ASEN VASILEV

Deputy Prime Minister and Minister of Finance, 2021 – 2022

what



when



Vasilev was investigated based on a report filed by the businessman Georgi Samuilov for malfeasance in office, for the fact that:
In 2022, in the city of Sofia, in his capacity as a public official (minister), he violated his duties of the office to obtain a property benefit which resulted in non-insignificant harmful consequences, an act committed by a person holding a high-level public office – a criminal offense under Article 282, Paragraph 2, in conjunction with Paragraph 1 of the Criminal Code.

The Specialized Prosecutor’s Office initiated an investigation in March 2022 – the proceedings were terminated by the SCPO in August 2023

conclusion



why



The proceedings have been terminated by the Prosecutor’s Office due to absence of a committed crime, but there is no detailed reasoning available.

The investigation was initiated immediately, solely based on the submitted report without any preliminary inquiry – which is usually necessary, at least for initial confirmation of the facts.
The subject of the investigation is a meeting between Samuilov and Vasilev, during which Samuilov claims to have been pressured by Vasilev to tell Boyko Borisov and Delyan Peevski to retire from politics, and also claims to have been threatened with inspections of his company Insa Oil.
Indeed, inspections of Insa Oil by the customs authorities, the NRA and the State Reserve Agency increased following that meeting, but no violations were ever found.
The Sofia City Prosecutor’s Office, where the investigation should have been transferred to after the closing of the Specialized Prosecutor’s Office, did not provide us with any information about its progress for the needs of the present analysis.
However, information on the case was provided to the online media outlet Sega, according to which the investigative authorities could not establish with certainty that the two men had met, and even if they had met and Vasilev had made the statements that Samuilov complained about, they do not amount to pressure or any form of crime.

2023

Cases from year 2023

case 57



BORISLAV SARAFOV

Deputy Prosecutor General, 2013 – June 2023,
acting Prosecutor General thereafter

what



when



He is investigated for a crime of unknown legal qualification¹¹¹ by the Special prosecutor tasked with investigating the Prosecutor General and the Prosecutor General's deputies for possible ties with the criminal network for exerting undue influence on the judiciary, better known as "The Eight Dwarfs" and allegedly headed by the former Director of the Sofia Investigative Service, Petyo "The Euro" Petrov.¹¹²

The Sofia District Prosecutor's Office (SDPO) initiated pre-trial proceedings in May 2023 (case 26636/2023 in the SDPO's register), and the part of the case allegedly concerning the Deputy Prosecutor General, Sarafov, was referred to the Special prosecutor for jurisdictional reasons in June 2023

why



On 29 May 2023, the SDPO promptly launched an investigation on the basis of photos of Petrov and Sarafov smiling in front of the "Eight Dwarfs" restaurant, which were published by ACF and several media outlets a day earlier. The investigation was formally directed against Petrov for allegedly collecting compromising materials against magistrates and blackmailing them. The investigation was launched in accordance with legal provisions falling within the scope of the SDPO, related to coercion and unlawful use of special surveillance means for covert gathering of information. However, evidence pointing to the potential involvement of a number of magistrates, including Borislav Sarafov, in Petyo Petrov's criminal network "The Eight Dwarfs" was also collected in the course of this investigation.

The criminal network was first exposed back in 2020 in ACF's eponymous four-part video investigation that was later complemented by a series of ensuing interviews. Witnesses in ACF's investigation state that several high-ranking magistrates, including Sarafov, are involved in Petrov's activities. However, following the publication of the investigation, the Prosecutor's Office decided to confine itself to initiating only a preliminary inquiry, which was finalized months later with a refusal to instigate pre-trial proceedings due to lack of sufficient evidence of a committed crime. In his public statements, Prosecutor General Ivan Geshev openly disregards and ridicules everything published by ACF.

Three years later, the situation changed. On 1 May 2023, an explosion occurred in proximity to Geshev's car; the circumstances surrounding the incident, including the nature of the explosion and its potential to cause harm, remain unclear. Ten days after the incident, the leaders of GERB and MRF, who had invariably supported the Prosecutor General up to that moment, publicly declared that he should vacate the post. This happened at the same time as the negotiations concerning the future ruling government, which was formed in June as a coalition between the recently fierce political opponents from GERB and PP-DB (who share a stance of firm disapproval of Geshev), with the support of MRF.

An open war unfolded at the top of the Prosecutor's Office between Geshev and his declared opponent and potential substitute Sarafov, but this only occurred after GERB and MRF had changed their attitude

111. The exact legal qualification of the alleged crime committed is not necessary at the initial phase of an investigation.

112. See "The Eight Dwarfs" – The facts, a legal analysis, conclusions, and an appeal to the institutions", 2020 at <https://acf.bg/en/tsyalata-istoriya-na-osmetne-dzhudzheta-vs/>, and Yavor Zlatanov's interview for ACF confirmed the "Eight Dwarfs" story, 2021, at https://acf.bg/en/razkazat-na-yavor-zlatanov-pred-akf-pot/?fbclid=IwAR2qfv9HD7dltosT8jHe5hAFQyALQ1OX84nts0IODGXWUFPkxAzwm1B_kj8

conclusion



The proceedings are ongoing.

towards the Prosecutor General. Up to that moment, Sarafov had never under any circumstances expressed public disagreement with Geshev. The majority of SJC members, who had always defended Geshev until then, also withdrew their support for him which would ultimately lead to the premature ending of his term in June 2023.

Before this happened, however, the SDPO instigated the criminal proceedings in question against Sarafov and Petrov, in the course of which numerous investigative actions were carried out within a very short time frame. The answer to the question of why the Prosecutor's Office took decisive action against Petrov three years after the publication of "The Eight Dwarfs" should probably be sought in the testimony of Petrov's ex-wife and associate, Lyubena Pavlova, according to which Petrov also participated in the covert part of the attack against Geshev.

In the course of the criminal proceedings, Petrov was charged in absentia and declared wanted, but managed to abscond successfully. His properties in Bulgaria and Greece were searched and the authorities seized as physical evidence numerous information carriers with unknown content, possibly implicating magistrates linked to the criminal network "The Eight Dwarfs". A number of witnesses were interviewed and testified to seeing Sarafov in the "Eight Dwarfs" restaurant, often times communicating with Petyo Petrov.

In June 2023, the SDPO provided the SCtC with the materials from this investigation that would concern Borislav Sarafov, including all the physical evidence seized from Petrov's properties in Bulgaria. A corresponding case was opened in the SCtC falling within the scope of competence of the special prosecutor tasked with investigating the Prosecutor General and the Prosecutor General's deputies. Under the mechanism for independent investigation of the Prosecutor General and the Prosecutor General's deputies, which was adopted only days earlier, it is precisely the SCtC that has to provide the special prosecutor with the received information regarding alleged crimes committed by the specified persons.

In July 2023, Judge Daniela Taleva of the SCC was elected as prosecutor tasked with investigating the Prosecutor General and the Prosecutor General's deputies, but she was only appointed by the Prosecutors' College of the SJC in October 2023 following an unlawful delay that the Prosecutors' College justified with legislative uncertainties that had to be rectified. After the rectification of the latter by the National Assembly, it transpired that Taleva's assumption of office was also prevented by obstacles of a purely technical nature, such as finishing work on her cases in her capacity as judge, finding a proper place for her work desk as a prosecutor, and organizing clerical work. As a result, Prosecutor Taleva assumed office five months after herelection — in December 2023 — and accordingly took charge of this investigation only at that time.

This delay had important practical consequences. While Taleva's assumption of office was being awaited, the physical evidence at the SCtC that potentially concerned Sarafov was sent by SCtC's deputy chairperson to the SCPO (on request of a prosecutor), which was under the control of the investigated Sarafov. This in itself is highly unsettling, irrespective of whether the physical evidence ended up compromised or not.¹¹³

At present, the publicly known information is that the case has not been finalized by the special prosecutor yet.

113. See more here: "ACF: Why materials against Borislav Sarafov are returned to the Prosecutor's Office under his leadership", <https://acf.bg/en/akf-zashto-materiali-sreshu-borislav-sar/> and "Anonymous Witness in Preliminary Proceedings Against Acting Prosecutor General Threatened", <https://acf.bg/en/edin-ot-anonimnite-svideteli-po-prepi/>

Annex Two

Results of the Criminal Prosecution of Corruption at the Local Level

Andrey Yankulov

case 01



DINCHER HADZHIEV

Governor of the Dobrich Region, September 2005 – May 2008

Following a guilty verdict that became final in February 2020, Hadzhiev was sentenced to 2 years and 6 months' imprisonment, suspended for a period of 5 years, and ordered to pay a fine of BGN 2,500.



At the first court instance, the verdict was pronounced by the Dobrich Regional Court (criminal case No. 35/2015); upheld by the Varna Court of Appeal (criminal case No. 110/2019); upheld by the SCtC (case No. 952/2019).

Hadzhiev was convicted of **two counts of malfeasance in office**:

/1 In the city of Dobrich, as a principal perpetrator, acting in the capacity of senior public official — Governor of the Dobrich Region — and together with the aider and abettor P.G., also acting in the capacity of senior public official — Director of the Directorate of Administrative Control, Regional Development, and State Property — Hadzhiev committed the following criminal acts, jointly constituting a continuing crime:

- on 22 December 2006, he violated his official duties, stipulated in the State Property Act (StPA) and the Rules of Application of this Act (RAStPA), by signing an agreement for the sale of an apartment with a view to procuring a benefit for P.G., consisting in the opportunity to purchase the said apartment for the price of BGN 21,000. Hadzhiev's actions violated the StPA and the RAStPA, and resulted in serious damages for the State, amounting to BGN 14,900.

joint criminal activity:

- on 3 July 2008, the two defendants violated their official duties, stipulated in the StPA and the RAStPA; Hadzhiev signed, and P.G. approved, an agreement for the sale of property in contravention with the applicable provisions of the StPA and the RAStPA. This was done in order to procure a benefit for the company B. EOOD, represented by V.N., consisting in the opportunity to purchase the said property for the price of BGN 15,850.80. The incriminating transaction resulted in serious damages for the State, amounting to BGN 104,949.20.
- on 10 February 2008, the two defendants violated their official duties, stipulated in the StPA and the RAStPA; Hadzhiev signed, and P.G. approved, an agreement for the sale of 1,263 sq. m. of land, located on the territory of the town of Shabla, to the individuals G.K., I.I., and P.S., even

though there was no legally constructed building owned by these individuals on the specified land. This was done in order to procure a benefit for the buyers, consisting in the difference between the real market value of the property — BGN 34,300 — and the purchase price fixed at BGN 4,146.72. In consequence, **the total damages caused to the State amounted to BGN 150,002.48**, of which BGN 135,102.48 were caused by joint criminal activity involving the sale of public property.

/2 Hadzhiev exercised competences of the Minister of Health, who is the representative of the Specialized Rehabilitation Hospital "Tuzlata," and P.G. coordinated the procedure for signing the respective agreements, thus enabling Hadzhiev to overstep his authority and rights, stipulated in the StPA and the RAStPA:

- on 4 July 2007, Hadzhiev signed an agreement for the sale of property, without obtaining the required documentation from the Balchik Municipal Administration to establish that the building on it had been constructed legally. This was done in order to procure a benefit for P.P., consisting in the opportunity to purchase the property for the price of BGN 3,285.36, which resulted in serious damages for the Specialized Rehabilitation Hospital "Tuzlata," amounting to BGN 44,914.64.
- on 11 December 2007, Hadzhiev signed five agreements for the sale of five properties, without obtaining the required documentation from the Balchik Municipal Administration to establish that the respective buildings on the properties had been constructed legally. This was done in order to procure a benefit for the company M. AD – Varna, represented by G.G., consisting in the opportunity to purchase the properties for the respective prices of BGN 9,352.44, BGN 4,184.64, BGN 4,204.92, BGN 4,517.76, and BGN 4,111.44. As a result, the Specialized Rehabilitation Hospital "Tuzlata" incurred serious damages in the respective amounts of: BGN 232,047.56, BGN 95,615.36, BGN 96,095.08, BGN 103,182.24, and BGN 93,888.56. **The total damages incurred by "Tuzlata" amounted to BGN 665,743.44.** The violation was considered especially serious, involving the sale of property to a company.

case 02



VESELIN PENEV

Governor of the Sofia Region, November 2013 – September 2016



Penev was acquitted by the SpCC (criminal case No. 2377/2019) in February 2021. The decision was confirmed by the ASCC (cassation case 212/2021) in November 2021.

Based on the absence of information on an initiated cassation case before the SCtC, we can infer that no protest was issued, and the acquittal has entered into force.

Specialized courts have accepted in two instances that the transactions were not unfavorable, and no damage was incurred because of mismanagement – a conclusion with which, given the absence of a protest, the Prosecutor's Office has obviously agreed.

He was charged with **1) mismanagement of public funds and 2) entry into of unfavourable transactions:**

Penev was charged with **1) mismanagement of public funds and 2) entering into unfavorable transactions:**

/1 On an unknown date in the period 30 December 2015 – 30 April 2016, in the capacity of public official — Governor of the Sofia Region — Penev failed to exercise due care in the management and preservation of property under his control, namely the budget of the Sofia Region for 2016 and a plot of state-owned land. Penev's criminal behavior, constituting a continuing crime, resulted in the squandering of public assets of the Sofia Region administration amounting to BGN 13,339.20 (VAT included). The State suffered an additional loss of BGN 105,100.00, thus making the total amount of damages BGN 118,439.20.

/2 On 8 July 2016, Penev intentionally entered into three unfavorable transactions, by virtue of which he terminated the joint ownership, between the State and a private company, of several properties. Crucially, Penev transferred the State's interests in the properties to the private company, instead of severing the interests from the joint ownership, which would have been more profitable for the State. He thus sold three properties to the company "****d" EOOD for a total price of BGN 658,870 (VAT excluded), when the market value of the properties at the time was BGN 10,989,000 (VAT excluded). This resulted in serious damages for the State, amounting to BGN 10,330,130 — the difference between the purchase price and the market value of the properties.

case 03



IVAN TOTEV

Mayor of the Plovdiv Municipality, 30 October 2011 – 11 November 2019, charged alongside his deputy, Dimitar Katsarski, and the Mayor of Plovdiv's Zapaden District, Dimitar Kolev (from 2013 to 2019)



In July 2018, the SpCC returned the case against Totev to the SpPO for rectification of significant procedural violations in the bill of indictment. The SPO terminated the case in March 2021, but the Prosecutor's Office has not informed the public about this fact. It did not respond to ACF's request to provide the order of termination for the preparation of this analysis.

According to the charges, the construction of the Plovdiv Zoo was carried out in violation of the Public Procurement Act, with a view to procuring a benefit for the selected contractor, Z. OOD. In particular, Totev signed a direct contract with the company, in the absence of an approved

investment project and bill of quantities, and before a construction permit had been issued. The mayor's goal was to enrich the company with BGN 6,900,000, which is the amount of calculated damages caused to the Plovdiv Municipality. Katsarski and Kolev were accessories to the crime.

case 04



SEVDELINA KOVACHEVA

Mayor of the Pernik Municipality, 25 September – 12 November 2019, charged alongside with the Minister of Environment and Water Neno Dimov



A bill of indictment was filed by the Specialized Prosecutor's Office with the Specialized Criminal Court in July 2021 and the case is pending before the Specialized Criminal Court since then. After the closing of the Specialized Criminal Court, the case was transferred to the Sofia City Court. There is no publicly accessible information regarding the charge against Kovacheva.

Dimov was charged with **intentional mismanagement of public funds:**

In the period 1 January 2018 – 17 November 2019, Dimov intentionally issued Toplofikatsiya–Pernik and the metallurgic enterprise Stomana with permits to draw excessive amounts of water from the Studena Reservoir for their

industrial needs. Dimov was warned that the reservoir will be depleted on several occasions but did not pay attention to the warnings and the provided information. As a result, he squandered millions of liters of water, valued at over BGN 11 million, and caused a water crisis in Pernik and the surrounding region.

case 05 and 06



ILINKA NIKIFOROVA AND IVAN IVANOV

Mayors of the Pernik Municipality, 1 November 2014 – 31 October 2015

In February 2018, the SpPO released information that an inspection had been carried out on the premises of the city council building in Pernik, in the course of which Ivanov and Nikiforova had been detained.

There has been no information regarding the status of the case since then, and the SpPO did not respond to ACF's request for information during the preparation of the present analysis. After the abolishment of the Specialized Prosecutor's Office, the case was transferred to the Pernik Regional Prosecutor's Office (PRPO), which also did not provide any information about its development for the purposes of last year's annual report.

However, the PRPO provided detailed information regarding the development of the criminal proceedings for the purposes of the present report. With orders dated 31 May 2023 on case 1676/2022 in the PRPO register, Nikiforova and Ivanov were charged with intentional mismanagement of public funds.

The investigation continues under the direction of a newly selected prosecutor and is conducted by the Commission for the Counteracting of Corruption, following the legislative amendments that entrusted the latter with investigative functions.



Ivanov was charged on account of the following:

In the period 31 October 2014 – 9 December 2014, in his capacity of Mayor of the Pernik Municipality, he intentionally omitted to exercise due care in the management, administration and preservation of property entrusted to him; more specifically, in the absence of a "disaster" within the meaning of the Disaster Protection Act, and in his official capacity, he took decisions and issued orders as if a disaster had in fact occurred, thereby violating and failing to perform his official duties, which resulted in considerable damages for the municipality amounting to BGN 260,456.60, incurred in the form of payments made on an invoice submitted by a company for performed waste cleaning, collection and removal services – a crime under Art. 219, par. 3 in conj. with par. 1 of the CC.

Nikiforova was charged on account of the following:

In the period 8 September 2014 – 30 October 2014, in the capacity of acting Mayor of the Pernik Municipality, she intentionally omitted to exercise due care in the management, administration and preservation of property entrusted to her; more specifically, in the absence of a "disaster" within the meaning of the Disaster Protection Act, and in her official capacity, she took decisions and issued orders as if a disaster had in fact occurred, thereby violating and failing to perform her official duties, which resulted in considerable damages for the municipality amounting to BGN 1,258,260, incurred in the form of payments made on three invoices submitted by a company for performed waste cleaning, collection and removal services – a crime under Art. 219, par. 3 in conj. with par. 1 of the CC.

case 07



MINCHO KAZANDZHIEV

Mayor of the Lovech Municipality, October 2003 – October 2015



Acquitted by the SpCC (criminal case No. 1749/2018) in June 2020. The acquittal was quashed by the Sofia Court of Appeal (criminal case 1446/2022 in the SCA register) in January 2024, and the case was remitted to the first-instance court for a retrial. The case is currently pending before the Lovech Regional Court (criminal case 88/2024).

Kazandzhiev was charged with **mismanagement of public funds**:

On 5 November 2014, in the capacity of public official — Mayor of the Lovech Municipality — under the conditions of independent joint perpetration with T.V.S., Kazandzhiev failed to exercise due care in the management of public property under his control. In particular, the defendant accepted an amusement ride, consisting of a locomotive and two carriages, without performing the necessary quality assessment.

Furthermore, he did not draft and sign a record of handover and did not verify whether the provided good matched the negotiated specifications. As a result, the Lovech Municipality incurred serious damages in the amount of BGN 210,034.52. The damages represent the difference between the sum of BGN 359,732.55, actually paid by the municipality, and the real market value of the amusement ride, which was BGN 149,698.03 at the material time.

case 08



PANAYOT REYZI

Mayor of the Sozopol Municipality, October 2007 – March 2019



In December 2020, the SpCC returned the case against Reyzi to the SpPO for rectification of significant procedural violations in the bill of indictment. There has been no information regarding the status of the case since then, and the SpPO did not respond to ACF's request for information during the preparation of the present analysis. After the closing of the Specialized Prosecutor's Office, the case should have been transferred to the Burgas District Prosecutor's Office, which nevertheless informed us that such a case was not overseen by a prosecutor in this prosecutor's office.

From the above it can be concluded with a high degree of probability that the pre-trial proceedings were discontinued by the SpPO.

Alongside several other defendants, Reyzi was charged with embezzling more than BGN 2 million in the process of as-

signing construction and repair works to various companies in the period 2014 – 2017. According to the Prosecutor's Office, the said companies were owned by socially disadvantaged dummy owners.

case 09



NIKOLAY DIMITROV

Mayor of the Nesebar Municipality, October 2007 –presently

The case was initiated by the Specialized Prosecutor’s Office in October 2019. There has been no information regarding the status of the case since then, and the SpPO did not respond to ACF’s request for information during the preparation of the present analysis.



After the closing of the Specialized Prosecutor’s Office, the case should have been transferred to the Burgas District Prosecutor’s Office, which nevertheless informed us that such a case was not overseen by a prosecutor in this prosecutor’s office.

From the above it can be concluded with a high degree of probability that the pre-trial proceedings were discontinued by the SpPO.

case 10



EMIL KABAIVANOV

Mayor of the Karlovo Municipality, 2003-2007, 2011 – presently

Sentenced to six months’ probation by the SpCC in May 2020, after he took a plea bargain (criminal case No. 1337/2020 of the SpCC)



Rachev was charged with **mismanagement of public funds**: In the period 24 April 2013 – 30 April 2014, in the capacity of public official — Mayor of the Karlovo Municipality — Kabaivanov committed 14 criminal omissions, jointly constituting a continuing crime, by failing to exercise due care in the management of public property under his control. As a result, the Karlovo Municipality incurred damages in the amount of BGN 26,984.68, which represented funds received by the Ministry of Environment and Water as a grant under the Operational Programme “Environment” 2007 – 2013, financed jointly by the European Regional Development

Fund and the Cohesion Fund. The funds were intended to support a project for the completion and modernization of a sewerage network and a wastewater treatment plant in the city of Karlovo. Kabaivanov caused the damages by paying undue remunerations and social security contributions on several dates during the specified period.

For the court to approve the plea bargain, the defendant had to remedy the damages caused by his unlawful behavior; the record of proceedings reflects that this condition had been fulfilled.

case 11



MARIN RACHEV

Mayor of the Septemvri Municipality, October 2019 – March 2020, charged alongside the Deputy Mayor, an investment control expert, and the Director of the Transport and Environment Sector.

The case started before the Specialized Criminal Court in December 2019 and, following the abolishment of the latter, was handed over to the SCC (criminal case 881/2021 in the SCC register– SpCC abolished) and is still pending.



Rachev was charged with **mismanagement of public funds**:

In the period May 2017 – August 2018, Rachev failed to exercise control over his subordinate officials, who had been entrusted with the management of public property. The officials signed records of handover related to commissioned construction works that had in fact not been completed. As

a result, the municipality made undue payments for invoices, activities, and services that were anyway high-priced. The total amount of damages was estimated at BGN 255,039.

Rachev was also conditionally sentenced, and this sentence was upheld by the Supreme Court of Cassation and entered into force, for evading establishment and payment of tax obligations for the period before he became a mayor, when he was a sole-proprietor trading in fuels.

case 12



DANAIL VALOV

Mayor of the Cherven Bryag Municipality, October 2007 – 2011 and 2015 – October 2019

In January 2020, Valov was found guilty by the SpCC and released from criminal liability following Art. 78a of the CC, whereby he was instead ordered to pay a fine of BGN 5,000 (criminal case 3706/2019). Valov was acquitted on the other charge by the Specialized Criminal Court (criminal case 3706/2019) in January 2020.

The ASpCC (case 124/2020) confirmed the sentence in April 2021.

Given the absence of information about a cassation case initiated before the SCtC, one can infer that no protest has been issued against the sentence's acquittal part and that it has entered into force. Releasing from criminal liability with imposing an administrative punishment is not subject to appeal.



About the indictment of malfeasance in office, the specialized courts have accepted that in the course of the investigation, it was not established that the defendant intended to harm, and no damages had taken place – a conclusion with which, given the absence of a protest, the Prosecutor's Office has obviously agreed. In the indictment of document fraud, the courts have accepted that the action has been proven, but it is a minor case in view of which it must be requalified as a crime requiring a lighter punishment, presupposing release from criminal liability with the imposition of administrative punishment.

Valov was charged with 1) **malfeasance in office** (acquitted) and 2) **document fraud** (convicted and released from criminal liability, administrative sanction imposed instead):

/1 on 16 May 2017, in the capacity of senior public official — Mayor of the Cherven Bryag Municipality — Valov violated his official duties under the Public Procurement Act, by terminating the assignment of a public procurement order in the absence of any of the grounds for termination, specified in the PPA. The defendant's intention was to harm "*** S." and his actions could potentially cause serious damages to the municipality.

/2 on 22 December 2017, in the capacity of public official — Mayor of the Cherven Bryag Municipality — and in the exercise of his official duties, Valov created two official documents containing false statements of fact, which he intended to use as proof for the validity of the facts specified therein. In particular, the defendant fabricated two notices for termination of public procurement contracts, in which he falsely stated that the respective contracts had been performed and completed. Valov's actions constituted a continuing crime within the meaning of the law; however, the violation was considered minor.

case 13



GEORGI DIMOV

Mayor of the Bozhurishte Municipality, October 2015 –presently

The case was initiated by the Specialized Prosecutor's Office in May 2019. There has been no information regarding the status of the case since then, and the SpPO did not respond to ACF's request for information during the preparation of the present analysis. After the closing of the Specialized Prosecutor's Office the case should have been transferred to the Sofia District Prosecutor's Office, which however did not submit any information about its development for the purposes of last and this year's reports.



In the end of May 2019, Dimov was arrested and charged with malfeasance in office. According to the charges, he sold 4 parcels of land at BGN 2.16 per sq. m., and one of the companies that purchased the parcels was partially owned by Dimov's father. The notice for the auction of the land had been published on the municipality's website only for several minutes, thus making it impossible for anyone willing to participate to buy the necessary documents.

After spending around two months in custody, Dimov was released, and the court dismissed the request for his temporary removal from office, submitted by the Prosecutor's Office. There is no information regarding the further development of the case.

case 14



ALEKSI KESYAKOV

Mayor of the Chelopech Municipality, October 2003 – till presently

In March 2017, it was publicly announced that the SCPO had filed a bill of indictment against Kesyakov in court, but since then, there has been no information regarding the status of the case and its development at the trial stage.

To ACF's request for information during the preparation of the last-year analysis, the SCPO responded that with a verdict of July 2020 on criminal case 195/2017 of the Sofia District Court, Kesyakov was found guilty and sentenced to suspended imprisonment of six months whose execution was delayed for a probation period of three years.

The Sofia Court of Appeal quashed the verdict (criminal case 983 /2021 in the SCA register), and Kesyakov was fully acquitted in March 2022.

In view of the lack of information regarding a case pending before the SCtC, it can be assumed that the acquittal has not been appealed by the Prosecutor's office and has become final.



Kesyakov was charged with **malfeasance in office**:

On 28 April 2014, in the capacity of senior public official — Mayor of the Chelopech Municipality — Kesyakov violated his official duties, by instructing, through a phone call, the head accountant of the municipality to issue and sign a payment order for the payment of BGN 50,000 to a consortium of companies. The reference on the payment order pointed to a non-existent legal ground, and Kesyakov was well-aware that the municipality did not owe that payment. At the time, the consortium was participating in a procurement order for reconstruction of buildings in the village of Chelopech. One of the requirements for participation was to have a certain amount of funds in a bank account, which had to be attested by a bank reference.

The Sofia Court of Appeal acquitted the defendant, holding that his actions constituted a crime within the meaning of

the special scenario under Art. 254a of the CC — disposition of budget or earmarked funds at variance with their designated use — and not within the meaning of the provision defining the general crime in office that the defendant was charged with. The crime under Art. 254a of the CC is of lesser gravity and excludes criminal liability, provided that by the end of the evidence-gathering phase of proceedings before the first-instance court, the unlawful order of disposition is revoked and the unlawfully expended funds are reimbursed in full. In this case, the reimbursement of the funds at issue was carried out as early as the day following their unlawful expenditure.

The absence of an appeal points to the conclusion that the Prosecutor's Office agreed with this reasoning of the appellate court.

case 15



RADOSTIN RADEV

Mayor of the Kostenets Municipality, October 2015 – October 2019



The case was filed with the SpCC in September 2020. Acquittal by the SpCC (criminal case 1341/2020) in July 2021. Confirmed by the ASCC (case 408/2021) in March 2022. Given the absence of information on an initiated criminal case before the SCtC, it can be inferred that no protest was issued, and the acquittal has entered into force. Specialized courts have accepted in two instances that the transactions were not unfavorable, and no damage was incurred because of mismanagement – a conclusion with which, given the absence of a protest, the Prosecutor's Office obviously agrees.

The charge is of **embezzlement**: in the period between 10.12.2018 and 31.12.2018 in the town of Kostenets, in his quality as an official, namely mayor of the municipality, under the conditions of a continuing crime with three separate counts, he misappropriated money totaling 31,138.69 BGN owned by the Municipality of Kostenets that had been handed to him in this quality and trusted to him to keep and manage them, and he disposed of with them to his benefit.

Another charge of active bribery was publicly announced against Radev. There is no information about this charge: In the period February – June 2019, acting in complicity with a businessman, Radev offered a bribe of BGN 30,000 to a municipal councilor, in order to secure a decision to approve the implementation of a public procurement order. The decision of the municipal council obliged the municipality to execute a project, whose total value exceeded BGN 1,100,000.

case 16



STOYAN BESHIROV

Mayor of the Nedelino Municipality, October 2011 – April 2015, charged alongside a Deputy Mayor, municipal administration officials, and local businessmen



The SpCC began examining the case in February 2021 and there has been no information of any judgment so far. After the closing of the Specialized Criminal Court, the case was transferred to the Smolyan District Court. The proceedings were suspended in March 2024 due to the bad health condition of Beshirov.

The defendants were charged with **embezzlement of considerable proportions, considered an especially serious violation**:

In the beginning of 2012, Beshirov developed a plan for embezzling funds from the municipal budget, with the participation of local officials, entrusted with exercising control over construction works, and in coordination with the managers of certain private companies, selected by the officials. The mayor issued a number of orders, with which he announced emergency situations, exaggerating the conse-

quences of the heavy rainfall in the region of Nedelino. The orders described a host of natural disasters — landslides, river overflow, cracking dams, inundations, road closures, etc., which had in fact never happened. As the emergency situation gave rights to the mayor to assign procurement orders without issuing notices, he only sent direct invitations to the pre-selected group of companies. Thus, Beshirov concluded 7 contracts for the total amount of BGN 3.5 million, a third of which was embezzled.

case 17



EVGENI KRUSEV

Deputy Mayor of the Capital (Sofia) Municipality, 2016 – December 2018

**Acquitted by the SpCC in April 2021.
Confirmed by the ASCC (case 329/2021) in March 2022.
Confirmed by the SCtC (cassation case 358/2022) in May 2022.**



All three judicial instances have adopted the unambiguous conclusion that the charge against Krusev is lacking elements of crime – on the objective side, the alleged damages, respectively benefits, were not ascertained.

Krusev was charged with **malfeasance in office**:

In the period 27 June 2018 – 5 December 2018, Krusev violated his official duties under the Public Procurement Act, as well as the obligations conferred on him by the mayor, by taking steps to substantially amend the procurement contract signed with D.P.G. AD. Krusev's intention was to procure a benefit for the said company. The Sofia Municipality incurred damages in the amount of BGN 919,863.55.

case 18



RALYO RALEV

Mayor of the Severen District, Plovdiv, September 2011 – May 2019

The case was started by the Specialized Prosecutor's Office in May 2019. There has been no information regarding the status of the case since then, and the SpPO did not respond to ACF's request for information during the preparation of the analysis regarding 2022. After the closing of the Specialized Prosecutor's Office, the case was transferred to the Plovdiv District Prosecutor's Office (prosecutor's file 5505/2022). The investigation has been completed, and a bill of indictment against Ralev has been lodged with the Plovdiv Regional Court (criminal case 1651/2023 in the PRC register, which is still ongoing).



In the end of May 2019, Ralev was arrested and charged with requesting a bribe. In particular, he was accused of blackmailing a local businessman to pay him BGN 60,000, in order to be issued with a construction permit by the Severen District, while the district administration withheld the businessman's documents on purpose.

Around three months later, Ralev was released on bail. There is no information regarding the further development of the case before the Specialized Prosecutor's Office.

According to the information submitted by the Plovdiv District Court, Ralev was charged as an accused party in March 2023 for trade in influence, on account of the fact that:

In the period from the end of December 2018 to 30 May 2019, in the city of Plovdiv, in complicity as a perpetrator with

I.M.D. – accessory and D.I.V. – accessory, he requested and on 30 May 2019 accepted (by the factual delivery of the possession of the amount of BGN 60,000 to I.M.D.) in the city of Plovdiv a gift from Z.A.A., which was not due to him – the amount of BGN 60,000, in order to exercise influence in the adoption of a decision by an official – the chief architect of the Severen District of the Plovdiv Municipality, in relation with his powers concerning the adoption of a decision for the approval of a conceptual investment design for a residential building in the city of Plovdiv – a criminal offence under Article 304b, Paragraph 1, in conjunction with Article 20, Paragraph 2 in conjunction with Paragraph 1 of the Criminal Code. Ralev was taken to court on account of the criminal offence described above.

case 19



GEORGI MARDZHIEV

Mayor of the Stamboliyski Municipality, 2015 –2023

The case was initiated by the Plovdiv District Prosecutor’s Office (prosecutor’s file 6591/2022) in November 2022 for malfeasance in office. According to the information submitted to us by the Plovdiv District Prosecutor’s Office, the investigation is ongoing.

In June 2023, Maradzhiev was charged with malfeasance in office.



In November 2022, it was announced that the Ministry of Interior was conducting a specialized police operation in the Stamboliyski Municipality for the investigation into evidence for financial abuses.

Teams of the Economic Police and the Prosecutor’s Office searched the family factory of the Maradzhiev family in the town of Stamboliyski.

According to information provided by the Plovdiv Regional Prosecutor’s Office (PRPO), Maradzhiev was charged with malfeasance in office in June 2023 on account of the following:

In the period 1 January 2018 – October 2022, in his capacity of Mayor of the Stamboliyski Municipality, as aider and abettor to the principal perpetrator — the Deputy Mayor — he committed a continuing crime by violating and failing to

fulfill his official duties in connection with the organization of the following public procurement orders: “Construction of gym hall for the “Otets Paisiy” school” for the amount of BGN 439,578 (VAT excluded) and “Performance of construction works on sites located within the municipality, under three separate lots” for the total amount of BGN 1,911,470 (VAT excluded). Maradzhiev did this with the intention to procure a benefit for himself or another person, and his actions — which can result in significant negative consequences — were conducted in his capacity of an official occupying a post of particular responsibility — a criminal offence under Art. 282, par. 2 in conj. with par. 1, in conj. with Art. 26, par. 1, in conj. with Art. 20, par. 3 and par. 4 in conj. with par. 1 of the CC.

case 20



BORIS NIKOLOV

Mayor of the Belogradchik Municipality, 2011 – 2023



The case was initiated by the Vidin District Prosecutor's Office (prosecutor's file 2532/2022) in 2022 for mismanagement of public funds.

According to the information submitted to ACF by the Vidin District Prosecutor's Office, the investigation is active, and the authorities are carrying out all necessary and possible procedural investigative actions in order to establish the objective facts. The investigation has not been finalized with a final order of the prosecutor in charge yet.

The Prosecutor's Office announced that in the period 2019 – 2022, in Belogradchik, the mayor failed to exercise sufficient care for the management, direction, stewardship or preservation of the property entrusted to him. Allegations are made about conclusion of public procurement contract at inflated prices, unjustified invoicing of waste-collection and waste-transportation services in

the municipality, initiation of enforcement proceedings against the municipality and imposition of interdicts on the municipal property.

According to the Prosecutor's Office, the accused party's acts resulted in spillage of property and other considerable damages for the municipality and its budget.

case 21



IVAN PORTNIH

Mayor of the Varna Municipality, 2013 – 2023



The case is initiated by the Varna District Prosecutor's Office in 2020.

The Varna District Prosecutor's Office did not respond to our request for submission of information about the development of the case.

In 2023, a bill of indictment was lodged with the Varna Regional Court (VRC) which was remitted to the Prosecutor's Office for rectification of procedural violations.

In 2024, a new bill of indictment was lodged with the VRC where the proceedings are currently pending (criminal case 586/2024 in the VRC register).

According to media publications, Portnih was charged in the capacity of an accused party in April 2022 for a criminal offence against the environment – in relation to the problems concerning the faults in the pipeline on the bottom of the Varna lake.

2023

Cases at the local level
from year 2023

case 22



ESHREF ESHREFOV

Mayor of the Omurtag Municipality, 2015 – present

The investigation was initiated by the Targovishte Regional Prosecutor's Office (TRPO) in 2023.

The criminal proceedings were transferred to the SCPO, and in February 2024 Eshrefov was charged with participating in an organized crime group.

The SCPO did not respond to ACF's request for information on the case.



On 20 February 2024, the SCPO raided the municipal administration and arrested Eshrefov on charges that, in his capacity of public official, he participated in an organized criminal group set up by his father in the beginning of 2019 with the purpose to intentionally commit malfeasance in office.

Eshrefov's father was remanded in custody, and in accordance with rulings of the Targovishte Regional Court and the Varna Court of Appeal, Eshrefov himself was left under house arrest due to his deteriorating health condition, as he had had a microstroke after his arrest by the police at the beginning of the raid.

Eshrefov's brother, Dzhafer, was also charged with participating in the criminal group. In the TV show "EuroDikoff," he recounted how he was blackmailed by the now former municipal chairman of the MRF in Varna, Ryuyan Rizov, to pay the sum of BGN 140,000 in exchange for the release of his father and brother, and in order to prevent his own arrest. He also released a recording of one of his conversations with Rizov. Rizov claimed that he was calling on behalf of a man with the initials "D.P."

To date, there is no public information on what the institutions have ascertained based on the evidence on this case, i.e., whether it concerns potential influence peddling in the judiciary, or an attempt to commit fraud.

According to media publications, the Eshrefov family's problems with the justice system began after Eshref left the MRF due to a disagreement over the arrangement of the candidates lists for the 2023 parliamentary election, and then won his third term as mayor against the MRF under the registration of the NMRF and UDF.

According to the leaders of the parties NMRF (Gyuner Tahir) and Republican Bloc (Ivan Geshev, former Prosecutor General), which latter one Eshrefov is part of during the 2024 parliamentary election, the criminal proceedings against the family are politically motivated and driven by revenge for the occurred rift with the MRF.

case 23



GEORGI KENOV

Mayor of the Sungurlare Municipality, 2007 – 2015, 2019 – 2023

The investigation was initiated by the Burgas Regional Prosecutor's Office (BRPO) in June 2023.

When ACF requested information regarding the development of the case, the BRPO's only response was that no charges have been pressed to date.

No other information is available on the case for the moment.



In a public message dated 5 June 2023, the BRPO stated that a search and seizure procedure was being carried out in the building of the Sungurlare Municipality in order to gather documents and other evidence in connection with the pre-trial proceedings initiated for malfeasance in office.

According to media publications, Kenov is being investigated for violating his official duties by concluding contracts on behalf of the Sungurlare Municipality with a view to conferring a benefit on a particular person — one of the parties to the contracts.

In October 2022, the local structure of GERB announced that it was withdrawing confidence from Kenov, who had become Mayor with the support of GERB. According to the statement, Kenov had become “completely uncontrollable” and this had led to “smearing the name of the GERB party within the municipality.”

The beginning of the investigation coincides with the outbreak of tension between Prosecutor General Geshev and GERB, after the party publicly called on him to vacate his post. His term was ended prematurely by the Prosecutors' College of the SJC in June 2023.

case 24



IVAN PORTNIH / B

Mayor of the Varna Municipality, 2013 – 2023



The investigation was initiated by the Varna Appellate Prosecutor's Office (VAPO) in May 2023 and should be led under the direction of the Varna Regional Prosecutor's Office (VRPO).

The VRPO did not respond to ACF's request for information regarding the development of the case.

In May 2023, the MP Stela Nikolova published an order of the VAPO, informing her that in exercising administrative review, the VAPO had revoked as unlawful an SPO refusal from 2021 to initiate pre-trial proceedings for the investigation of Mayor Portnih's alleged inaction in returning the Plovdiv Fair's shares to the State.

The Varna Municipality owns shares in the Plovdiv Fair following a government decision dated 2016. In 2017, the Municipal Council decided to return the shares to the State. This never happened and, thus, the businessman Georgi Gergov was later given the opportunity to initiate a procedure for assuming total control of the fair. The prosecutor's inquiry, which ended with the refusal of the SPO to open an investigation, was aimed precisely at clarifying the role of Mayor Portnih in the failure to enforce the decision of the Municipal Council.

Following the revocation of the order by the VAPO and the initiation of pre-trial proceedings, the latter should be led by the VRPO, which is the competent unit of the Prosecutor's Office having jurisdiction of the case at first instance.

The beginning of this investigation also coincides with the outbreak of tension between Prosecutor General Geshev and GERB, after the party publicly called on him to vacate his post. His term was ended prematurely by the Prosecutors' College of the SJC in June 2023.

There is another curious fact surrounding the VAPO and the former mayor from GERB Portnih. In July 2023, following the power shifts at the top of the Prosecutor's Office, an investigation was instigated against the VAPO prosecutor Vladimir Chavdarov on the basis of corruption allegations submitted precisely by Portnih. Chavdarov's office and certain properties of his were searched as a matter of urgency. In the end, however, pre-trial proceedings were initiated only on account of illegal possession of ammunition.

Chavdarov was charged and taken to court for illegal possession of ammunition. In April 2024, he was acquitted by the first-instance court.

case 25

**VALENTIN DIMITROV**

Mayor of the General Toshevo Municipality, 2015 – present

The investigation was initiated by the European Public Prosecutor's Office (case I.688/2023) in August 2023. The proceedings are still pending.



In response to ACF's request for information regarding the development of the case, the European Public Prosecutor's Office (EPPO) only stated that the investigation concerns a criminal offence within the meaning of Art. 248a, par. 5 of the CC — submission of false information or concealment of information in violation of an obligation to provide such information, in each case committed with the aim of obtaining funds belonging to the European Union or granted by the European Union to the Bulgarian State.

At the moment, the proceedings are still pending, and the EPPO has stated that the public will be informed upon their completion.

According to the information initially provided to the media about the case, the Mayor is being investigated for misuse of EU subsidies within the framework of a project for increasing the energy efficiency of social housing, carried out in the period 2017 – 2019.

The investigation did not prevent Dimitrov from being re-elected mayor in 2023.

About the authors:

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Andrey Yankulov is a practicing defense lawyer. For over a decade, he served as a public prosecutor at the Sofia District Prosecution Office and the Sofia City Prosecution Office, where he was responsible for investigating and supervising investigations of high-impact crimes (drugs, firearms, fraud), the execution of sentences as well as cooperation with international criminal law enforcement bodies. He left the public prosecution in November 2019. Mr. Yankulov has also served as Deputy Minister of Justice (2014-2016), leading the government's policy in the area of execution of sentences and penitentiary services. He was also responsible for international cooperation focusing on human rights with organizations such as the Council of Europe, the European Court of Human Rights, and non-governmental organizations. He has served as Deputy Minister of Interior (2014).

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Daniela Peneva holds a master's degree in law from Sofia University "St. Kliment Ohridski." She has procedural experience in civil, commercial, and administrative law. She manages projects dealing with transparency and accountability of institutions and local authorities. Her professional interests are focused on supporting the development of civil society, particularly the research and analysis of corruption practices and conflicts of interest.

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